# Audit of Department of Public Works Emerging Business Enterprise and Residents Preference Program Compliance

**W. MARTIN MORICS**
**City Comptroller**
**City of Milwaukee, Wisconsin**

**February 2006**

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City of Milwaukee

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**Office of the Comptroller**

February 16, 2006

To the Honorable
the Common Council
City of Milwaukee

Dear Council Members:

The attached report summarizes the results of our Audit of Department of Public Works (DPW) Emerging Business Enterprise (EBE) and Residents Preference Program Compliance. The objectives of the audit were to evaluate DPW's compliance with the requirements of the Emerging Business Enterprise and Residents Preference Programs, verify the accuracy of program reports and identify possible program improvements.

The audit found that DPW and the Emerging Business Enterprise Office are adequately monitoring EBE participation in City contracts as required by the EBE ordinance. However, program reporting needs improvement. The method used to compute a department's achieved EBE percentage is not consistent with the EBE ordinance. It was also found that while the EBE ordinance applies to all procurements, the EBE Office currently applies the program only to DPW contracts over $25,000. The audit makes four recommendations concerning the Emerging Business Enterprise Program.

The audit also found that DPW is substantially in compliance with the provisions of the Residents Preference Program. The audit makes three recommendations regarding reporting, verification of resident eligibility and the five year limitation on resident participation in the program.

Audit findings and recommendations are discussed in the Audit Conclusions and Audit Recommendations sections of this report, followed by responses from the Department of Public Works and the Emerging Business Enterprise Office.

Appreciation is expressed for the cooperation extended to the auditors by the staff of the Department of Public Works and the Department of Administration's Emerging Business Enterprise Office.

Sincerely,

W. MARTIN MORICS
Comptroller

Room 404, City Hall, 200 East Wells Street, Milwaukee, Wisconsin 53202-3567, Phone: (414) 286-3321, Fax: (414) 286-3281

PACE Local 1-0318

## Audit Scope and Objectives

This is an audit of Department of Public Works (DPW) participation and compliance in the City's Emerging Business Enterprise Program (EBE), under Chapter 360 of the City Code of Ordinances, and the Residents Preference Program, under Chapter 309-41 of the City Code of Ordinances.

The scope of the audit includes DPW contracts subject to the EBE and Residents Preference Programs. The objectives of the audit were to evaluate DPW's compliance with the requirements of these programs, to verify the accuracy of program reports and to identify possible program improvements.

## Emerging Business Enterprise Program Organizational and Fiscal Impact

On October 27, 1987 the Common Council approved file number 870758 which established the Equal Opportunity Enterprise Program. In 1989, Milwaukee Code of Ordinances Chapter 360 was revised changing the name of the program to the Disadvantaged Business Enterprise Program. In August 2002 the name of the program changed to Emerging Business Enterprise (EBE) Program. As currently written, the ordinance requires City departments to utilize Emerging Business Enterprises for 18% of the total expended contract dollars annually. The definition of City contracts includes contracts for construction, the purchase of services, the purchase of professional services and the purchase of supplies. The audit reviewed DPW's participation in the City's EBE Program and did not include other City contracting departments.

An Emerging Business Enterprise is a small business concern that is owned, operated and controlled by one or more individuals who are at an economic or social disadvantage, or are disadvantaged with respect to education, employment, residence or business location or lack of business training. The individuals must have day to day operational and managerial control and interest in capital, financial risks and earnings commensurate with the percentage of their ownership.

Organizationally, the Emerging Business Enterprise Office is located within the Business Operations Division of the Department of Administration. The EBE Program is administered

by the Emerging Business Enterprise Manager. The EBE Manager is appointed by the Mayor and confirmed by the Common Council and serves concurrently with the term of the Mayor.[1]

The EBE Manager is responsible for establishing criteria and procedures for reviewing contract performance and compliance with the requirements of the program. The EBE Manager is also responsible for establishing reporting requirements for all City departments to document the percentage of contracts which have been awarded to EBE firms.

The EBE Office is also responsible for developing various types of financial assistance to assist Emerging Business Enterprise firms. Currently, this financial assistance includes a revolving loan program, a guaranteed loan program, a gap lending program, and guaranty bond reduction and waiver program. To qualify for financial assistance an emerging business must be certified with the City and also have an awarded contract. These activities were not included in the scope of this audit.

According to the Emerging Business Enterprise 2004 Annual Report, EBE firms received $36.2 million or 16.5% of the City's $219.6 million in contracts, including $12.0 million on DPW contracts, or 17.9% of DPW's $66.9 million in contracts.

