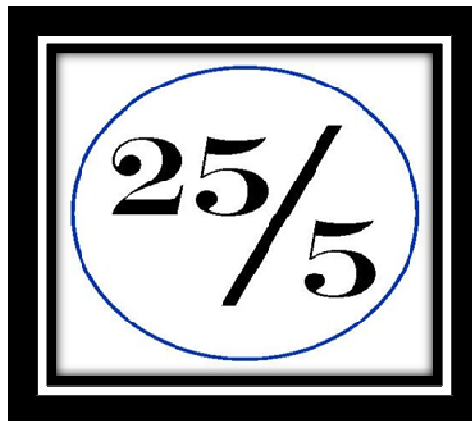


Emilie & Friends

An Independent Radio and Television Show



**“A PROCUREMENT BOOST OR BUST FOR CHICAGO’S
MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES?”**

*A History, Compilation of Opinions, and Status of the
City of Chicago’s MWBE Program*

Produced By
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NOVEMBER 30, 2011

Acknowledgements

The Funders

Emilie & Friends graciously thanks The Chicago Community Trust for including our Parent Company, Rainbow Gal Inc., among the 31 Local Reporting Awards in its “Community News Matters” program totaling \$110,000 for reporting on a variety of important issues affecting Chicago’s low-income areas. We also express our appreciation to the other funders of the program -- the John S. and James L. Knight Foundation, the John D. and Catherine T. MacArthur Foundation, the McCormick Foundation, the Richard H. Driehaus Foundation, and the Woods Fund of Chicago. This award allowed *Emilie & Friends* to reach beyond our radio and television shows into the community. We were able to explore more broadly the history, challenges, and successes of minorities and women doing business with the City of Chicago.

The Administrators

We express our gratitude to the Community Media Workshop and *The Chicago Reporter* for helping the Trust to administer the Local Reporting Awards. We also thank the Workshop’s President, Thom Clark, and his staff for their administrative interaction with *Emilie & Friends*.

Recognition

Technical Support

Emilie & Friends greatly appreciates the technical assistance provided by Alden Loury, formerly publisher of the *Chicago Reporter*. His software training enabled us to review and present data in a different way. Most importantly, we thank Alden for making us aware of the opportunity to submit our credentials and project to be considered for the Community News Matter Local Reporting Award.

Special Thanks

AARON FEINSTEIN

Director of Program and Policy Review

Office of the Inspector General, City of Chicago

The number of Certified MWBEs is approximately 2500 but overstates how many are participating in the program. Actually, the number that gets contracts is small; a very select group. The issue is concentration. In our review in the IGO June 2011 Report, the City construction contracts that ended in 2008 showed the actual payment for MWBE participation on about 65-70 contracts. The top 10 firms received 42% of the MWBE contracts. MWBE contracts are concentrated among a small number of firms. There is a lot of emphasis on Certification but most never win contracts.

JAMIE RHEE

Chief Procurement Officer

Department of Procurement Services, City of Chicago

The City's overall M/WBE participation has grown for African American and Hispanic firms since last year. The total dollars awarded to M/WBE firms also increased by more than \$40 million. Something that will certainly help the City's efforts to create even more M/WBE opportunities is Mayor Emanuel's \$147 million investment in the City's infrastructure. The water and sewer projects created by this investment will help to bring more work opportunities to M/WBE firms and will also create jobs for our community.

JAMES H. LOWRY

Co-Author

“Minority Business Success: Refocusing on the American Dream”

If you really want to have parity in business, we all have to work together. Looking at the last 40 years, we have “silo thinking” where every sector is thinking and doing something different....We have to start growing larger minority and women businesses; most of these companies today are sole proprietorships. The 2nd generation is not interested in staying in these businesses; they go to Corporate America or chose another career. You can't keep having minorities at the low-end of the supply chain. We have got to shift that. It's about developing entrepreneurs.

HEDY RATNER

Co-Founder and Co-President

Women's Business Development Center (WBDC)

We are proud to have assisted over 65,000 women around the country in starting and maintaining a business. And, I am most happy with President Obama's Equal Pay Act and Women Owned Small Business Act. This will do a lot for women. I believe MWBEs are in a better position today but there is room for improvement. In support of the MWBE program, the WBDC offers expedited certifications for women and minorities, match businesses to contractor needs, and provide referral services.

ANITA PONDER

Nationally Acclaimed Attorney and M/WBE Advocate

Partner, Seyfarth Shaw LLP, Government Contracts Group Chair

"If people are truly interested in government contracts, all the information you may want is on their websites – federal, state, county, and local. You must be informed regarding government procurement regulations, laws and policies, and also be prepared to respond to Request for Qualifications (RFQs) and Requests for Proposals (RFPs). Join our Government Contracts Group to get information and meet key people.

Disclaimers

***Emilie & Friends* extended invitations to Aldermen to participate in this report.**

However, none were available due to Budget Hearings.

Additionally, some minority groups were unavailable to participate.

With Appreciation

ALBERT DEMMING
General Sales Manager
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For facilitating the proposal submission process for Rainbow Gal Inc. to be considered for the Community News Matter Local Reporting Award.

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Emilie & Friends

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James H. Lowry, Co-Author, "Minority Business Success"

Hedy Ratner, Co-Founder and Co-President, Women's Business Development Center

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For scheduling and interviewing business leaders and entrepreneurs.

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What to Know About Reading this Report

This report is developed from a community reporting perspective. We have omitted footnotes and appendices to include relevant references within the report itself. Our research largely included a review of the following resources:

Mayor Harold Washington's Executive Order 85-2, April 4, 1985/Establishing MWBE Program
City Council Archives
<http://www.chicityclerk.com/>

Mayor Richard Daley's Executive Order 89-7, April 25, 1989/Re-Issued Executive Order 85-2
City Council Archives
<http://www.chicityclerk.com/>

Mayor Rahm Emanuel's Executive Order 2011-4 , May 16, 2011/Restriction of Contributions to the Mayor or his Political Campaign Committee from Contractors either Directly or Indirectly
<http://www.cityofchicago.org/content/dam/city/depts/dps/RulesRegulations/ExecutiveOrder20114.pdf>

Review of the Minority and Women-Owned Enterprise Program – May 2010
www.chicagoinspectorgeneral.org

Follow-Up Review of the Minority and Women-Owned Enterprise Program – June 2011
Office of the Inspector General,
www.chicagoinspectorgeneral.org

Report on the City of Chicago's MWBE Program – June 2009
David G. Blanchflower, Bruce V. Rauner Professor of Economics
Department of Economics, Dartmouth College, Hanover, New Hampshire
blanchflower@dartmouth.edu www.dartmouth.edu/~blnchflr

MWBE Program – Certification
<http://www.cityofchicago.org/content/city/en/depts/dps/provdrs/cert.html>

MWDBE Directory of Certified Firms – City of Chicago
Search listings by:

- (1) Airport Concessionaire Disadvantaged Business Enterprise (ACDBE)
- (2) Business Enterprises Owned by People with Disabilities (BEPD)
- (3) Disadvantaged Business Enterprise (DBE)
- (4) Minority Business Enterprise (MBE)
- (5) Women Business Enterprise (WBE)

<https://chicago.mwdbbe.com/FrontEnd/VendorSearchPublic.asp?TN=chicago>

Contracts since 1993 at City of Chicago Data Portal
<http://data.cityofchicago.org/Administration-Finance/Contracts/rsxa-ify5>

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Chicago of Chicago Website
www.cityofchicago.org

Department of Procurement Services
<http://www.cityofchicago.org/content/city/en/depts/dps.html>

Certification and Compliance
http://www.cityofchicago.org/content/city/en/depts/comp/provdrs/certification_andcompliance/supplierdiversity1.html

Study of Minority and Women-Owned Business Procurement
By James H. Lowry & Associates, 1985
Harold Washington Library, Government Section, 5th Floor

Minority Business Directory of Contractors, Subcontractors, and Construction Suppliers
Published by Builders Association of Chicago, September 1979
Harold Washington Library, Government Section, 5th Floor

Chicago Economic Development Corporation (CEDCO) Brochure - 1965
Harold Washington Library, Government Section, 5th Floor

Harold!
Photographs from the Harold Washington Years
Photographs by Antonio Dickey and Marc Pokempner
Text by Salim Muwakkil

NMSDC History
www.nmsdc.org

MBDA History
www.mbda.gov

The Washington Papers
A commitment to Chicago. A commitment to you.
Prepared under the direction of the Research and Issues Committee
Washington for Mayor Campaign

CHICAGO UNITED
Program Book for Organization's 15th Anniversary
"15 Years of Dialogue, Dedication, Commitment - 1969-1984"

Definition of Terms

ACDBE	Airport Concessionaire Disadvantaged Business Enterprise
BEPD	Business Enterprises Owned by People with Disabilities
CBOF	Chicago Business Opportunity Fair
CMSDC	Chicago Minority Supplier Development Council
CU	Chicago United
DBE	Disadvantaged Business Enterprise
DOT	Department of Transportation
DPS	Department of Procurement Services
DPW	Department of Public Works
IGO	Inspector General's Office
MBDA	Minority Business Development Agency
MBE	Minority-Owned Business Enterprise
MWBE	Minority/Women-Owned Business Enterprise
NMSDC	National Minority Supplier Development Council
OIG	Office of the Inspector General
OMBE	Office of Minority Business Enterprise
SBA	Small Business Administration
UMTA	Urban Mass Transportation Administration
WBE	Women-Owned Business Enterprise

THE BACK STORY

*Mayor Harold Washington: How his Knowledge of Challenges Facing
Minorities and Women in Business Paved the Way for
EXECUTIVE ORDER 85-2*

THE HAROLD WASHINGTON EFFECT!

April 3, 1985 was a historic day in Chicago—Mayor Harold Washington issued and signed Executive Order 85-2 establishing the City’s Minority and Women-Owned Business Enterprise (MWBE) program. Even though this was a pivotal time in history, the real grunt work and advocacy started decades before. However, when Washington was elected, he came into office knowing the challenges minority and women-owned businesses faced in seeking to do business with the City of Chicago. As an activist politician prior to becoming mayor, Washington often joked about his colleague, Lewis A. H. Caldwell, in the Illinois General Assembly, who constantly reminded Washington of the Cosmopolitan Chamber of Commerce (Cosmopolitan Chamber) and its importance to building viable Black businesses in Chicago. The Cosmopolitan Chamber, which still exists today, was founded in 1933 to support Black business owners who, because of segregation, could not join mainstream trade groups during that time. Washington also knew first-hand about the work being done by the Chicago Economic Development Corporation (CEDCO), formed in 1965 (but no longer exists) and later became a model for economic development services for minorities and women. This was an interracial-led group with free services and access to capital.

Mayor Washington also knew that in 1966, Dr. Martin Luther King, Jr. appointed Jesse L. Jackson, Sr. to serve as the first director of the Southern Christian Leadership Conference's Operation Breadbasket launched in Chicago to effect progressive economic, educational, and social policy. In 1969, Rev. Jackson organized the first Black Expo in Chicago. Expanding on his Breadbasket accomplishments, in 1971 Rev. Jackson established People United to Save Humanity (later changed from "Save" to "Serve"). PUSH was dedicated to improving the economic conditions of black communities across the United States, and was extremely successful in compelling major corporations to adopt affirmative action programs. This action led to influencing these companies to include black suppliers, wholesalers, and distributors on their purchasing lists.

Washington was also connected to the Chicago Urban League (the League), incorporated in 1917 by an interracial group of organizers, which had gained a credible reputation in promoting social and economic advancement for Chicago’s African-American citizens. Under the leadership of legendary Edwin C. (“Bill”) Berry, and later under James W. Compton, the League advocated for Black business development within governments as well as the public and private sectors. In 1968, the League, along with the Chicago Association of Commerce and Industry and CEDCO, joined forces to sponsor the first Supplier Opportunity Fair, which showcased minority-owned businesses. The event was so successful that in 1969, it was incorporated as the Chicago Business Opportunity Fair (CBOF), which continues today. The Cosmopolitan Chamber became the fourth sponsor of the fair. Additionally, the League’s Affirmative Action division, led by Taylor Cotton, played a key role in the formation and sustainability of Black Contractors United (BCU), which grew into the top advocacy group fighting for construction jobs and contracts for its members.

