

CONTRACT COMPLIANCE UNIT

Health, Energy & Environment
Committee
Update

OCTOBER 22, 2007

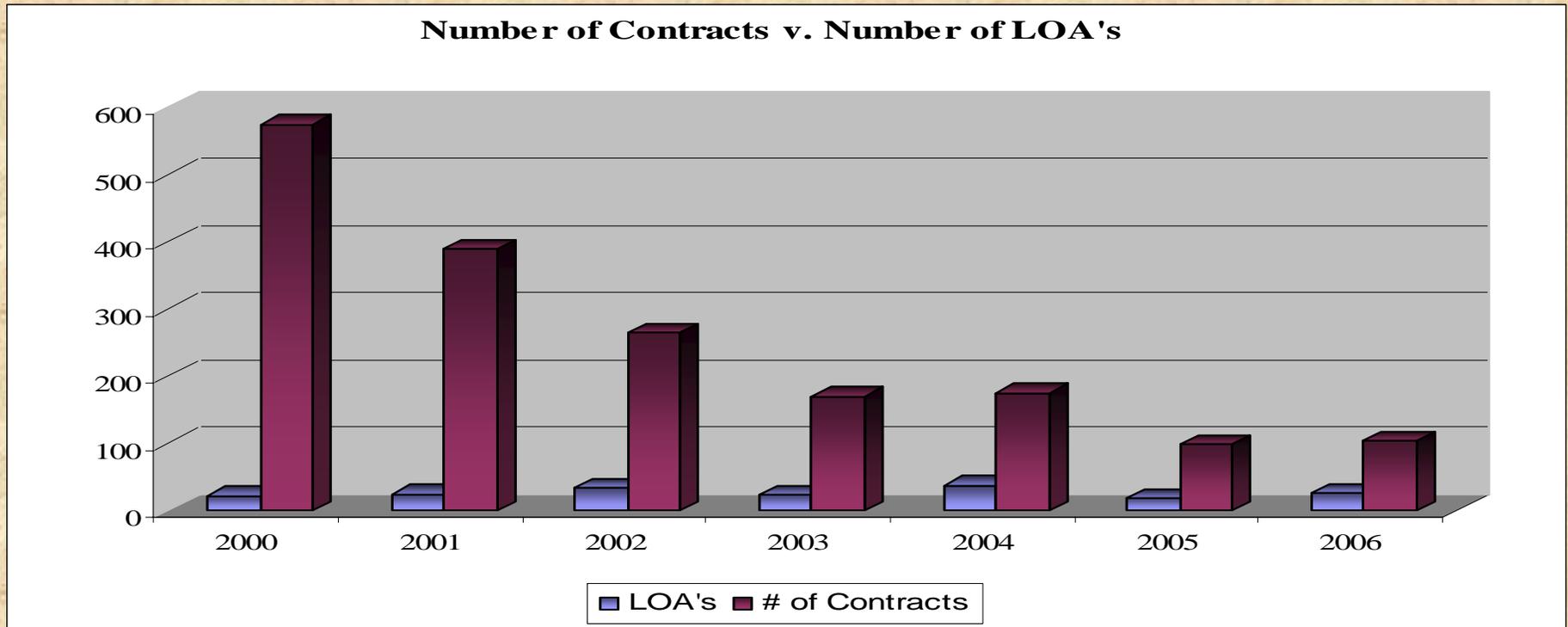
Direction to Staff from July 23, 2007

- Additional analysis as to the scope of contractor non-compliance.
- Recommendations to improve the Contract Compliance and the SUBP process
- Recommendations for potential Council Actions

Analysis of Scope of Non-Compliance

- Detail on issuance of Letters of Agreement
- Detail on workforce goal attainment
 - Minority skilled
 - Minority unskilled
 - Women
 - Minorities by ethnic group
- Detail on workforce goal attainment, by project type
 - Total city project performance
 - CPED projects performance
 - Non-CPED project performance