**Program Reporting by the EBE Office**

The EBE Program requires that all contracting departments report EBE contract participation on a monthly basis. Contracting departments send the EBE Office copies of their EBE monthly reports which include the name of the EBE firm contracted, the service performed by the EBE firm and monthly and cumulative amounts paid to EBE firms for each contract. The business analyst in the EBE Office enters these amounts into a spreadsheet that accumulates the total dollars paid to EBE firms in a given year by each department. The EBE Office calculates the EBE contract percentage by dividing the total annual payments made to EBE firms by the total cost of annual contract awards. The resulting percentage is reported as the EBE percentage achieved relative to the City's 18% policy objective.

Annually, the EBE Manager reports EBE contracting percentages by department and Citywide to the Mayor and Common Council.

[1] Chapter 360, Section 360-05

**Program Reporting by DPW and DPW Contractors**

EBE percentage participation requirements for individual contracts are determined during weekly meetings between an EBE business analyst and a representative from the DPW Contract Administration Section. The DPW division initiating a contract recommends an EBE percentage requirement. At their weekly meetings, the EBE business analyst and DPW representative discuss each upcoming contract's specifications and whether EBE firms with the expertise to meet the specifications are available. Based on these discussions, they agree on a percentage requirement, which may differ from the requirement recommended by the contracting division. The agreed-upon percentage requirement is rarely if ever lower than the requirement recommended by the contracting division.

As with all contracting departments, once a City contract is awarded by DPW, the prime contractor is responsible for reporting to DPW personnel the EBE firms it intends to use for the project (Form A). As the project progresses the prime contractor submits a monthly EBE report (Form D) to DPW personnel identifying the actual EBE firms used, the services provided, and the monthly and cumulative amounts paid to each EBE for that contract. A copy of this form is sent to the EBE Office by DPW. The EBE Office enters the information into a monthly spreadsheet that tracks all payments made throughout the year to the EBE firms.

When the contract work has been completed, the EBE firm submits a subcontractor payment certification (Form E) stating that the EBE firm has completed the work and the total amount paid to the EBE firm on the contract. The payment certification form is sent directly to DPW and is signed by the EBE firm owner or other representative. A copy of this certification form is then sent to the EBE Office by DPW and filed with the monthly reports. In addition to this information, in instances where the agreed-upon EBE requirement was not achieved, DPW informs the EBE Office of the reasons why the requirement was not achieved.

The EBE Office sets a cut-off date on which all monthly reports and payment certifications are due to the EBE Office for contracts closed in the previous calendar year. The cut-off date for contracts completed in 2004 was March 1, 2005. After that date, the EBE business analyst is able to complete entering amounts paid to EBE firms in his spreadsheet and to calculate the total amount paid to EBE firms by each department during the past year. DPW also provides the EBE Office with the total contract awards for the year.

## Emerging Business Enterprise Program
## Audit Conclusions

Overall, the audit found the monitoring process for EBE participation in City contracts to be adequate. However, program reporting needs improvement. The audit found that the current method of computing DPW's EBE percentage is not consistent with the EBE ordinance. The audit also found that while the City ordinance on EBE relates to all contracts, the EBE Office only reports formal contracts exceeding $25,000. In addition, the audit found that the Department of Administration includes only formal contracts exceeding $30,000 in the calculation of its EBE percentage.

**EBE Monitoring**

The audit found that the EBE Office's monitoring of DPW's compliance with the ordinance is adequate for formal contracts. As described in the previous section of this report, EBE percentage participation requirements for individual contracts are determined during weekly meetings between EBE and DPW staff. DPW provides the EBE Office with copies of monthly contractor reports of amounts paid to EBE firms and payment certifications from EBE firms. The audit tested a sample of DPW contracts over $25,000 with EBE percentage goals that were closed in 2004. The dollar amounts paid to EBE firms on these contracts were traced from the monthly reports and payment certifications to the spreadsheet used to calculate total payments to EBE firms. The audit indicates the amounts of DPW payments to EBE firms in 2004 were accurately reported.

The EBE Office applies the requirements of the ordinance only to formal contracts of $25,000 or more. A City Attorney's opinion dated November 28, 2005 states that *"departments are required to utilize EBEs for 18% of the <u>total</u> dollars (regardless of whether there was a formal bid or the procurement was done by purchase order) expended."* The opinion also states that there is no minimum dollar threshold for this requirement. Therefore, it appears that the EBE ordinance applies to all contracts, regardless of dollar amount.