Having served in the Illinois General Assembly and also as Congressman of the 1st Congressional District, Washington knew the history of steps taken at the federal level to strengthen the growth and development of minority business. He knew that on March 5, 1969, President Richard M. Nixon established, within the U.S. Department of Commerce, the Office of Minority Business Enterprise (OMBE) known today as the Minority Business Development Agency (MBDA). “By establishing a federal agency dedicated exclusively to minority business enterprise, President Nixon recognized the impact of minority businesses on the nation’s economy and on the general welfare of the country.”

1969 was a banner year in another way. Responding to gaps in communication between the minority and white communities following the death of Dr. Martin Luther King, Jr., a consortium of leading Black, white, and Hispanic business executives and professional people formed Chicago United (CU), an organization for

maintaining open communication between minority communities and major businesses. In its 15th year anniversary booklet in May 1984, CU's executive director Kenneth M. Henderson, Jr., said that "Our multiracial alliance of business leaders has no parallel in other cities. No organization in this city has a comparable mission or brings the same combination of talents and resources to the task of improving Chicago's economic, human, and racial climate." CU's economic thrust was consistent with Mayor Washington's "Strategies for Economic and Job Development" as outlined in *The Washington Papers* prepared by his research and issues committee during his campaign for mayor. Today, Chicago United is as dedicated to the thrust of its mission as it was when founded in 1969.

Over time, the synergy created from the success of the CBOF in Chicago led to other cities across the country establishing similar programs. The OMBE was also looking for ways to "pump up" their efforts in the private sector. Recognizing the need to organize a national group to represent, spearhead, and drive the momentum of minority business activity at the local level, a group of Chicago companies, led by Robert Stuart, Chairman of National Can Corporation, formed the National Minority Purchasing Council (NMPC) in 1972 and incorporated it in 1973. In addition to National Can Corporation's leadership, Amoco Corporation, represented by Phillip T. Drotning, Director of Corporate Social Policy, played a major role in the funding and sustainability of NMPC known today as the National Minority Supplier Development Council (NMSDC). Their Chicago affiliate is the Chicago Minority Supplier Development Council (CMSDC) once known as the Chicago Regional Purchasing Council.

Mayor Washington was also associated with and knew the many activists, contractors, and business leaders who made their voices heard. Nancy Jefferson, Chairman and CEO of the Midwest Community Council on Chicago's West Side may have been the strongest voice advocating for social and economic change. Washington had known about Paul King and other leaders who shut down Chicago construction sites in 1969 because of the absence of Black workers and contractors in HUD-financed building projects. Hundreds of demonstrators were inspired by Presidential Executive Order 11246, which required contractors on federally-assisted construction projects to cease discriminating against Blacks and to take "affirmative action" to increase African American participation. As former Chairman of UBM Inc., King built meaningful relationships at the local and national levels to position minorities for business opportunities at all levels of government.

On October 13, 1971, Executive Order 11625 provided arrangements for developing and coordinating a national program for Minority Business Enterprises (MBE). The federal program was developed pursuant to the Urban Mass Transportation Administration (UMTA) Circular 1165.1 issued December 30, 1977 and the Secretary of Transportation Order 4000.7A issued March 6, 1978. This legislation was updated in the Surface Transportation Assistance Act (STAA) of 1982, 49 CFR Part 23. Title VI of the Civil Rights Act of 1984 established the legal basis for setting DBE participation. The Department of Transportation (DOT) requires that recipients of federal funding for transportation-related projects establish goals for Disadvantaged (DBE) and Women-Owned (WBE) Business Enterprise participation.

In 1978, the City of Chicago's Department of Public Works (DPW) set the first DBE/WBE goals for the O'Hare Rapid Transit Extension Project. DPW was given authority over projects and for setting DBE/WBE goals because it had responsibility for administering UMTA grants for all Mass Transit construction and repair projects except purchases for the CTA. In response to requirements of the Department of Transportation, DPW established an MBE committee comprised of five members representing five City departments. The committee certified MBEs and reviewed bidders' compliance with the MBE goals of a contract. The City's DBE goals increased from 10% in 1979 to 13% in 1983 – the year Mayor Washington took office.

In 1979, the Builders Association of Chicago published a Minority Business Directory of Contractors, Subcontractors, and Construction Suppliers. The groups listed as providing services to minority businesses at that time were: (1) Black Contractors United, (2) Breadbasket Commercial, Inc., (3) Chicago Economic Development Corporation, and (4) UBM Inc. Shown on BCU's letterhead in the directory were names of viable Black companies of which most do not exist today but are listed here for historical purposes:

- Lawrence Woods, Contract & Interiors Carpet
- Glenn Harston, Archway Steel Erection
- Ernest Bush, Bush Construction Company
- Clarence Dew, Dew & Sons Concrete Inc.
- Charlie Griffin, C. Griffin Trucking and Excavating Service
- Louis B. Martin, Louis Martin Construction Co.
- Charles Petty, Petty Exterminating
- Henry Simpson, Simpson Electric

- Wilbur Hollins, Wil Hollins Co.
- Steve Garth, Garth Construction Co,
- James Crossley, Crossley Construction Co.
- George W. Graves, Strike Force Plumbing
- H. Kent Hopkins, Hopkins Construction Co.
- James C. Martin, J & L Construction Co.
- Charles F. Moore, C. F. Moore Construction
- Delores Saxton, Alpaco
- Rufus Taylor, Taylor Electric

Candidate Harold Washington knew most of the business owners on a first-name basis

Mayor Washington was not a “machine” candidate; he was independent and progressive. When he took office in 1983, his leadership was strangled by a contentious City Council whose Majority 29 Aldermen were led by Washington's prime enemy – Ed Vrdolyak and his closest ally, Ed Burke. Washington endured then the type of tug of war seen today between President Obama and the Republican Party. The difference, however, was that Washington's enemies were members of his own Democratic Party. “The media seemed much friendlier to the Vrdolyak 29 than to Washington's forces,” a quote that can be found in the book *Harold* with text by Salim Muwakkil. That period of the Washington administration was known as “Council Wars”.

In March 1985, James H. Lowry & Associates, a leading consulting firm on the issues of minority and women business development, submitted to the City of Chicago's Purchasing Agent the “Study of Minority and Women-Owned Business Enterprise (MWBE) Procurement Programs for the City of Chicago”. This study involved intensive research, analysis, and problem solving on how to develop an MWBE program. The intent was to help Chicago become a “model city” in fostering urban economic development through the development of real minority and women-owned businesses. The report stated that “Currently, the City's only established vehicle for certifying MBEs is the Department of Public Works' MBE Committee.”

The following month, after Lowry's study was submitted, Mayor Harold Washington signed Executive Order 85-2 on April 3, 1985, setting procurement goals for minorities at 25% and women at 5%. These percentages were based on the percent of qualified minorities and women available to do business with the City of Chicago. The Order was effective immediately, thereby opening doors to contracts unlike any time before.

Washington set into place new business success for minorities and women which continued after his untimely death on November 25, 1987 into the administration of Mayor Eugene Sawyer.

This “Back Story” is offered to create a picture of the business environment for minorities and women before and leading up to Mayor Harold Washington issuing Executive Order 85-2. With only 21 Aldermen on his side, the Mayor, like President Obama today, had to use options under his control. In many ways, this Executive Order may be Mayor Harold Washington’s enduring legacy to the City of Chicago.

MOST PEOPLE HAVE NOT READ ANY PART OF MAYOR HAROLD WASHINGTON’S EXECUTIVE ORDER 85-2. THE FULL DOCUMENT CAN BE FOUND IN THE CITY COUNCIL ARCHIVES AT www.chicityclerk.com.

MOVING FORWARD

*Did the MWBE Program move “Up or Down” during the 22 years of
Mayor Richard M. Daley?*

THE RICHARD M. DALEY EFFECT

PROTECTING THE MWBE PROGRAM

After taking office in 1989, Mayor Richard M. Daley issued Executive Order 89-7 to “Re-Issue” Mayor Washington’s Executive Order. However, during that same year, in *City of Richmond v. J.A. Croson Co*²⁹, the Supreme Court ruled an affirmative action contracting program unconstitutional because the City of Richmond did not provide enough evidence to justify its program. Similar programs around the country were threatened including Chicago’s MWBE program. A blue-ribbon committee was appointed by Mayor Daley to study the City’s program. In March 1990, the committee concluded that Chicago’s existing set-aside goals were “appropriate and sustainable” under the *Croson* decision. Hearings were held to generate evidence to continue the MWBE program. In 1990, the Chicago City Council passed an Ordinance that made the MWBE program law. The Ordinance retained the 25% for minorities and 5% for women goals set forth in Mayor Washington’s Executive Order.

A potential setback occurred in 1996 when the Builders Association of Chicago challenged the constitutionality of the City’s MWBE program but only regarding construction contracts. In 2003, a federal court held that Chicago’s program “did not meet the constitutional standard set forth by the Supreme Court’s *Croson* decision.” The court found that Chicago’s MWBE program was no longer “narrowly tailored” to simply remedy the effects of discrimination. The City took control by organizing a task force to determine how to change the program. Then in 2004, the task force held hearings to get testimonies from affected and interested parties. On the City’s side, a statistical study was conducted to pinpoint the scope of discrimination within the Chicago construction industry. The City had to also determine how many qualified minority and women-owned construction firms were available to offer construction services in order to set MWBE percentages for contracting goals.

The “**construction part**” of the MWBE program was modified when, in June 2004, the City Council passed an amended Ordinance as it applied to construction contracts, **reducing contract goals to 24% for MBEs and 4% for WBEs.** According to the May 2010 “Review of the Minority and Women-Owned Business Enterprise Program” report by the Office of the Inspector General (OIG), “Other City contracts were not and have not been challenged and therefore were not changed.” **This means that contract goals of 25% for MBEs and 5% for WBEs continues on non-construction contracts.** Additionally, the amended Ordinance put in place a personal net worth limit of \$750,000 for owners of certified firms and an annual gross receipts limit for certified firms based on the Small Business Administration’s (SBA) small business size standards. (The size standards list can be downloaded at www.sba.gov.)

The May 2010 OIG report also showed that in 2006, the Ordinance was amended again to raise the personal net worth threshold to \$2 million. And, due to inflation, that amount has since increased to \$2.04 million. Additionally, **the Ordinance was amended to sunset after five years, in December 2009.**

In 2009, the City ordered another study of the City’s construction industry which found that the Chicago construction industry was mainly unchanged from five years before. This meant that the discrimination effects continued in Chicago and the “penalty attached to being a minority or a woman in construction self-employment” still existed.

“On July 29, 2009, the City Council reauthorized the program through 2015. The only changes to the program were the addition of Native Americans as a disadvantaged group and an interim review scheduled for 2012”, according to the OIG report.

DID MAYOR DALEY CLOSE HIS EYES TO THE FRAUD AND ABUSE IN THE MWBE PROGRAM?

Even though the City of Chicago, under Mayor Daley, stood firm in protecting the legality of the MWBE program, unprecedented cases of fraud, abuse, and mismanagement occurred during his administration. In an interview with Aaron Feinstein, Director of Program and Policy Review, Office of the Inspector General (OIG), it was revealed that since 2005, they recommended that 20 companies be decertified and 65 companies be debarred; and federal indictments have been brought against five (5) companies/individuals: Azteca Supply Co., Steven Fenzl and Douglas E. Ritter, ICS Cable Inc., James Duff/Remedial Environmental Manpower, and Anthony Duffy of Municipal Sewer Services.

