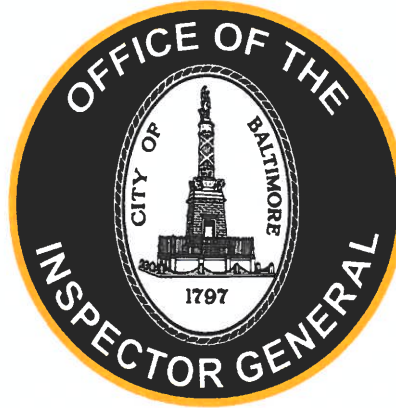


**OFFICE OF THE INSPECTOR GENERAL
CITY OF BALTIMORE**



**Isabel Mercedes Cumming
Inspector General**

**Investigative
Report Synopsis**

OIG Case # 20-0031-I

Issued: April 15, 2020



OFFICE OF THE INSPECTOR GENERAL
Isabel Mercedes Cumming, Inspector General
City Hall, Suite 635
100 N. Holliday Street
Baltimore, MD 21202



April 15, 2020

Dear Citizens of Baltimore City,

The Office of the Inspector General (OIG) received information from the Minority and Women's Business Opportunity Office (MWBOO) reporting that a construction and electrical repair company, Vendor 1 (V1), was alleged to have obtained a City contract under false pretenses by submitting a forged subcontractor compliance form to appear compliant with MWBOO goals.

V1 was selected to perform miscellaneous electrical repair work for various Baltimore City agencies under the Miscellaneous Electrical Repair Work Contract (the Contract). The Contract began in August 2015 and included a Minority Business Enterprise (MBE) participation goal of 27% and a Women's Business Enterprise (WBE) participation goal of 9%. V1 selected Subcontractor 1 (SC1) as its MBE and Subcontractor 2 (SC2) as its WBE to fulfill the minority and women owned business participation requirements.

In December 2019, renewal of V1's contract was delayed due to ongoing WBE and MBE compliance concerns. According to the Bureau of Procurement (BOP) and MWBOO compliance review records, V1 never used SC2 and only used SC1 for one project completed in 2016. MWBOO initiated a full scope compliance review of V1's MBE and WBE participation by directly contacting each subcontractor. MWBOO spoke with the Vice President of SC2 (VP) who stated he was not familiar with the Contract. Subsequently, MWBOO provided the VP with the statement of intent form¹ which had been submitted by V1 back in 2015, and which purportedly had been signed by a SC2 representative. The VP informed MWBOO the signature observed on V1's statement of intent document did not belong to the owner of SC2 (Owner) or anyone employed at SC2.

During an OIG interview, the Owner confirmed she did not sign the statement of intent form submitted by V1 for the Contract. The Owner stated she signs everything for SC2 and no one from her company would have been authorized to sign the statement of intent on her behalf. The Owner provided the OIG with samples of her signature to compare with the apparently forged signature. The OIG observed that Owner's signature did not match the signature on the statement of intent form turned in by V1.

The OIG investigation determined the Owner did not sign the statement of intent form but could not determine who did. V1 had been awarded the Contract based on the commitment to utilize MBE and WBE. The OIG discovered V1 failed to comply with the MBE and WBE participation requirements of the Contract after its award in 2015. The OIG found the Owner was never contacted to verify whether SC2 agreed to perform services for the Contract after two separate compliance reviews indicated V1 never used SC2. The OIG also found V1 received a total of \$2,008,695 in payments from the City despite their continuous failure to comply with the Contract's MWBOO requirements.

¹ The purpose of a statement of intent is to establish a signed commitment between the bidder and their selected MBE/WBE subcontractors. The form states the bidder will utilize the MBE/WBE at a percentage that equals or exceeds the goals included in the contract.

