



## City Council

City Hall – Room 200  
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## Committee Memberships

Contracting Oversight & Equity, Chairman  
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Budget & Government Operations  
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Finance  
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License & Consumer Protection  
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Public Safety  
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Workforce Development, Vice Chairman  
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Aldermanic Black Caucus, Chairman  
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## COMMITTEE ON CONTRACTING OVERSIGHT & EQUITY MONTHLY RULE 45 REPORT FEBRUARY, 2022

Pursuant to Rule 45 of the City Council Rules of Order, the Committee on Contracting Oversight & Equity (CCOE) submits the following Monthly Rule 45 Report for **FEBRUARY 10, 2022**.

Date, Time & Location of Meeting: On February 10, 2022, at 1:00 P.M., the Committee on Contracting Oversight & Equity held a virtual subject matter hearing (meeting) via videoconferencing.

Attendance: The following members were present: Chairman Ervin (28), Vice-Chairman Moore (17), LaSpata (1), Dowell (3), King (4), Sawyer (6), Rodriguez (22), Scott (24), Sigcho-Lopez (25), Burnett (27), Reboyras (30), Cardona (31), Austin (34), Villegas (36) and Vasquez (40).

The following members were absent: Cardenas (12), Lopez (15), Taylor (20) and Ramirez-Rosa (35)

The following internal witnesses present: Aileen Velazquez, Chief Procurement Officer, Byron Whittaker, Deputy Chief Procurement Officer, Jacquelyn Charleston, Deputy Procurement Officer, Certification and Compliance, Tom Carney, First Deputy Commissioner, CDOT, Jezieel Cortes, Contract Administrator, CDOT and Jerel Dawson, Assistant Director, Mayor's Office.

The following external witnesses present: Dan Cruz, Senior Director, CHA and Leonard Langston Jr., Deputy Chief, Property & Asset Management, CHA

The Committee on Contracting Oversight and Equity addressed the following items:

1. **Approval of the September 2021 Rule 45 Report for the Committee on Contracting Oversight and Equity.**



**2. Subject matter hearing to discuss efficacy of job order contracts (JOC) and utilization numbers regarding minority-owned business enterprises and women-owned business enterprises.  
(R2021-1072)**

Chairman Ervin called the virtual meeting to order pursuant to applicable law and determination that attendance by remote means is necessary because an in-person meeting is not practical or prudent due to the ongoing COVID 19 pandemic, the meeting was conducted by video conference. Chairman Ervin took a roll call to establish a quorum and a quorum was established.

Chairman Ervin opened the floor for public comment. The following speakers were each given three minutes for public comment:

1. Patricia Davis, Unique Casework Installations Inc.
2. Leonard Alexander, Alexander Builders Corporation
3. Omar Shareef, Universal Construction Services (UCS)
4. Michael Sullivan, World Class Fire Protection

Chairman Ervin concluded the public comment period and moved to Item # 1, an approval for the Rule 45 Report of Committee's hearing held on September 10, 2021@ 10am and stated that the report had been transmitted electronically to the Membership. Alderman LaSpata moved to approve the Rule 45 Report. Hearing no objections, the item was approved by the same roll call vote used to establish a quorum. The report was thus adopted.

Chairman Ervin then addressed Item #2, a resolution introduced by Alderman Dowell and himself; a subject matter hearing to discuss efficacy of job order contracts (JOC) and utilization numbers regarding minority-owned business enterprises and women-owned business enterprises. Chairman Ervin opened the floor to Alderman Dowell to begin the conversation.

Alderman Dowell provided her knowledge of the JOC Program and how it is utilized by City of Chicago Departments and sister agencies; such as, Chicago Department of Transportation (CDOT), Department of Water Management (DWM), Department of Assets, Information and Services (AIS) and the Chicago Housing Authority (CHA). In addition, she stressed how important this program is and how it provides contracting opportunities in construction and professional services to minority-owned businesses, women-owned businesses and Section 3 businesses within our respective communities. In the previous administration some African American businesses attended a black caucus meeting, felt that they were being shut out of JOC contracts, specifically in CDOT. At that time, Alderman Austin, Harris, Mitts and myself sat down w/CDOT, tried to understand and advocate for more African American participation in the JOC. It's time to shine some light on this issue, I joined with Chairman Ervin to bring this to the council, begin to strategize, find out which departments are using it, how they are using it, numbers and performance of these depts. and sister agencies. In closing, this is an important program to help businesses to get a piece of pie and create generational wealth in our communities.