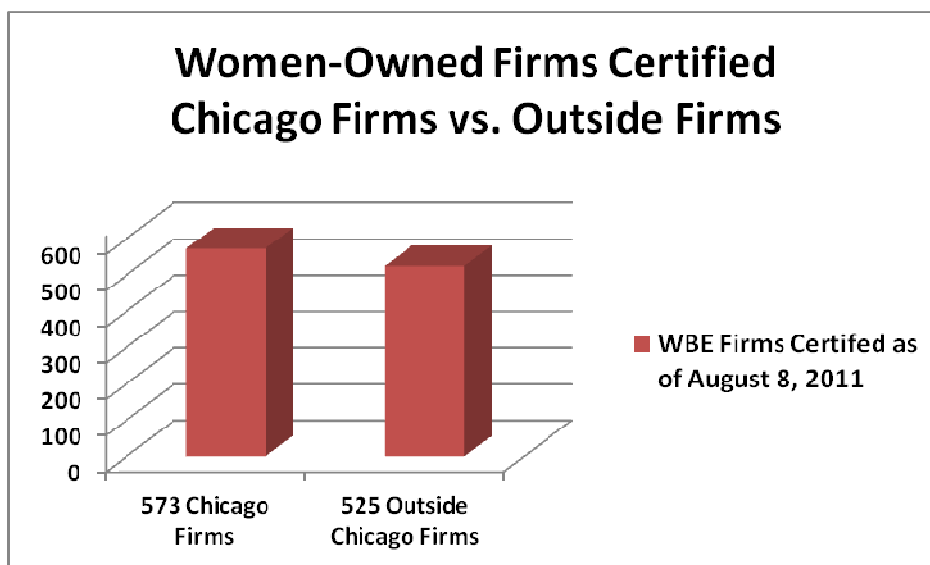
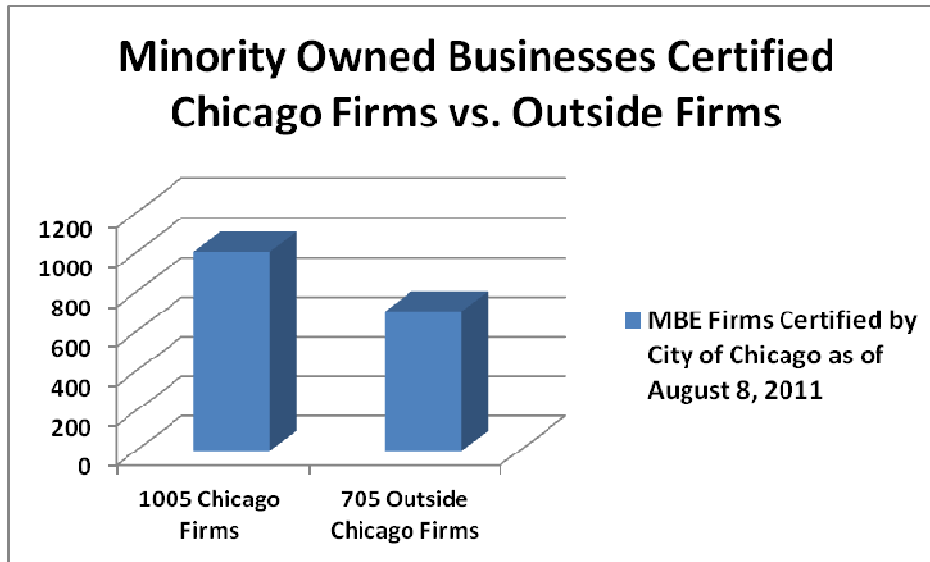
The City’s MWBE regulations clearly state that an “MBE or WBE does not perform a commercially useful function if its role is limited to that of an extra participant in a transaction, contract, or project, through which funds are passed in order to obtain the appearance of MBE or WBE participation.” However, the 50 investigations by the OIG uncovered evidence that an alarming number of minorities and women contributed to the fraud, abuse, and mismanagement in the MWBE program. Most of the abuses occurred through (1) “Fronts” - Companies certified as MWBEs but the operations, labor, and profits are controlled by whites; and (2) “Pass Throughs” – Legitimate MWBEs that transfer most of the performance and dollar value of their contracts to white-owned companies. Shown below are examples of mismanagement and abuse taken from the OIG May 2010 report:

- **City of Chicago reporting dollar amounts of contracts awarded not actual payments to MWBES**
- **Over-counting of MWBE “Prime” contractor participation**
- **Crediting ineligible firms**
- **Over-counting suppliers**
- **Unknown contract amounts to MWBEs in Joint Ventures**
- **Lack of Contract Compliance to assure that MWBEs are certified in their service/product areas**
- **Subcontractor payment certifications**
- **Brokers overstating MWBE participation**
- **Front – Azteca Supply Co.**
- **Front – The Duff’s Family Remedial Environmental Manpower**
- **Front – ICS Cable Inc.**
- **Pass Through - Large materials purchase routed through MWBEs.**
- **Pass Through - Large subcontracts routed through MWBE subcontractors.**
- **Pass Through - Prime contractor has a direct relationship with 2nd Tier subcontractor.**
- **Pass Through - Subcontracting labor services to non-MWBEs.**
- **Pass Through - MWBE contract performance through use of non-MWBE Prime contractor personnel.**
- **Pass Through - Payments flow to 2nd Tier and 3rd Tier firms with which Prime has a relationship.**

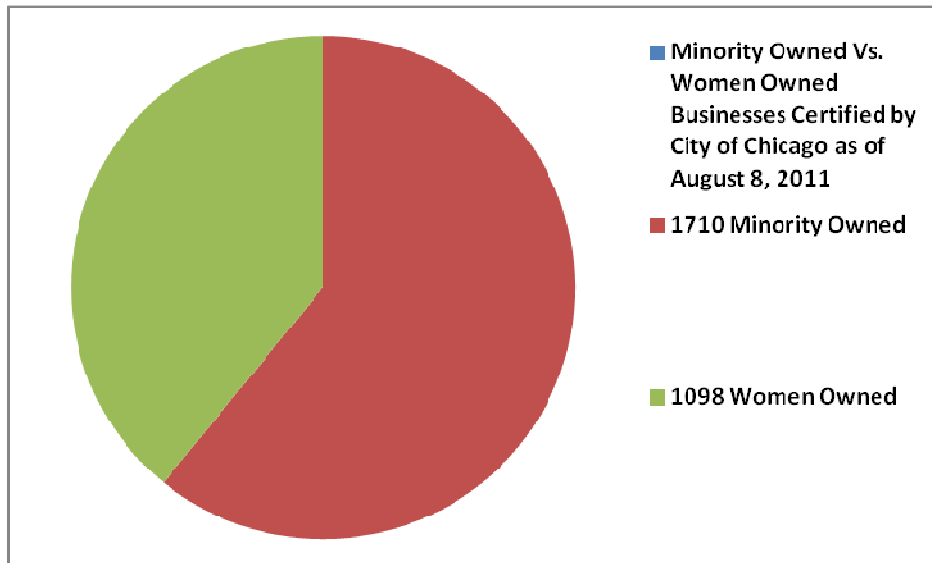
SEE A LIST OF DEBARRED FIRMS AND INDIVIDUALS AT:

<http://www.cityofchicago.org/content/dam/city/depts/dps/DebarredFirms/DebarredList1011.0.pdf>

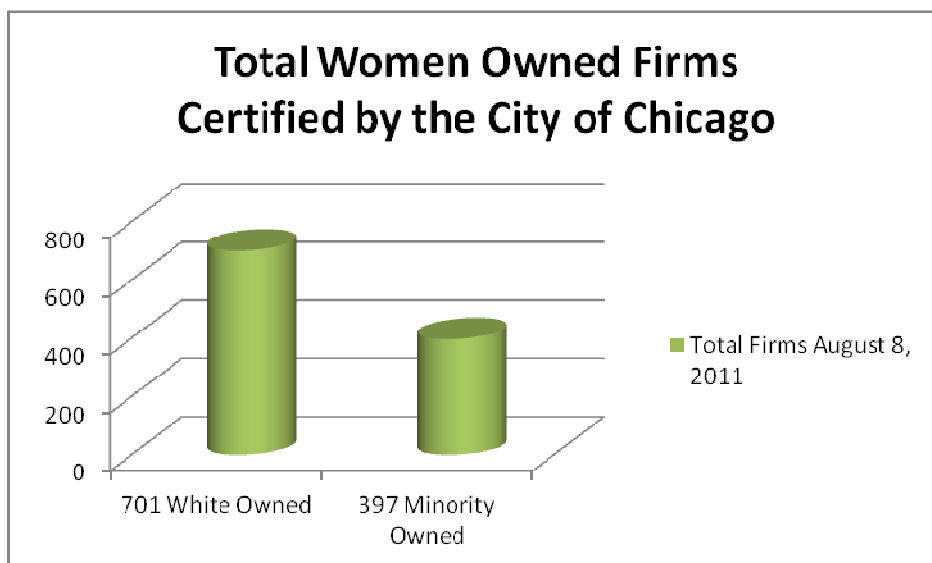
HAS THE MWBE PROGRAM HELPED OR HURT MINORITY AND WOMEN-OWNED BUSINESSES?



Emilie & Friends reviewed the MWBE Directory (available on the Department of Procurement Services site) and separated minorities and women. The surprise was learning that there are almost as many certified companies located outside of Chicago as there are in Chicago. A subsequent review of the MWBE regulations showed that certification is open to businesses in a Six County Region which includes: Cook, DuPage, Kane, Lake, McHenry and Will. How does the “outside” competition impact the chances of Chicago MWBEs winning City contracts?



Mayor Washington's Executive Order stated that "Minority group means any of the following racial or ethnic groups, as defined by the United States Equal Employment Opportunity Commission: Blacks; Hispanics, regardless of race; Asian-Americans and Pacific Islanders; American Indian and Alaskan Native." Native Americans were added in the modification of the MWBE Ordinance in 2009. It is not clear whether American Indian and Native Americans are synonymous in the Ordinance. Are there too many ethnic categories within the MBE group competing for 25% of the City's business?



Emilie & friends was concerned that minority women might be double counted by adding contract awards under both the WBE and MBE category. Verification through the OIG, Women's Business Development Center (WBDC), and other sources concluded that minority women are counted based on the designation they use on a contract. For example, if they serve as a WBE on a contract, they will be counted in that group. However, *Emilie & Friends* is working to get more clarification in that the City uses a category "Women (non-minority) in providing contract results.

TOTAL CITY CONTRACTS 1991 vs. 2008

Year	Total City Contracts	MBE Contracts	MBE %	WBE Contracts	WBE %	Total MWBEs	Total MWBEs %
1991	\$598,534,397	\$159,497,925	26.65%	\$42,488,075	7.10%	\$201,986,000	33.75%
2008	\$2,437,266,418	\$722,934,714	29.66%	\$312,153,681	12.81%	\$1,035,088,395	42.47%

From the above statistics, over a 17-year period, MWBE business with the City of Chicago increased by 13.72 %. In 2008, MWBE results exceeded the combined goal of 30% by 12.47 %.

MWBE AWARDS BY ETHNICITY 1991 - 2008

African American	\$2,990,271,768	11.32%
Hispanic	\$2,662,645,211	10.08%
Women (Non-Minority)	\$1,836,092,958	6.95%
Asian	\$1,652,397,791	6.26%

According to the May 2010 OIG report, the percent of African American participation is misleading in that contracts to this group declined in recent years. These firms reached their peak in 2001 then declined for several years, then increased somewhat in 2008. Even though Hispanic participation has gone up and down significantly, the group reached its peak in 2008. On the other hand, Asian participation has steadily increased over the last 18 years but dropped off in 2008. Participation by non-minority women has been consistent but soared in 2008. *Emilie & Friends* seeks to learn more about the cause/impact of the 2008 Results.