REPORT FRAUD, WASTE AND ABUSE

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Background

On July 1, 2015 the City solicited vendors interested in providing labor, materials, tools, and equipment necessary for the performance of miscellaneous electrical repair work for various Baltimore City agencies. The solicitation for the Contract required bidders to include a commitment to utilize subcontractors at a percentage that equaled or exceeded the included minority participation goals.² Bidders were required to submit the following completed documents with the bid:

1. Statement of Intent Forms – to be signed by V1, SC1 and SC2
2. MBE/WBE Participation Affidavit – to be completed by V1
3. MBE/WBE Participation Waiver – to be completed and submitted by V1 if unable to meet the participation goals

On August 19, 2015, the Board of Estimates (BOE) awarded contracts totaling \$2,331,300 to V1 and Vendor 2 to perform miscellaneous electrical repair work for various Baltimore City agencies. The Contract award performance period was until August 18, 2018 with three one-year renewal options. V1 was selected as the City's first call³ for emergency work requests.

Compliance Review and Analysis

On September 11, 2017, the BOP Minority Business Coordinator (MBC) completed a compliance review of V1's MBE and WBE performance. The review was in contemplation of a proposed extension of the Contract to add work in the approximate amount of \$2,500,000. The reviewed period was August 2015 through August 2017. BOP's records indicated V1 received payments from the City of Baltimore totaling \$1,126,856 during the identified timeframe. BOP's subcontractor payment records for V1 reported SC1 was paid \$119,115 and SC2 was never utilized or paid for the reviewed period. MBC found V1 non-compliant for not meeting the Contract's WBE goals and submitted a compliance review to MWBOO for a final evaluation. The former Chief of MWBOO (former MWBOO Chief) approved the compliance review that V1 was non-compliant.

On October 4, 2017, BOE approved a \$2,500,000 increase to the Contract and gave V1 10 days to submit a compliance plan to MWBOO. Additionally, the former Chief of MWBOO sent a letter to V1 requiring that they submit a new WBE statement of intent form by October 18, 2017. In the letter the former Chief of MWBOO stated V1 may request a waiver if unable to achieve the minority participation goals. The former Chief of MWBOO stated the request for a waiver must be in writing and document the reason V1 was unable to meet the Contract goals. The OIG learned approval of MBE and WBE participation waiver requests are at the discretion of the Chief of MWBOO. The OIG was told MWBOO does not have a record of a new statement of intent form, waiver request, or documentation to confirm V1 came into compliance within 10 days of the Contract being increased. The OIG investigation found V1 never submitted a new statement of intent form to substitute or add a new subcontractor to the Contract.

On August 24, 2018, MBC completed a compliance review to add \$500,000 to the Contract. The reviewed timeframe was September 2017 through July 2018. According to MBC's review, V1 received payments from the City totaling \$1,650,032. V1 reported to MBC that SC1 was paid \$119,115 and SC2 still had not been used. The OIG obtained a letter V1 sent to MBC that stated V1 experienced a hard

² The Contract included an MBE participation goal of 27% and a WBE participation goal of 9%.

³ The City selected to contact V1 first before contacting Vendor 2.

time getting SC1 and SC2 to send quotes. MBC found V1 to be compliant based on their good faith effort⁴ to meet the participation requirements and submitted the review to MWBOO for final approval. On September 4, 2018, the former Chief of MWBOO found V1 to be non-compliant for not utilizing SC2, in addition to discovering V1 reported the same payment made to SC1 used in the first compliance review. Subsequently, V1 was instructed to submit a compliance plan to MWBOO that provided a resolution to the identified compliance concerns. V1's non-compliant status resulted in the denial of the \$500,000 increase to the Contract. V1's contract was not renewed after it expired on August 18, 2018.