Chairman Ervin opened the floor to Aileen Velazquez, Chief Procurement Officer to speak on behalf of the resolution. CPO Velazquez acknowledged the Body and turned it over to Byron Whittaker, Deputy Procurement Officer. Deputy Whittaker presented a Power Point presentation outlining the various Job Order Contracts (JOC) and how they are utilized in various City Departments. Chairman Ervin requested that Deputy Whittaker walk thru the 12 city JOC contracts, purpose and various certifications. Deputy Whittaker gave a breakdown of each and concluded presentation. Following Deputy Whittaker's remarks, Chairman Ervin opened the floor to Council Members for comments/queries.

Alderman Rodriguez requested a point of information; do these firms that are not certified, could they potentially be African American or Latino, did they just not file paperwork. Can you clarify what qualifies a person as MBE? Jacquelyn Charleston replied; yes, Paschen, Leopardo, McDonagh, Pacific, Paul Porg are not certification eligible due to their race. Old Veterans was certified at one time but graduated out of program, hasn't been certified for about 5-6 yrs.

Alderman Sawyer was recognized and asked; is it possible to get the amount that has been spent on these respective companies to date? Also, how much work has been done and how much of that dollar value has been done? Can I get that through the chair? CPO Velazquez replied; the user departments will need to provide that information, CDOT and AIS, which were present as well.

Chair recognized Alderman LaSpata, he asked if the prime contractor is the one participating through the JOC program or are there subcontractors they work through? Deputy Whittaker replied it is designed for the prime contractor, the contract is awarded to them, they can sub out as much of the work needed as fit for them, allows for high percentages up to 80-90% of contract to be subbed out to subcontractors including MBE/WBE, DPS strongly encourage, it allows for greater participation for contractors that are locked out of the process. LaSpata; how much of the value of the contract do they sub out? Minority & Women owned businesses? Deputy Whittaker responds; there are MBE (26%)/WBE (6%) goals associated with the contract. We monitor to determine if they are meeting goals or not, encouraged to exceed. Monitor achievement of the goals throughout the lifetime of the contract. Memorandum goals of contract and what they achieved to date. Through the chair – provide how they are meeting those MBE/WBE goals.

Chair calls Ald Dowell. Can you explain why some contracts are 2yrs, 5yrs, any rhyme or reason to the start and end dates? Deputy Whittaker replied; it's based on the department budgets and needs.

The Chairman acknowledges First Deputy Tom Carney. First Deputy Carney gave an overview of how their department utilizes the JOC program and provided information on two companies that were recently awarded contracts.

Chair posed a question in regard to previous contracts, for similar type of work, on percentage basis, how much did you utilize of the JOC and the amount of contract. First Deputy Carney, stated the value of the contracts were maxed out and utilized to their full extent. Jezeel said that the exact number will be provided through the chair.



Alderman Dowell, do you have end dates for current contracts or are there options attached to their contracts? First Deputy Carney, those dates are the initial term for contracts, but there are two 1yr extensions available for them.

Chairman, does the extension increase the dollar value or is it capped at the current. Carney, if close to the cap we will submit for a vendor limit increase. Chair, at what point do you go out to re-bid? Is there a 20% limit, 30% increase or is it open ended. Jezieel, there is a limit, contracts do not exceed more than 50% of the original contract value.

Chairman asked DPS, based on the task order, are MBE/WBE percentages looked at per task order or over the life of the contract, case in point, a \$1 mil task order in the contract and the overall contract is \$10 mil and no MBE participation, is that something that could happen under the way the JOC system is set up. Whittaker replied, contract goal can be achieved over the life of the contract, DPS encourages JOC contractors to meet the goals of the project, and any project over \$1 mil is part of MOA reviews, once approved can be conditional that the M/WBE goals must be met on that particular project.