CONSTRUCTION CONTRACTS BY ETHNICITY 1995 - 2008

Hispanic	\$920,346,586	14.16%
African American	\$594,479,418	9.14%
Women (Non-Minority)	\$461,923,658	7.10%
Asian	\$447,134,590	6.88%

Construction Contracts – Procurement Goals: 24% for MBEs and 4% for WBEs

Construction is the largest and most competitive area of the MWBE program. Over the last 14 years, Hispanics have secured over a third of the contracts. For construction, the owner's personal net worth must be under \$2.04 million and the firm's gross receipts must not exceed the small business size standards set forth by the SBA. Note: The City of Chicago's MWBE regulations state that a construction firm that exceeds \$14 million in annual gross receipts averaged over five years is considered an "established business." Once a certified construction firm becomes an established business, it is graduated from the MWBE program and no longer qualifies for certification.

Data Source for charts on this page: May 2010 Review of the Minority and Women-Owned Business Enterprise Program, Office of the Inspector General

NON-CONSTRUCTION CONTRACTS BY ETHNICITY 1995 - 2008

African American	\$2,044,630,695	11.99%
Hispanic	\$1,502,460,454	8.81%
Women (Non-Minority)	\$1,226,848,314	7.19%
Asian	\$1,068,187,841	6.26%

Non-Construction Contracts – Procurement Goals: 25% for MBEs and 5% for WBEs
Two-thirds of the City’s procurement dollars are allocated for non-construction contracts. In this category, African Americans have accounted for over one-third of the total MWBE contracts during the last 14 years. For non-construction contracts, there is no personal net worth limit and the annual gross receipts limit is nearly \$34 million for 2010.

*Source for all data chart:
May 2010 Review of the Minority and Women-Owned Business Enterprise Program,
Office of the Inspector General, City of Chicago*

To learn more about the scope of the fraud, abuse, and mismanagement of the MWBE program during the 22 years of Mayor Richard M. Daley, visit the website for the Office of the Inspector General, City of Chicago.

www.chicagoinspectorgeneral.org

Search for

**REVIEW OF THE MINORITY AND WOMEN-OWNED BUSINESS
ENTERPRISE PROGRAM – MAY 2010**

AND

**FOLLOW-UP REVIEW OF THE MINORITY AND WOMEN-OWNED BUSINESS
ENTERPRISE PROGRAM – June 2011**

REFORMING THE MWBE PROGRAM

Is it a new day for the MWBE Program under Mayor Rahm Emanuel?

MAYOR EMANUEL ENGAGES THE PRIVATE SECTOR TO BEEF UP THE MWBE PROGRAM

THE FOLLOWING IS A PRESS RELEASE ANNOUNCING NEW SMALL AND MWBE PROGRAMS. YOU CAN READ THIS AND OTHER RELEASES AT:

www.cityofchicago.org

FOR IMMEDIATE RELEASE

October 24, 2011

CONTACT:

Mayor's Press Office

312.744.3334

press@cityofchicago.org

MAYOR EMANUEL LAUNCHES TWO NEW PROGRAMS DESIGNED TO ENCOURAGE GROWTH IN SMALL, WOMEN-OWNED AND MINORITY-OWNED BUSINESSES

Programs will engage the private sector and create more opportunities for businesses without any additional cost to taxpayers.

Mayor Rahm Emanuel today announced two innovative new programs which will save taxpayers money and increase the amount of contracting with small, minority- and women-owned businesses. "I am committed to finding every way to maximize the value of taxpayer dollars, to encourage growth and development of business in Chicago," said Mayor Emanuel. "These programs will leverage taxpayer resources to get a better deal for the City and promote growth in our small, minority- and women-owned businesses."

The first program, called the Small Business Initiative, is designed specifically to encourage small businesses to have an opportunity to participate in City-funded construction projects. The program, which will be race and gender neutral, will be exclusive to small businesses and will be limited to construction projects that are under \$3 million in total cost. This will provide a level playing field for small businesses to compete in the construction space, a key area in which larger companies are at an inherent advantage.

The second program, known as the Diversity Credit Program, is designed to increase the use of minority and women-owned businesses on contracts issued in the private sector. This will be accomplished by providing Supplier Diversity participation credit on City contracts for contracts that are awarded in the private sector. For every \$3 of private sector contracts, \$1 in credit will be issued to the contractor, which can then be used to provide up to 5 percent of a subsequent city contract. This encourages some of Chicago's largest construction contractors to work with minority- and women-owned businesses – not only in the public sector, but in the private sector as well.

Under current City of Chicago guidelines, every \$100 million that is contracted with outside firms leads to \$28 million in contracts for minority- and women-owned firms. Under this new program, the total contract value to minority- and women-owned firms could be \$38 million. This amounts to an approximate 36 percent increase over what the City can do on its own, significantly increasing business for minority- and women-owned firms at no cost to taxpayers.

Jamie Rhee, the Chief Procurement Officer for the city, said these deals are essential to spur growth in these key areas.

"It's not enough that we're committed in City government to supporting our small businesses and women- and minority-owned businesses," said Jamie Rhee, Chief Procurement Officer for the City of Chicago. "We must involve the private sector, the non-profit community, and the whole City of Chicago. Everyone's support and involvement is crucial to our success."

The Mayor was joined by John Rogers, who chairs an informal working group that meets regularly to advise the Mayor on strategies to expand M/WBE and small business initiatives. The new programs will take effect immediately.

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**MORE ON WHAT TO EXPECT FROM THE MWBE PROGRAM
UNDER MAYOR EMANUEL CAN BE FOUND IN THE SECTION ON
THE DEPARTMENT OF PROCUREMENT SERVICES.**

CITY OF CHICAGO
DEPARTMENT OF PROCUREMENT SERVICES
JAMIE RHEE
Chief Procurement Officer

**RESPONSES FROM JAMIE RHEE
Chief Procurement Officer
Department of Procurement Services
City of Chicago**

E&F

Mayor Emanuel has emphasized transparency in his administration; does this mean that the Procurement Department will now make available for public view procurement reports showing the ethnic breakdown of contracts awarded to MWBEs?

RHEE

The Department of Procurement Services already posts all awarded City contracts on the City's website. These postings list not only the names of MBE and WBE firms that have been awarded City contracts, but also show the MBE and WBE firms that are being utilized as subcontractors on City contracts. With respect to the issue of the ethnic breakdown of awards, DPS does furnish this information in its reports to City Council. While we are cognizant of the interest of the public in such reports, and make every effort possible to include all of the people of Chicago in the City's business, (i) DPS cannot and does not compel any particular individual or firm to bid or propose on any particular procurement and (ii) the choice of subcontractors is, by law, a matter for the prime contractors.

E&F

Last year, *Emilie & Friends* radio show produced several programs addressing the question "Why are Black contractors at the bottom of the City's procurement awards?" How will the programs announced by Mayor Emanuel on Monday improve contract opportunities for Black firms? For other MWBEs?

RHEE

The Small Business Initiative is designed specifically to encourage small businesses, including African American firms, to have an opportunity to participate in City-funded construction projects. The program is race and gender neutral, and will be exclusive to small business working on construction projects valued at less than \$3 million in total cost. Pursuant to the rules of the Small Business Initiative, African American MBE/WBE firms, as well as all other MBE/WBE firms, are prequalified as "small businesses" for purposes of participation in the program. This will help to provide a level playing field for small businesses, including African-American businesses, to compete in the construction space, a key area in which larger companies are at an inherent advantage.

The Diversity Credit program will increase the opportunities available to MBE/WBE firms, including African American-owned firms, to participate in private sector contracts in the Chicago area. This will be accomplished by providing Supplier Diversity participation credit on City contracts for contracts that are awarded in the private sector. For every \$3 of private sector contracts, \$1 in credit will be issued to the contractor, which can then be used to provide up to 5% utilization credit for a subsequent City contract. By this program, the City is making efforts to incentivize the use of MBE/WBE firms, including African American-owned firms, in private sector contracts in the Chicago area.

The City does not expect these programs to be self-actualizing. We are including education regarding these programs in all of our outreach efforts so that MBEs, WBEs and other small businesses are aware of the programs, and know precisely what they need to do in order to take advantage of these programs. Over the past

RESPONSES FROM JAMIE RHEE

year, DPS has conducted 100 outreach events throughout the City. We leave no stone unturned in our efforts to involve all of Chicago in the City's business. In fact, DPS advertises bidding opportunities in both Indigo and the Defender in an effort to highlight opportunities and build awareness in the City's African-American community.

E&F

We reviewed the contracts on the City's Data Portal from 1993 through August 8, 2011 and wondered whether female MBEs are double counted; are contracts awarded to them included in the procurement results for both MBEs and WBEs?

RHEE

Female MBE's are not double counted. If a minority female is certified as both MBE and WBE, they only get counted towards one or the other, depending on how the prime contractor decides on how to use them if they are a subcontractor. If the MBE /WBE is a prime, again they can only use their certification towards one or the other, not both. The reason for this practice is straightforward: our purpose is to proliferate opportunities. As everyone knows, outcomes cannot be guaranteed. What is clear, though, is that if MBEs and WBEs are not provided with opportunities, they will never grow. Once engaged in a contract with another vendor, whether as a subcontractor or joint venture partner, it is incumbent upon the MBE or WBE firm to perform according to the requirements of the contract, and develop an enduring relationship with their prime contractors and/or partners.

E&F

Last October, the Office of Compliance announced a new way for businesses to become certified through "a Professional Declaration of Eligibility Process." Is this process working and what should those who want to become certified know about it?

RHEE

We believe the process is working, a total of 18 applications have been submitted thru the Professional Declaration process. It is a way to get your certification expedited. As stated in the responses to the prior issues, the MBE/WBE program is about creating chances for minority- and women-owned firms to get involved in the City's business. When the people of Chicago suggested that providing alternative means of certification might increase the number of certified firms and thereby the opportunities for participation, we evaluated the alternatives posed and implemented those that we believe can and do help.

E&F

We have talked to vendors, certified with the City, who feel strongly that partnering on Joint Ventures and co-brokered projects do not provide "fair" opportunities for MWBEs to develop and grow. Is this a concern in your efforts to improve the program?

RHEE

The City disagrees, and views Joint Venture partnering opportunities between M/WBEs and non-certified firms as a key ladder to allow smaller M/WBE firms to gain the knowledge and experience necessary for them to make the transition from working as a subcontractor to prime contractor on City contracts. By partnering with larger, more experienced firms, MBE/WBEs can gain experience and learn tools to further grow and succeed in the marketplace. Simply forming a joint venture does not ensure that a

RESPONSES FROM JAMIE RHEE

vendor meets its participation goals. If you review the City's Special Conditions Regarding MBE/WBE Participation, you will find that we emphasize that MBEs and WBEs perform a distinct, clearly defined and commercially useful function in order to gain credit towards the stated participation goals for a contract. DPS is responsive to requests from MBEs and WBEs when they believe that they are being treated unfairly on a City contract, and we will continue to work with all involved to ensure that the opportunities afforded to do business with the City are implemented in a manner that is fair and open to all involved.

E&F

In looking at MWBE certifications, we were able separate MBEs and WBEs certified by those located in Chicago vs. those located outside of Chicago. We found that there are almost as many outside as there are inside. How would you respond to this?

RHEE

The Municipal Code of Chicago requires the City to certify minority and woman-owned firms that apply for certification and have the majority of their full-time employees in the Six-County Region. Pursuant to Section 2-92-420(s) of the Municipal Code of Chicago ("MCC") "Minority-Owned Business" is defined as a local business which is at least 51 percent owned by one or more members of one or more minority groups...whose management and daily business operations are controlled by one or more members of one or more minority groups, and which is not an established business. Section 2-92-420(y) of the MCC likewise defines "Woman-owned business" as a local business which is at least 51 percent owned by one or more women...whose management and daily business operations are controlled by one or more women, and which is not an established business. Section 2-92-420(q) of the MCC defines "Local business" as a business entity located within the counties of Cook, Du Page, Kane, Lake, McHenry or Will in the State of Illinois (the "Six-County Region") which has the majority of its regular, full-time work force located within the Six-County Region. Section 2-92-670(m)(o) and (W) of the MCC have near identical provisions for certification of MBEs and WBEs for the City's construction program.

E&F

When we complete our report, we want it to be a fair representation of what MWBEs can expect. What do you want aspiring entrepreneurs and established business owners to know about doing business "today" with the City of Chicago?

