Audit of the Residents Preference Program for Development Agreements

AYCHA SAWA
City Comptroller

July 2023

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July 17, 2023

Honorable Cavalier Johnson, Mayor
The Members of the Common Council

Dear Mayor and Council Members:

The attached report summarizes the results of the Audit of the Residents Preference Program for Development Agreements. The scope of the audit was development agreements by the City of Milwaukee with a residency requirement for projects completed from January 1, 2019 through December 31, 2021.

The primary focus of the audit was to evaluate whether the internal controls in place over the Residents Preference Program (RPP) for development agreements were designed adequately and operating effectively. The audit objective was to determine developers' compliance with the requirements regarding the use of unemployed or underemployed city residents stipulated in the development agreements approved by the common council.

The audit was unable to determine the compliance of developers, contractors, and subcontractors because information in the development agreement tracking system, LCPtracker, was unreliable. Further, the audit found that department activities are not designed to address apprenticeship and first-source employment program responsibilities as defined in MCO 355.

Appreciation is expressed for the cooperation extended to the auditors by personnel of the Office of Equity and Inclusion.

Sincerely,

Aycha Sawa, CPA, CIA
Comptroller

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Audit Report Highlights

Audit of the RPP for Development Agreements

Overview

Developer compliance with Residents Preference Program and Special Impact Area (SIA) required percentages is unable to be determined because the tracking system has unreliable information. Additionally, controls are not designed to address compliance with apprentice and on-the-job trainee requirements and utilization of the first-source employment program.

Priority Findings

Control Design: Activities are not designed to execute MCO 355-9 and MCO 355-11. There is no process to track and monitor apprenticeship and on-the-job training requirements and there is no process to monitor that the first-source employment program is being utilized to perform other first-source employment program responsibilities (e.g., maintaining database of opportunities and communicating opportunities to City residents).

Apprenticeships and On-The-Job-Training: The HR agreements with developers state that there will be an established minimum amount of required apprenticeship and on-the-job training hours to align with MCO 355-9. Since every project is different, MCO 355-9 does not specify a set of minimum hours per project. The minimum apprenticeship and on-the-job training requirements were not established in the two projects randomly sampled for testing. The 511 Holdings project had 175 apprentice hours with no RPP-certified apprentice hours on a project with 3,247 total hours and the Seven04 project had 3,011 apprentice hours with 1,120 RPP-certified apprentice hours on a project with 41,063 total hours.

Compliance Tracking: Information in LCPtracker is unreliable. MCO 355 requires a centralized tracking system be utilized for RPP compliance for development agreements. The Office of Equity and Inclusion, along with developers, contractors, and subcontractors, utilize LCPtracker as the centralized tracking system for RPP compliance for development agreements. Nineteen of the 46 workers sampled as having special impact area designation had addresses in payroll records that were outside of special impact areas.

(Other Findings and Recommendations can be found in the Audit Conclusions and Recommendations section of this report.)

I. Audit Scope, Objectives, and Methodology

Scope

The scope of the audit was development agreements by the City of Milwaukee with a residency requirement for projects completed from January 1, 2019 through December 31, 2021.

Objectives

The audit objective was to determine developers' compliance with the requirements regarding the use of unemployed or underemployed City residents stipulated in the development agreements approved by the Common Council.

The audit was conducted in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for the findings and conclusions based on the audit objectives. Internal Audit believes that the evidence obtained provides a reasonable basis for the audit's findings and conclusions based on the audit objectives.

Methodology

Audit methodology included developing an understanding of the processes and controls over the Residents Preference Program for development agreements. The audit program was developed using criteria outlined by the Committee of Sponsoring Organizations of the Treadway Commission (COSO). These present a methodology for performing audits in accordance with professional standards as presented in Government Auditing Standards (also known as the "Yellow Book"), which was used as a reference and program development guide for the planning of this audit.