**EBE Reporting**

Code of Ordinances Chapter 360 requires the EBE Manager to *"review emerging enterprise participation progress in the City's contract and procurement activities and submit a written report to the Mayor and Common Council."* The EBE Office fulfills this requirement by means of its annual report.

The Emerging Business Enterprise Program 2004 Annual Report was presented to the Common Council's Community and Economic Development Committee on November 8, 2005. This report includes each contracting department's achieved EBE percentage for the years 2000 through 2004, brief comments concerning each department's EBE results, a description of EBE Program objectives, the history of the program and a definition of an emerging business enterprise. The report also provides statistics regarding EBE firms, EBE certification and EBE financial assistance activities.

The EBE Office calculated DPW's EBE percentage for 2004 at 17.9% overall by dividing the total annual payments made to EBE firms by the total cost of DPW contracts awarded in 2004. The percentage is calculated in the same manner for all contracting departments. This calculation method is not consistent with the EBE ordinance.

The EBE ordinance states *"each contracting department, and all other operating departments when contracting upon authority therefrom, shall, consistent with law, utilize emerging business enterprises for 18% of the total dollars, through contracts or subcontracts, annually* ***expended.***" The current calculation method used by the EBE Office compares payments to EBE firms to contract award amounts rather than amounts expended. Payments to EBE firms during a year include payments on contracts awarded in that year and in previous years. Further, using annual contract awards does not include the effect of contract change orders, which could increase or decrease the EBE percentage. A measure more consistent with the ordinance would be to divide total payments to EBE firms during a year by total contract payments made during that year. This calculation results in a 2004 EBE percentage for DPW of 16%, rather than 17.9% as currently calculated. The current calculation is likely to overstate the actual EBE percentage in some years and understate it in others.

Since the EBE Office receives copies of all monthly EBE reports and subcontractor payment certifications, it is able to independently verify annual payments to EBE firms. Currently, the office depends on DPW to provide the dollar amount of contract awards, and cannot independently verify this amount. However, the EBE Office could independently obtain total annual DPW contract payments from the City's Financial Management Information System.

When EBE goals are not met, the EBE ordinance requires contracting departments to provide a detailed explanation of why this occurred. The audit found that for two of the five contracts sampled, the contractor did not meet the EBE requirement established by DPW and the EBE

Office. In both cases DPW provided the required explanations for not meeting the agreed-upon EBE goals. While this information is retained by the EBE Office, it currently is not being reported to the Common Council.

In addition to the EBE percentages reported in the Emerging Business Enterprise Program Annual Report, DPW also reports monthly and annual EBE percentages on its web-site. The web-site includes EBE percentages for service orders of less than $25,000 in addition to formal contracts of $25,000 or more. The DPW web-site reports EBE percentages for the most part based on the dollar amounts of contract awards and the dollar amount of required EBE participation. These amounts do not reflect contract change orders nor actual EBE participation achieved. The web-site calculates EBE percentages for small dollar service orders using dollars expended. The DPW web-site reports a combined EBE percentage of 20.5% for 2004.

The DPW web-site provides useful supplementary information regarding DPW's success in achieving EBE Program goals. By focusing on contract awards for each year, the DPW calculation provides more contemporary information, since contract payments relate to contracts awarded in several years. However, Chapter 360 of the Code of Ordinances states that the goal is for each contracting department to utilize EBEs for 18% of the total dollars expended. A percentage calculated by dividing total payments to EBE firms by total contract payments relates more directly to this goal.

## Emerging Business Enterprise Program
## Audit Recommendations

**Recommendation 1: Apply EBE Requirements to All Types of Contracts**

In order to provide consistent reporting on DPW's success in achieving EBE goals relative to other departments, all departments should apply EBE requirements to the same types of procurements. To achieve this, DPW and other contracting departments should apply EBE requirements to all types of contracts, including purchase orders for less than $25,000, in accordance with the City Attorney's opinion. Departments should use EBE's for 18% of the total dollars expended on all contracts and purchase orders, regardless of their dollar amount. Alternatively, the Common Council may wish to amend Chapter 360 of the Code of Ordinances to apply only to contracts over a specified dollar amount. Such a specified dollar amount should be the same for all departments.

**Recommendation 2: Improve Calculation of EBE Percentage**

To be consistent with the EBE ordinance requirements, the EBE Office should calculate each department's EBE percentage by dividing total payments to EBE firms during a year by total contract payments made during that year. The revised calculation results in a 2004 EBE participation percentage for DPW of 16%, compared to the 17.9% reported in the Emerging Business Enterprise Program 2004 Annual Report.