RHEE

DPS is a customer service department. Our clients include other City Departments, elected officials, the local business community, and, most importantly, the taxpayers of the City of Chicago. The City is a large consumer of goods and services, processing contracts valued at nearly \$1.6 billion last year alone. Our contracts are opportunities to support the objectives of the City of Chicago, whether by exceeding the goals set by the City Council for M/WBE participation, living wage, City residency requirements, or the chance to build new working relationships through prime and sub networking. DPS highly values its positive working relationship with the vendor community. We have taken to heart requests by our M/WBE vendors to be more inclusive and more business-friendly. I believe that the programs we have described above, such as the Diversity Credit Program, and the Small Business Initiative, help to illustrate the efforts we have made and will continue to

RESPONSES FROM JAMIE RHEE

make to ensure that the City of Chicago offers a level playing field to all potential vendors, while at the same time providing substantial opportunities for our City's M/WBE firms to participate in the City's business.

The City's overall M/WBE participation has grown for African American and Hispanic firms since last year. The total dollars awarded to M/WBE firms also increased by more than \$40 million. Something that will certainly help the City's efforts to create even more M/WBE opportunities is Mayor Emanuel's \$147 million investment in the City's infrastructure. The water and sewer projects created by this investment will help to bring more work opportunities to M/WBE firms and will also create jobs for our community.

DPS works with a variety of agencies such as Black Contractors United, HACIA and the Urban League to uncover problems that minority and women contractors experience while doing business with the City, to lift up issues that our M/WBEs are concerned about, and to facilitate meetings between M/WBE vendors and the appropriate City departments to address their concerns.

In addition, DPS is reaching out to the vendor community through education. DPS currently offers nine classes to educate vendors on the best practices for doing business with the City, getting certified, and on bidding on City work. DPS has also produced a buying plan, which lists upcoming City contracting opportunities so that vendors, including M/WBEs, will know the types of business opportunities that the City expects to put out to bid in the coming months. The buying plan breaks out subcontracting opportunities, lists estimated values for each anticipated contract, and contains contact information for the user departments that will ultimately use these contracts. This allows potential vendors to contact the City department that will be using the products and services we are bidding if they have any questions. In addition, DPS posts all City contracts online, so that, if a vendor sees an upcoming opportunity in the buying plan, they can go on to our website to review prior, similar contracts, in order to develop a sense of what the City will likely be looking for in the upcoming solicitation.

DPS has also recently posted draft standardized terms and conditions for the City's work services, professional services, and commodity contracts to our website. We expect that draft construction terms and conditions will be posted in the New Year. We invite members of the public, including members of the M/WBE community, to review and comment on these draft contract terms. Once finalized, these standardized contract terms will make doing business with the City more efficient and user-friendly for the business community.

Under the leadership of Mayor Emanuel, the City's supplier diversity group, which handles M/WBE certification and contract compliance matters, has moved from the Office of Compliance to DPS. DPS is in the process of conducting a top to bottom review of supplier diversity's practices and procedures, with an eye toward increasing efficiency and turnaround time for certification applications. By consolidating this process at DPS, applicant firms will more easily obtain information throughout the certification process.

Finally, I encourage all of your listeners to sign up for DPS Alerts, at <http://www.cityofchicago.org/content/city/en/depts/dps/provdrs/events/svcs/dpsalerts.html>. The City uses DPS alerts to update the vendor community on upcoming bids, and on general best practices for doing business with the City of Chicago.

THE FIRST STEP TO DOING BUSINESS WITH THE CITY: GET CERTIFIED

Certification

To be certified as an MWBE, the company must meet various requirements. The applicant must first establish that the majority ownership and day-to-day control is held by a member of a disadvantaged group as defined by the MWBE Ordinance or demonstrate that individually the owners have been socially disadvantaged through prejudice. A firm must demonstrate that it is independent, viable, and has the expertise to perform the work in the area it is seeking certification. To participate in the construction program, an applicant owner must document that his or her personal net worth is under \$2.04 million and that the firm's gross receipts do not exceed the small business size standards set forth by the SBA. For non-construction contracts, there is no personal net worth limit and the annual gross receipts limit is nearly \$34 million for 2010.

Annual Recertification

Once certified, a firm's certification remains **valid for five years**. However, each year the firm must annually submit documentation to demonstrate that it remains eligible for the program.

Expedited Certification - Professional Declarations of Eligibility

Professional Declarations of Eligibility is a process to expedite certifications for non-construction, non-supplier/distributor MWBEs. This process allows attorneys, licensed Certified Public Accountants (CPAs), or a designated certifying agency to review MWBE applications and attest that applicants meet the requirements of the program. Applicant firms are still required to submit their complete applications to Compliance, which would "conduct audits of all certifications submitted under this program."

MWBE Compliance at Contract Award

The other administrative component of the MWBE program is contract compliance. During the contract award process, compliance officers work to ensure that the contract complies with the MWBE participation goals.

VISIT THE DEPARTMENT OF PROCUREMENT SERVICES AT

<http://www.cityofchicago.org/content/city/en/depts/dps.html>

and

CERTIFICATION AND COMPLIANCE AT:

http://www.cityofchicago.org/content/city/en/depts/comp/provdrs/certification_andcompliancesupplierdiversity1.html

**IS THE CITY OF CHICAGO
LISTENING TO THE
OFFICE OF THE INSPECTOR GENERAL?**

INTERVIEW WITH AARON FEINSTEIN

AARON FEINSTEIN

**Director of Program and Policy Review
Office of the Inspector General
City of Chicago**
www.chicagoinspectorgeneral.org

About Office of the Inspector General

“Simply put, the mission of the IGO is to root out waste, fraud, abuse, and inefficiency in the City of Chicago government and to promote economy and efficiency in the operations of city government.” - Inspector General Joseph Ferguson from a speech at the Union League Club on July 21 2010

IGO Oversight of the City of Chicago MWBE Program (From the IGO Website)

Over the past several years, the IGO has conducted numerous investigations examining fraud, abuse, and mismanagement in the MWBE program. These investigations have resulted in the debarment of 65 firms or individuals and the decertification of over 20 firms or individuals. In May 2010, the IGO conducted a program review to analyze how actual participation in the program compares to the participation statistics that are reported to the City Council and the public. IGO investigations and analysis have revealed broad and pervasive deficiencies in the administration of the City’s MWBE program and that the City cannot determine whether or not the program is achieving its goals. As a result, the program has been beset by fraud and unlawful brokers, and MWBE participation is likely far less than the publicly reported participation statistics.

E&F:

On a scale of 1-10, how effective is the City’s MWBE Program?

FEINSTEIN:

I can’t answer that. The main measure is to reduce disparity for MWBEs compared to non- MWBEs. We suggest that the City report just “actual payments” and not awards. Without the City’s ability to collect the right information we cannot determine if program is effective or ineffective. The City’s report is based only on awarded contracts. They never report how much of the award was actually spent with the MWBE.

E&F:

Did Mayor Harold Washington’s Executive Order in 1985 establishing the MWBE program, and passing of the Ordinance in 1990 putting the program into law, achieve the goals intended in the law?

FEINSTEIN:

The IGO’s work shows that the City doesn’t know and nobody knows. The City never collected data on actual dollars on where they are going to MBEs or WBEs. The program is understaffed, and the

INTERVIEW WITH AARON FEINSTEIN

responsibility is handled by a select small group in the Department of Procurement. It was transferred to the Office of Compliance for a few years and is now back at Procurement. Contract managers are in charge of projects but checking on the dollar goal is not their department's responsibility. Ultimately, responsibility lies with the Mayor. They never directed the user department to make sure these requirements are met; never communicated to the user department.

E&F:

Within the Black community, a few companies get contracts over and over again because they know the right people. But if you don't know anyone, if you're not on the inside, you probably won't get a contract. Black contractors are really upset about what's going on.

FEINSTEIN:

The number of Certified MWBEs is approximately 2500 but overstates how many are participating in the program. Actually, the number that get contracts is small; a very select group. The issue is concentration. In our review in the IGO June 2011 Report, the City construction contracts that ended in 2008 showed the actual payment for MWBE participation on about 65-70 contracts. The top 10 firms received 42% of the MWBE contracts. MWBE contracts are concentrated among a small number of firms. There is a lot of emphasis on Certification but most never win contracts.

E&F:

On the City of Chicago's Data Portal, we reviewed the contract data for 1993 through August 8, 2011. We looked at Joint Ventures to determine whether prime contractors were using a limited number of MWBEs to reach their diversity goals. Eight (8) firms appeared in these partnerships more often than others (two were MBEs). We found two companies with similar names but had a city and suburban address. How do you know if these are the same companies headed by the same people?

FEINSTEIN:

Joint Ventures (JV) with the same name are not illegal. Some companies give different parts of the company a different name. No regulations to prevent a majority JV partner from using the same minority companies all the time. One of the tricks for the city to determine eligibility is whether a person is too wealthy and cannot participate in the MWBE program. The primary owner has to declare all gross receipts. In the Joint Venture relationship, the majority is the majority partner and the MWBE is the minority partner. From the City and contractors' perspective, it is difficult to know what is going on within Joint Ventures and what amount MWBEs receive. The idea behind JVs is to grow MWBEs but it is not working and nobody has been checking to see what's going on.

E&F:

City projects have a lot of cost overruns on contracts where the lowest bidder won but with the overruns, the contract can end up being the highest bid. Shouldn't there be a cap on how much the project can exceed the contract bid?

INTERVIEW WITH AARON FEINSTEIN

FEINSTEIN:

Contractors say that the City changes its mind and adds to the project. Contract Managers are supposed to manage that. If you put a cap on it the City might say it would restrain their flexibility. City Contract Managers are stewards of the project.

E&F:

We found that of the Certified MBEs, 1005 were located in Chicago and 705 were located outside of Chicago. Of the Certified WBEs, 753 were in Chicago and 525 were outside of Chicago. How do the outside numbers affect procurement opportunities for Chicago MWBEs?

FEINSTEIN:

The MWBE Program allows participation by companies located within the Six County Region that includes Cook, DuPage, Kane, Lake, McHenry and Will in the State of Illinois. Chicago firms have a 2% advantage on bids for be located in the City; 50% of hours worked on projects must be performed by City residents but, if not, the vendor has to pay a penalty.

E&F:

In looking at the City's Data Portal, we could not determine whether contracts to female minorities were "double counted" by placing the amounts under awards for both MBEs and WBEs. What did you find?

FEINSTEIN:

They distinguish the data on contract awards; they don't double count.

E&F:

Your reports revealed unprecedented fraud, abuse, and mismanagement in the MWBE program. How do you differentiate the types of frauds?

FEINSTEIN:

We have completed 25-30 investigations on fraud in the MWBE program. The fraud covered two primary areas -- Fronts which are companies promoted as MWBEs but are owned by someone else, and Pass-Throughs which are legitimate MWBEs but most of the dollars go to non-MWBEs. This is kind of a Broker relationship. For example, an MWBE can get a contract but 90% of the contracts go to someone else. These companies are reporting the information to the City but they aren't seeing what is going on. They aren't checking the dots. Last year there were 11 positions budgeted to work on the MWBE program at the City; the new budget shows an increase to 17 positions. They have to also make other people responsible for the City's contracting process.

E&F:

How many indictments have you made related to the MWBE program?

FEINSTEIN:

Since 2005, we recommended that 20 companies be decertified and no longer in the program, and 65 companies debarred and cannot do business with the city. There have been four (4) indictments: Azteca Supply Co., Steven

INTERVIEW WITH AARON FEINSTEIN

Fenzl and Douglas E. Ritter, ICS Cable Inc., James Duff et. al Remedial Environmental Manpower, Anthony Duffy of Municipal Sewer Services.

E&F:

In your report you revealed that the City reports the amount of contracts awarded and not the actual payments, resulting in \$400 million more than MWBEs were paid.

