

Emerging Business Enterprise Program

2008 Annual Report

Department of Public Works

City of Milwaukee

November 2009

EMERGING BUSINESS ENTERPRISE PROGRAM 2008 REPORT

The Department of Public Works requires Emerging Business Enterprise participation in almost all of its formal public works contracts. The rare exceptions are those projects where certified EBE firms are not available for the particular work involved. On occasion, specialized projects will require the services of non-EBE contractors headquartered outside the city or state.

Despite occasional individual exceptions, DPW makes every effort to average more than 18 percent EBE participation for its contract work overall. This occurs despite having a limited number of contracts every year that have either no EBE requirement or a requirement of less than the standard 18 percent. We do that by maximizing EBE opportunities on those contracts where EBE firms are available. Many of DPW's formal contracts carry EBE requirements of 20 percent or higher. As of the writing of this report, 69 contracts were closed, of which 20 of them had EBE requirements that ranged from 20 to 50 percent. The average EBE rates for 2007 and 2008 formal contracts were as follows:

<u>Contract Year</u>	<u>Required EBE Rate</u>	<u>Achieved EBE Rate</u>
2007	17.5%	25.5%
2008	18.24%	22.99%

*These statistics were assembled from contracts closed on or before November 9, 2009 and may change to reflect the closure of subsequent contracts. Also, the Achieved EBE Rate was calculated based upon the *final cost* amount of each project

A Table comparing *Required* EBE percentages and *Actual* EBE percentages for closed 2008 contracts is included as Exhibit C. This data allows for a direct performance assessment of each contractor. Typically the EBE office provides a running analysis of EBE performance which is valuable in terms of evaluating the overall compliance with the program but does not present the direct relationship between required and actual achievements on individual contracts. (See Exhibit C) This table also illustrates that the closed 2008 contracts are averaging an EBE requirement of about 18.24%. More importantly, the actual EBE performance rate, as opposed to the required rate, is about 22.99% based on the final amount, or about 28.71% based on the bid amount. Therefore, on average, DPW contracts are achieving about 7% higher EBE participation than was required by City Ordinance. As of August 10, 2009 the target rate for EBE participation was adjusted from 18% to 25%. The 25% target rate will be applied to all subsequent participants of the program.

Not all contractors actually achieve the level of EBE participation established in their contracts. So far, Ten (10) of the 2008 closed contracts have fallen short of their required EBE participation rates. Five of the Ten contracts fell short of their required EBE rates by less than 3%.

In all cases, the shortfalls were because the work in the field changed from original expectations as the project progressed. Virtually all sewer or water main relay contracts require pavement restoration. Typically this type of work is performed by EBE firms. Some of these relay projects precede a paving project. If the timing is such that the paving contract is occurring immediately after the underground work, then restoration is no longer needed.

As a result, less or no pavement is restored and the opportunity for an EBE is eliminated. Contractors cannot be held accountable for shortfalls that are beyond their control. In another instance, the prime contractor could not find any EBE firms to perform any work on the project. The EBE office was consulted to help us find any EBE firms to introduce to the prime and none were found.

As mentioned, Ten of the 2008 closed contracts have experienced shortfalls in EBE participation. Most of these shortfalls were due to modifications of the original contract after the EBE requirements had been determined. Despite some contractors failing to reach their target EBE rates, it should be noted that all of the 2008 contracts closed to date achieved a measurable quantity of EBE participation. In the event that a contractor cannot meet the EBE requirement without offering a sufficient explanation, DPW will issue an initial warning, with subsequent offenses resulting in possible debarment.

DPW's formal contracting activities account for the vast majority of the Department's contract expenditures. In 2008, DPW awarded \$56,361,205.38 in formal contracts and \$8,685,033.73 in professional service contracts. As of 2005 DPW's Contract Administration office has been composing monthly EBE reports that include summary statistics for service contracts as well as conventional contracts. An example of the Department's monthly EBE summary report is attached hereto as Exhibit A. The report can be found on the DPW website contracts page under "Monthly EBE Report" (<https://www.mpw.net/servlets/bidsPage>). They are also regularly provided to the EBE office.