In an email dated June 13, 2019, the owner of V1 (V1 Owner) contacted MBC stating he was under the impression that V1 was going to receive a contract extension after his employee provided MBC with a compliance plan in August 2018. The OIG obtained an undated letter written to MBC from V1 but could not determine if it was the compliance plan V1 Owner referenced in his email. MBC replied asking V1 Owner if a compliance plan was submitted to MWBOO. On July 3, 2019, V1 emailed the current Chief of MWBOO⁵ (MWBOO Chief) a letter containing a compliance plan and requested that the Contract be reinstated with a one-year extension. The letter also stated V1 selected another MBE to assist with achieving the Contract's minority participation goals. The OIG learned the MWBOO Chief did not allow the contract extension request because V1's letter did not propose a solution to resolve reoccurring compliance issues and did not include a new statement of intent to finalize the selection of a new subcontractor.

Potentially Forged Document

In December of 2019, MWBOO initiated a compliance review for V1's requested contract extension. V1 informed the MWBOO Chief that SC1 was not used for the Contract because they declined to participate with V1's proposed rates of service. On December 6, 2019, the MWBOO Chief arranged a teleconference to verify subcontractor compliance issues between SC1 and V1. After the teleconference, V1 agreed to continue using SC1 as an MBE. On December 12, 2019, the MWBOO Chief contacted SC2 and requested to speak with Owner, however, she was not available. Instead the MWBOO Chief spoke with VP, Owner's son. MWBOO Chief informed the OIG that VP stated he was not familiar with the Contract when she asked him questions about SC2's participation as a subcontractor. MWBOO Chief then emailed VP a statement of intent document submitted by V1 which appeared to be signed by an SC2 representative. After reviewing the document, VP informed MWBOO Chief that Owner did not sign the document she emailed. VP told MWBOO Chief he believed V1 listed SC2 as their selected WBE to win the Contract.

On January 10, 2020, the OIG conducted an interview with both VP and Owner. During the interview, Owner told OIG she did not sign the statement of intent form contained within V1's contract documents. Owner provided OIG with several signature samples to use as references against the alleged forged signature. Owner then stated she signs all contract documents for SC2. Owner adamantly stated no one else at SC2 is permitted to sign on her behalf. Owner told OIG that SC2 and V1 completed a few small projects together several years ago. Owner then stated she wanted V1 to be penalized for forging her signature. VP stated he received an email from V1 a few years ago, however, he could not remember if the email was in reference to the Contract.

⁴ Good faith effort means every reasonable attempt to utilize minority and women's business enterprises at the required participation percentages.

⁵ In December of 2018, Former Chief of MW left the City and the new Chief of the MW was appointed.

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V1 Interviews

The OIG analyzed the documents contained within the Contract bid packet and identified V1 Project Manager (Project Manager) as the authorized representative who signed documents on behalf of V1. The OIG discovered Project Manager separated from V1 in September of 2019. The OIG contacted Project Manager to request that he come in for an interview to discuss the Contract. Project Manager agreed to an interview with OIG on January 15, 2020. During his interview, Project Manager stated he was responsible for composing V1's bid packet for the Contract. Additionally, Project Manager stated he signed every document within the packet except the statement of intent form for SC2. The OIG provided Project Manager with a copy of the statement of intent form for SC2 to identify the signatures present. Project Manager stated the signature on the form belonged to V1 Owner. Project Manager then told OIG that he believed a SC2 employee signed the WBE portion of the form. Project Manager stated the owners of V1 told him to select SC2 for the Contract, but he did not recall communicating with anyone from SC2. Project Manager then vaguely recalled speaking to VP. Project Manager explained to OIG he may have never spoken to anyone from SC2, and if he did not, V1 Owner would have spoken to them. Project Manager admitted SC2 was never used on the Contract.

