

MSD Board of Trustees Meeting 11/04/15

Metropolitan St. Louis Sewer District Diversity Program

Observations, Issues, and Recommendations

Signatories – MSD Community Benefits Agreement

Community Benefits Agreement Purpose

The purpose of this CBA for the MSD CIRP is to provide for a concerted and coordinated effort on the part of MSD and the Signatories, to maximize the economic and educational benefits of the project to the St. Louis City and St. Louis County communities. Through this CBA, the parties to this agreement will generate job training and employment opportunities targeted to community residents in need of training and employment; will generate business opportunities for St. Louis area Minority owned and Women owned businesses and will generate internship and other educationally related opportunities to targeted community school children.

Community Benefit Agreement Signatories Progress Statement

On December 4, 2013, the Metropolitan Congregations United (MCU), Missouri/Kansas Construction and Contractors Assistance Center (MO-KAN), National Association for the Advancement of Colored People (NAACP), Coalition of Black Trade Unionist (CBTU), Metropolitan Clergy Coalition (MCC), National Society of Black Engineers (NSBE) committed to represent the community in working with MSD to generate job training and employment opportunities targeted to community residents and to improve business opportunities for local M/WBEs. We were later joined by M-SLICE and Universal African People's Organization (UAPO). After nearly 2 years the majority of the signatories have come together to express serious concerns and disappointment with MSDs deliberate delay toward the fulfillment of its commitment to diversity and inclusion with the usage of public funds.

Lack of Concerted and Coordinated Efforts

Issues

- In April 2015 MSD staff held meetings with AGC & SITE to discuss specific changes to diversity program; and provided for their direct input in final draft.
- In October 2015 MSD renewed Training & Monitoring programs without input from Signatories nor assessment of programs' effectiveness.
- Director Human Resources ineffective in managing Diversity Program.
- EEO Officer/Compliance Manager lacks direct oversight of Diversity Program.

MSD's Hiring Practices & Outcomes

Brian Hoelscher, Executive Director

"While it is true that the District has not required its contractors to replace full-time, non-diverse work crews, it has consistently required any necessary replacement or expansion of work crews be diverse"

June 16, 2015 letter to NAACP

Issues

This policy conflicted with the mission and objectives of the Diversity Program; and had a direct impact on the employment of journeymen minorities and women.

Signatories were not advised, nor was our counsel sought; these actions warrant discipline and safeguards from future decision making.

Workforce Participation Construction

Pre – Apprentice Program Contracted Services \$150,000

- BUD program announced 09/14
 - Pilot Class started 10/14
 - A total of 848 people responded to Pre-Apprenticeship participant interest by trade 12/14
 - 78 People completed process and eligible for training 12/14

Issue

- No BUD graduate received work on MSD project.

Recommendations

- Develop internal verification of BUD hiring on MSD projects.
- Focus training program on sewer trades lacking diversity.
- Partner with other programs.

Workforce Participation Construction cont.

MSD Apprenticeship Program

Goal 40%

- Apprenticeship Recruitment program announced 09/14
- Outreach started 10/14
- 40 apprentices recruited and added to database by trade by 12/14

Issue

- No apprentices hired from MSD apprenticeship list as per MSD.

Recommendations

- Apprentice employment should be stipulated in all request for bids (Mason & Tillman 2013).
- When hiring- Apprentices shall be targeted (Mason & Tillman 2013).
- Develop an Internal Apprentice hiring verification system.

Workforce Participation Construction cont.

Non-Federal Projects

Goals 30% minority & 7% women

Projects that are 100% Complete

1= The Number of completed projects that met 30% minority goals.

2 = The Number of projects that met 7% women goals.

Projects that are 96 % or > Complete

0= The Number of completed projects that met 30% minority goals.

1= The Number of projects that met 7% women goals.

Total number of projects reported 4

Federal Projects

Goals 14.7 minority a 6.9 women

Projects that are 65% or > Complete

6= The Number of projects meeting minority goals of 17%.

1= The Number of projects that met 6.9% women goals.

Projects that are 64% or <Complete

9= The Number of projects meeting minority goals of 17%.

1= The Number of projects that met 6.9% women goals.

Total number of projects reported 26

0 = The number of projects reporting workforce by trade as required by federal Executive order and MSD Dec 2012 resolution.

0= The number of projects reporting workforce by apprentices per MSD Disparity Study goal of 40%.

0= The number of projects reporting workforce by local hiring per MSD Disparity Study goal of 30%.

*** projects meeting or exceeding Minority/Women goals have lowest workforce goal threshold.

MSDs Progress Statement

MSD reports indicate that there are 62 total projects currently on the CIRP

19 of the total projects met/or meeting the minority workforce goals

4 of the total projects met/or meeting the women workforce goals

23 of the total projects met/or meeting either the minority or women workforce goals

*MSD claims that 85% of its projects are tracking to meet the goals ;

62 projects X 85% = 52.7 projects necessary to meet the 85% claim

MSD is 29 projects short.