[As of August, 2009 each of the nine professional service contracts originating in 2008 remains open. Five of the nine service contracts contained no EBE rate requirements. The remaining four service contracts required an EBE participation rate of 18%] Service contracts within all DPW Divisions show a lower rate of EBE participation at 9%. The calculation of this percentage value does not take into consideration money spent to pay utility bills or other municipalities for service provided to the City. In these instances, an EBE opportunity is not possible. Consequently, the inclusion of these non-EBE service contracts will result in a reduction of the average EBE rate. There is a consideration to change the way this is calculated for the 2008 report by dividing the expenditure to two categories. One would include all service orders where any potential EBE participation is possible and the other would include routine utility bills and other

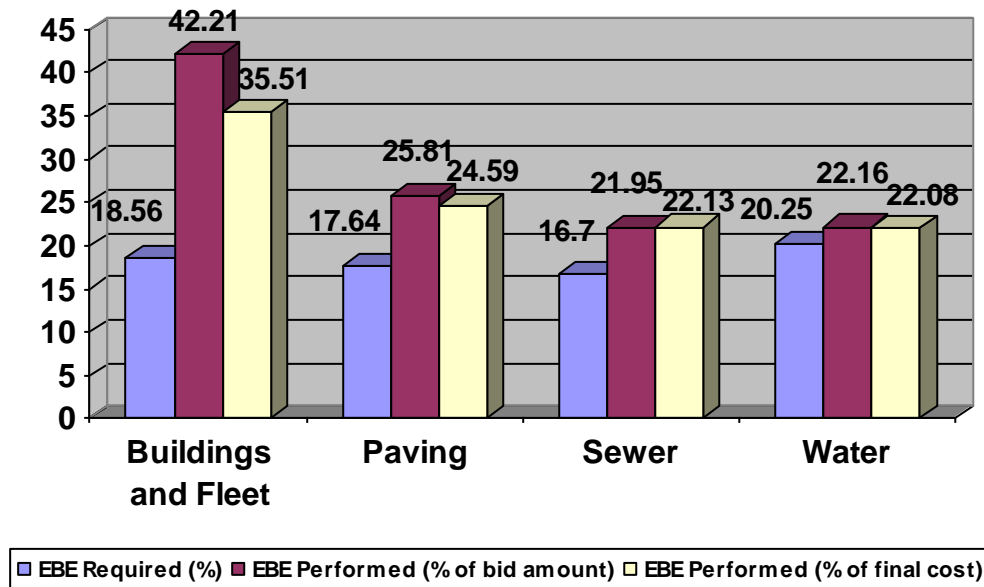
few ones such as municipality's invoices. We feel that this will better reflect the performance of DPW in this area.

Exhibit C illustrates the EBE requirements and performance for the closed 2008 contracts based on the type of project. The project types in this analysis include Buildings & Fleet, Paving, Sewer, and Water. The chart below indicates that each project category performed in excess of the 18% rate as required by City ordinance, with Buildings and Fleet topping all other categories with an EBE participation rate of 42.21%.

The Actual Final Cost column in Exhibit C also reveals that the Sewer projects are currently responsible for about \$12.6 million in closed contracts. This is followed by Buildings and Fleet with \$5 million, Water with \$4.2 million, and Paving with about \$1.8 million in closed contracts for 2008.

EBE Performance

The chart below illustrates the amount of payments made to emerging business enterprises according to project category. The projects include contracts for Buildings and Fleet, Paving, Sewer and Water. EBE performance is measured in two ways. The percentage paid to Emerging Business Enterprises was calculated with respect to the original bid amount as well as the actual final cost. The rates for both categories are displayed below.



Each division surpassed the 18% threshold for EBE participation, with Buildings and Fleet projects achieving the highest rate of EBE participation for 2008 contracts closed to date.