**Recommendation 3: Describe Calculation of EBE Percentage**

The EBE percentage calculation proposed in Recommendation 2 and the calculation used on the DPW web-site both provide useful information regarding the achievement of EBE Program goals. To provide clarity for readers of both, the DPW web-site and the EBE annual report should describe the method each uses to calculate the EBE percentage.

**Recommendation 4: Report Reasons EBE Goals Are Not Achieved**

To assist the Common Council in evaluating DPW's EBE achievements, the audit recommends that the EBE Office include DPW's explanations of why EBE requirements were not met for specific contracts in its annual report to the Common Council, along with DPW's planned actions to achieve its EBE goals for similar future contracts. Such explanations should be reported for all other City departments, as well. If there are a significant number of contracts for which EBE requirements were not met, a summary of the explanations could be provided.

## Residents Preference Program
## Organizational and Fiscal Impact

The City of Milwaukee Department of Public Works Residents Preference Program was established on June 25, 1991 with the adoption of ordinance Chapter 309-41. The Program is administered by the Contract Administration Section in the DPW Administrative Services Division.

The Residents Preference Program ordinance specifies that all DPW construction contracts funded by City, State or Federal funds, and other contracts as determined by the DPW Commissioner, include a requirement that 25 percent of worker hours be performed by unemployed residents of the Community Development Block Grant (CDBG) area. The unemployment criteria are met by residents who have worked less than 1,200 hours in the previous 12 months, or who have not worked in the previous 30 days.

Ordinance Chapter 309-41 states that the Residents Preference requirement pertains to *"all construction contracts and other contracts as the Commissioner of Public Works may determine."* Accordingly, the Commissioner has applied the Residents Preference Program requirement to all formally bid construction contracts and to other contracts greater than $25,000 where he considers it appropriate. Program requirements are not applied to contracts less than $25,000.

DPW requires affidavits from participating workers stating that they meet the unemployment criteria and are residents of the CDBG area. These affidavits are used to maintain a roster of certified Program participants. Contractors are required to submit time reports within 10 days after contract completion or every 3 months, whichever comes first. These reports detail hours worked by the certified CDBG residents, other City residents, and non-residents. DPW reviews these time reports and follows up with contractors when necessary to ensure compliance with the Program ordinance. Upon contract completion DPW requires affidavits from contractors stating that they have complied with the residents preference requirements.

The Program ordinance mandates a Common Council review of the necessity for continuing the Program prior to October 1 of each year. Based on its review, the Common Council can adjust Program requirements in an attempt to reduce unemployment disparity in the CDBG area. To assist the Common Council with its annual review, DPW is required to submit an annual report on the Program's success in achieving its goals.

DPW's Residents Preference Program Annual Report for 2004 indicates there were a total of 144 formally bid 2003 construction contracts of which 75 were closed as of December 31, 2004. In total, laborers spent 153,506 hours on the closed contracts, with 42,992 hours or 28% provided by CDBG area residents.

## Residents Preference Program
## Audit Conclusions

The audit concludes that DPW was substantially in compliance with the provisions of the Residents Preference Program ordinance during 2004. Some exceptions were noted, as described below.

**Residents Preference Program Annual Report**

The 2004 Residents Preference Program Annual Report states that overall DPW achieved CDBG area resident participation of 28% of hours worked, exceeding the 25% goal in 2004. The 25% requirement was achieved for 64% of contracts completed (48 of 75). Resident participation was less than 25% for 27 contracts. The required resident participation was under 25% for 12 of the contracts. The report provides an explanation of the reasons for these lower requirements. The audit indicates that the DPW report is substantially accurate.

For the most part, the 2004 Annual Report fulfills the reporting requirements of the Residents Preference Program ordinance. However, the following required disclosures were not included in the report:

- The percentage of unemployed resident hours required by construction contracts which incorporated a residency requirement, as required by Chapter 309-41.5.b.
- The number and dollar amount of non-construction contracts which incorporated a residency requirement, along with a summary of the reasons for not incorporating a requirement in some or all of those contracts, as required by Chapter 309-41.5.d.
- The number of program participants who advanced to apprenticeships, as required by Chapter 309-41.5.g
- The unemployment rate in the City outside of the CDBG area and the sources of unemployment statistics in the report, as required by Chapter 309-41.5.h.
- Recommendations regarding the necessity for continuation of the program and methods of making the program more successful, as required by Chapter 309-41.5.i.

