

DATE ISSUED: March 1, 2001

REPORT NO. 01-047

ATTENTION: Public Safety and Neighborhood Services Committee
Agenda of March 7, 2001

SUBJECT: City Manager's Interim Equal Opportunity Contracting Program (EOCP)
Status Report

SUMMARY

Issue - Should the City Council accept the City Manager's Equal Opportunity Contracting Program's biannual status report for the second half of FY 2000?

Manager's Recommendation - Accept the report.

Fiscal Impact - None.

Reference - Manager's Report 00-112

BACKGROUND

As prescribed by Council Policy 300-10, the City Manager is required to report to the City Council on the status of the Equal Opportunity Contracting Program (EOCP). The mission of EOCP is to ensure all who do business with the City of San Diego are fair in payment practices; do not discriminate; and provide opportunities for all citizens through hiring, subcontracting and apprenticeship policies. The specific functions performed include labor compliance, equal employment opportunity and subcontractor outreach. This report covers contracting activity monitored by EOCP for the second half of Fiscal Year 2000 specifically, with a summary review of contracting levels for all of Fiscal Year 2000.

DISCUSSION

Subcontracting Activity:

The program in place for city funded projects during this review period includes voluntary Minimum Participation Levels (MPLs) for subcontracting with Minority, Women, Disadvantaged, Disabled Veteran and Other Business Enterprises (MBE/WBE/DBE/DVBE/OBEs). Said goals are designed to encourage and promote participation from all areas of the city's diverse contracting community. The MPLs are 15% for consultant projects over \$25,000 and 20% for construction projects over \$50,000. Federal and federally assisted projects include mandatory goals ranging from 8% to 20% for Disadvantaged Business Enterprises.

During the reporting period (January 1, 2000 through June 30, 2000), consideration was given by EOCP to the total level of contractor participation, the distribution of contracting dollars among the various categories, as outlined above, and participation on key projects and/or project groups. The total dollar amounts committed to contractors on City projects during the reporting period were \$117,652,207.48, including a commitment of \$88,844,154.49 for construction related contracting and a commitment of \$28,808,053.00 for consultant related contracting. Awards to certified MBE/WBE/DBE/DVBE firms totaled 8.8% for construction and 5.4% for consultants. The distribution of these contracting dollars is graphically illustrated in Attachments 1 through 4

Convention Center Expansion

EOCP continued to monitor the activities of the Convention Center Expansion effort. Golden Turner, the construction manager for the convention center tracks goals and participation levels for Historically Underutilized Businesses (HUBE). HUBE includes local small firms in addition to certified MBE, WBE, DBE and DVBE firms. As of June 30, 2000, construction participation on the project had reached 17.50% HUBE of which 9.85% was local small firms; consultant participation reached 31.08% of which 3.67% was local small firms; and vendor participation reached 43.04% HUBE, with 35.79% local small.

Equal Employment Opportunity (EEO) Outreach Program:

During fiscal year 2000, a total of four (4) Equal Employment Opportunity compliance field reviews were initiated by City staff with one completed during this period. Field reviews are conducted to: verify reported work hours; ensure contractors are actively administering nondiscrimination programs on City projects; determine the degree of uniformity of employment of people of color and women on federal/federally assisted projects throughout the length of the project; evaluate the contractor’s affirmative action efforts on federal/federally assisted projects in compliance with Executive Order 11246; and investigate any indications of discrimination.

Contract compliance reviews generally require four to six weeks for completion and conclude with one of three possible outcomes : 1) contractor is found **In Compliance** with no violations, 2) minor violations are identified and contractor signs a **Letter of Commitment** to resolve these issues, or 3) major violations are identified and contractor signs a **Conciliation Agreement** to resolve these issues. Conciliation agreements require contractors to sign a “contract” with the City and/or Office of Federal Contract Compliance outlining the specific actions to be taken to correct the violations cited. Compliance review findings are valid for a period of two years. The following are contractors reviewed in fiscal year 2000 and results:

Contractor	Results
Clauss Construction	In progress
Falcon General	In progress
Metcalf and Eddy	Letter of Commitment
Riha	In progress
Shiva	Conciliation Agreement

Investigative Unit

In 1998, EOCP formed an investigative unit to handle allegations of contractor improprieties.