FEINSTEIN:

Our analysis of construction contracts for 2008 found that actual payments to MWBEs and DBEs were \$19 million less than the City's reported amounts for the contracts we reviewed. If that over-reporting for 2008 was also applied to the over \$2.5 billion in construction contracts awarded to MWBEs and DBEs since 1995, the actual participation in the City's *construction* contracts, between 1995 and 2008, would be \$400 million less than the City's reported statistics.

E&F:

Have you talked to the Mayor about the concerns in your reports?

FEINSTEIN:

We have had a lot of discussions with the administration. Generally, they are working to implement changes.

E&F:

What is your position on the two new programs the Mayor recently announced – the Diversity Credit Program and the Small Business Initiative programs?

FEINSTEIN:

The Credit program is for companies who use minorities and women on non-city projects but will earn credits that can be used when bidding on City contracts. That program has existed since 2004 but the City didn't use it. I don't have enough details on the other program.

E&F:

How do you feel about the MWBE program? Does it need a major overhaul, continuous oversight? Is the Mayor doing anything?

FEINSTEIN:

Both. It's too soon to tell if Mayor Emanuel is doing anything. Things are a bit better under Emanuel but it is too soon to tell. It will require more resources devoted to the program.

E&F:

Lastly, if contractors or anyone want to report improprieties, how can they do that anonymously? I know a lot of people would be calling and reporting a lot of information if they felt secure.

INTERVIEW WITH AARON FEINSTEIN

FEINSTEIN:

Oh, we have a number of ways. People can report to our anonymous hotline number if they suspect fraud or even online. We want to hear from people.

WAYS TO REPORT FRAUD OR ABUSE TO THE OFFICE OF THE INSPECTOR GENERAL:

www.chicagoinspectorgeneral.org

- Submit a confidential report online
- CALL our toll-free hotline 866-IG-TIPLINE (866-448-4754)
- Talk to an investigator from 8:00 a.m. to 5:00 p.m. Monday-Friday
- SEND us an E-mail to: reportcorruption@chicagoinspectorgeneral.org
- SEND us a Fax to: (773) 478-3949
- MAIL a report to us at P.O. Box 2996, Chicago, IL 60654-2996,

**IS THE MWBE PROGRAM WORKING?
BUSINESS LEADERS, ACTIVISTS, AND BUSINESS OWNERS
SHARE THEIR OPINIONS**

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PAUL KING

**Comprehensive Construction Consulting
Former Chairman and an Original Founder of UBM, Inc.
Over 50 Years Experience in the Construction Industry**

About Paul King

Paul King is the former Chairman and an original Founder of UBM, Inc., a Construction Project Management and Consulting firm which was, in 2004, the largest African American-owned and operated construction service firm in the state of Illinois. On July 23, 1969, King was one of the leaders who shut down Chicago construction sites because of the absence of Black workers and contractors in HUD-financed building projects. Hundreds of demonstrators were inspired by Presidential Executive Order 11246, which required contractors on federally assisted construction projects to cease discriminating against Blacks and to take "affirmative action" to increase African American participation. In a speech at the "National Association for Minority Contractors 29th Annual Conference: Gateway to the 21st Century" opening session, on June 25, 1998, King said: "Consider the volume of the top 25 contractors in Chicago, (none of whom are Black), which for 1996, was \$12.7 billion. All of the Black contractors in the U.S. (UBM included) don't amount to one quarter (21 percent) of Chicago's top 25 construction companies." You can read King's full speech [Published in Motion Magazine February 6, 1999.](#)

Assessing the Business Environment for Black Construction Contractors in Chicago

- Chicago once had a vibrant Black construction community but not today.
- The decline in the number of Black construction companies has impacted Black procurement in all sectors: government, public, and private.
- There is also a decline in strong Black groups advocating on behalf of Black contractors and rallying around a common purpose.
- Black elected officials today are not as vocal about Black procurement issues as they were in past years. Mayor Harold Washington was the keynote speaker at Black Contractors United's annual fund-raiser a few weeks before his death. Congressman Parren Mitchell of Baltimore advocated at the federal level, and sponsored a "Business Braintrust" each year during the Congressional Black Caucus Legislative Weekend. Congressman Charlie Hayes formed a committee of business leaders who met regularly to discuss issues impacting Black business in Chicago. Congressman Ralph Metcalfe pushed for Black contractors on federal construction projects. Aldermen Ed Smith and Toni Preckwinkle demanded Black Contractor utilization in their wards and throughout the city. Not so today!

Concerns about the MWBE Program

- The use of Black contractors is steadily declining; therefore, the program is no longer effective for these business owners.
- Too many "Primes" have used "fronts" and "pass-throughs" to prevent the growth of Black firms; bogus deals do not grow CAPACITY.

Respondent – Business Organization Leader

BETH DORIA

Executive Director

Federation of Women Contractors (FWC)

125 Members

About FWC

The Federation of Women Contractors (FWC) was founded in 1989 and is committed to the advancement of entrepreneurial women in the construction industry. FWC members include general contractors, sub-contractors, suppliers, and service related firms representing every facet and component of construction. Membership also consists of Regular and Associate Members, as well as Corporate and Commercial Sponsors. Regular members are those women who are owners of or in a policy-making position within a construction or construction related company. Regular Members are eligible to vote and serve on the Board of Directors. Associate Members are affiliated with a company which serves the construction industry and provide significant assistance in furthering FWC's organizational goals. Projects FWC members have/are working on: Wacker Drive, Trump Tower, Soldier Field, McCormick Place East and West, and Children's Memorial Hospital.

Assessing the Business Environment for FWC Members Over the Years and Moving Forward

- Fraud and abuse of the MWBE program has affected FWC members from the point of extraordinary scrutiny and paperwork related to certification and re-certification as well as requests for information relating to personal assets that is not asked of male applicants. Legitimate MWBEs do not want to be linked to fraud and are grateful that fronts have been weeded out.
- Without the MWBE program, women would not be invited to bid.
- Jamie Rhee is a great procurement officer; she and her staff are aggressive in helping MWBEs.
- Mayor Emanuel appointed a committee of business leaders and others to study the MWBE program; results due in December 2011.

Concerns about the MWBE Program

- Challenges in timely payment continue.
- Roadblocks in getting access to capital continue.
- Securing bonds is more difficult.
- Issues related to Universal Certification
- Barriers to MWBEs' growth.

Beth Doria is excited about Mayor Emanuel's leadership; he seems committed. Jamie Rhee is a great chief procurement officer which gives hope for a MWBE program that works.

Respondent – Business Organization Leader

DONNA GAINES

President and CEO

ABLE (Alliance of Business Leaders and Entrepreneurs)

20th Anniversary for ABLE - 2012

30 Years of Entrepreneurial Experience

About ABLE

ABLE is a non-profit organization, founded in 1992, to establish business relationships for its members and to promote business opportunities and inclusion in the corporate community. ABLE, headquartered in the city of Chicago, is comprised of a select group of leading African American CEOs, representing a broad spectrum of business enterprises nationally, and internationally. ABLE is dedicated to fostering entrepreneurship as a pathway for building wealth and economic independence in the community.

ABLE Companies

- ABLE companies represent collective revenues of over \$3 billion annually, employ over 7,500 employees, and average over 10 years in business.
- ABLE businesses provide products and services to Fortune 500 corporations and government agencies.

Assessing the Business Environment for ABLE Members over the Years and Moving Forward

- Members who have contracts in the public sector have benefited from programs created by M/WBE legislation at various levels of government. However, after 20-30 years in business, some companies no longer qualify for programs for disadvantaged businesses.
- Members have experienced some success in doing business in the private sector, especially with those corporations that are committed to diversity and inclusion. These companies are generally considered good corporate citizens because their corporate philosophy promotes inclusion internally and externally.
- ABLE is creating strategies to grow the capacity of its members by developing joint ventures between minority companies and creating similar partnerships with prime contractors.

Challenges of the Current M/WBE Program

- Minority companies are often contracted solely as M/WBEs to fulfill goals and quotas. This limited view of their value and expertise contributes to the belief that they cannot successfully perform on large contracts.
- Many joint ventures are not structured and monitored in a manner that allows M/WBEs to build capacity and grow.
- Some RFPs, in industries such as construction and information technology, are outdated and should be rewritten in a manner that does not favor sole source providers or the incumbent vendor.
- RFPs with stringent insurance and bonding specifications often prevent M/WBEs from successfully competing for contracts. A provision to add sub-contractors to the prime contractor's bonding and insurance coverage should be considered.
- Strategic sourcing is a recognized and effective cost-savings measure. However, these "bundled" contracts often include requirements that prevent many M/WBEs from competing.
- Industry-specific focus groups should be conducted to understand and address the barriers to effective minority contracting, and to take advantage of the subject-matter expertise these companies can provide.
- Reports on minority contracting usually list contracts *awarded*, but do not usually reflect the actual "spend" or payout to the minority company. Further, low-profit contract awards do not allow M/WBE's to grow capacity or create jobs.

Donna Gaines is optimistic about the future of minority businesses, but believes that innovative new strategies must be employed.

Respondent – Business Organization Leader

HEDY RATNER

Co-Founder and Co-President

Women's Business Development Center (WBDC)

25th Anniversary - 2011

About WBDC

The Women's Business Development Center (WBDC) is the oldest, largest, most comprehensive, and successful women's business assistance center in the United States. We're nationally and internationally recognized for our responsive, innovative, and effective programs and advocacy efforts. We deliver business services and financial assistance to empower women towards entrepreneurship and economic self-sufficiency. Since our founding in 1986, we've grown from a two-person operation to a national leader in women's economic development with a budget of \$2.2 million. Our operation has grown to a staff of 24 full-time employees and consultants, a roster of expert trainers, industry-specific advisory boards, and a powerful Board of Directors comprised of Chicago women considered leaders in their fields. Over the years, we've assisted more than 65,000 women in the greater Chicago area, helped establish 14 additional women's business assistance centers in six states in the U.S., and continue to be credited for programs and policies that impact women's economic development across the nation and globally.

Assessing the Business Environment in Chicago for MWBEs

- Policies and goals were established in 1985; however, no monitoring system was in place. The program worked in that women and minority businesses were able to grow, but was the MWBE program meeting the standard for which it was intended? No.
- MWBEs are in a better position today but there is room for improvement.
- In support of the MWBE program, the WBDC offers expedited certifications for women and minorities, match businesses to contractor needs, and provide referral services.
- Regarding double counting of Minority females in both the MBE and WBE category, the city of Chicago has a double list; it is supposed to be cross referenced in order to avoid double counting, and I think they do a pretty good job with that.
- I sit on a Blue Ribbon Advisory Panel and on the Mayor's Affirmative Action Committee where some of the things you are hearing about now have been discussed so I believe the Mayor is listening. Also, with these actions, there will now be more accountability.
- Regarding Joint Ventures, I don't have a problem with them. It's the system. JVs give minorities and women an opportunity to do business they would not otherwise be able to handle. Overall, JVs help improve and grow MWBE companies.
- We have not been able to determine the total impact JVs would have because of the way the monitoring system was put in place. The City monitors the JV for completing the work but does not monitor the MWBE separately for the work done on the project.

Concerns about the MWBE Program

- Consider a way to determine the impact of Joint Ventures on the growth and development of MWBEs.

Respondent – Business Organization Leader

MARSHETTE M. TURNER

Executive Director

International Trade Bureau

Rainbow/PUSH

Founded 40 Years Ago

About the International Trade Bureau

For over 30 years, the Trade Bureau has advocated on behalf of minorities for inclusion in the corporate sector, helping them gain access to new opportunities. We provide referrals and networking opportunities for our members in both the public and private sectors, and encourage and arrange horizontal trade among our members. Active membership is the key to benefiting from the Trade Bureau, which holds open meetings at Rainbow PUSH national headquarters for members to network and get information to help their business or career.

Trade Bureau Companies

- Trade Bureau members comprise a broad range of industries including transportation, construction, professional services, retail stores, food suppliers, janitorial, and more.
- A growing number of members provide products and services to Fortune 500 corporations and governments, and government agencies.
- Approximately 40% of Trade Bureau members are certified with the City of Chicago.

