

City of Portland, Oregon

**Community Benefits Agreement
Pilot Evaluation**

Final Report
May 9, 2016

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Executive Summary

In October of 2012 the City of Portland executed its first Community Benefits Agreements (CBA) on two Water Bureau construction projects: Kelly Butte Reservoir and Interstate Maintenance Facility Renovation. Stakeholders, prime contractor representatives, and City employees were challenged to develop and administer pilot programs according to the guidelines of the newly-created CBA. They should be commended for their work to achieve the CBA's goals and to improve construction contracting and employment opportunities for minorities and women on City projects.

Our evaluation of the CBA pilots revealed the following:

Projects were successful in meeting CBA goals. The two pilot projects met all CBA workforce and contractor goals except for percent of journey work hours contracted to women. Stakeholders identified (and comparisons with other programs confirmed) elements of the CBA that most likely contributed to project success:

Goals for workforce and contracting diversity that included both apprentice and journey-level goals. CBA goals and objectives were communicated to all participants and were well-understood.

Accountability. The CBA created a mechanism for holding contractors, subcontractors and stakeholders accountable for goals and active compliance monitoring.

Participation of key stakeholders in real-time project workforce support and in the design of programs funded by the CBA. The Labor Management Community Oversight Committee (LMCOC) performed this role for the pilot projects.

Contractor commitment to the City's diversity goals, capabilities to support them and willing participation in the CBA process.

Investments in outreach and training for minorities and women and technical assistance to M/W/DBE/ESB firms.

Union engagement in recruitment, training and placement of workers.

CBA-funded programs achieved positive results, but had limited direct impact on the two pilot projects. Few of the workers and firms participating in CBA-funded programs (referred to as the 1% programs) were placed on or subcontracted to the two Water Bureau projects.

Project performance does not tell the whole story. The CBA was created to address community goals for workforce and contracting, yet CBA goals were project-specific. CBA-funded programs and strategies had a broader scope, and may be better suited to developing a qualified and diverse workforce and to equipping Minority, Women, Disadvantaged Business Enterprises and Emerging Small Business (M/W/DBE/ESB) contractors over time. Benefits will likely be realized on future City projects and other projects in the region.

The Labor Management Community Oversight Committee (LMCOC) was important, but had too many responsibilities. The LMCOC was an important component of the CBA that created a forum for stakeholders and contractors to work on meeting project goals and for collective problem solving

and issue resolution. However, the CBA assigned the LMCOC roles and responsibilities that were unreasonable for a volunteer organization with no legal identity and no formal staff.

CBA governance provisions created potential for conflicts of interest. CBA programs and strategies were designed, executed and managed by a relatively small number of individuals from organizations signatory to the CBA or specifically identified in the CBA. Some organizations represented on the LMCOC were also awarded contracts by the LMCOC. This created the appearance of conflict of interest. Members and fund administrator CAWS were sensitive to this issue, but we could not confirm or find signed Conflict of Interest Statements.

Contractual relationships complicated 1% fund administration. The LMCOC was given authority for fund oversight and management but as an ad-hoc volunteer organization was unable to receive funds directly. The City included the 1% funds in its contracts with Hoffman Construction, and Hoffman in turn used a Purchase Order to pass funds through to Construction Apprenticeship Workforce Solutions Inc. (CAWS). CAWS and Worksystems Inc. (WSI) were jointly identified in the CBA to be the recipient of a portion of the 1% funds, but are separate legal entities. CAWS contracted with WSI to manage CBA-funded recruitment and training programs, and WSI has served as the fiscal agent for CAWS for several years. The LMCOC later designated CAWS to be the administrator for all 1% funds. There was no contract or agreement between WSI/CAWS and the LMCOC for this role.

CBA program administration costs were relatively high. Costs to administer the CBA 1% programs were estimated at 17% of total program expenditures. This is higher than some City programs that also administer grants or contracts, such as the Children’s Levy. CAWS received a total of 14% to administer the CBA funds and programs. Remaining costs included program development and design, web site support, advertising, and a nominal amount to compensate members from community-based organizations for attendance at some meetings. These administrative costs did not include City staff time spent in LMCOC meetings and other CBA sessions, the full cost of LMCOC participant time, or time spent by Hoffman Construction representatives to attend LMCOC meetings or to meet CBA reporting requirements.¹

Start-up and administration costs in the Technical Assistance Fund programs may have outweighed any short-term benefits. Approximately 40% of the Technical Assistance Fund was used to design, develop and supervise technical assistance programs and strategies. These costs including the services of a Program Manager and Program Advisor. The program assessed 26 M/W/DBE/ESB firms, but only ten of these worked on pilot projects. Only three of the twelve Ala Carte fund recipients were working on one of the two projects. Some of the technical assistance services were similar to those Hoffman Construction and other firms regularly provide to their subcontractors in order to meet City diversity contracting requirements.

Procurements used good practices. Requests for Proposals (RFPs) and Requests for Qualifications (RFQs) for the 1% funds were well-constructed and included clearly defined CBA goals and program objectives. Responses were evaluated and scored by LMCOC members who were not prospective

¹ Hoffman Construction spent \$542,000 to meet its workforce and contract diversity requirements and charged these costs to a budget line item called “CBA Administration”. While some of these costs were related to LMCOC meetings and CBA reporting requirements, it is likely that most costs would have been incurred with or without a CBA. See Section D and Exhibit D.4 for more information.

fund recipients. Construction Apprenticeship Workforce Solutions Inc. (CAWS) collected and retained appropriate documentation for invoices.

CBA 1% fund contracts were not performance-based. Contractors were not required to complete deliverables or achieve specific outcomes in order to receive payment.

