

**Minority and Women's  
Business Opportunity Office  
Response**

Case # 20-0031-I

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**CITY OF BALTIMORE**

**BERNARD C. "JACK" YOUNG**  
Mayor



**DEPARTMENT OF LAW**  
**DANA P. MOORE, ACTING CITY SOLICITOR**  
100 N. HOLLIDAY STREET  
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BALTIMORE, MD 21202

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March 30, 2020

Mrs. Isabel M. Cumming, Inspector General  
Baltimore City Office of the Inspector General  
100 North Holliday Street, Suite 640  
Baltimore, MD 21202

RE: OIG Case #20-0031-1

Dear Inspector General Cumming:

The Minority and Women's Business Opportunity Office (MWBOO) is in receipt of the Office of the Inspector General (OIG) Report of Investigation dated March 3, 2020. The investigation addressed questions arising from potentially forged documentation submitted by [REDACTED] as part of a bid packet for the Baltimore City Miscellaneous Electrical Repair Work contract. The OIG report also focused [REDACTED] continued failure to meet the required minority business enterprise (MBE) and women's business enterprise (WBE) goals for the contract. As a result of the OIG findings, MWBOO submits the following:

**OIG Finding #1 – The OIG investigation corroborated MWBOO's discovery that the WBE owner did not sign the statement of intent form contained in the [REDACTED] bid packet.**

**Response to OIG Finding #1-** MWBOO has initiated a number of actions in order to verify the statement of intent forms that a bidder submits. The MBE/WBE receives an email from our office with a copy of the signed statement of intent form as part of the bid review process. This practice completely reduces any opportunity for a bidder to submit documentation that a subcontractor is unaware of.

In order to further improve verification of statement of intent forms, we recommend that the Bureau of Procurement (BOP) implements the best practices utilized by the Contracts Administration Department at the Department of Transportation (DOT), whereas, the MBE/WBE subcontractors receive official notification of the contract award by the agency.

In addition, both the Contract Administration Department at the Department of Public Works (DPW) and DOT receive copies of agreements between the authorized MBE/WBE subcontractors and the prime contractor before the contract can proceed as required by Article 5, subtitle 28-72 of the Baltimore City Code. This subtitle of the code states that: *Each contracting agency must establish guidelines to ensure that a notice to proceed is not issued until the contracting agency has received copies of all documents needed to evidence the contractor's fulfillment of its commitment under this chapter.*

**OIG Finding #2- The OIG determined that compliance reviews conducted by MWBOO and BOP indicated that both departments were aware of [REDACTED] continued inability to comply with the Contract's MBE and WBE requirements.**

**Response to OIG Finding #2-** Previous to my tenor as the Chief of MWBOO, a non-compliant vendor on a BOP contract was required to submit a letter explaining their plan to remedy the finding of noncompliance. We found that the plan was never socialized with the MBE or WBE and often the plan was never executed leading to continued noncompliance as seen in this case.

Currently, when a prime contractor is found noncompliant by MWBOO, the prime submits a plan to our office in order to address the shortfall. That plan is then submitted to the impacted MBE(s) or WBE(s) for approval. If the MBE/WBE does not agree with the plan, MWBOO schedules a conciliation meeting with the parties to discuss a resolution. If MWBOO finds that the prime contractor intentionally failed to utilize an available MBE or WBE, we will consider imposing administrative penalties.

In this case, [REDACTED] reached out to MWBOO seeking approval of the latest plan to meet the MBE and WBE goals on the contract. The approval was required to renew the Miscellaneous Electrical Work Contract with [REDACTED]; however, our office never approved the plan based on continued noncompliance.

We have found that BOP only conducts compliance reviews when a contract has expired, and BOP is seeking contract renewal, an extension or an increase in contract funding. This practice is not proactive and tends to create a reactive response. Compliance reviews should be conducted each time a prime contractor is paid by the City.

Article 5, subtitle 28-71 of the Baltimore City Code:

*Each contracting agency must establish procedures to ensure that*

- 1. All contractors who submit correct invoices are paid within 30 days; and*
- 2. All subcontractors are paid within 7 days after the City pays the general contractor.*

Ensuring that the subcontractor is paid each time the prime contractor receives payment from the City helps to identify issues early and creates an opportunity to correct issues of noncompliance before the contract is up for a renewal, increase or extension.

Recognizing the number of contracts with findings of noncompliance, on July 16, 2019, MWBOO reached out to the leadership of BOP to request the status of MBE and WBE participation on all active contracts. A second request for a report was made on August 14, 2019. To date, MWBOO has not received a response for the requested report.

**OIG Finding #3- The OIG found [REDACTED] failure to comply with the MBE and WBE participation requirements of the Contract is a potential breach of contract.**

**Response to OIG Finding #3** – Article 5, subtitle 28-48(e) of the Baltimore City Code: *Maintaining levels during contract term – During the term of the contract, any unjustified failure to comply with the levels of certified business enterprise participation identified in the bid is a material breach of contract.*

Since award of the contract, on August 19, 2015, [REDACTED] has continuously failed to meet the required MBE and WBE goals. MWBOO has initiated the process to impose all administrative penalties available under Article 5, subtitle 28 of the Baltimore City Code.

Regards,



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Tamara Brown, Chief  
Minority and Women's Business Opportunity Office

cc: Dana P. Moore, Acting City Solicitor  
Kimberly Morton, Mayor's Chief of Staff  
Keasha L. Brown, Acting City Purchasing Agent.