Assessing the Business Environment in Chicago

- Reverend Jackson has talked frequently about the business environment in Chicago dating back to Operation Breadbasket and under Mayor Harold Washington whose administration was more open to MWBEs than any Chicago Mayor before him. Reverend Jackson reminds us that there were a large number of Black businesses during that period that got contracts on government projects and also succeeded in doing business with corporate America.
- Today, Jamie Rhee and Shannon Andrews in the Department of Procurement Services have been quite willing to assist the Trade Bureau and its members, and are open to hearing our concerns.
- Trade Bureau leaders meet frequently with large construction companies to advocate for inclusion of members on neighborhood and citywide projects; however, challenges still exist.
- For awhile during the Richard M. Daley administration, Trade Bureau members got contracts but something changed and the contracts decreased.
- Business in Chicago needs to be more diversified. Contracting officers in government and the private sector need to see the ‘value’ of MWBE participation.

Concerns about the MWBE Program

- Late or slow payments on contracts.
- Large firms constantly “outbid” MWBE companies and, too often, RFPs are bundled but could be broken up to allow small firms to compete.
- Not sure if Joint Ventures are benefitting MWBE to the degree that they could. A concern is that “Primes” do not want to develop competitors, but this “is not good business”.
- More resources are needed to help develop MWBEs such as assistance in building capacity.

Respondent – Activist

EDDIE S. READ

**Chairman, Chicago Black United Communities
Chairman, Black Independent Political Organization
Activist for 50 Years**

About Eddie Read

Veteran Activist Eddie S. Read is the founder and president of United Independent Workers International Union, a multi-trade union. He is also Chairman of Chicago Black United Communities (CBUC) and Chairman of Black Independent Political Organization (BIPO), both founded by the late longtime activist, Lu Palmer. Read also served as Palmer's personal aide. In 1994 Read led a mass protest and shutdown of construction sites, resulting in hundreds of Black men and women being put to work. He was co-convenor of the Million Man March - Chicago. Read worked on the Presidential Campaign for Barack Obama and Mayoral Campaign for Danny Davis. Read created the slogan "If we don't work, don't nobody work".

Assessing the Business Environment in the City of Chicago

- When Harold Washington was elected Mayor in 1983, the business environment in Chicago was predominantly segregated; Whites ran everything, many were anti-Black, and others practiced racism. However, there were a large number of viable Black-owned businesses such as Baldwin Ice Cream, Parker House Sausage, Bush Construction Company, C.F. Moore Construction Company, Johnson Publishing, Johnson Products, Al Johnson Cadillac, and others. Mayor Washington did not have control of the City Council when he took office which is one of the reasons he had to issue an Executive Order to establish the MWBE program. His goal was to level the playing field so that Blacks, minorities, and women would have a fair chance to compete for City contracts enforced by the government. Mayor Washington also mandated apprentice training at Washburne Trade School but Unions affiliated with the school closed the training and relocated the program to the suburbs making it difficult for Blacks to enroll. During those days, Black advocates worked together and even created a covenant on who to buy supplies from and do business with. On the nonprofit side, the Chicago Urban League was a strong advocate for Black construction companies, and their efforts spawn the creation of Black Contractors United, helping its members to win contracts at the federal, state, county and local levels.
- During the 22 years of the Richard M. Daley administration, the MWBE program was plagued with fraud and abuse. Some minority and women business owners willingly served as “Fronts (White owned but promoted as an MBE or WBE), and Pass Throughs” (MBE or WBE-owned but the workforce and operation is White). These types of companies were perfected during Daley’s administration and became a major cause of putting Black construction contractors out of business. There were also minorities who “cooked the books” (falsifying information) for White contractors. The result is a dwindling number of Black construction companies and a depletion of companies that have the capacity to perform as primes on major projects.
- Regarding Mayor Rahm Emanuel, it is too soon to assess what will happen to the MWBE program during his administration. However, it seems that he is shifting his political power to the private sector.

Eddie Read says that “Black families were making progress until they took James out of the house on Good Times!”

Respondent – Business Owner

BUFORD C. J. BAPTISTE

Founder and Owner

A-Dynamic Flooring Concepts

32 Years in Business

About A-Dynamic Flooring Concepts

A-Dynamic Flooring Concepts: From elegant to rustic...traditional to contemporary, a-dynamic flooring satisfies the taste for flooring that's as unique as you are. So get ready for an adventure as we show how our flooring has been used to set the stage for beautiful rooms that literally have life of their own. Every home decorating adventure begins with a first step. We want your experience to take a new dimension in style we will prepare rendering or drawing if necessary for your approval.

Assessing the Business Environment in Chicago

- **When Harold Washington became Mayor, it was the first time opportunities were available to acknowledge the capabilities of African American companies as leaders in their industry. The Mayor's Executive Order gave these companies access to City contracts for which they were qualified and prepared.**
- **A-Dynamic Flooring Concepts was certified with the City from 1988-1992 but then chose not to renew because being an MWBE created a "stigma" regarding the company's qualifications.**
- **Over the years, some MWBEs have damaged the very program set up to assist them by serving as "Fronts and Pass-Throughs". The "Primes" have used, misused, and misguided these small companies, and it is a disgrace.**
- **MWBEs should not rely too much on contracts from the City of Chicago. They have to align themselves with other sectors like manufacturing. The key is building relationships with people who can vouch for their qualifications.**
- **Joint Ventures have been a good business option for A-Dynamic Flooring Concepts.**
- **African American construction companies have been hurt by the closing of vocational education programs in Chicago Public Schools. The reality is that everyone will not go to college but they can make a good living in a trade.**
- **Unlike the Washington years, very few elected officials today are advocating on behalf of MWBEs, and neither is MWBEs holding these politicians accountable.**
- **African American business owners are not cross-referencing African American industries.**
- **Overall, African Americans "misinterpreted integration", causing them to lose the "unity concept". Many have dispensed to other communities rather than unite in the African American community.**

Concerns about the MWBE Program

- **MWBEs need "fresh blood" pumped into their companies such as college graduates who have talents and skills to help these businesses survive. A big concern is that African Americans are not encouraged to work for African American companies.**
- **There are not enough "ready-to-go" contract opportunities for MWBEs.**
- **MWBEs need access to capital; they don't have enough staff to do outreach and provide the service too.**

Respondent – Business Owner

MATTHEW COOPER

Founder/Owner/President

Inner City Underwriting Agency (1995)

More than 25 years of Insurance Industry experience

Service

Insurance* Employee Benefits * Surety * Risk Management

(One of a few minority firms nationwide providing Surety Bond Insurance)

About Matthew Cooper

When Cooper started his business, allegations of redlining were being made against major insurance companies during business in Chicago. Prior to becoming certified, one of Cooper's major accomplishments was the opportunity to manage a group of minority brokers on a contract they won to provide insurance for all activities during the 1996 Democratic National Convention held in Chicago. This placement included \$100 million in liability limits in addition to insuring all autos, buses and other property owned, rented or used by Democratic Committee.

Experience with the City of Chicago

- **MBE certified from 1998- until present**
- **Won first contract with the City Treasurer during Judy Rice's administration to provide Crime Insurance from 1998-2008.**
- **Served as a Co-Broker on Placement of Insurance for both Airports with Willis. After working with Willis on the contract for six years, Cooper wanted more direct involvement in the account including the ability to handle a portion of the coverage through his company. He decided not to continue on the contract when the majority firm would not allow Inner-City to handle any of the actual placements of coverage.**

Concerns about the MWBE Program

- **More opportunities should be provided for MWBEs to serve as "Primes" for the placement of insurance coverage. Insurance firms do not have to make large capital investments on an insurance policy; there is no real default risk. MWBE firms should therefore be given a realistic opportunity to compete as "Primes" on the City's insurance contracts.**
- **Joint Ventures do not appear to work well for most MWBEs. The portion of the work given to the "Minority Partner" does not provide the opportunity to improve "core competencies". Requiring a percentage is less important than actually requiring that specific tasks and responsibilities be awarded Minority firms.**

Respondent – Business Owner

GLENN HARSTON

President and CEO

G.M. Harston Company

30 Years in the Construction Industry

About Glenn Harston

A Chicago native, and no stranger to Chicago politics, civic service, and the construction business, Glenn Harston brings over 30 years of construction experience and a wealth of knowledge in that arena both locally and nationally. Glenn was formerly known as the President and Chairman of Black Contractors United as well as President of the Tradesmen Club. He served on Governor Jim Edgar's transition team as Chairman of the Building and Transportation Committee. He also served on Governor George Ryan's transition team. He's known as a pioneer in the construction industry, often helping many young Black contractors rise up through the ranks; he was a Building Trades instructor at the Chicago City Colleges (Dawson Skill Center). Glenn is often seen around the city in many civic service circles, such as his work with Rainbow/PUSH, the Chicago Urban League, the FROGS Club, etc.

Assessing the Business Environment in the City of Chicago

- **During Mayor Harold Washington's administration, the business environment in Chicago was exciting but former Mayors – Richard J. Daley, Michael Bilandic, and Jayne Byrne – were not receptive to MWBEs. There were viable Black construction firms during the Washington days, strong advocacy groups, and committed activists.**
- **Governors Jim Edgar and George Ryan were both supportive of Black business development. However, in the 1980s, Black Contractors United sued the Illinois Department of Transportation and won for their failure to use Black contractors to provide surface transportation and assistance.**
- **In 1988, Harston testified before Congress Committee on Small Business regarding the Disadvantaged Business Enterprise (DBE) program.**
- **Under Mayor Richard M. Daley, procurement numbers for Black contractors dropped tremendously. Hispanics became the target minority for construction projects. The Hispanic Democratic Organization built voting support for Daley for which Hispanics were rewarded with contracts and jobs. Under Daley, TIF funds were not used fairly to hire local residents on projects in their communities. Also, no dollars in penalties have been collected from companies "not of compliance".**
- **During the Daley years, the City Council Black Caucus was "ineffective".**
- **Black elected officials at all levels of government have not pushed for Black contracts with the passion of past decades.**

Concerns about the MWBE Program

- **The program must have a commitment from Mayor Emanuel or any Mayor in office.**
- **The proper leadership and staff must be in both Procurement and Compliance.**

Respondent – Business Owner

CONSUELO R. MILLER

Attorney at Law

Law Office of Consuelo R. Miller, Ltd.

7 Years in the Legal Profession

18 Years as President and CEO of the Cosmopolitan Chamber of Commerce

30 Years Entrepreneurial Leadership

About Consuelo R. Miller

Miller has had a lengthy career in community and economic development. One of the early organizers of minority contractor organizations, she was also director of research for the Chicago Economic Development Corporation (CECCO), director of its Contractors Division, and Vice President, prior to taking over leadership of the Cosmopolitan Chamber of Commerce. Much of her legal work is dedicated to small business, both transactional and litigation practice.

Assessing the Business Environment in the City of Chicago

- **When Harold Washington was elected in 1983, Blacks in business were up against vigorous competition because they did not have relationships with decision-makers in City government. If the City owed money to construction contractors, they were not required to have bid performance and payment bonds. The “Old Boys Network” kept contracts going to those they knew. It was very costly for MWBEs to compete and it was quite difficult for them to get inside information.**
- **After Mayor Washington issued his Executive Order establishing the MWBE program in 1985, City agencies were required to have a level playing field to overcome disparities. White firms were required to use MWBEs.**
- **Black Contractors United and Chicago Urban League were effective in getting contracts for Black contractors but they had to compete with Hispanic groups as well.**
- **The Chicago Regional Purchasing Council (now CMSDC) focused on connecting MWBEs with buyers in the corporate sector which helped suppliers gain respect from the City side.**
- **Mayor Daley created an environment that reduced the number of available people who were willing to protest in today’s environment. Those who tried to stay in business chose options that decreased their ownership in their business.**

Concerns about the MWBE Program

- **MWBE rules are problematic and should be clearly defined during the certification process specifically related to the percent of employees that must be located in Chicago when seeking certification.**
- **To grow or stay in business, MWBEs have to partner with a “prime”.**

Respondent – Business Owner

YVONNE PUGH

Founder and Owner

FOOTSHINES

30 Years in Business

About Yvonne Pugh

Yvonne Pugh is a retired teacher from the Chicago Public Schools. She took a sabbatical to start her business. FOOTSHINES provides stress relief through foot massages, aiding various functional parts throughout the body. The FOOTSHINES concept was developed in 1979. In 1981 and 1982, Yvonne Pugh and Dorothy Cowan presented FOOTSHINES to the public at Navy Pier in Chicago, Illinois. A million passed through Chicago Fest and hundreds got relief through FOOTSHINES.