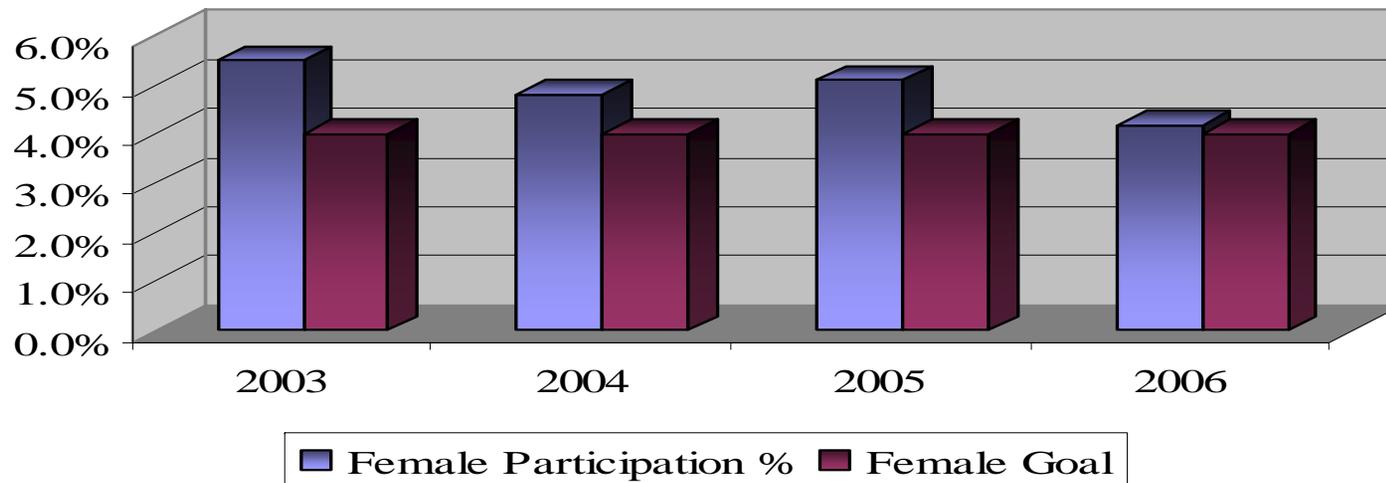
Issuance of Letter of Agreement's



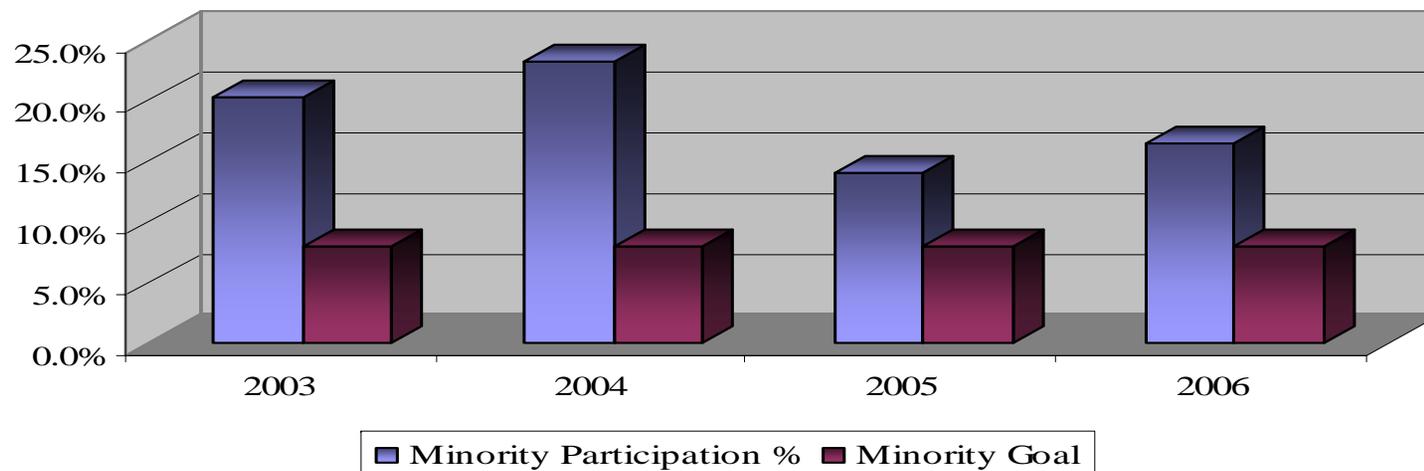
	2000	2001	2002	2003	2004	2005	2006
Percentage of LOA's for Number Contracts	3.8%	6.2%	12.5%	13.5%	21.1%	18.2%	25%