CBA compliance activities were duplicated and not all compliance funds were spent. The CBA established a dedicated Compliance Fund account of 0.25% of total construction services contract costs and created a Compliance Subcommittee to oversee contractor performance. Both the Compliance Subcommittee and City Procurement Services staff performed contract monitoring activities. The CBA did not include a specific monitoring role for City Procurement, but Procurement staff continued to monitor Water Bureau projects as they would without a CBA. The LMCOC determined that Compliance funds could be better spent on other activities, and as of April 5, 2016 had not spent the full amount allocated to compliance.

Comparable projects also achieved good results against CBA goals. We evaluated the diversity achievements of four comparable City projects, and all but one would have achieved or exceeded CBA goals. All projects, CBA or otherwise, used similar strategies to achieve a diverse workforce and to recruit M/W/DBE/ESB firms as required by current City policy.

Opportunities to Improve the City's Approach to Community Benefits

The City of Portland has opportunities to use the findings from the two pilot projects to improve its future community benefits agreements or targeted benefits arrangements. These include:

1. Create governance and administration provisions that separate project-related roles from program funding decisions, contract oversight and management functions. A possible structure could include:
 - Project Support Committee. Assign responsibility for project-related activities (targeted hiring, safety, and apprenticeship utilization and placement, for example) to a committee of project stakeholders that meets to consider work on all active projects.
 - Fund Administration. Assign responsibility for administration and oversight (fund management, purchasing, contracting, contract management and compliance) and performance evaluation to the City or to a qualified contractor/organization.
 - Workforce and Labor Diversity Strategy Committee. Consider creating a City-wide advisory committee to develop, fund, evaluate, and refine strategies to diversify the City's contracting workforce and to expand contracting opportunities for MWDBE firms. Include stakeholder representatives, City employees, contractor representatives and contracted technical advisors as needed. This committee would advise and set program funding levels for all City CBA or targeted hire projects.
2. Include program and financial audit provisions in any agreement or plans, especially if a contract organization is used to manage the program.
3. For any committees or administrative organizations:

- Document specific roles, responsibilities, membership, attendance requirements, and meeting rules in a written charter for each group.
 - Provide adequate staff support.
 - Ensure that all necessary contracts and agreements are in place before committee work begins.
 - Develop a conflict of interest policy that is signed by all parties.
4. Include project close-out procedures. Confirm how excess program funds, if any, should be distributed at the end of the project. (This is especially important if contract program administrators are used).
 5. Re-examine 1% program funding. Consider using program funding to support longer-term projects that create a pipeline of qualified, diverse individuals and firms for all City projects. Redistribute compliance funds to other program areas or reduce funding.
 6. Improve and expand program evaluation.
 - Ensure that evaluations are conducted independently of individuals or organizations who are tasked with program design or execution.
 - Evaluate the overall ability of any funded programs or services to create a pipeline of and meet project demand for qualified M/W/DBE/ESB firms and minority and women employees.
 - Examine the impact of programs and services on utilization of women and minorities by ethnic category and by trade, to better address two of the CBA's objectives.
 - Provide stakeholders with access to detailed, disaggregated workforce diversity and M/W/DBE/ESB contracting data for better program analysis and evaluation.
 - Identify ways to confirm that minority and women apprentices are staying with trades long enough to reach journey status.
 - Make better use of routine performance monitoring to help improve programs and providers.
 7. Make improvements to Technical Assistance Fund programs.
 - Reduce program overhead. Combine the roles and responsibilities of the Program Manager and Program Advisor into a single position.
 - Continue to differentiate agreement-specific technical assistance programs from technical assistance services commonly provided by and required of contractors. Make sure value is added.
 - Strengthen evaluation component of the program. Include prime contractors in the overall evaluation of the program's ability to assist M/W/DBE/ESB firms to submit proposals or to succeed on projects. Determine if contractor capacity and capability is improving over time.

Identify firms that are new to City contracts, are repeat subcontractors, and firms that are growing.

8. Consider using performance-based contracts, rather than cost reimbursement contracts, for programs that have well-defined objectives and measures. Work with Pre-Apprenticeship Training Programs and other community based organizations to structure workable contracts.

Introduction

Overview of the Community Benefits Agreement and Pilot Projects

On September 5, 2012 the Portland City Council approved Resolution 36954 to adopt a draft Model Community Benefits Agreement (CBA) to be considered as a template for use on large City construction projects. The UCLA Labor Center defines a CBA as a legally-binding contract between a broad community coalition and a developer in which community members pledge support for a development in return for community benefits such as targeted hire of minorities, women and disadvantaged workers and creation of living wage jobs.² The City's Model CBA was developed in partnership with a coalition of organized labor, minority employers, Pre-Apprenticeship Training Programs (PATPs), and Community-Based Organizations (CBOs).

The Resolution identified two Water Bureau construction projects that would be used to pilot test the use of a CBA:

- Kelly Butte Reservoir (Hoffman Construction). The Kelly Butte project replaced an above ground 10-million gallon steel tank with a 25-million gallon reinforced concrete underground reservoir.
- Interstate Maintenance Facility Renovation (Hoffman Construction). The Interstate project constructed a 28,000 square foot LEED Gold-certified building to replace an outdated structure. An adjacent 38,000 square foot building was built in a second phase.

The draft Model CBA established a Labor Community Management Oversight Committee (LCMOC) to develop project-specific agreements and to oversee the implementation of CBAs for each pilot project. Modified CBAs for each project were signed by representatives from the City, unions, minority contractors, community stakeholders and Hoffman Construction on 10/05/2012, and added to project contracts.³

The Resolution also directed City Procurement Services and the Portland Water Bureau to evaluate the effectiveness of the CBAs to be piloted on the Kelly Butte Reservoir and Interstate Maintenance Facility Renovation projects in meeting the goals and objectives of the City and the principles set forth in the Resolution and to report back to Council. Framework LLC was retained by the City to perform this evaluation.

Evaluation Focus

Our evaluation included four components:

- 1) A financial analysis of the 1% set-aside for establishment of the Compliance Monitoring Fund, Community Construction Training, Outreach & Recruitment Fund and the Technical Assistance Fund. This analysis was designed to consider where and how funds were dispersed, what they were used for, and how they were authorized.