Assessing the Business Environment in the City of Chicago

- FOOTSHINES has never been certified by the City of Chicago. Ms. Pugh found the application's regulations and instructions "intimidating" before she discovered that the final information to be submitted was not excessive.
- Mayor Harold Washington's Executive Order establishing the MWBE program in 1985 sought to create an equal distribution of City contracts. His efforts rejuvenated the entrepreneurial spirit within the Black community and helped many businesses at that time to survive and thrive.
- During Mayor Richard M. Daley's administration, Black procurement with the City of Chicago declined significantly; yet business for other minorities increased. Also, fraud and abuse of the MWBE program during Daley's administration disproportionately affected Black construction contractors. Mayor Daley appeared to favor Hispanic business development based on his support of special business and employment initiatives implemented by the Hispanic Democratic Organization.
- Ms. Pugh appreciates Mayor Rahm Emanuel's efforts to reform the MWBE program. Her hope is that the Mayor will put in place controls and oversight to wipe out fraud and abuse as well as create fairness in RFP solicitations and contract awards.

Concerns about the MWBE Program

- The MWBE Certification application is copious, which prevents some worthy applicants from applying due to their fear of paperwork.
- Timely and useful information about the program is not distributed broadly to neighborhood business groups and professional organizations, though some certifying programs have developed "low doc" applications.

To succeed in business, Yvonne Pugh says that MWBEs should know that it takes "working a plan" to make entrepreneurship work.

Respondent – Business Owner

MICHELLE RINGOLD

President and CEO

Ringold Financial Management Services

6 Years in Business

About Michelle Ringold

Michelle Ringold, along with Principal/Executive Vice President Rick Ringold, heads one of the fastest growing Licensed Certified Public Account and Management Advisory firms in Illinois. Even in a tough economy, the firm has grown over 200 percent during the last two years. This growth relates to strong executive leadership, using strategic approaches to doing business, building capacity, and partnering with prime firms like KPMG. “We seek opportunities aggressively and do not wait for them to find us”, says Michelle. As a City of Chicago vendor, Ringold is experienced in compliance and access, and uses best practices in providing service to clients. Michelle has more than 20 years experience in Auditing, Accounting, Tax, and Strategic Financial Management. She has administered large government projects such as overseeing the Accounting Conversion of 300 Chicago Public Schools and managing Voucher Audits for the City of Chicago. Additionally, Michelle has extensive experience in contract compliance and supplier diversity.

Assessing the Business Environment in the City of Chicago

- It is very difficult for new businesses to get access, and it appears that the same few MWBEs have been getting the opportunities for years. There is no incentive for the use of new businesses or the partnering of successful MWBEs to mentor a smaller or newer MWBE firm.
- It appears that African American-owned firms’ participation and contract awards have declined over the years.

Concerns about the MWBE Program

- More Education is needed regarding the rules and regulations that govern the program.
- There needs to be a transition plan for those firms that are graduating and an incentive for those firms who have succeed to mentor new firms in the program.
- The size standards used for the Construction Industry needs to be adjusted, some are too low.
- Some of the rules and regulations need to be revised to provide more clarity.
- The compliance and monitoring program needs to be improved, especially the monitoring for professional services.

What MWBEs Should Know

- Getting certified is not an automatic guarantee for business; the MWBE firm has to market their business and develop the necessary relationships, so that people know who they are as well as the capabilities of the firm.
- Joint Ventures and partnerships can be good, but they must be structured properly.

Respondent – Business Owner

DEBORAH SAWYER

President and CEO

Environmental Design International, Inc.

20 Years in Business

About Environmental Design International, Inc.

Founded in 1991, Environmental Design International inc. (EDI) is an MBE/WBE certified professional engineering firm headquartered in Chicago. EDI's team of engineers and scientists offer a variety of environmental, engineering, industrial hygiene, and survey services to clients within the private and public sectors. Clients turn to EDI for complete project management services. From preliminary planning, and on through design, permitting, construction management, and reporting under the most aggressive of schedules, EDI project teams will deliver solutions on time and within budget.

Experience with the City of Chicago

- MBE certified for 19 years.
- First “Prime” contract was with Montgomery Elevator in the Quad Cities which provided experience to be competitive in Chicago.
- First “Prime” contract in Chicago was with Chicago Public Schools on which EDI positioned itself to bid as a “Prime” while serving as a “Subcontractor” on the project for 5-7 years.
- Chicago Housing Authority and the Public Building Commission go the extra mile to work with small business.
- During the Daley Administration, the Department of Procurement encouraged “Primes” to Joint Venture with MWBEs. This type of partnership puts MWBEs at the discussion table on key issues whereas “Subcontracting” does not. This is a good way to help grow a small business.

Concerns about the MWBE Program

- There is no “Universal Certification” which could simplify doing business with governments and governmental agencies.
- The timing and payment of projects disproportionately affect MWBEs.

Other Business Concerns

- Doing business with major companies is “hard to crack” and you have to pay to be pre-qualified with them. Also, they will not “unbundle” projects; and, bias still exists.
- Doing business with IDOT presented concerns like “size standards” and net worth. As a DBE, the small business size standard for EDI’s NAICS code is \$6 million on transportation projects but, phasing out at that amount, we cannot compete with the larger firms. Sawyer recommends a “gradual graduation out of the cap”, and also updating DBE guidelines to address issues affecting small business.

THE MWBE PROGRAM CHRONOLOGY

- 1985 Mayor Harold Washington Issued Executive Order 85-2 Establishing the MWBE Program.
- 1989 Mayor Richard M. Daley Re-Issued the Executive Order – 89-7.
- 1989 In the *City of Richmond v. J.A. Croson Co*²⁹, the Supreme Court ruled an affirmative action contracting program unconstitutional because the City of Richmond did not provide enough evidence to justify its program. Similar programs around the country were threatened including Chicago’s MWBE program. A blue-ribbon panel was appointed by Mayor Daley to study the City’s program.
- 1990 In March 1990, the panel concluded that Chicago’s existing set-aside goals were “appropriate and sustainable” under the *Croson* decision. Hearings were held to generate Evidence to continue the program.
- 1990 The Chicago City Council passed an Ordinance that made the MWBE program law. The Ordinance kept in place the goals set forth in Mayor Washington’s Executive Order.
- 1996 The Builders Association of Chicago challenged the constitutionality of the City’s MWBE program regarding construction contracts.
- 2003 A federal court held that Chicago’s program did not meet the constitutional standard set forth by the Supreme Court’s *Croson* decision. The court found that the program was no longer “narrowly tailored” to simply remedy the effects of that discrimination. The City convened a task force to recommend how to remedy the program.
- 2004 The task force held hearings to get testimonies from affected and interested parties; and the City conducted a statistical study in to examine the scope discrimination within the Chicago construction industry and to determine MWBE contracting goals based on based on the availability of minority and women-owned firms.
- 2004 In June 2004, the City passed an amended Ordinance that changed the MWBE program as it applied to construction contracts, setting contract goals at 24% for MBEs and 4% for WBEs. Other City contracts were not and have not be challenged and therefore were not changed, continuing with the contract goals of 25% for MBEs and 5% for WBEs. The Ordinance implemented a personal net worth limit of \$750,000 for owners of certified firms and an annual gross receipts limit for certified firms based on the Small Business Administration’s (SBA) small business size standards.
- 2006 The Ordinance was amended in 2006 to raise the personal net worth threshold to \$2 million dollars (since increased to \$2.04 million due to inflation).³⁹ Also, the Ordinance was amended so that it would sunset after five years, in December 2009.

2009 The City commissioned another statistical analysis of the City's construction industry. This study found the City's construction industry largely unchanged from five years earlier. All else equal, there remained a penalty attached to being a minority or a woman in construction self-employment.

2009 On July 29, 2009, the City Council reauthorized the program through 2015. The only changes to the program were the addition of Native Americans as a disadvantaged group and an interim review scheduled for 2012.

Note: According to the May 2010 "Review of the Minority and Women-Owned Business Enterprise Program" by the Office of the Inspector General, "While construction is the largest single area of MWBE participation, taken together the different types of non-construction contracts accounted for over 63 percent of the total dollar amount of MWBE participation reported in 2008, in terms of contract awards."

The Review states further that "There are several differences between the construction and non-construction program. While non-construction limits the annual gross receipts a participating firm can receive, this limit is generally higher than the limit in construction. The limit in non-construction was set at \$27 million in 2000 and is adjusted annually for inflation (it is almost \$34 million for 2010), while the construction program's limit is based on the SBA small business size standards, which for most construction industries is lower. There is no personal net worth limit for participation in the non-construction program. There is a target market program in non-construction, while there is not one in construction.⁴⁷ The chart below highlights the differences between the two programs."

“CONCLUSION”

Emilie & Friends has presented in this report information obtained in our research. We draw no conclusion nor propose to answer our title question: “**25/5: A Procurement Boost or Bust for Chicago’s Minority and Women-Owned Business Enterprises?**” However, we encourage you to read the two reports published by the Office of the Inspector General. They are the most comprehensive reporting we have seen on the rules, regulations, and potential legal consequences of not safeguarding the **MWBE program which has been renamed the Supplier Diversity program**.

There is one issue we want to raise for your consideration. Our research showed that Black construction contractors were the “biggest loser” during the last decade or so. In reviewing news stories, we determined that the decrease in contracts within this group had a direct correlation to the following:

- An alarming number of fronts and pass-throughs.
- Closing of construction companies when 2nd-generation family members were not interested in running the business.
- Black contractors and activists stopped protesting for jobs and contracts.
- No leader to get media attention.

This inaction has caused a decrease in the number of viable Black construction companies, and many of those that remain do not have the capacity to perform on large projects. The news stories we read showed that in every case where Black contractors and activists protested and demanded jobs and contracts, they got results.

Getting results also means being prepared for opportunity. We therefore suggest that you take time to visit the web page for the Department of Procurement Services to see the scope of information available on doing business with the City of Chicago. Sign up for the DpAlerts to receive weekly notices of the City’s open bids and attend their free workshops. If you are considering certification, read carefully the information about certification and compliance. Also, review the certification application and make a list of documents required. You want to make sure that everything is in order when you get ready to apply.

We encourage you to send comments regarding this report to emilieandfriends@aol.com. You may also post your comments on our Facebook page at <http://www.facebook.com/#!/profile.php?id=1368831836>. Any comments we received regarding the MWBE program will be shared with the Department of Procurement Services. Announcements will be forthcoming with dates and times for radio and television interviews with respondents included in this report.

We express our thanks again to The Chicago Community Trust for making this report possible.

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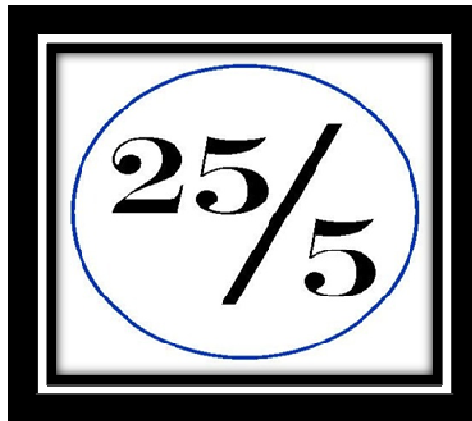
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**“A PROCUREMENT BOOST OR BUST FOR CHICAGO’S
MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES?”**

NOVEMBER 30, 2011

Emilie & Friend

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