**Resident Preference Program Monitoring**

The audit recalculated Residents Preference achievement statistics for a sample of 5 construction contracts. The sample of 2003 formally bid contracts closed in 2004 represented a total of 10,123 hours reported for target area residents, or about 23.5% of the total CDBG area resident hours reported for contracts closed in 2004. The audit found that resident hours for two of the sampled contracts were underreported by 318 hours or 3.1% of the reported resident hours for the sample.

For the sample contracts, contractors reported hours worked for 80 unemployed CDBG area residents. As part of the audit, the residents' addresses were provided to the DOA-Information and Technology Management Division (ITMD). ITMD plotted the addresses against the boundaries of the CDBG area, and produced a map showing which addresses actually lie within the CDBG area. This map in Appendix 1 indicates that 3 of the 80 residents actually live outside of the CDBG area and should not have been counted toward meeting the Program goals. DPW personnel stated that this apparent inconsistency may have been caused by a 2003 adjustment in the boundaries of the CDBG area to reflect the 2000 census. The three persons shown as living outside the CDBG area may have been residents of the CDBG area as that area was defined at the time the contract they worked on was awarded.

The sampled contractors reported hours for 49 individuals as City residents outside of the CDBG area. ITMD also plotted the addresses for these individuals against the boundaries of the CDBG area. This map in Appendix 2 indicates that 10 of these individuals actually live within the CDBG area, but were not counted toward achieving Residents Preference Program goals. If those individuals also met the unemployment criteria at the time they worked on City contracts, they would have been eligible for certification as unemployed CDBG area residents.

DPW currently verifies residency using the worker addresses listed in time reports submitted by the contractors. DPW personnel compare these addresses to DPW's list of certified residents to confirm that the person still resides within the CDBG area. Errors could occur in this manual comparison.

Chapter 309-41 of the Code of Ordinances states that an unemployed resident continues to qualify as unemployed for 5 years. As reported in a previous audit dated July 2000, DPW has

not enforced the 5 year limitation on participant eligibility, due to a concern that contractors may lay off workers who have reached the 5 year limit in order to create job openings for new resident workers.

## Residents Preference Program
## Audit Recommendations

**Recommendation 5: Ensure Report Includes All Requirements**

DPW should ensure that its Residents Preference Program Annual Report meets all the specific reporting requirements in Code of Ordinances Chapter 309-41.5.

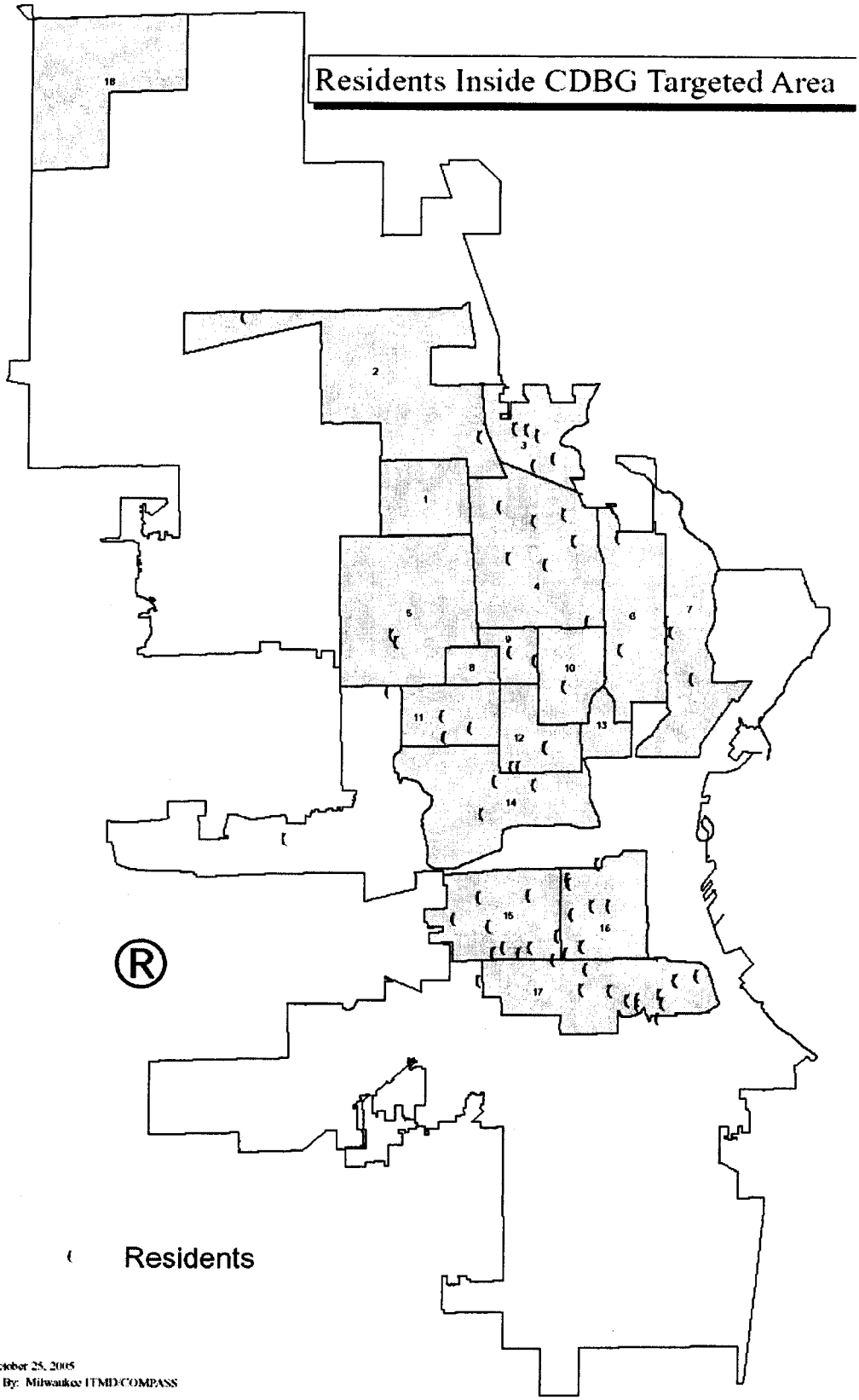
**Recommendation 6: Verification of Resident Eligibility**

