

**COUNTY OF MILWAUKEE**  
INTEROFFICE COMMUNICATION

**DATE:** February 16, 2024

**TO:** Supervisor Marcelia Nicholson, Chair, County Board of Supervisors

**FROM:** Lamont Robinson, Director of the Office of Economic Inclusion and Celia Benton, Economic Development Director, Department of Administrative Services

**SUBJECT:** From the Director of the Office of Economic Inclusion and the Economic Development Director, Department of Administrative Services, an informational report outlining Economic Development and the Office of Economic Inclusion standards and goals for Community Benefits and TBE inclusion in Economic Development contracts.

**REQUEST**

This report is for informational purposes only.

**BACKGROUND**

One role of Milwaukee County's Economic Development Division is the dispensation of large parcels of land within the County for development projects meant to provide economic development to the community. As a part of that role, Economic Development includes contract terms related to Community Benefits goals in these projects, to ensure that developments help move forward the County's development goals while also real, measurable benefits to residents within the community, in the form of local jobs, apprenticeships, and opportunities for Targeted Business Enterprise (TBE) firms. A TBE is a for-profit entity registered as a Disadvantaged Business Enterprise (DBE), or a minority-owned, women-owned, and/or small business that is certified or registered as such under a State of Wisconsin certification program.

**Current Community Benefit Process**

A development project related to the sale of Milwaukee County land by the Economic Development Division is generally first put into contractual terms in an Option Agreement signed by the County and the Developer at the time the sale is decided/awarded to the Developer. An Option Agreement, usually between six months and two years duration, allows the Developer time to complete their due diligence on the property, further hone development plan details, and get financial obligations in place to ensure the project's feasibility. The Option Agreement also usually includes a Community Benefits section, which outlines the aspirational goals in a development agreement for the Developer to make a good faith effort to achieve community benefit goals defined by the County. The current template goals include (1) 25% of construction costs spent with TBE-certified subcontractors; (2) 17% of professional services costs spent with TBE-certified subcontractors; (3) 25% of construction hours worked by residential hires (employees who live in the County); and (4) 10% of construction hours worked by job training or apprenticeship program participants.

TBE goals are discussed and approved by our Office of Economic Inclusion (OEI) team for each new contract, to confirm if the template goals make sense for the type and scope of each project. Each project is a bit different, so things like the size and scale of the project, complexity of some of the work done, availability of TBE subcontractors in specific niche fields, etc. can affect what reasonable TBE goals should apply to a project, and these can change over time as the project develops. Economic Development has flexibility to “right-size” and adjust community benefits goals to align with project changes, the current market and the County’s strategic plan. Residency hiring and apprenticeship goals are set by Economic Development alone based on County standards. Community benefit goals are aspirational and we request that each Developer enter into these goals voluntarily on a County-related development project. The community benefits agreements are proactive in nature, designed to grow the amount of dollars spent among the target groups.

These goals incentivize new developments to provide opportunities to small and disadvantaged businesses and to provide work hours to local workers and help train up-and-coming workers. Upon Closing, these same community benefit goals are reiterated in a Development Agreement, and a compliance deposit is required at that time. Currently, the County accepts the Developer’s compliance deposit as their “good faith gesture,” to ensure that they will abide by the community benefits terms in the development agreement. This deposit is held until completion of the project and all aspects of the agreement have been reviewed. Should there be any non-compliance of community benefits, the County has the right to withhold the release of the deposit and impose a penalty commensurate with the infraction. This Compliance Deposit is generally \$50,000, but that amount can vary based on the size/scope of the project and represents a “good faith” effort for TBE, apprenticeship and local hiring goals.

Community benefit goals and their progress are entered and tracked in two tracking systems: B2Gnow and LCPtracker. B2Gnow is used for tracking TBE subcontracting work; a prime contractor enters their own payments and all payments to subcontractors, which each subcontractor needs to confirm in the system. Subcontractors who qualify as TBEs are verified in the system, so the progress of payments to TBE subs is available to be viewed based on monthly payments throughout the project. LCPtracker is used to track residency hiring and apprenticeship hours. The prime contractor and each subcontractor here upload weekly payrolls for all employees, with both residency and apprenticeship status verified within the system. Each individual payroll can be pulled up to view, as well as several different kinds of reports to show overall residency hiring and apprenticeship numbers and hours worked.

Developers usually meet with our OEI team prior to or just after Closing to work on finding and connecting with local TBE businesses that they can utilize to help meet their TBE goals on the project. OEI offers guidance and help in strategizing project subcontracts and can also directly connect Developers with these businesses or provide help in getting potentially qualified TBEs they already work with certified. OEI can be especially helpful in finding TBEs in more niche and less diverse subcontracting specialties. OEI can also provide direction on what actions a Developer can take to achieve good faith efforts toward their community benefit goals. Many Developers also

hire an outside consultant company for their project that can help them find subcontractors and fill residency/apprenticeship positions, and document their good faith efforts, as well as entering their reporting into B2Gnow and LCPtracker.

During the development project, Economic Development will log into B2Gnow and LCPtracker each month to see how much has been spent overall and how much progress has been made overall and in relation to TBE, residency, and apprenticeship goals, and to ensure reporting is being done in a timely manner by prime contractors/consultants so we can flag any potential issues with reporting or with missing project goals. OEI can also access projects in B2Gnow to view their status and reporting progress.