Workforce goal attainment

Female Participation v. Goal



Minority Participation v. Goal



Attainment by project type (over \$1 million)

Project Totals 2000 - 2006		
ALL Department Construction Projects		
Total Contract Amounts	\$2,162,382,122	
Overall Participation Percentages:		
	Percentage of Participation	Goals
Minority Skilled	11.3%	8%
Minority Unskilled	20.0%	15%
Female	4.1%	4%
Overall Ethnic Breakdown Participation Percentages:		
Ethnicity	Skilled	Unskilled
African American	4.5%	11.2%
Hispanic	3.3%	5.6%
Certified American Indian/ Alaskan	1.7%	2.2%
Asian/Pacific Islander	1.0%	1.1%

Attainment by project type (over \$1 million)

Project Totals 2000 - 2006		
ALL CPED Construction Projects		
Total Contract Amounts	\$1,825,847,047 (84%)	
Overall Participation Percentages:		
	Percentage of Participation	Goals
Minority Skilled	11.2%	8%
Minority Unskilled	20.0%	15%
Female	4.0%	4%
CPED Overall Ethnic Breakdown Participation Percentages:		
Ethnicity	Skilled	Unskilled
African American	4.7%	12.4%
Hispanic	3.3%	5.3%
Certified American Indian/ Alaskan	1.5%	1.4%
Asian/Pacific Islander	0.8%	1.0%

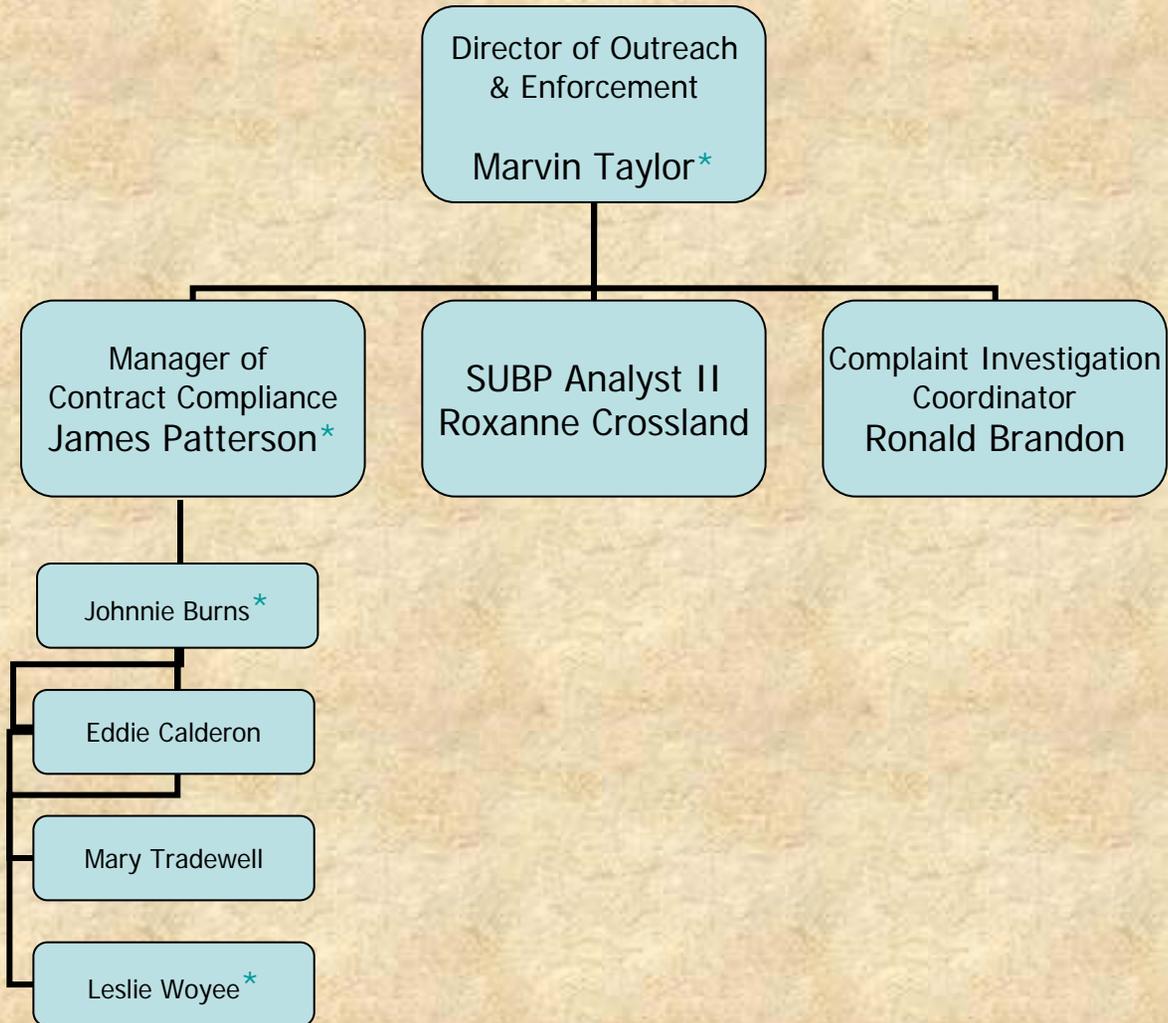
Attainment by project type (over \$1 million)