² "Exploring Targeted Hire: An Assessment of Best Practices in the Construction Industry", UCLA Labor Center, March 2014.

³ A Modified CBA was developed for each project. CBAs were nearly identical for both projects.

- 2) A program/process analysis of the CBA pilot and CBA-funded programs, including a review of the pilot program's design, execution, management and oversight.
- 3) A performance analysis of the CBA pilot program, to learn if the CBA pilot projects achieved the specific performance objectives and requirements for workforce diversity and M/W/DBE/ESB utilization stated in the CBA, and to determine if CBA-funded programs and strategies were effective in meeting goals and objectives.
- 4) A comparative analysis of the CBA pilot program performance with that of four similar construction projects. Our comparison also examined other City programs that distribute program funds for community purposes to see how processes compared with those of the CBA pilot.

Evaluation Findings

A. Financial Analysis⁴

Fund Overview and Administration

The Modified CBAs for the Kelly Butte and Interstate projects (CBA) directed the City of Portland to deposit 1% of Hoffman Construction's total construction services contract costs, minus the Construction Manager/General Contractor (CM/GC) fee, into three program "funds" to be managed by the LMCOC, as follows:

- Community Construction, Training, Outreach and Recruitment Fund (0.50%)
- Technical Assistance Fund (0.25%)
- Compliance Monitoring Fund (0.25%)

The CBA also designated "WSI/CAWS" as the recipient of the Community Construction, Training, Outreach and Recruitment Funds and instructed them to advise the LMCOC on the utilization and distribution of these funds. WSI/CAWS is actually two separate organizations. Worksystems Inc. (WSI) is the agency responsible for overseeing the region's Public Workforce Investment System. It serves as the fiscal agent for Construction Apprenticeship Workforce Solutions Inc. (CAWS). CAWS is a non-profit formed by construction industry representatives to improve the representation of women and people of color in the construction trades.

As a volunteer organization with no legal identity and no formal staff the LMCOC was not equipped to receive funds or to assume its CBA-assigned fund management responsibilities. The LMCOC delegated responsibility for management of all three CBA 1% funds to WSI/CAWS. There was no Memorandum of Understanding or contractual agreement that formally outlined CAWS' responsibilities.

Both WSI and CAWS appeared to maintain appropriate financial records. Tracking of CBA funds was complicated by the fact that CAWS' accounting software was not set up to separately account for the CBA and its three funds. Staff used spreadsheets to manually identify CBA expenditures by fund and program. We found no documented close-out process that identifies what CAWS should do with any remaining CBA funds.

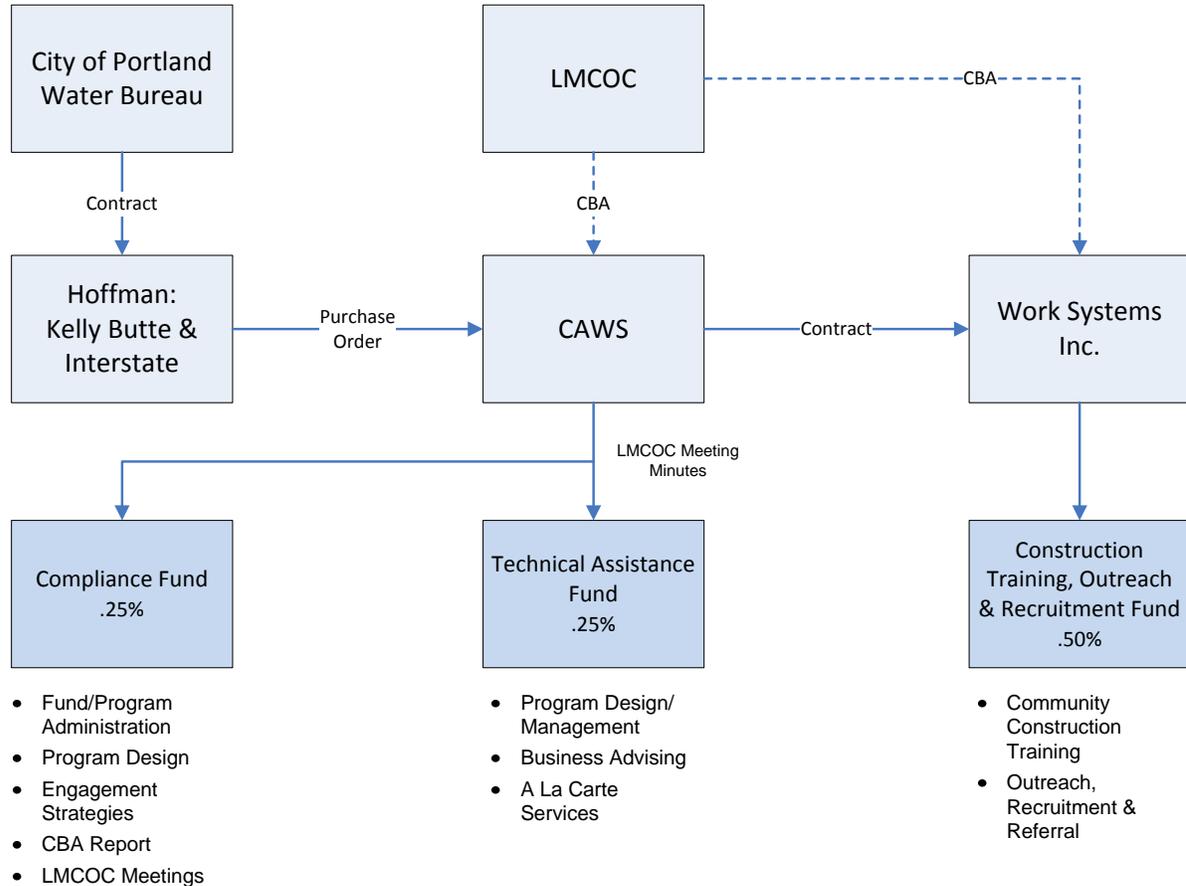
Fund Distributions

The flow of 1% program funds from the City of Portland to fund recipients is illustrated in Exhibit A.1. The City of Portland included the CBA 1% program funds in its contracts with and payments to Hoffman Construction. CAWS invoiced Hoffman to draw on the 1% funding provided through the CBA. Hoffman in turn made payments to CAWS for the full 1% CBA funding.