“85% of our projects to date are on track to meet those goals. That is putting “millions of dollars” into the pockets of African Americans and other minorities working on MSD projects.” - Lance LeComb

*St. Louis Post Dispatch –“MSD Battles Criticism Despite Diversity Push” October 23, 2015

Workforce Participation Construction

2014 Compliance Report Issues

- Compliance Technological Systems not operational.
- Failure to take into account each potential subcontractor's history of hiring minorities and women, and the makeup of each potential subcontractor's current workforce in awarding contracts goals 30% minority and 7% female ex:
 - Gershenson Construction 4th Qtr 2014 **\$4,782,159** 100% Complete Creve Coeur Creek Force Main Improvements- **2.9% minority 0% women achievement**
 - Gershenson Construction 1st Qtr 2015 **\$1,754,675** 60% Complete-Ayres Sanitary Relief & I/I Reduction- **8.3% minority 0% women**
 - Gershenson Constructon 3rd Qtr 2015- **\$2,320,000** 83% Complete –Infrastructure Repair Caulks Creek- **15.4 minority 0% women achievement**
- Inconsistent workforce reporting per project completion ex:
 - Insituform Technologies **\$2,788,443.05** Bissell-Coldwater-Missouri Meramec Public /I Reduction (2015) contract F (119925-015.1.1) 30% complete MSDs report -**Workforce Report Under evaluation**

Recommendations

- Implement Disparity Study recommendations for non-compliant contractors ie. Breach of contract, sanction & pre-qualification termination (Mason & Tillman 2013)
- Publish End of Contract Goal Attainment
- Publish Prime Contractor Payments
- Post Bidding History on contracts over \$50,000
- Contracts valued more than \$300,000 shall hire one (1) new apprentice to create a track-able path to journeyman status

Workforce Participation Construction

Recommendations

- Including a bidder's current company-wide workforce diversity and historical jobsite diversity as part of the pre-bid evaluation process

Workforce Participation Professional Services

Source: MSDs Local Workforce Report 3/2015

Issues

- 11 = Number of contracts below Women goals.
- 7 = Number of contracts below Minority goals.
- 10 = Number of contracts that reduced Women workforce.
- 4 = Number of contracts that reduced Minority workforce.
- 6 = Number of Contracts w/no information reported.

Goals per Study: Minorities: 18% Women: 32%

Recommendations

- MSD establish regular and consistent reporting of Professional Services workforce data (October 19, 2015 1st submission)
 - Reports should include at a minimum, the reason for decline in workforce participation and overall contract value
 - Increase transparency to reflect reporting of all professional service contracts (with or without goals)
- Establish a process that ensures good faith effort throughout life of contract.
- Establish a splash page on MSD's website that reflects monthly reports to ensure public transparency.

First Source Hiring

First Source Hiring Time Line

- Contract Execution 12/13
- First Progress Report 08/14
- Contractor's Notified 08/14
- In Contracts Requirements 10/14
- Contractor Orientation 12/14
- Roll-Out 01/15
- Added to GFE 08/15
- 1st Employment Results 11/14

Source MSD 10/19/15

Disparity Study Recommendations

- Contractors Notify FSH Referral System and list job opportunity.
- For a 10-day period contractors only considered and interview applicants referred by FSH Referral System.
- When hiring contractors shall only consider targeted applicants for 10-day period.
- On Quarterly basis contractors submit # of FSH employed.

First Source Hiring cont.

Issues

- 8-months from contract execution to first progress report.
- 12-months from contract execution to contractor orientation.
- 1-year from contract execution to roll-out.
- 23-months from contract execution to first hiring results.

Recommendations

- Follow Disparity Study FSH program outline.
- Develop internal verification of FSH employment.(SLATE can only verify wages and employer not work place/site)

MSD Change Order Process

Issues

- MBEs are denied Change Order approval at a higher rate than non-MBEs.
- MSD does not have a clear and delineated Change Order process.

Recommendations

- Establish a Written Change Order Process
 - Mandate MSD or Prime contractor provide written approval of Change order prior to MWBE sub-contractor work commencing-abate verbal approval process
- Prompt completion of change order process.
- Establish 30-60 day payment of Change Orders for MBEs
- Track change order denial and approval history by company, race dollar, and gender.
- Track history of change order request by vendor.

Professional Services Contracts

Issues

- Third Party Monitoring
Impartiality, transparency and integrity.

Recommendations

- Having a third party, outside both the implementers and the clients, guarantees unbiased – or less bias report or – review of a project or program. Affording greater assessment of the true impact of a project, while not over-claiming what's happening and provide public information on what's being done, what's being spent and what impact it's having.

Implicit Bias

Issues

- MSD Inspector stated that most of the persons he works with feel that the MBE program is not good for the community and should be disbanded. And more specifically, MWBE firms and workers should not be given consideration by policy on MSD projects.

Recommendations

- Increase review and oversight of inspector's management and decision making.