

CITY OF OAKLAND
AGENDA REPORT

FILED
OFFICE OF THE CITY CLERK
OAKLAND
2008 JUN 26 PM 7:08

TO: Office of the City Administrator
ATTN: Deborah Edgerly
FROM: Department of Contracting and Purchasing
DATE: July 8, 2008

RE: **Supplemental Report to Informational Report on the Status of Compliance Analysis Performed on Construction Projects Closed during Fiscal Year (FY) 03-04 and FY 04-05 without Benefit of Local Employment Program (LEP) and 15% Oakland Apprenticeship Program Compliance Analysis**

SUMMARY

The purpose of this report is to provide supplemental information to the June 10, 2008 report on the status of compliance analyses performed on construction projects closed out by a City department but not by the Department of Contracting and Purchasing (DCP), Social Equity Division during FY 03-04 and FY 04-05.

The Public Works Committee requested the following supplemental information on staff activities relative to items below:

- Real Time Tracking of Contractor Progress/Monthly Monitoring
- Actual Number of Oakland residents being employed on City projects
- Names of contractors in non-compliance
- Central Repository for Contractor Performance Evaluations
- Hiring of ex-offenders
- Debarment Options for Contractors in Non-Compliance

FISCAL IMPACT

Since this is an informational report only, no fiscal impacts are included.

POLICY DESCRIPTION

The City of Oakland's Local and Small Local Business Enterprise (L/SLBE) Program; the Local Employment Program (LEP), and the 15% Oakland Apprenticeship Program provide economic opportunities to local residents and Oakland businesses by supporting local economic development and at the same time not obstructing efforts to attract outside investments critical to the City's economic growth.

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Closeout procedures were designed to determine, at project end, the actual level of compliance and/or non-compliance relative to 20% L/SLBE, 50% LEP, and 15% Oakland Apprenticeship programs.

The Committee noted concern about the respective roles of the DCP staff, project managers and resident engineers in assuring compliance with these programs. DCP staff is responsible for ensuring compliance with the subject program requirements. The resident engineer is responsible for assuring compliance with the technical aspects of the project plans and specifications. Coordination between DCP and Design and Construction Department throughout the project, along with new protocols and procedures, assure that appropriate and timely action is taken when a contractor is found to be out of compliance with these programs.

KEY ISSUES AND IMPACTS

Real Time Tracking/Monthly Monitoring

Real time tracking and monthly monitoring of compliance with the City's programs by DCP staff now occurs throughout the contracting process.

The Social Equity Division of DCP takes seriously its role and responsibility to monitor contractor's compliance with City policies in a proactive manner. To that end, Social Equity staff reviews and sends out monthly workforce reports and notices to contractors currently working on City projects. The notice advises the contractor of its LEP and 15% Oakland Apprenticeship utilization. A copy of the notice is sent to the Project Manager or Resident Engineer. If it is determined that the contractor is not in compliance, a meeting with the contractor, the project manager and the Social Equity division is scheduled. At this meeting, a plan is developed for how to get the contractor into compliance with the program(s).

Another aspect of real time tracking is weekly project site visits. The DCP communicates with project managers and resident engineers when issues arise during site visits. The CEDA Design & Construction Services, Construction Management Section now sends copies of all progress payments to DCP so that if non-compliance is determined the contractor is notified and monies are withheld even earlier than the semi-final or final payment.

Actual Number of Oakland residents being employed on City projects

In order to track the participation of Oakland residents on city subsidized construction projects and the contractors' compliance with other policy mandates, the City employs LCP Tracker, a software program that compiles data culled from certified payroll information supplied by the contractor. Currently we are able to supply a report which contains hours worked by employees on construction projects, broken down by hours worked by Oakland residents and hours worked

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by Oakland apprentices. These reports are reviewed by DCP staff and compliance is gagged. When a potential non-compliance with the program goals is found, DCP staff notifies the contractor so that employment may be modified in order to bring contractor into compliance.