⁴ This financial analysis is based on preliminary data compiled from original and secondary sources and does not reflect a final accounting of CBA financial activity.

CAWS received, approved and paid invoices for all payments made from the Technical Assistance Fund and Compliance Fund. WSI received, approved and paid invoices for payments made from the Community Construction, Training, Outreach and Recruitment Fund.

Exhibit A.1



The relationship between Hoffman Construction and CAWS is defined in two Purchase Orders, one for each construction project. The Purchase Orders request CAWS to provide program administration services for each of the three CBA funds in accordance with the CBA, establish a maximum payment amount, and provide for a fee of 14% of total funding to be paid to/retained by CAWS. The Purchase Orders defer oversight of the use of the CBA funds to the LMCO.

Fund Expenditures

A total of \$769,651 was spent on or considered to be encumbered for CBA programs as of April 5, 2016, as follows:

- Construction, Training, Outreach and Recruitment - \$399,193. These funds supported two programs: Community Construction Training, and Construction Career Outreach and Referral Services. Training funds were distributed to BOLI-certified Pre-Apprenticeship Training Programs to help create training slots and provide outreach to targeted

communities. A Request for Proposals for outreach, recruitment and referral services did not receive sufficient bids, and funds were distributed to the training providers. Outreach activities were limited to advertising and some special events.

- Technical Assistance - \$198,453. These funds supported the design, start-up and management of two programs. The Contractor Technical Assistance Program provided M/W/DBE/ESB firms with access to Business Advisors who interviewed firms, assessed needs, placed contractors with vendors, made compliance site visits and phone calls, and evaluated firms' progress. Ala Carte technical assistance services were also available to firms. These payments were made to reimburse firms for some costs of improving capacity to bid on and manage projects, and included training, software, and general capacity support. Twenty-six subcontractors were assessed and 23 of these received assistance⁵.
- Compliance - \$172,005. The LMCOC determined that compliance funds should be used for program administration and design as well as activities to support compliance with MWDESB goals. Approximately 76% of compliance funds were used for program administration, program design, advertising, program evaluation, and reimbursements to CBOs for participation on the LMCOC. The remaining 24% of compliance funds were used to develop compliance strategies, a labor dispatch tool, strategies to recruit and retain diverse workers and engage targeted trades and to provide targeted training to employers and workers about issues relating to women on construction worksites.

The City's contracts with Hoffman Construction did not include the full 1% of net construction services as identified in the CBA. Based on the original contract for both projects, funding under the CBA's 1% program should have been \$897,662. The final budget amount in Hoffman's contracts and the actual payments to CAWS totaled \$794,353. Actual expenditures of the 1% CBA funds as of April 5, 2016 were \$755,651 leaving \$38,702 in unspent funding. An additional \$14,000 in expenses were expected but had not been paid as of April 5, 2016.

CBA program funds were leveraged in several ways. Technical Assistance "a la carte" recipients were asked to contribute toward expenses. Pre-Apprenticeship Training Programs provided access to a full range of services that were not specifically funded by the CBA. WSI provided the use of its offices for meetings.

CBA 1% program fund expenditures, by fund and recipient, are described in Exhibit A.2. Additional detail is provided in Appendix I.

⁵ According to CAWS reports to the LMCOC and a count of final contractor evaluation forms. Numbers may not be final.

Exhibit A.2
 City of Portland Community Benefits Agreement (CBA)
 Distribution of 1% Funds

Community Construction Training, Outreach and Recruitment Fund \$399,193	Technical Assistance Fund \$198,453	Compliance Fund \$172,005
Construction Career Outreach, Recruitment & Referral Services \$17,193	Program Design & Management Emerald Cities Portland \$17,902	CBA Program Administration \$84,530
Contractors/Grantees: Oregon Tradeswomen (OTI) \$5,893 Constructing Hope \$11,300	Program Advisor & T/A Provider: F.M Burch & Associates \$61,743	CAWS \$84,530
Community Construction Training \$382,000	Business Advising \$66,898	Training & Outreach Contract Administration \$27,157
Contractors/Grantees: Oregon Tradeswomen (OTI) \$130,000 Constructing Hope \$157,000 Portland Youth Builders \$95,000	Advisor Vendors: FM Burch & Associates – See Above Grimes & Associates \$8,460 Mitali & Associates \$45,474 Spellman Group \$7,687 Metropolitan Contactor ImproPtshp \$5,276	Worksystems, Inc. \$27,157
	Ala Carte Services \$51,909	Engagement & Compliance Strategies \$41,408
		Emerald Cities Portland \$19,408 Oregon Tradeswomen (Green Dot) \$7,000 Oregon Tradeswomen (Engagement Strategies) \$15,000
		CBO Participation \$4,800
		Urban League of Portland \$1,400 Oregon Tradeswomen (OTI) \$900 Constructing Hope \$ 1,300 Portland Youth Builders \$1,200
		CBA Report/Marketing. \$14,110

Funds and payments are based on primary and secondary sources and have not been audited.

CBA Administrative Costs

The cost to administer the funding provided by the CBA is estimated at \$130,597 or 17% of the total 1% program expenditures. Administrative costs included:

- Payment of an administrative fee of \$84,530 to CAWS for fund administration, procurement, contract development, and program coordination.
- Approximately \$27,000 paid by CAWS to WSI to administer Community Construction, Training, Outreach and Recruitment contracts.