Chairman moves along to AIS, Deputy Commissioner Robin Owens gave a briefing on how their department utilizes the JOC program and the four contracts they currently hold. The Chair opened the floor to the body for questions.

Alderman LaSpata, I noticed that none of the primes that you work with are MBE/WBE certified. Is there a challenge to find qualified minority and women owned businesses to serve as primes? As Alderman how can we help? Owens replied, it is a challenge but we are up for the challenge, we are always looking for new ways to improve on that, our procurement is set up for lowest responsive bidder, looked at bid tabulators, at the time we only had two minority certified firms. We worked with what we had to evaluate at that time, more than half of the responsive bidders were not certified so we had to go with the lowest dollar value. Ald LaSpata, requested through the chair, how they satisfied their MBE/WBE goals for these projects and what percent of projects go to each of those subcontractors? I hear, they spread requirements/goals out, each sub is getting 1 or 2% of the project, making it hard to grow their capacity, help us understand how they breakdown that percentage?

Alderman King, point of clarification, what do you mean by lowest responsible bidder? Owens, it relates to the solicitation requirements and lowest bid is one of the primary requirements.

King, I think we should look at what we as a city mean by responsible, I hope that part of that is equity around city owned or city resource projects or companies that receive resources from the city should be held to a different standard, especially when it comes to equity because resources are coming from a diverse equity pool, taxes and such, it should go back out into the community in that way. We should look at how we define responsible. The lowest bidder is not necessarily the best for the city, because the lowest bidder may not be domicile in the city, may not have a lot of city employees, may not disperse contracts equitably. A responsible bidder may not be the lowest bidder but may impact the city and save us more money, I think that's what the intention is with the lowest bidder, and we should take a different approach to saving us money and what



that means. Chairman requested from CPO Velazquez an overview of the difference between responsible bidder and a responsive bidder?

Chairman asked, were any of these contracts for the JOC given preference points or credits based on other incentives in the bids that we use generally for contracts in general? CPO, responsive it eludes to the requirements when we submitted the bid for the vendors to consider responding to it, one of the requirements we identify in the bid that they must meet in order to qualify as a responsible bidder. Jackie, on all bid solicitations we put a list of bid incentives, if any of our contractors took those incentives I would have to provide through the chair. Chairman, were any done through the SBI/MBI? Jackie, is it a decision made by DPS or the department if something goes SBI/MBI? Jackie, No, it is recommendation made by the department and confirmation with DPS, SBI/MBI is really determined by the contract value as well.

Dowell, SBI/MBI has AIS & CDOT considered to run parallel with these JOC contracts, is that something they are looking at? DPS what is the maximum contract value for those programs and if those have changed? Carney replied, nature of the work and contract values pushed it out of the SBI/MBI, we are contemplating a JOC/SBI/MBI format for smaller task orders, hiring two minority firms as our primes, we're not sure if it's taking work away from minority firms right out the gate, we are still assessing the best way to go. Dowell, what's the hesitation? Carney, we just awarded these contracts to minority firms, if we go to SBI format and add other contracts you take work away from minority firms who just got awarded as primes. SBI/MBI does not guarantee you are going to have minority firms in that process, those are just smaller firms with dollar values. Chairman DPS, in this case are the SBI/MBI firms tend to be MBE/WBE firms in the process and the non SBI/MBI do they tend to be the same. Jackie, the SBI/MBI firms is about that they're 60% certified MBE/WBE firms. MBI 25% that are certified. Non SBI/MBI 15-20% certified. Chairman, what are the limits for an SBI firm and MBI firm and how is it calculated. Gross receipts and contract value. Contract values for MBI up to \$3 mil to \$20 mil and SBI up to \$3 mil. Chairman Ervin concluded questions for DPS, AIS, and CDOT.

Chairman introduced Dan Cruz and Leonard Langston CHA.

Dan Cruz and Leonard Langston shared a power point presentation outlining the CHA Section 3 Rule update as it pertains to the JOC program. Chairman Ervin opened the floor for questions.