The spreadsheet presented herein as Attachment A reflects hours worked by Oakland residents and hours worked by Oakland apprentices on active projects for which certified payroll data was entered to LCP Tracker for the period July 1, 2007 to the present. We have also included the dollars earned for each trade reflected on each project for both Oakland residents and Oakland apprentices. As shown, Oakland residents worked 32.46% of the total number of hours worked on the projects reflected. Oakland resident apprentices worked 10.41% of the total apprentice hours reflected for the period. In dollars, Oakland resident apprentices earned over \$4 million, or 19% of the total dollars earned, while Oakland residents earned \$20.6 million for the same period.

Names of Contractors in Non-Compliance

The table below shows the names of the contractors found in non-compliance for Fiscal Year 2003-2004 as per the Committee's request.

TABLE 1		Total Project Amount	Local Employment	15% Apprenticeship	SHORTFALLS		
PROJECT NAME	Contractor				Hours	Dollars	Remaining
Rehab of SS /Easement between Morgan Ave & Carlson	Andes Construction	\$57,262	N/A	N/A	0	0**	
Rehab of SS in an easement between Gravatt Dr & Alvarado	Mosto Construction	\$105,428	N/A	N/A	0	0**	
Railroad Ave Improvements 85th Ave & Louisiana	McGuire & Hester	\$749,925	Satisfied	Satisfied	522.63	\$18,696.87	
Oakland Coliseum Inner-city Rail Station	Zcon Builders	\$3,300,000	Satisfied	Satisfied	93.82	\$3,002.14	
Rehab. Of SS Crest ,Michigan, 82nd Ave to Macarthur	Andes Construction	\$1,271,051	Satisfied	Satisfied	805.28	\$19,999.93	
Oakland Museum of California Dust Collector	Bay Construction	\$240,000	Satisfied	Not Satisfied	27.5	\$644.60	\$644.60*
Construction Relief on Beinati	KJ Woods	\$538,000	Not Satisfied	Not Satisfied	431.53	\$13,773.67	\$13,773.67
Dollar amount: all projects		\$6,021,906			1,880.76	\$56,117.21	\$14,418.27

* Not Applicable

Central Repository

The central repository for the Schedule L—Contractor Performance Evaluation is the DCP—Contract Administration Division. The Resident Engineer prepares the Schedule L within 30 days of the issuance of the final payment and submits to Contract Administration. In the future, a report that contains information from Social Equity Division relative to the firm's past compliance performance will also be forwarded to DCP—Contract Administration.

Hiring of Ex-offenders

The DCP—Social Equity Division works closely with Mr. Isaac Taggert of the Mayor's Office to match ex-offenders with construction job opportunities. To this end, the Social Equity

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Division participates in bi-weekly orientations, where the 50% LEP and 15% Oakland Apprenticeship Program are introduced. The Division processes in-take of walk-ins referred by Mr. Taggert. Approximately 20 individuals have registered through the Local Construction Employment Referral Program. However, no employment has been offered. Additionally, the Mayor's Office has requested that City departments identify employment opportunities within each City department for ex-offenders. We are assisting Mr. Taggert with working with Parks & Recreation and other departments to develop temporary work projects that would result in temporary or permanent City employment.

Debarment Options for Contractors in Non-Compliance

While the City does not currently have a Debarment Ordinance, Section 2.04.060 of the Oakland Municipal Code (OMC) states in part, "In addition to price, in determining the lowest responsible bidder, consideration shall be given to: A) The quality and performance of the supplies to be purchased or services to be provided by the seller; B) The ability, capacity and skill of the bidder to perform the contract or provide the supplies or services required; C) The ability of the bidder to provide the supplies or services promptly, or within the time specified, without delay; D) The character, integrity, reputation, judgment, experience and efficiency of the bidder; E) The quality of the bidder's performance on previous purchases by, or contracts with, the city; F) The ability of the bidder to provide future maintenance, repair parts and services for the use of the supplies purchased;..."

Based on the OMC, the City can make a determination that a contractor is not a responsible bidder when it continually fails to meet the L/SLBE, LEP or 15% Oakland Apprenticeship Program.