- Approximately \$14,000 for a final report, marketing and web site support.
- Approximately \$4,800 for some LMCOC participants to attend some of meetings.

City of Portland Procurement Services staff spent an estimated 460 hours to attend LMCOC meetings, prepare LMCOC minutes, and prepare reports at an estimated cost of \$25,000 in direct labor and wage related benefits. Other participants on the LMCOC and the Compliance Subcommittee spent numerous hours in meetings, preparing for meetings or in other CBA related activities over approximately three years. Some of these costs are reflected in the reimbursements for meeting time above. We did not attempt to estimate the costs associated with Water Bureau staff, other City staff or other organizations' work on the CBA.

Other CBA-Related Expenditures

Hoffman spent an additional \$542,000 on CBA-related activities for the two pilot projects including technical assistance performed by its staff and contractors, CBA reporting, and LMCOC meeting attendance. These were not part of the 1% program funds provided by the CBA; rather, they were charged to a "CBA Administration" line-item in the contractor's budget.⁶ Expenditures included:

- Approximately \$374,000 for Hoffman employee wages and benefits.
- Approximately \$42,000 for a consultant to advise Hoffman on M/W/DBE/ESB support issues.
- Approximately \$126,000 for a contractor to provide technical assistance to a subcontractor.

Our review of four comparable projects revealed that contractors budget similar amounts in similar categories for managing and meeting the City's diversity requirements. (See also Section D.)

⁶ This line-item was negotiated when the CBA was added to the two projects at the last minute.

B. Program/Process Analysis

Program Design

The CBA created a framework for realizing workforce and contracting diversity objectives. It contained a clearly defined purpose and goals that were mutually developed by community stakeholders and the City. (See Appendix II and III.) It provided funding for diversity-related programs (the 1% programs), created contractor requirements to ensure success, and identified requirements for program participants. The CBA required signatory organizations to participate in the ongoing implementation and evaluation of its application to the pilot projects.

The CBA included both contracting requirements and program strategies to achieve results. CBA contractor requirements for segmented work scopes, opportunity contracts, and price efficiency were designed to increase diversity and reduce direct or passive discrimination or under-inclusion of minorities and women. Most of the 1% program elements were directed at increasing workforce and contracting diversity, creating a qualified workforce, and maximizing apprenticeship opportunities in the construction trades for women and people of color.

The CBA created three specific program funds and outlined general program requirements for each:

- A Community Construction Training, Outreach and Recruitment Fund to “provide construction training opportunities for community residents by the award of grants to qualified BOLI-approved Pre-Apprenticeship Training Programs and qualified CBOs who are signatory to and supportive of the CBA.”
- A Technical Assistance Fund to “assist M/W /DBEs to secure bonding and obtain the technical assistance and business support necessary to successfully complete a contract.” The CBA also instructed parties to provide mentoring as required.
- A Compliance Monitoring Fund to “finance the administration of the Oversight Committee (LMCOC) and the operations of the Compliance Monitoring Subcommittee, including CBO and pre-apprenticeship program participation on the Committee) and the Subcommittee.”

The CBA delegated fund administration and related design and execution of specific 1% programs to the LMCOC and to WSI/CAWS (for the Community Construction Training, Outreach and Recruitment Fund only.) As noted earlier, the LMCOC was a volunteer organization with no designated staff support. Staff from WSI/CAWS and Emerald Cities Portland⁷ stepped in to recommend strategies, created Requests for Proposals, developed proposal evaluation tools, and evaluated programs and results.

Objectives, Goals, Strategies and Measures

The CBA’s purpose, objectives, and goals were well-understood by participants we interviewed. Objectives and goals or targets were consistently described in Requests for Proposals and other

⁷ Emerald Cities Portland is part of the Emerald Cities Collaborative, a national nonprofit network of organizations. Emerald Cities Portland was a member of the Metropolitan Alliance for Workforce Equity (MAWE). The local Project Director helped to develop the Model CBA. She also managed the CBA’s technical assistance programs and was an alternate member of the LMCOC.

program materials. We examined the alignment of CBA programs and strategies with objectives (see Appendix III), and found that programs and strategies were clearly aligned with CBA objectives.

Measurable performance objectives or outcomes were identified for some, but not all, programs. Community Construction Training, Outreach and Recruitment Fund programs included well-defined and measurable performance objectives, and Pre-Apprenticeship Training Programs regularly reported performance against these measures. The Technical Assistance Fund programs did not include easily measurable outcomes. Subjective client and advisor evaluations provided some feedback about the strengths and weaknesses of providers and services, but these could be time-consuming to administer and review. It did not appear that prime contractor Hoffman Construction was included in the evaluation of overall client success in bidding or managing project work.

The CBA did not include any goals or performance measures for several important CBA objectives:

- Ensure that employment on City construction projects equitably reflects the diversity of the City of Portland and that historically underrepresented racial or ethnic minorities are fairly represented. The CBA included overall measures of the utilization of minorities on projects, but did not call for examination of utilization by ethnic subgroup. However, Hoffman Construction reported this information to the City.
- Facilitate entry of veterans into the building trades. The CBA described strategies, but no performance goals.

CBA governance, management and general oversight

The CBA created two committees to execute and monitor the provisions of the agreement:

- A Labor Management Community Oversight Committee (LMCOC) or Oversight Committee would discuss and resolve issues or concerns arising during the life of the CBA. Membership included two representatives from each of the following groups: the Owner (City of Portland), Project Contractor (Hoffman Construction), construction trade unions, Disadvantaged Business Enterprise (DBE) employers, and community-based organizations/pre-apprenticeship training programs.⁸ Voting was limited to ten members. Alternates were identified, but categories were not strictly adhered to. Non-voting members, including alternates and the public, regularly attended LMCOC meetings. The LMCOC met monthly.
- A Compliance Monitoring Subcommittee was responsible for monitoring employer compliance with the contracting, apprenticeship, workforce and local hire goals and programs established in the CBA. One representative from each of the above groups was selected for this Subcommittee. This was not a true subcommittee of the LMCOC, as members could come from outside of the LMCOC.