II. Organization and Fiscal Impact

The goal of the Residents Preference Program (RPP) is to provide employment opportunities to unemployed and underemployed City of Milwaukee residents. Contractors bidding on public works projects and development projects financed with public tax dollars must hire a percentage of RPP-certified City of Milwaukee residents to work on those projects. The typical development project requires 40% of labor hours on a project to be worked by RPP-certified workers.

III. Audit Conclusions and Recommendations

Developer compliance with RPP and Special Impact Area (SIA) required percentages is unable to be determined because the tracking system has unreliable information. Additionally, controls are not designed to address compliance with apprentice and on-the-job trainee requirements and utilization of the first-source employment program.

Control Design

MCO 355-9 outlines the apprenticeship and on-the-job trainee requirements that contractors must meet to be compliant with their contract with the City. MCO 355-11 requires contractors to utilize an employment program operated by the city or its designee as the contractors' first source for recruiting applicants for both new and replacement employment.

Finding: Activities are not designed to execute MCO 355-9 and MCO 355-11. There is no process to track and monitor apprenticeship and on-the-job training requirements and there is no process to monitor that the first-source employment program is being utilized to perform other first-source employment program responsibilities (e.g., maintaining database of opportunities and communicating opportunities to City residents).

Risk: No verification that developers, contractors, and subcontractors provide opportunities to apprentices including unemployed and underemployed apprentices residing in the City of Milwaukee. Underutilization of the first-source employment program. *Risk Rating: Medium*

Recommendation 1: The Office of Equity and Inclusion should design a process to monitor compliance with all provisions of MCO 355 including apprenticeship and first-source employment provisions.

Apprenticeships and On-The-Job Training

Finding: The HR agreements with developers state that there will be an established minimum amount of required apprenticeship and on-the-job training hours to align with MCO 355-9. Since every project is different, MCO 355-9 does not specify a set of minimum hours per project. The minimum

apprenticeship and on-the-job training requirements were not established in the two projects randomly sampled for testing. The 511 Holdings project had 175 apprentice hours with no RPP-certified apprentice hours on a project with 3,247 total hours and the Seven04 project had 3,011 apprentice hours with 1,120 RPP-certified apprentice hours on a project with 41,063 total hours.

Risk: Fewer opportunities for unemployed and underemployed City residents. *Risk Rating: Medium*

Recommendation 2: The Office of Equity and Inclusion should create a policy establishing minimum amount of apprenticeship and on-the-job training prior to the project commencing. The minimum should be calculated per the guidelines outlined in MCO 355-9.

Annual RPP Reports

MCO 355 requires the Office of Equity and Inclusion to annually prepare a report on the RPP, including the efforts of recipients of direct financial assistance in achieving the goals of the program for development agreements.

Finding: The Office of Equity and Inclusion did not compile any annual reports on the Residents Preference Program during the 2019-2021 audit period.

Risk: Decreased visibility to City leaders on the state of the Residents Preference Program. *Risk Rating: Medium*

Recommendation 3: The Office of Equity and Inclusion should compile Residents Preference Program annual reports.

Compliance Tracking

MCO 355 requires a centralized tracking system be utilized for RPP compliance for development agreements. The Office of Equity and Inclusion, along with developers, contractors, and subcontractors, utilize LCPtracker as the centralized tracking system for RPP compliance for development agreements.

Finding: Nineteen of the 46 workers sampled as having Special Impact Area designation had addresses in payroll records that were outside of special impact areas.

Risk: There is a lack of reliable information in the system to accurately monitor program milestones and successful completion of project requirements. *Risk Rating: Medium*

Recommendation 4: The Office of Equity and Inclusion should enhance processes in place to test the quality of the data being entered into LCPtracker.

Timeliness of Developer, Contractor, and Subcontractor Reporting

Finding: Internal Audit selected a random sample of two projects completed during the audit period. For the 511 project, three employers submitted construction time reports late for ten employees. For the Seven04 project, six employers submitted construction time reports late for ten employees.