To verify that residents continue to live within the CDBG area, DPW should periodically provide the resident addresses listed on contractor time reports to ITMD for plotting against CDBG area boundaries. DPW should follow-up with contractors where CDBG area resident status is not correctly reported.

**Recommendation 7: Consider Amending Ordinance**

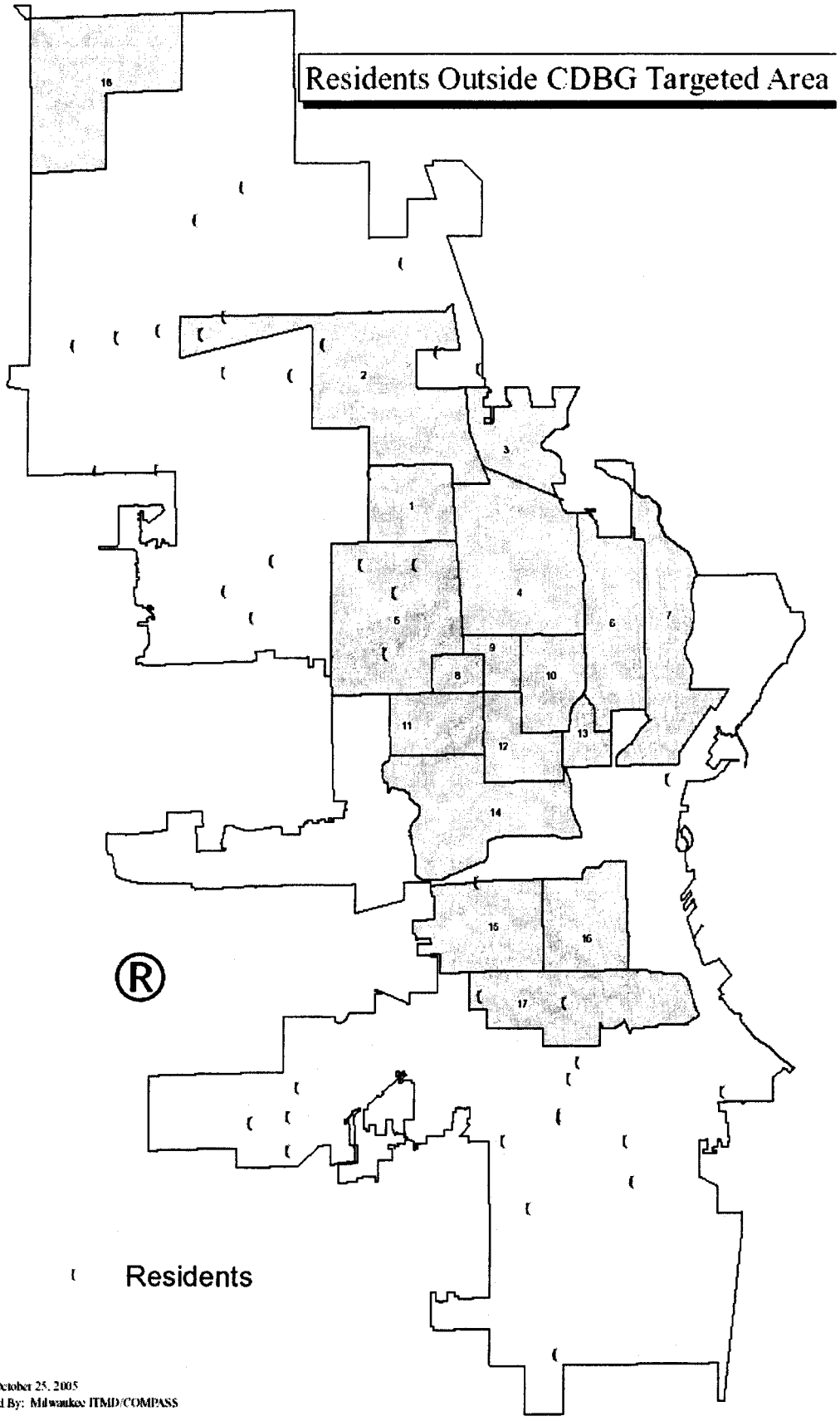
The Common Council should consider amending ordinance section 309-41.1.g to eliminate any limitation on the length of time CDBG area residents can participate in the program. This would eliminate a requirement that has not been enforced and would remove the possibility of contractors laying off resident workers in order to hire new resident workers.