Some LMCOC members and alternates did not fit the categories prescribed in the CBA. For example a member of a community-based organization was a substitute for a Disadvantaged Business

⁸ The LMCOC voted to specify that at least one of the two Community-Based Organization representatives be from a Pre-Apprenticeship Training Program.

Enterprise (DBE) employer, and a representative of an organized labor council was listed as a community-based organization representative.

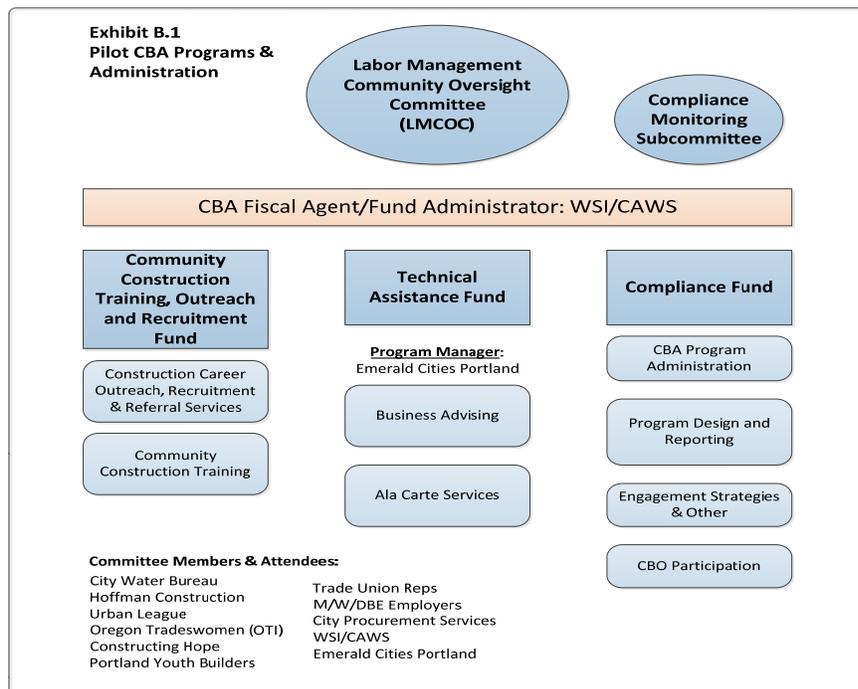
The LMCOC was an important component of the CBA. It created a forum for stakeholders to work on meeting project goals and for collective problem solving and issue resolution. Most stakeholders we interviewed believed it was important to have all parties at the table in order to achieve CBA goals.

CBA-specified roles and responsibilities for the LMCOC were unreasonable for a volunteer organization with no legal identity and no formal staff. These responsibilities included:

- Sole responsibility for fund management and program management.
- Program design and development of strategies.
- Development of policies and procedures to implement the programs (working with the Owner and Project Contractor).
- Resolving issues between parties.
- Reviewing and approving CBA amendments.
- Review of employer staffing plans, examination of employer data, and reviewing requests for employer waivers.

LMCOC meeting minutes indicated that CAWS recommended the LMCOC seek administrative help. In the absence of action by the LMCOC, WSI/CAWS submitted a written proposal to have CAWS serve as the default fund administrator for the Compliance and Technical Assistance funds “should no other suitable fund administrator be identified for either fund.” The LMCOC subsequently delegated all fund administration responsibilities to WSI/CAWS.

Exhibit B.1 describes the relationships between the LMCOC, Compliance Committee, WSI/CAWS and 1% programs.



CBA programs and strategies were designed, executed and managed by a relatively small number of individuals wearing many hats. Most LMCOC and Compliance Monitoring Subcommittee members were instrumental in the conception, design and creation of the resolution creating the Model CBA. Members played active roles in program development and contractor selection throughout completion of the pilot projects, and several were project contractors or CBA fund recipients. The CBA specifically called for making grants to community based organizations who are signatory to and supportive of the CBA.

According to LMCOC meeting minutes, committee members were concerned about potential conflicts of interest related to its members' roles and relationships. We found no evidence that LMCOC, Compliance Subcommittee members, or WSI/CAWS intentionally violated City conflict of interest policies or actively participated in committee decision-making that resulted in a personal benefit. However, the LMCOC never developed or required committee members to sign a conflict of interest policy or statement. Several relationships could have been perceived as a creating a conflict of interest:

- CAWS managed the CBA program funds. The CAWS Board Chair is an Executive Vice President of the Interstate and Kelly Butte projects' prime contractor Hoffman Construction.
- F.M. Burch & Associates was under contract to provide diversity outreach and advisory services to Hoffman Construction on both pilot projects. During the same time, the firm's principal was Hoffman Construction's alternate representative to the LMCOC, and also contracted with WSI/CAWS to serve as the Program Advisor to the Technical Assistance Fund's programs.
- Emerald Cities Portland contracted to complete a final evaluation of the CBA program (with the assistance of two outside consultants.) The same representative from Emerald Cities Portland was also directly involved in the design, management and execution of some programs subject to evaluation.

Most of the administrative assets of the CBA project (Requests for Proposals, policies, procedures, templates and forms) were created and maintained by WSI/CAWS, are not owned by the City of Portland, and may not be available to other projects. City Procurement Services did receive copies of most of the proposals and reports.

Project completion and transition of documents have been complicated by changes in key personnel. CAWS' CBA fund administrator left to work for Tri-Met but is assisting with the preparation of a final report and with a close-out of the CBA project. The Emerald Cities Portland representative left to work for WSI before completing Emerald Cities' final evaluation report. She is in the process of completing that report.