Risk: Inability for the Office of Equity and Inclusion to intervene timely if there are issues. *Risk Rating: Low*

Recommendation 5: The Office of Equity and Inclusion should monitor timeliness of LCPtracker entries and intervene as needed.

Cavalier Johnson
Mayor

Preston Cole
Director of Administration

Bernadette Karanja
Chief Equity Officer

July 13, 2023

Aycha Sawa
City Comptroller
City Comptroller's Office
200 East Wells, Room 404
Milwaukee, WI. 53202

Dear Ms. Sawa,

RE: Response to The Residents Preference Program (RPP) Internal Audit

I am writing to thank the Comptroller's Office for working in the past two months with The Office of Equity and Inclusion (OEI) to report on the internal audit of the Residents Preference Program (RPP), and to acknowledge receipt of the draft observations dated June 12th, 2023.

Detailed responses to each finding are provided below. Each response includes customized acceptance of individual findings, accompanied by an existing remediation and or planned actionable goal.

Finding 1: Control Design. The process is not designed to track and monitor Apprenticeship and On-The-Job Training (OJT) requirements, in accordance with MCO 355-9 and MCO 355-11. In addition, there is no process to monitor the first source employment program, such as maintaining a database of and communicating opportunities to city residents.

Recommendation 1: A process to monitor compliance with MCO 355 provisions including Apprenticeship and First-Source Employment, should be implemented.

OEI accepts to implement processes that not only track Developer compliance on apprenticeship and OJT guidelines, but also maintains a system that communicates opportunities to city eligible city residents. In this respect, OEI will establish four remediations as follows:

> **Remediation 1a:** OEI has replaced LCP Tracker with LCR which is a city developed software program with the ability to design and re-design tracking and verifications system needs in a readily customizable, and more efficient manner. LCR will be designed to track developer utilization of apprenticeship and first source provisions.

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A need to switch from LCP Tracker to LCR was necessitated by a request from my predecessor Nikki Purvis, and her Contract Compliance Officer designee at the time Ms. Celeste Jantz.

This was a prudent change which facilitated the ability to have an internal application built to customize adequate vendor support, and meet specific MCO 355 RPP requirements, and other city needs, with timely efficiency and fiscal prudency.

In speaking with the city's Chief Information Officer David Henke, I learned that LCR is a lot more robust, and smarter in terms of tracking and monitoring compliance for comparably larger data sets related to labor regulations on government contracts, including contractor compliance with Minimum Wage Ordinance, Service Contract Wage Requirements, Prevailing Wage Ordinance, EBEP Participation, Residency Preference Program (RPP), First Source Employment Program and Apprentice Participation Ratios.

To date, 181 companies have accounts on the new LCR, and these companies have submitted over 4,300 payrolls through the tool. Feedback has mostly been around learning curves on how to use the tool, and how to get a login for new companies. As is expected of a new software system, there have been reports on payroll data entry glitches which are remediated with individual RPP liaisons and Developers in a more efficient and customizable manner.

Remediation 1b: OEI will promote and expand the utilization of the smart platform DirectConnectMKE (DCMKE) by city residents, and maintain a database of opportunities from its network of 54 Employment Service Agencies by communicating their placement and job training prospects to city residents with outcome reporting by Q3 2024.

Remediation 1c: In addition to utilizing the well-known first source agency, WRTP | BIG STEP, OEI will expand the use of Employment Service Agencies with EMI-approved American Job Center and One Stop Status in Milwaukee, as First Source employment programs. These autonomously managed organizations are required by their funding sources to track employment service provision to city residents including OJT and Apprenticeship services. OEI will refer, and coordinate the Developers' connections to Employment Service Agency activities, and report outcomes by Q4 2024 as an integral compliance function for workforce inclusion goals.