Since forming, the unit has investigated allegations of discrimination, slow payment and non-payment of both subcontractors and labor force, and illegal substitutions. The unit works closely with City staff and the contracting community to identify and resolve such issues in a fair and equitable manner. Both the Investigative Officer and the Senior Investigative Officer have attended the construction management academy and mediation training and are using the knowledge and skills gained in conducting investigations.

During the second half of Fiscal Year 2000, the unit opened four (4) new cases and closed three (3) cases. Cases closed resulted in the recovery of \$81, 223.29 for subcontractors and employees of prime contractors. In total, \$164,734.29 was recovered for all of Fiscal Year 2000.

Program Update

On March 6, 2000, the City Council adopted a mandatory Subcontractor Outreach Program (SCOPE) in an effort to level the playing field and provide contracting opportunities for all segments of the contracting community irrespective of size, ethnicity or gender. After the adoption of SCOPE, EOCP staff conducted a series of educational workshops to prepare both contractors and City staff for the program in an effort to increase the likelihood of a successful implementation. Contractors were invited to attend the workshops through invitations to the various trade organizations (i.e. the Association of General Contractors, the Black Contractors Association, the Engineering & General Contractors Association, Latino Builders, the National Electrical Contractors Association, Women Construction Owners and Executives) and public noticing. Sessions were also held with the Citizen's Equal Opportunity Commission, the Public Works Advisory Committee and staff of various City departments. As workshops were conducted over the course of the remainder of the fiscal year, the program was not implemented until July 1, 2000. Therefore, data related to SCOPE will be included in the next bi-annual report to the City Council.

As a companion to SCOPE, the City Council also adopted a Non-Discrimination Ordinance. Adopted on April 10, 2000, City Ordinance No. 0-2000-143 states:

“Contractor shall not discriminate on the basis of race, gender, religion, national origin, ethnicity, sexual orientation, age, or disability in the solicitation, selection, hiring or treatment of subcontractors, vendors or suppliers. Contractor shall provide equal opportunity for subcontractors to participate in subcontracting opportunities. Contractor understands and agrees that violation of this clause shall be considered a material breach of the contract and may result in contract termination, debarment, or other sanctions.”

For the purposes of this ordinance, a contract is defined as an agreement with any person let by or on behalf of the City for that person to provide labor, materials, goods and supplies, or services. As such, the ordinance must be included in all agreements, bid documents, requests for proposal, contracts and subcontracts.

As provided for in the ordinance, as part of its bid or proposal, a bidder shall provide to the City a list of all instances within the past ten years where a complaint was filed or pending against the bidder in a legal or administrative proceeding alleging discrimination against its employees, subcontractors, vendors, or suppliers, and a description of the status or resolution of that complaint, including any remedial action taken. In addition, upon request, a contractor must agree to provide to the City, within sixty calendar days, a truthful and complete list of the names of all subcontractors, vendors, and suppliers used in the past five years on any of its contracts that were undertaken within San Diego County, including the total dollar amount paid by

contractor for each subcontract or supply contract.

ALTERNATIVE

Do not accept the report.

Respectfully submitted,

Stacey Stevenson
Deputy Director
Contract Services Division

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Approved: P. Lamont Ewell..... Approved: Cathy Lexin
Assistant City Manager..... Director
..... Human Resources Department

Ewell/Lexin/SS

Note: The attachments are not available in electronic format. A copy of the attachments is available for review in the Office of the City Clerk.

- Attachments: 1) Second Half FY 00 All Construction Projects Ethnic Distribution
2) Second Half FY 00 All Construction Projects Participation Levels
3) Second Half FY 00 All Consultant Projects Ethnic Distribution
4) Second Half FY 00 All Consultant Projects Participation Levels
5) FY 00 All Construction Projects Ethnic Distribution
6) FY 00 All Construction Projects Participation Levels
7) FY 00 All Consultant Projects Ethnic Distribution
8) FY 00 All Consultant Projects Participation Levels
9) Council Policy 300-10 Equal Opportunity