At the end of a project, the Developer is responsible for finalizing any reporting in the B2Gnow and LCPtracker systems and notifying Economic Development that the project is completed/nearing completion. A completed project is generally verified by Developer's architects supplying a Certificate of Occupancy. At that time, Economic Development, with OEI support, will review final reporting to confirm that community benefit goals are met. If goals have not been met, the Developer is required to put together an informational report outlining why, and documenting good faith efforts that were made to achieve their goals. Economic Development is responsible for the final decision to return a Developer's compliance deposit, in full or in part, based on the final met goals and/or good faith efforts that were made to achieve the goals. We rely in large part on OEI in helping to make this final decision. Because community benefit goals are aspirational and voluntary, we generally do not penalize a Developer solely for "missed" goals, but we do hold them accountable for not communicating if/when a project changes or not making good faith efforts to achieve their stated goals. We may penalize Developers for egregious issues such as non-payment of subcontractors, over-inflating/mis-reporting invoices, little or no effort in reporting, or not communicating issues or changes to their intended TBE use during the project.

### TBE Results

Economic Development's community benefits program has led to Developers incorporating TBEs into their projects at every phase and has led to local hires and apprenticeship programs in their construction contracts, with significant results in the past few years. While there are only a few development projects coming through Economic Development each year, we have seen TBE spend amounts of \$8.6M for projects ending in 2019, \$2.9M in 2020, \$1.6M in 2021, \$2M in 2022, and \$9.2M in 2023. Residential hiring hours have averaged over 98% in those 5 years, and apprenticeship hours have averaged around 8%.

We have also experienced some issues with Developers failing to achieve goals or in some cases to put in the efforts to make a good faith effort. Economic Development in consultation with the Office of Economic Inclusion has and will penalize Developers for a lack of good faith efforts by withholding their entire compliance deposit and barring them from other County development projects based on contract terms.

## Improvements to the Community Benefits Process

In reviewing the process, Economic Development is committed to being more hands-on with Developers in helping ensure they have what they need to succeed in reaching their community benefit goals. We hope to provide more visibility and transparency to the County Board and the public on our ongoing efforts to promote the use of TBEs in developments, and to encourage the utilization of local residency hiring and apprenticeship programs.

Working with Developers on projects subject to community benefits goals, we have begun incorporating more meetings and scheduled check-ins to answer any questions, providing help and guidance as needed, and confirming that reporting and good faith efforts are being made at each step of their process. This starts with an initial meeting with Developers and OEI so that Economic Development can be involved in that initial process of getting Developers connected with TBEs, answering any questions related to goals, and making sure they understand and are set up properly in the B2Gnow and LCPtracker systems.

Once the project has started, we are incorporating quarterly calls or meetings to check in on progress with Developers, prime contractors, and/or any consultants hired to help with community benefits reporting. These meetings serve as a useful tool to answer any questions that come up and discuss the status and any changes to the project itself, any difficulties they have in finding certain subcontractors, problems with the tracking systems, potential changes needed to the TBE goals, or anything else. It will also ensure for Economic Development that progress is being made on the development in line with any timelines set out in the Development Agreement. An initial check-in may involve a site visit to view the project site and help visualize the scope of the development. If there are any potential issues, random site visits may be instituted to make sure the project is progressing as discussed in reporting and quarterly calls. A final site visit prior to or at completion of the development will take place to confirm the project is finished before closing out reporting in our system or returning a compliance deposit.

Economic Development is also updating our website to incorporate information about TBEs and the TBE certification process, and links to the OEI site and any other helpful links for businesses that may qualify as TBEs but want to know more about the certification process. We are looking into having information on our website as well about B2Gnow and/or LCPtracker, and how we utilize these systems to help promote TBE business subcontracting and local hiring in our projects. We want to provide transparency into how we use these tools in our economic development role to help the community thrive.

In addition to these planned changes to the policy, OEI and Economic Development have engaged the Office of Corporation Counsel in the review of current practice and the opportunity to look at more stringent standards when it comes to the TBE component of the community benefits. From discussion it was understood that legal consideration will need to be applied to current standards and any potential changes. With development agreements differing from standard County projects, time to review

these agreements allows us to identify best practices that positions the County to be proactive in incentivizing developers to support the County strategic plan through community benefits agreements.

Possible next steps in this review and update of community benefits compliance plans from OEI include:

- Holding outreach/engagement meetings with developer/primary contractor to facilitate conversations between Developers/prime contractors and interested TBE firms. Based upon the scopes of work identified, we want to ensure that TBE firms are aware of the opportunity and begin to build relationships with the Developers/prime contractors.
- Presenting participation plans to the County Board after approval/acceptance so the Board can gain awareness of how a Developer/prime contractor plans to utilize TBE firms in their project. This defines what the Developer/prime contractor has committed to achieving on the project and with whom.
- Creating monthly/quarterly progress meetings with each Developer/prime contractor, with Economic Development and OEI, to discuss the project and where Developer/prime contractors are with TBE and workforce achievement and any necessary plan changes to achieve goals by the end of the project.
- Reporting to the County Board at certain intervals of the project (50%, 75% and substantially complete - %TBD) to provide updates on the progress of the project at set levels, and information as to where the project stands with TBE and workforce achievement.
- Reporting to the County Board any changes to the participation plan, such as Project Changes, Good Faith Efforts, Goal Changes related to TBE contracting, etc. that may impact the project and affect likeliness of achieving community benefits goals by the end of the project.

### **RECOMMENDATION**

This report is for informational purposes only.

*Lamont Robinson*

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*Celia Benton*

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Economic Development Director, Department of Administrative Services

cc: David Crowley, County Executive  
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