If the City were to develop a Debarment Ordinance, the following could be an option:

The City Administrator may issue a Final Notice of Debarment for any contractor who the hearing officer, based on evidence presented, finds to have engaged in any willful misconduct in connection with any City or Redevelopment Agency bid, request for qualifications, request for proposals, purchase order and/or contract. Such willful misconduct may include, but is not limited to, any of the following: 1) submission of false information in response to an advertisement or invitation for bids or quotes, a request for qualifications or a request for proposals; 2) failure to comply with the material terms of a contract; 3) a pattern and practice of disregarding or repudiating terms or conditions of City or Redevelopment Agency contracts, including without limitation repeated unexcused hiring, prevailing wage, equal benefits or any other City or Redevelopment Agency purchasing or redevelopment policies; 4) submission of false claims as defined in California Government Code, Section 12650 et seq.; 5) a verdict, judgment, settlement, stipulation or plea agreement establishing the contractor's violation of any civil or criminal law against any government entity relevant to the contractor's ability or capacity

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to honestly perform under or comply with the terms and conditions of a City or Redevelopment Agency contract; and/or 6) collusion or attempted collusion in obtaining award of any City or Redevelopment Agency contract, or payment or approval thereunder.

SUSTAINABLE OPPORTUNITIES

Economic: The Local Employment and Oakland Apprenticeship Programs provide employment of local Oakland residents and contracting opportunities for local Oakland certified firms.

Environmental: Not applicable.

Social Equity: The Local Employment and Oakland Apprenticeship Programs provide benefits to Oakland residents and local businesses.

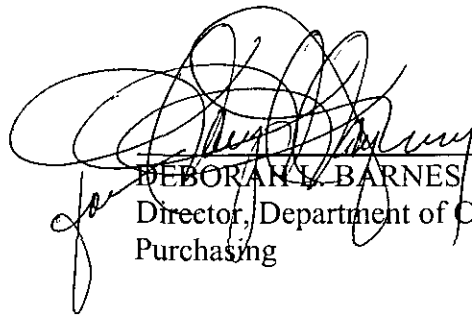
DISABILITY AND SENIOR CITIZEN ACCESS

Not applicable.

ACTION REQUESTED OF THE CITY COUNCIL

It is recommended that Council accept this informational report.

Respectfully submitted,



DEBORAH BARNES

Director, Department of Contracting &
Purchasing

Reviewed by:

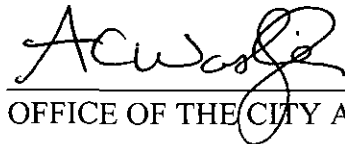
Mary Mayberry,

Administrative Services Manager I

Prepared by:

Shelley Darensburg, Senior Contract Compliance Officer
DCP—Social Equity

APPROVED AND FORWARDED TO THE
PUBLIC WORKS COMMITTEE:



