

Emerging Business Enterprise Program

2009 Annual Report

Department of Public Works
City of Milwaukee

December 2010

EMERGING BUSINESS ENTERPRISE PROGRAM 2009 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, 131 contracts were closed, of which 35 of them had EBE requirements that ranged from 20 to 50 percent. The average EBE rates for 2007, 2008, and 2009 formal contracts were as follows:

Contract Year	Required EBE Rate	Achieved EBE Rate
2007	17.5%	25.5%
2008	18.24%	22.99%
2009	17.8%	25%

*These statistics were assembled from contracts closed on or before December 8, 2010 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 2009 contracts is included as Exhibit A. 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 A) This table also illustrates that the closed 2009 contracts are averaging an EBE requirement of about 17.8%. More importantly, the actual EBE performance rate, as opposed to the required rate, is about 25% based on the final amount, or about 25.2% 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, twenty two (22) of the 2009 closed contracts have fallen short of their required EBE participation rates. Ten of the twenty 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 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, twenty two (22) of the 2009 closed contracts have experienced shortfalls in EBE participation. Many of these shortfalls were due to modifications to 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 2009 closed contracts 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 2009, DPW awarded \$69,825,417 in formal contracts and \$8,787,759 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" (http://www.mpw.net/services/bids_home). They are also regularly provided to the EBE office.

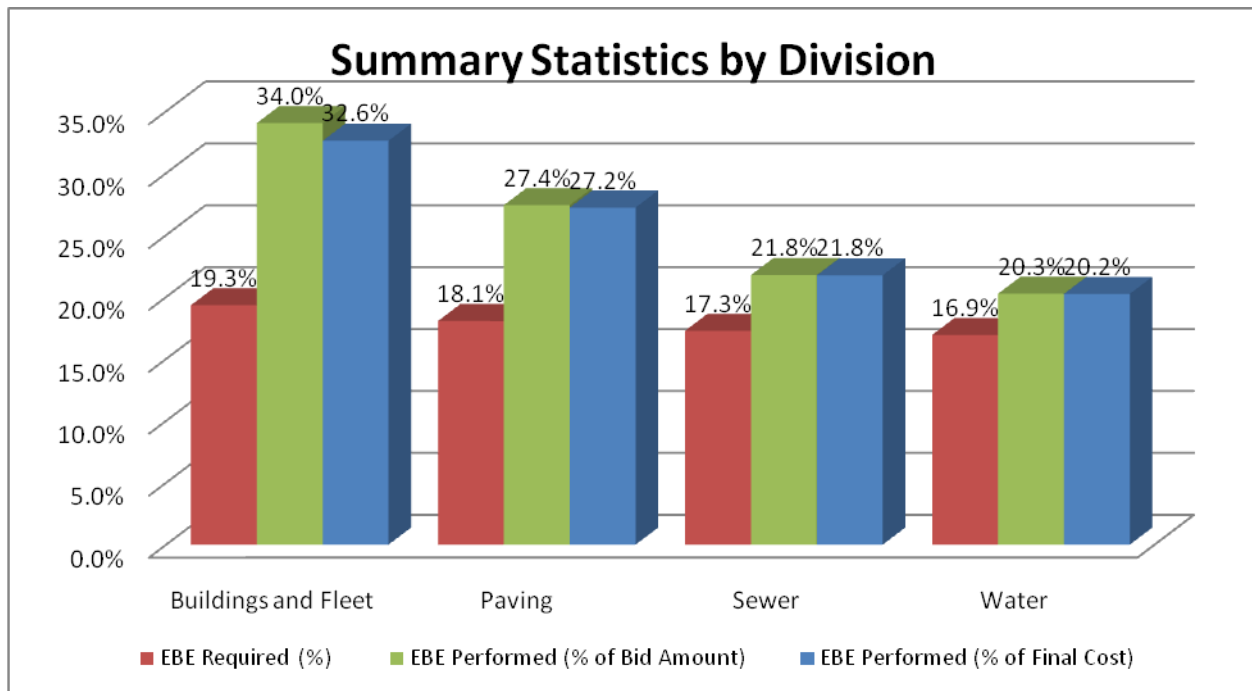
As of December 2010, each of the twelve professional service contracts originating in 2009 remains open. Three of the twelve service contracts contained no EBE rate requirements. The remaining nine service contracts required an EBE participation rate of 18%. Service contracts within all DPW Divisions typically show a lower rate of EBE participation because they include money spent to pay utility bills or other municipalities for service provided to the City. In some instances, an EBE opportunity is not possible. Consequently, the inclusion of these non-EBE service contracts results in a reduction of the average EBE rate.