Prime Contractor Compliance Monitoring

The CBA created a Compliance Subcommittee to monitor employer compliance with the CBA's contracting, apprenticeship, workforce and local hire goals and programs. Members did not need to be selected from the LMCOC, although some members served on both committees.

While the CBA established a dedicated Compliance Fund account of 0.25% of total construction services contract costs, the LMCOC decided to use this fund for activities not specifically related to compliance.

The CBA did not include a specific monitoring role for City Procurement Services. This resulted in some duplication of efforts. A City Procurement Services representative served as one of the two City representatives on the LMCOC. Most LMCOC meetings were attended by multiple representatives from City Procurement. City Procurement Services and the Compliance Subcommittee both monitored contractor progress against goals. According to interviews, this was necessary to ensure that basic City requirements for contract compliance monitoring were met.

CBA 1% Purchasing, Contracting, and Invoice Practices

Procurements for CBA-funded services appeared to follow good practices. Requests for Proposals (RFPs) and Requests for Qualifications (RFQs) were well-constructed and included clearly defined CBA goals and program objectives. Consistent with purchasing best practices, RFPs and RFQs identified both CAWS and Emerald Cities' roles and responsibilities as fund manager and program manager respectively in the introductory narrative. Neither organization's representative signed conflict of interest statements.

Responses were evaluated by a subset of LMCOC and Compliance Subcommittee members. Evaluators were selected for each procurement from volunteers who were not competing for funds. Evaluations were completed using criteria and scoring documented in evaluation spreadsheets.

LMCOC members and WSI/CAWS representatives were aware of and sensitive to potential conflicts of interests during RFP and RFQ evaluation. According to meeting minutes, Conflict of Interest statements were discussed with the LMCOC. The "CAWS CBA Evaluation Spreadsheet" used to rate and rank respondents included a statement for evaluators to sign. We could not confirm or find examples of the signed evaluation forms, but interviewees indicated that they recused themselves from volunteering to evaluate proposals submitted by their organization or from voting to approve an award their organization applied for. LMCOC meeting minutes also describe some of these recusals.

Written contracts were executed with each of the three Pre-Apprenticeship Training Programs and with participants in the Technical Assistance Program's Business Advising Services (Program Manager, Program Advisor and Advisor Vendors.) Contracts were also executed with primary Compliance Fund recipients.

CBA contracts were not performance-based, nor were they required to be under the terms of the CBA. Contractors were not required to complete deliverables or achieve specific outcomes in order to receive payment. Three types of payment methods were used for CBA-funded programs:

- Community Construction Training Program contracts were set up for "cost-reimbursement", similar to many grant programs. Although contracts included measurable performance objectives and a total number of participants to be served, payments were made based on actual costs incurred (personnel costs, operating costs, support services, and indirect costs.) Provider invoices did not include any information about progress against goals and payment was not dependent on successful progress against goals. Performance against objectives

was reported in monthly performance reports and monitored; however payment was not contingent on performance.

- Other contracts authorized billing for actual hours worked, up to a “not to exceed” amount. In most cases, contractors reported actual hours worked by task performed, consistent with the contract’s Scope of Work. Some invoices were more detailed than others.
- Technical Assistance “Ala Carte” services were reimbursed upon proof of expenditures. Invoices included a written description of the need for the item or service and its intended use. In some cases the Technical Advisor provided these descriptions. In other cases, the recipient requested the reimbursement directly.

Invoice review and payment authorizations used WSI-prescribed procedures for documentation, review and approval. The WSI Business Manager had final authority for review and payment of invoices on behalf of WSI/CAWS. In addition, all expenditures paid from the Technical Assistance Fund were reviewed by the Technical Assistance Program Manager and Program Advisor. Payees were requested to send documentation to all three.

1% Program monitoring

Community Construction Training, Outreach and Recruitment Fund contractors and Technical Assistance Advisor Vendors were required to report performance and activities on a regular basis. Reports were collected and reviewed by CAWS but not routinely distributed to the LMCOC. We did not see any evidence that CBA performance monitoring was used to help Pre-Apprenticeship Training Programs improve their organizations or services.

Technical assistance monthly reports were reviewed by three parties: the CAWS fund administrator, the Technical Assistance Program Advisor, and the Program Manager from Emerald Cities Portland. The Program Advisor was responsible for conducting evaluations with contractors and advisors. The Program Advisor compiled results.

The CBA did not create any additional requirements for periodic program or vendor audits. The Chief Financial Officer of Worksystems Inc. indicated that WSI audits and performs annual site visits to vendors it pays on behalf of the CBA. City Procurement Services also conducted site visits as part of its routine review.

CBA Compliance funds paid for the preparation of a final report on CBA pilot projects. The evaluation was conducted by individuals who were managing CBA program or funds, were fund recipients, and who had been involved in the design of the programs under evaluation.

C. Performance Analysis

Both City Water Bureau pilot projects exceeded all CBA requirements for workforce utilization and contractor diversity except for the requirement that 9% of journey-level hours be worked by women. Final project performance appears below:

Exhibit C.1 – CBA Pilot Project Performance against Goals

	Goal	Interstate	Kelly Butte
% of apprentice work hours - minority	18%	38.1%	50.3%
% of apprentice work hours – women	9%	33.7%	28.2%
% of journey work hours – minority	18%	21.9%	28.9%
% of journey work hours - women	9%	3.4%	6.2%
% of hard construction costs to M/W/DBE/ESB firms	22%	37.4%	22.2%
% hard construction costs to M/W/DBE firms	12%	33.4%	21.8%
% of covered work hours filled by registered apprentices	20%	21.2%	22.6%
% of employers’ workforce hired from areas designated by the Federal Small Business Administration as Historically Underutilized Business Zones ("HUBZones") within the Portland Metropolitan Area	10%	13.1% ⁹	12.4% ¹⁰

The Kelly Butte project outperformed the Interstate project in utilization of minority apprentices and journey level minorities and women. Interstate performed better than Kelly Butte on utilization of women apprentices and on the percent of hard construction costs awarded to M/W/DBE/ESB firms.