Remediation 1d: OEI will enter into secured RPP Data sharing agreements with Building and Contractors Unions to ensure continuity of a workforce pipeline for a laborer's career journey from pre-apprenticeship, apprenticeship and to journeyman placement.

Finding 2: The minimum **Apprenticeship and On The Job Training** requirements were not established in two randomly sampled projects

Recommendation 2: A policy establishing a minimum amount of Apprenticeship and On The Job Training needs to be implemented prior to the commencement of a project.

> **Remediation 2:** OEI will accept the audit's recommendation and create a policy by Q3 2024 reporting, establishing a minimum measurable amount of apprenticeships and on the job trainings prior to the respective project commencement. The minimum will be calculated in accordance to MCO 355-9 guidelines.

Finding 3: Annual RPP Reports. MCO 355 requires OEI to submit annually, a report on Developer compliance with RPP activities. OEI did not compile any annual reports on the RPP during the 2019-2021 audit report.

Recommendation 3: OEI should compile RPP annual reports

> **Remediation 3:** OEI already requires Developers to submit quarterly compliance reports on RPP Workforce Inclusion, and SBE Business Inclusion. In addition, OEI will work with ITMD to explore the design of a reporting system on LCR that will support the compilation of annual RPP reports, with the first report submitted in October of 2024.

Finding 4: Compliance Tracking. Nineteen of the 46 workers sampled as having Special Impact Area (SIA) designation had addresses in payroll records that were outside of SIA. There was a lack of reliable information in the system to accurately monitor program milestones and successful completion of project requirements.

> MCO 355 requires a centralized tracking system be utilized for RPP compliance for development agreements. OEI along with developers, contractors and subcontractors utilize LCP Tracker as the centralized tracking system for RPP compliance for development agreements.

Recommendation 4: OEI should enhance processes in place to test the quality of the data being entered into LCP Tracker

> **Remediation 4:** Given the transiency of RPP eligible participants it is no surprise that a proportion of those sampled at the time, had payroll records outside of the Special Impact Areas (SIA). This could be attributed to a number of factors including: (1) Workers may have started their RPP enrollment and placement while residing in the SIA area (2) Workers may have moved out of SIA after RPP placement benefited them a consistent income.

(3) MCO 355 RPP eligibility requirements will accept individuals living outside of SIA who otherwise have worked for less than 1200 hours in the preceding 12 months or have not worked in the preceding 15 days, or regardless of employment status, have household incomes at or below the federal poverty guidelines.

Nevertheless, OEI accepts the Comptrollers recommendation and

(1) Stopped the use of LCP Tracker on December 31st 2022.

(2) Exported all data from LCP Tracker to LCR, and

(3) Had LCR go live at the start of the new year - 2023.

OEI is working to not only design LCR in a manner that tracks a change in address for workers during their tenure on the project, but also create a policy that reminds Developers to request address updates from all their RPP workers on an annual basis. Collated evidence of this new tracking on LCR is anticipated by Q3 2024.

Finding 5: **Timeliness of Developer, Contractor and Subcontracting Reporting**. Internal Audit selected a random sample of two projects completed during the audit period of January 1st, 2019 to December 31st 2021. For the 511 Project, three employers submitted construction time reports late for 10 employees. For the Seven04 Project, six employers submitted construction time reports late for ten employees. *(Reporting Time period stipulated in MCO 355 is at least once every 3 months during course of their work and within 10 days following completion of their work).*

Recommendation 5: OEI should monitor timelines of LCP Tracker entries and intervene as needed.

> **Remediation 5:** LCP Tracker is no longer in use for the reasons earlier mentioned. OEI will work with ITMD to explore LCR, modifications that could possibly develop a software design, which creates timeline alerts for Developers entering payroll data. In addition, OEI will have the Contract Compliance Officer manage information in a manner that creates email lead-time alerts for Developers to complete their payroll reporting.

Sincerely,

Bernadette Karanja
Chief Equity Officer