Exhibit C illustrates the EBE requirements and performance for the closed 2009 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 34%.

The Actual Final Cost column in Exhibit C also reveals that the Sewer projects are currently responsible for about \$35.3 million in closed contracts. This is followed by Paving with \$12.6 million, Water with \$10.7 million, and Buildings and Fleet with \$3.6 million in closed contracts for 2009.

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 2009 contracts closed.

During 2009 DPW entered into formal contracts with eight new prime contractors, two of which were EBE certified. As of December 2010, DPW has entered into contracts with nine new prime contractors, three of which are EBE 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							
NOVEMBER				2010			
MONTHLY				YEAR TO DATE			
BUREAU	YEAR	FORMAL CONTRACTS			FORMAL CONTRACTS		
		TOTAL DOLLARS	EBE DOLLARS	EBE %	TOTAL DOLLARS	EBE DOLLARS	EBE %
INFR	2009	\$ 2,899,297.89	\$665,927.48	22.97%	\$ 49,481,431.50	\$ 8,252,993.62	16.68%
	2010	\$ -	\$ -	0.00%	\$ 41,554,336.35	\$11,003,009.51	26.48%
OPERATIONS	2009	\$ 99,070.00	\$116,300.00	117.39%	\$ 5,278,759.00	\$ 1,262,591.00	23.92%
	2010	\$ 187,260.00	\$ 64,250.00	34.31%	\$ 2,543,500.57	\$ 795,627.76	31.28%
WATER	2009	\$ 917,392.00	\$144,266.00	15.73%	\$ 12,908,310.00	\$ 2,737,207.00	21.20%
	2010	\$ 60,175.00	\$ 18,660.00	31.01%	\$ 15,731,519.21	\$ 3,681,250.45	23.40%
ADMIN	2009	\$ -	\$ -	0.00%	\$ 680,466.00	\$ 274,945.00	40.41%
	2010	\$ -	\$ -	0.00%	\$ -	\$ -	0.00%
FORMAL CONTS TOTAL	2009	\$ 3,915,759.89	\$926,493.48	23.66%	\$ 68,348,966.50	\$12,527,736.62	18.33%
	2010	\$ 247,435.00	\$ 82,910.00	33.51%	\$ 59,829,356.13	\$15,479,887.72	25.87%
PROF.SERV. CONTS TOTAL	2009	\$ -	\$ -	0.00%	\$ 3,912,433.00	\$ 1,061,236.00	27.12%
	2010	\$ -	\$ -	0.00%	\$ 4,900,000.00	\$ 1,007,052.00	20.55%
SERVICE ORDERS	2009	\$ 293,229.00	\$ 43,624.00	14.88%	\$ 3,992,915.59	\$ 646,379.83	16.19%
	2010			0.00%	\$ 3,724,208.14	\$ 487,631.65	13.09%
DPW TOTAL	2009	\$ 4,208,988.89	\$970,117.48	23.05%	\$ 76,254,315.09	\$14,235,352.45	18.67%
	2010	\$ 247,435.00	\$ 82,910.00	33.51%	\$ 68,453,564.27	\$16,974,571.37	24.80%

(http://www.mpw.net/services/bids_home)

Exhibit B: First-Time Prime Contractors 2008, 2009 & 2010

EBE Contractors

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. | Pennebaker Enterprises LLC | EBE |
| 8. | Masonry Restoration, Inc. | |
| 9. | Aetna Moving & Storage, Inc. | |
| 10. | All Season Lawn Care & Landscaping, Inc. | EBE |
| 11. | Smithsonian 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 | |
| 8. | Diva Plumbing, LLC | EBE |

2010

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|----|--|-----|
| 1. | Lake Shore Mobil, Inc. DBA City Wide Towing | EBE |
| 2. | Rodriguez Landscaping Company | EBE |
| 3. | Uihlein Electric Co., Inc. | |
| 4. | Veit Environmental, Inc. | |
| 5. | Edw. Kraemer & Sons, Inc. | |
| 6. | Arrow Board Up, Inc. | |
| 7. | Metropolitan Crane & Hoist Co., Inc. | |
| 8. | CableCom, LLC. | EBE |
| 9. | Straight Line Fence, LLC | |