Project Totals 2000 - 2006		
ALL Non - CPED Construction Projects		
Total Contract Amounts	\$258,847,923	
Overall Participation Percentages:		
	Percentage of Participation	Goals
Minority Skilled	10.4%	8%
Minority Unskilled	16.9%	15%
Female	4.3%	4%
Non - CPED Overall Ethnic Breakdown Participation Percentages:		
Ethnicity	Skilled	Unskilled
African American	3.7%	5.8%
Hispanic	2.3%	5.2%
Certified American Indian/ Alaskan	2.2%	0.05%
Asian/Pacific Islander	1.2%	0%

Recommendations for Improvement

1. Staffing Changes
2. Disparity study
3. Improved coordination with City Departments
4. Improved coordination with Prime contractors and W/MBE contractors
5. Capacity building activities with W/MBE
6. Linkages with trade unions

Staffing changes



* New Position or New Hire

Marvin Taylor

Director of Outreach & Enforcement

- 30 years of City of Minneapolis Experience
- 20 years with the Community Development Agency
- Nationally Recognized Contract Compliance and Affirmative Action expert
- Served over a decade on the Board of Directors and four years as the National President of the American Contract Compliance Association as well as other local leadership positions.
- Has strong working relationships with various City Departments and Agencies in addition to the Minneapolis Building Trades, Minority Contractors Association and the Association of Women Contractors,

James Patterson

Manager of Contract Compliance

- 20 years of City of Minneapolis experience
- Completed the City of Minneapolis' Manager/Supervisor Development Program
- Comes to the department after six years as a supervisor in Public Works
- Previous experience in the Contract Compliance Unit

Johnnie Burns

Contract Compliance Officer

- 14 years progressive experience in small business development programs. Specifically involved in implementing Minnesota Department of Transportation's Disadvantage Business Enterprise (DBE) program.
- He has personally been responsible for contract compliance and DBE review of over \$750,000,000 worth of federal contracts including the light rail project.
- Has an excellent relationship with the Association of Woman Contractors (AWC), the National Association of Minority Contractors (NAMC), and the Associated General Contractors (AGC).