During 2008 DPW entered into formal contracts with twelve new prime contractors, five of which were EBE certified. As of July 2009 DPW has entered contracts with 7 new prime contractors, of which one was certified. A list of new prime contractors is attached as Exhibit B.

Exhibit A: Monthly EBE Report

**DEPARTMENT OF PUBLIC WORKS
EBE REPORT FOR FORMAL
CONTRACTS
OCTOBER**

2009

MONTHLY

**YEAR
TO DATE**

BUREAU	FORMAL CONTRACTS				FORMAL CONTRACTS		
	YEAR	TOTAL DOLLARS	EBE DOLLARS	EBE %	TOTAL DOLLARS	EBE DOLLARS	EBE %
INFR	2008	\$893,179	\$270,419	30.3%	\$31,326,784	\$5,627,355	18.0%
	2009	\$91,670	\$17,000	18.5%	\$46,582,134	\$7,587,066	16.3%
OPERATIONS	2008	\$2,116,440	\$945,507	44.7%	\$6,049,113	\$2,013,180	33.3%
	2009	\$61,800	\$61,800	100.0%	\$3,911,753	\$738,494	18.9%
WATER	2008	\$587,426	\$147,000	25.0%	\$15,205,682	\$5,559,749	36.6%
	2009	\$585,500	\$167,931	28.7%	\$11,990,917	\$2,592,940	21.6%
ADMIN	2008	\$87,200	\$16,020	18.4%	\$581,301	\$273,695	47.1%
	2009			0.0%	\$99,165	\$1,250	1.3%
FORMAL	2008	\$3,684,245	\$1,378,946	37.4%	\$53,162,880	\$13,473,979	25.3%
CONTS TOTAL	2009	\$738,970	\$246,731	33.4%	\$62,583,969	\$10,919,750	17.4%
PROF.SERV.	2008	\$2,376,327	\$805,878	33.9%	\$3,912,433	\$1,061,236	27.1%
CONTS TOTAL	2009			0.0%	\$4,900,000	\$1,007,052	20.6%
SERVICE	2008	\$480,236	\$61,698	12.8%	\$5,475,753	\$804,391	14.7%
ORDERS	2009	\$341,809	\$40,422	11.8%	\$3,265,303	\$365,969	11.2%
DPW	2008	\$6,540,808	\$2,246,522	34.3%	\$62,551,066	\$15,339,606	24.5%
TOTAL	2009	\$1,080,779	\$287,153	26.6%	\$70,749,272	\$12,292,771	17.4%

Exhibit B: First-Time Prime Contractors 2007, 2008 & 2009

2007

EBE Contractors

1. H. Kubenik Mechanical
 2. Interclean Equipment, Inc.
 3. Next Energy LLC d/b/a Full Spectrum Solar
 4. Champion Environmental Services, Inc.
 5. Wisconsin Restoration, Inc.
 6. Wil-Surge Electric
 7. J & H Heating, Inc.
 8. **United Landscape & Snowplowing** EBE
 9. Ridgeway LLC d/b/a Price Erecting*
 10. Freedom Fire Protection*
 11. Terra Engineering*
 12. Schroeder Solutions*
- *Price, Freedom, Terra & Schroder were invited to annual meeting but did not attend.

2008

1. Titan Building Co., Inc.
2. Sigma Environmental Services, Inc.
3. **Always Towing & Recovery** EBE
4. Milwaukee Lawn Sprinkler
5. **Soma Home Improvement LLC** EBE
6. Design Build Fire Protection
7. **Penebaker Enterprises LLC** EBE
8. Masonry Restoration, Inc.
9. Aetna Moving & Storage, Inc.
10. **All Season Lawn Care & Landscaping, Inc.** EBE
11. Smithstonian Materials
12. **Belonger Corporation, Inc.** EBE

2009

1. Walsdorf Roofing Company, Inc.
2. Musson Brothers, Inc.
3. ASC Pumping Equipment, Inc.
4. **Alpha & Omega Consulting** EBE
5. Wilkom Excavating and Grading, Inc.
6. Mechanical Inc.
7. Earth Work Services