Chairman, when you go back to labor hours 10% of the contract value on all contracts are to be with Section 3 business' and then 25% of labor hours are to be with Section 3 businesses, are those two in some way double counted or are they separate and distinct when you are looking at the business aspect of it for contract and the hours aspect of it from a labor standpoint. This ensures that at the least 10% of the value of the contract is spent on Section 3 businesses, then separately they have the labor hour benchmarks they have to report. Changes in the program, many of the callers feel that they have been shut out of program, changes that have been necessitated by rules to HUD, how do we A: fix what existed or B: help people migrate into the current opportunity. We met with some of those callers, some are still doing business with CHA, and contractors earning money on our projects, we understand there was a transition, there was outreach to contractors prior to procurement, there have been difficulties, there was a slowdown



in 2020 due to COVID, we have reached out to contractors, work office has done outreach and public engagement events to understand changes, business w/CHA doesn't just lie in JOC initiatives we have sect 3 opportunities through all of our contracting operations, prequalified pool is established by procurement, in or not have ability to bid on CHA projects. Going back to unit term work, CHA, and JOC contractors primarily worked toward, your basis now is that it is not done by CHA but now by private property management firms that you employ in the process. Leonard, yes, the bulk of the work is handled with our property management firms and they are required to utilize Section 3 companies for that work. Is the work restricted to only to Section 3 companies or mixture of vendors that can utilize that work? If you are not Section 3 certified then you are not eligible. Is the unit term work commensurate to what was done in the pass, is it more or less. Leonard, it currently meets CHA needs as far as unit terms to meet core mission of housing our people, the budget put together is what we need and what we will push out to Section 3 vendors for those bidding opportunities. Dan Cruz concluded that he spoke to some of you separately about Section 3 and the changes, we are willing to help constituents if they have questions on these changes, reach out to me as needed.

Chairman Ervin, in the past utilization of Section 3 at 10% of the contract value was over the CHA portion of the commitment, now it is being made over entire contract value whether it is CHA, City or other money attached to that. Is that correct? Leonard, we will confirm that and get back to you.

Chairman, question in relation to Section 3 and signatory contractors, the number of signatory Section 3 contractors existing vs the work that has to be done, how did you all attempt to work through that challenge, because to my understanding there is a small number of signatory Section 3 contractors. Leonard, when it comes to our section 3 commitment, what's important is that you're certified in Section 3, you have the appropriate number of labor hours, etc., and we don't look at union vs non-union as a metric or bar to do work with CHA. Chairman, if a section 3 contractor are not signatory and working for a signatory general how do they meet the requirement, if you have a \$10 on a \$20mil contract and you need 2mil in participation, how do you meet the goal on that project. Leonard, they are still required to meet that goal, there are union section 3 firms out there. They have to reach out to secure the appropriate firms to meet their commitment. Chairman, provide a list of Section 3 contractors, those that are signatory and those that are not non signatory, so we can get a better understanding of how you guys are going to meet that, because it may be a challenge to meet for those that are fairly small depending on what tier they are in the various programs.

Chairman Dowell, the program changed because of HUD rules, explain what was wrong with the old program according to HUD. Leonard, HUD didn't say to CHA it was something wrong with the procurement method we had expiring contracts with the old and we had new contracts we took the opportunity to meet the upcoming HUD changes and to track how we are using our tax dollars, part of that was removing 3<sup>rd</sup> party contractors and reinvesting back into our portfolio. Dowell, how much were they spending on 3<sup>rd</sup> party contractors and are they reinvesting back in staffing in the section 3 program within CHA? Dan, cost \$3 mil a yr. over 4yrs, \$12mil reinvested in a new program.



Chairman Ervin thanked everyone that gave testimony and stated that he is hopeful that we will find ways to diversify the pool of individuals being utilized by this particular program.

That concluded all such Committee questioning.

*(A video recording of the full meeting with committee members, internal and external experts, as well as any/all public speaking content and slide presentations can be reviewed on the Chicago City Clerk website under Committee Meeting Web Stream Archive dated February 10<sup>th</sup>.)*

The Committee on Contracting Oversight & Equity having no further business, on Motion made by Chairman Ervin, seconded by Cardona, and on the same Roll Call that established the Quorum, was adjourned.

Respectfully submitted by:

A handwritten signature in black ink, appearing to be 'JCE', written over a horizontal line.

Jason C. Ervin, Chairman  
Committee on Contracting Oversight and Equity