Leslie Woyee

Contract Compliance Officer

- Brings 21 years of experience from the Minneapolis Public Housing Authority
- For the past 7 years she served as the Section 3 Compliance Officer.
- Under her direction MPHA was the first Housing Authority in the nation to surpass the 10% section 3 goal
- Created the supplier diversity program providing various training sessions for Section 3, women and minority businesses on bidding, estimating, communication, keys to business success, etc.
- Developed a quarterly newsletter highlighting section 3/w/mbe businesses – Step-Up Apprenticeship Program
- She was recently a board member of the local chapter of the National Association of Minority Contractors

Disparity Study - Legal Requirements

- Strict constitutional scrutiny requires that we develop documentation that supports our activities
 - A compelling interest in remedying discrimination established by “strong evidence” of discrimination
 - Remedies must be “narrowly tailored” to that evidence
 - Evidence and remedies must be reviewed periodically (Approximately every 5 years)

Disparity Study - Activities

- Determine the City of Minneapolis Marketplace
- Determine availability of qualified W/MBE's
- Compare utilization to availability
- Investigate Marketplace discrimination
- Investigate barriers to success
- Provide program recommendations

Disparity Study - Consultant

- National Economic Research Associates, Inc.
 - NERA was the top rated consultant by a review panel of metropolitan staffs representing Minneapolis, St. Paul, Hennepin and Ramsey Counties, and the Airports Commission and Met Council.
 - Conducted over 60 studies since 1990
 - Studies have repeatedly been upheld in the courts, including the 8th Circuit

Coordination with City Departments

- Focus on relationship with:
 - CPED
 - Public Works
 - Purchasing
 - Empowerment Zone
- Develop agreed upon operation process – In place by January 2008
- Implement liaison program in each department
- Develop annual goals for each department for the utilization of MBE's & WBE's in the purchase of goods and services

Coordination with Prime Contractors

- Require physical copy of Affirmative Action Plans
 - On-line AAP format and instructions & policies
- Assist with execution of Good Faith effort
 - Source of qualified and certified small businesses
 - Source of qualified skilled and unskilled labor
 - Source of community based organizations for labor
 - Clear definition and communication of good faith standards
- More interaction with stakeholders and increased on-site monitoring

Remedies for Non-Compliance

- Letters of Agreement
- Liquidated damages or withheld payment
- Non-compliance hearing by the Minneapolis Civil Rights Commission
- Request for disbarment action by City Council

Criteria for Issuing Letters of Agreement

- If a contractor can not meet the goals due to a lack of employment opportunity
- If a contractor can not meet the goals due to a lack of worker availability
- LOA's must be reviewed by Director of Outreach & Enforcement and signed by the Director of Civil Rights

Liquidated damages or withheld payment

- Gross negligence in providing required information or reports
- Lack of cooperation in resolving wage underpayments
- Failure to follow an agreed upon course of action

Non-Compliance Hearing by the Minneapolis Civil Rights Commission

- Misrepresentation of facts
- Substantial lack of effort
- Disparate treatment of protected class employees or businesses

Request for Disbarment Action by City Council

- Gross misrepresentation of facts
- Violation of City of Minneapolis law by refusal to make compliance efforts

Capacity Building with SUB

- Build partnerships with SUB's and interested participants
- Technical training (es. Bid process, reading blueprints and specifications)
- Business training (contract knowledge, management skills)
- Bonding
- Insurance
- Working capital
- Cash flow assistance
- Investment capital

Linkage with Trade Unions

- Coordination and partnership with the Union sponsored Step Up Program
- Foster coordination and cooperation between the Building Trades and community based training organizations such as the Urban League LEAP, Summit Academy Training initiatives, and Indian OIC
- Ensure enforcement and adherence to City of Minneapolis prevailing wage requirements

Recommendations for Council Action

- Re-state commitment to the need for inclusion of Civil Rights Department
- Revisit SUBP ordinance in 2008
 - Findings from disparity study may require changes in the program operation
- State agreement with suggested plans for moving forward