OFFICE OF THE CITY ADMINISTRATOR

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ATTACHMENT A

Oakland Hours Across All Project and All Contractors

Date Range: 7/1/2007 to 6/18/2008

Trade Classification	Journey Wages Per Hour	Oakland Resident Journey Total Wages Per Trade	Apprentice Wages Per Hour	Oakland Resident Apprentice Total Wages	Total Employee Hours	OAKLAND Hours	Apprentice Hours	OAKLAND Apprentice Hours
ASBESTOS WORKER, HEAT AND FROST INSULATOR	\$59.47	\$72,553.40	\$22.54	\$0.00	3,637.50	1,220.00	237.00	0.00
BRICK TENDER	\$42.41	\$10,517.68	\$22.20	\$0.00	553.50	248.00	21.00	0.00
BRICKLAYER, BLOCKLAYER	\$51.50	\$57,319.50	\$22.00	\$2,662.00	5,878.50	1,113.00	2,551.00	121.00
Carpenter and Related Trades (Second Shift)	\$52.32	\$5,316,125.33	\$35.52	\$1,459,005.31	337,926.90	101,607.90	73,325.10	41,075.60
CARPET, LINOLEUM	\$53.62	\$232,335.46	\$30.39	\$50,751.30	16,040.50	4,333.00	5,593.00	1,670.00
CEMENT MASON	\$42.31	\$241,442.02	\$23.44	\$90,560.44	20,832.80	5,706.50	4,035.00	3,863.50
DRIVER (ON/OFF-HAULING TO/FROM CONSTRUCTION SITE)	\$18.40	\$338.56	\$0.00	\$0.00	241.90	18.40	0.00	0.00
DRYWALL INSTALLER / LATHER (CARPENTER)	\$51.35	\$2,163,555.23	\$22.43	\$191,462.48	121,577.50	42,133.50	13,937.00	8,536.00
Electrical Utility Lineman	\$65.21	\$9,390.24	\$47.17	\$0.00	794.50	144.00	0.00	0.00
ELECTRICIAN	\$65.21	\$1,946,521.76	\$29.36	\$443,776.40	130,559.90	29,850.05	37,524.25	15,115.00
ELEVATOR CONSTRUCTOR	\$73.34	\$586.72	\$47.17	\$377.36	8,422.25	8.00	2,782.00	8.00
FIELD SURVEYOR	\$0.00	\$0.00	\$0.00	\$0.00	973.50	91.00	23.00	0.00
GLAZIER	\$53.80	\$95,414.30	\$46.56	\$44,627.76	17,454.50	1,773.50	6,091.75	958.50
IRON WORKER	\$51.94	\$591,051.23	\$25.18	\$148,750.85	48,996.00	11,379.50	10,629.00	5,907.50
LABORER AND RELATED CLASSIFICATIONS (SPECIAL SINGLE AND SECOND SHIFT)	\$38.36	\$4,955,383.93	\$22.88	\$496,230.59	245,130.53	129,181.02	24,724.40	21,688.40
LANDSCAPE MAINTENANCE LABORER	\$8.81	\$1,191.55	\$6.78	\$0.00	1,275.25	135.25	0.00	0.00
LIGHT FIXTURE MAINTENANCE	\$8.81	\$1,499.46	\$0.00	\$0.00	398.95	170.20	0.00	0.00
MARBLE MASON	\$56.16	\$0.00	\$44.81	\$0.00	305.00	0.00	143.50	0.00
MODULAR FURNITURE INSTALLER (CARPENTER)	\$18.86	\$1,961.44	\$0.00	\$0.00	239.00	104.00	0.00	0.00
OPERATING ENGINEER (HEAVY & HIGHWAY WORK)	\$60.37	\$712,003.78	\$36.30	\$52,272.00	37,115.55	11,794.00	2,849.50	1,440.00
Operating Engineer (Landscape Construction) (Special Single and Second Shift)	\$56.16	\$63,165.96	\$44.81	\$0.00	2,567.25	1,124.75	0.00	0.00
PAINTER	\$47.50	\$1,206,048.75	\$22.86	\$170,809.92	71,822.25	25,390.50	10,172.00	7,472.00
PARKING AND HIGHWAY IMPROVEMENT PAINTER (PAINTER)	\$47.50	\$0.00	\$22.86	\$0.00	213.00	0.00	0.00	0.00
PILE DRIVER (CARPENTER)	\$54.22	\$0.00	\$0.00	\$0.00	413.00	0.00	8.00	0.00
PLASTERER	\$52.51	\$465,894.98	\$42.00	\$149,079.00	29,757.50	8,872.50	7,033.00	3,549.50
PLUMBER	\$67.66	\$1,653,711.89	\$33.41	\$406,716.64	107,853.00	24,441.50	34,123.00	12,173.50
ROOFER	\$51.94	\$283,176.88	\$25.18	\$86,115.60	18,307.50	5,452.00	5,790.50	3,420.00
SHEET METAL WORKER (HVAC)	\$66.48	\$441,593.40	\$31.92	\$137,726.82	37,067.60	6,642.50	11,667.00	4,314.75
TEAMSTER	\$44.80	\$8,028.16	\$31.34	\$0.00	1,253.00	179.20	0.00	0.00
TERRAZZO FINISHER	\$54.40	\$0.00	\$0.00	\$0.00	16.00	0.00	0.00	0.00
TILE SETTER	\$47.96	\$121,962.28	\$35.38	\$83,426.04	14,352.00	2,543.00	5,040.50	2,358.00
TREE TRIMMER (HIGH VOLTAGE)	\$18.75	\$18,482.81	\$0.00	\$0.00	1,724.50	985.75	0.00	0.00
TUNNEL WORKER (LABORER)	\$42.75	\$0.00	\$0.00	\$0.00	26.00	0.00	0.00	0.00
Grand Total		\$ 20,671,256.69		\$ 4,014,350.51	1,283,726.63	416,642.52	258,300.50	133,671.25
Overall Percentage						32.46%	20.12%	10.41%