On January 16, 2020, the OIG requested V1 Owner to come in for an interview. During his interview, V1 Owner stated Project Manager completed V1's bid packet for the Contract. V1 Owner then stated he tasked Project Manager with finding both a minority and women owned business to fulfill the Contract's minority participation requirements. V1 Owner stated it is possible that he spoke with SC2 about working on the Contract because he and VP worked on projects together in the past. The OIG requested V1 Owner to review signatures on the SC2 and SC1 statement of intent forms found within the Contract bid packet. V1 Owner stated Project Manager's signed on behalf of V1 on both forms. The OIG informed V1 Owner that Project Manager stated that he [V1 Owner] signed the statement of intent form for SC2. V1 Owner told OIG he did not sign the form and the observed signature was not his. V1 Owner stated he believed VP signed the form for SC2. The OIG told V1 Owner that VP and Owner both stated they were unaware of the Contract. V1 Owner admitted that he never used SC2, but VP was aware of the Contract. V1 Owner provided OIG with emails between him and VP about a job for the Contract. V1 Owner then told OIG that VP never replied to his emails.

Interview with VP

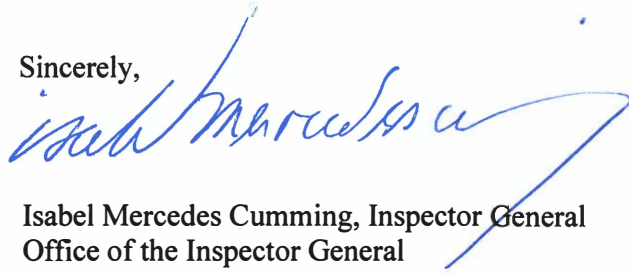
On January 29, 2020, OIG conducted a follow-up interview with VP to inquire if he signed the statement of intent form found in V1's bid packet. VP denied signing the statement of intent form on behalf of SC2. VP explained to OIG that Owner signs 99% of all documents for SC2. VP provided OIG with a series of emails between himself and the owners of V1. In an email dated March 17, 2015, VP emailed V1 Owner and V1 Co-Owner complementing V1's brand new electrical services truck. VP told OIG he discovered V1 established an electrical contracting division on the same day he sent the email. In an email dated September 6, 2017, V1 Owner informed VP about a City project that needed electrical work. On September 14, 2017, VP replied to the email asking why V1 needed SC2 if they have an electrical division. VP also asked if the City project had a wage scale⁶ or specific WBE requirements. The OIG observed that V1 Owner replied to the email stating the project did not have a wage scale and it was one task on a three-year contract that required a WBE. VP told OIG he did not reply to any subsequent emails. VP stated V1 never contacted him about participating in the Contract. VP informed the OIG that

⁶ Wage scale is the scale of wages paid to employees for the various jobs within an industry, factory, or company. It can also be the wage rate structure, or the schedule of wages paid for different jobs in a department, division, or company.

SC2 does not perform the on-call services requested for the Contract. The OIG informed VP that V1 Owner stated he [VP] signed the statement of intent form contained within V1's bid packet. VP informed OIG that if he had signed the form he would have followed-up about receiving work for the Contract. He also stated he would have provided V1 with a rates of service sheet that outlined SC2's labor costs.

The OIG investigation corroborated MWBOO's discovery that SC2 Owner did not sign the statement of intent contained within V1's bid packet. The investigation was not able to determine who placed the signature on the form. Additionally, the investigation found V1 failed to resolve compliance issues throughout the three-year contract. The OIG determined compliance reviews conducted by both MWBOO and BOP indicated both departments were aware of V1's continuous inability to comply with the Contract's MBE and WBE requirements. The OIG found V1's failure to comply with the MBE and WBE participation requirements of the Contract is a potential material breach of contract. The OIG has forwarded the entire report to the Law Department for review and disposition.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Isabel Mercedes Cumming', written over a light blue horizontal line.

Isabel Mercedes Cumming, Inspector General
Office of the Inspector General

Cc: Hon. Bernard C. "Jack" Young, Mayor of Baltimore City
Hon. Dana P. Moore, Acting City Solicitor
Hon. Brandon Scott, President, City Council
Hon. Joan M. Pratt, Baltimore City Comptroller
Honorable Members of the Baltimore City Council

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