**Appendix 1**




Date: October 25, 2005
Prepared By: Milwaukee ITMD/COMPASS

**Appendix 2**




Date: October 25, 2005
Prepared By: Milwaukee ITMD/COMPASS

City of Milwaukee

Department of Public Works

Jeffrey J. Mantes
Commissioner of Public Works

James P. Purko
Director of Operations

February 1, 2006

Mr. W. Martin Morics
City Comptroller
City Hall, Room 404

Dear Mr. Morics:

Thank you for giving my Department an opportunity to review the recently completed Audit of Department of Public Works Emerging Business Enterprise and Residents Preference Program Compliance. Overall, the audit fairly describes DPW's efforts to implement these two programs. I do, however, wish to offer a few comments and clarifications.

The Department of Public Works takes these two programs very seriously. We do our best to carry out the Common Council's mandates and, whenever possible, exceed them. Consistent with that approach, we do not use the word "goals" in our public works' contracts. Rather, the EBE and Resident Participation numbers incorporated into our contracts are requirements. Whenever they are not met, we treat the situation as a contract violation. Given this, I'd like to suggest that wherever your report refers to "contract goals" you instead use the phrase "contract requirements". I've edited the attached copy of the report to reflect this change. I've also suggested a few other minor edits in order to make the report as accurate as possible.

Aside from the minor edits, I want to also comment on each of the audit's recommendations. Those comments follow.

Recommendation No. 1: Apply EBE Requirements to All Contracts

DPW Response: This recommendation says that DPW should "apply EBE requirements to all contracts, including purchase orders for less than $25,000..." Earlier in the report, it is correctly noted that the City's EBE ordinance requires City departments to utilize EBEs for 18% of the total expended contract dollars annually. The ordinance does not require 18% (or any other level of EBE involvement) on each and every contract. Often smaller contracts do not lend themselves to subcontracting. When we hire a plumber for a few thousand dollars to fix a leaky water main valve, there really are no viable subcontracting opportunities. On the other hand, we may be able to find an EBE plumber to do the work and thereby achieve 100% EBE participation. In general, our smaller contracts tend to be all or nothing. They end up being either 0% EBE or 100% EBE. What is important is that we achieve at least 18% overall on an annual basis. I request that Recommendation No. 1 be rewritten to reflect this situation.

Recommendation No. 2: Improve Calculation of EBE Percentage

DPW Response: This recommendation is directed primarily to the EBE Office. DPW has no objection to it.

Frank P. Zeidler Municipal Building, 841 N. Broadway, Milwaukee, Wisconsin 53202
Administration, Room 501 (414) 286-8333 ♦ Fax (414) 286-3953 ♦ TDD (414) 286-2025
Contract Administration, Room 506 (414) 286-3314 Fax (414) 286-8110 ♦ www.mpw.net

Recommendation No. 3: Describe Calculation of EBE Percentage

DPW Response: DPW has no objection to this recommendation. We will add a description of how the EBE Percentages are calculated to our Web Site EBE report.

Recommendation No. 4: Report Reasons EBE Goals Are Not Achieved

DPW Response: This recommendation is directed primarily to the EBE Office. DPW has no objection to it.

Recommendation No. 5: Ensure Report Includes All Requirements

DPW Response: DPW has no objection to this recommendation. However, we are not aware of a source for unemployment rate information for the non CDBG area of the city. The CDBG area unemployment rate is determined during each decennial census. But to our knowledge, the census does not calculate the unemployment rate for the non-block grant area of the city. If the Comptroller's Office is aware of a source for this information, please let us know.

Recommendation No. 6: Verification of Resident Eligibility

DPW Response: DPW currently confirms that the address of each worker listed as fulfilling Resident Participation hours does indeed live within the target area. However, we have no objection to periodically spot checking through ITMD to confirm our own analysis.

Recommendation No. 7: Consider Amending Ordinance

DPW Response: DPW has no objection to this recommendation. We support the proposed ordinance amendment.

We would be happy to discuss any of the above with you. If you have questions or if you would like to arrange a meeting, feel free to contact Jim Purko at extension 3302 or Tom Miller at extension 3304.

Very truly yours,

Jeffrey J. Mantes
Commissioner of Public Works

JJM:THM:mra
Attachment
c: Chris Martin, EBE Office (w/attachment)

City of Milwaukee

Business Operations Division
Emerging Business Enterprise Program

Tom Barrett
Mayor

Cheryl L. Oliva
City Purchasing Director

Christopher Martin
Manager

February 7, 2006

Mr. W. Martin Morics
City Comptroller
City Hall, Room 404

Dear Mr. Morics:

Thank you for giving the Emerging Business Enterprise Program the opportunity to respond to the Audit of Department of Public Works Emerging Business Enterprise and Residents Preference Program Compliance. We value the Comptroller's Office Audit Division recommendations that will assist us in the successful execution of the mandate of Chapter 360 and offer the following comments on the recommendations.

**Recommendation 1: Apply EBE requirement to All Contracts**

Consistent reporting from all contracting departments and contracting authorities is essential in determining an accurate percent of EBE participation. The Department of Public Works is reporting many, if not all contracts, from their Infrastructure Division. However, the EBE office will need adherence to the reporting requirements from **all** Divisions within the Department of Public Works. As DPW points out in their comments on the draft audit, it is true that on small contracts it may not always be realistic to require a subcontracting percentage of EBE participation. EBE's should have the capacity to fulfill small contract requirements as a prime contractor. This is not unique to DPW's service/purchase orders under $25,000 but this is the general principal followed by all departments with contracting authority. We, therefore, agree with DPW's request that Recommendation No. 1 be rewritten to reflect this situation. The EBE Office is committed to working closely with DPW to ensure that opportunities are afforded to EBE's to be awarded as many smaller service/purchase orders as possible for the 100% participation. We would like to emphasize, however, the importance of including **all** contracting dollars as the total dollars expended when calculating the overall percent of EBE participation of a contracting department.

**Recommendation 2: Improve Calculation of EBE Percentage**

This recommendation will take effect in all future reporting of EBE percentages by contracting departments and for City-wide EBE participation reporting. The implementation of BusinesSense, the online contract management and reporting system, will improve the calculation and tracking of EBE contract compliance. This system will ensure that the EBE office will track contract payments to prime and subcontractors based on the amount paid, not the amount awarded.

**Recommendation 3: Describe Calculation of EBE Percentage**

In an effort to send a consistent message, the method of calculation should be the same for DPW and the EBE annual report. This method will be included in the 2005 EBE annual report and we will work with DPW to have the same calculations reported on their web site.

**Recommendation 4: Report Reasons EBE Goals Are Not Achieved**

The EBE office maintains communication with the contracting departments on their annual achievements. When it is reported that a contracting department is deficient in their EBE contracting requirements, we



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will discuss with them why they were unable to meet the 18% EBE requirement. Subsequently, reasons will be noted in the annual report by the contracting department.

This Office will not comment on Recommendations 5, 6 and 7 since they pertain to the Residents Preference Program. I am available to discuss any of the aforementioned items with you if you would like clarification. Please feel free to call me at extension 5552 so that we may schedule a time to meet.

Sincerely,

Christopher Martin
Emerging Business Enterprise
Program Manager

Ref:ebeauditcomments