According to stakeholder interviews, the following CBA elements helped to achieve overall project goals:

- Apprenticeship and journey-level goals. Most interviewees agreed that requiring contractors, subcontractors, and stakeholders to be accountable for both apprenticeship and journey-level goals contributed to overall performance.
- Relationships and regular dialog between participants at LMCOOC meetings. According to stakeholder interviews, the LMCOOC provided a mechanism to immediately address workforce or contractor issues and to mobilize resources.
- Hoffman Construction’s commitment to the City’s diversity goals and willing participation in the CBA process.

⁹ As of 1/21/2016.

¹⁰ Kelly Butte Workforce Diversity Report 8/31/2015.

- Investment of resources in outreach and training for minorities and women, and technical assistance to M/W/DBE/ESB firms.
- Union engagement in recruitment and placement of workers.

Community Construction Training, Outreach and Recruitment Program Performance

The CBA 1% funds supported two programs designed to achieve the CBA’s goal to “recruit, retain and promote a diverse workforce.”

- The Community Construction Training Program. On behalf of the LMCOC, CAWS contracted with three Pre-Apprenticeship Training Programs (PATPs) to provide foundational construction training and employment services to targeted populations in order to grow the region’s diverse pool of registered apprentices and to conduct outreach to targeted populations. PATPs were given specific performance goals and targets, and were asked to report on these through the life of the contract.
- The Outreach and Recruitment Program. This program provided funds to support the outreach activities and events sponsored by the Pre-Apprenticeship Training Programs.

The Community Construction Training Program used a well-established and time-tested service model that had been used successfully prior to the establishment of the CBA. The program exceeded original and revised program enrollment goals and achieved positive results against program performance measures. Results are described in Exhibits C.2 and C.3.

Most program participants (85%) successfully completed pre-apprenticeship training, but only 60% of these went on to enter a Registered Apprenticeship. Those who did become Registered Apprentices were likely to be retained as an apprentice through the life of a contract. (Only six of the Registered Apprentices were employed on one of the two CBA pilot projects, however.)

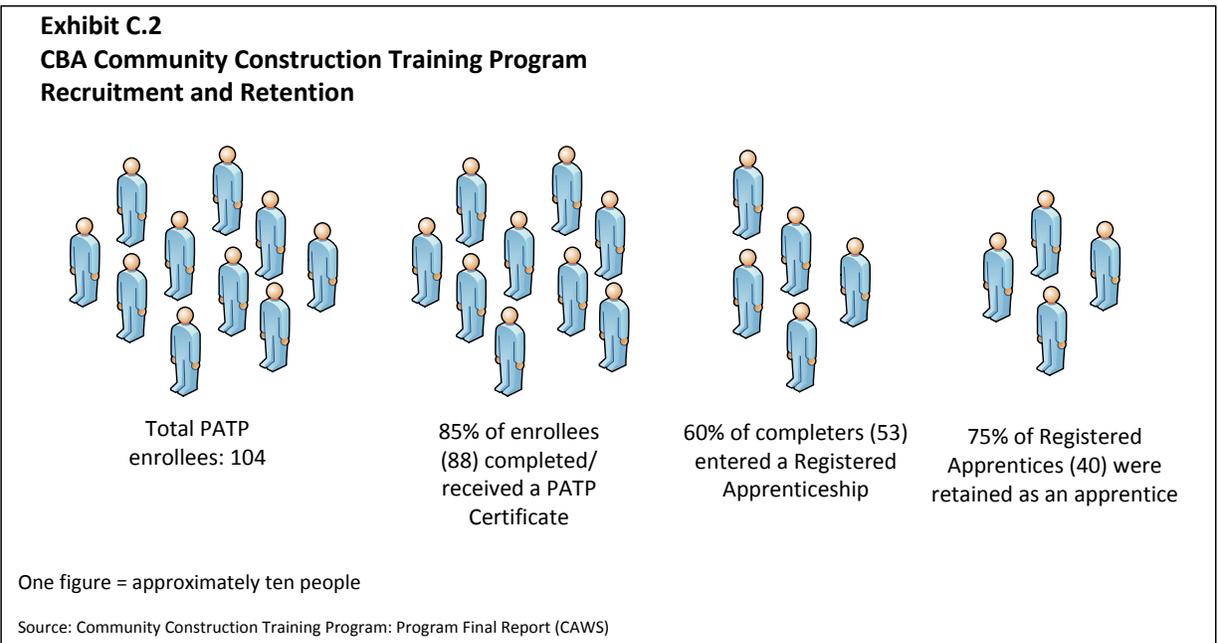


Exhibit C.3 – Community Construction Training Program Performance

Performance Indicators	Goal	Target Participants¹¹	Actual Participants	Actual as a % of Target
Total number of participants to be enrolled in program ¹²	79 participants	79	104	132%
Number and percentage of participants who achieve a BOLI recognized PATP certificate.	80% of total enrollees will achieve a certificate	60	88	147%
Number and percentage of participants who successfully enter a Registered Apprenticeship program.	80% of PATP certificate recipients will enter a Registered Apprenticeship	48	53	110%
Number and percentage of participants who obtain employment in the construction industry.	80% of PATP certificate recipients will be employed	48	78	163%
Number and percentage of participants who are retained as an Apprentice through length of the contract.	60% of participants who enter a Registered Apprenticeship will be retained	28	40	143%

Source: Community Construction Training Program: Program Final Report, delivered to the LMCOC (no date), CAWS.

The Community Construction Training Fund Procurement Framework established recruitment goals by ethnic and economic category in order to better meet overall diversity goals. The Framework recommended that 1/3 of all participants trained through the program should be female and that 2/3 should be ethnic minority males. Target versus actual participant distribution is shown in Exhibit C.4 below.

Overall, the Community Construction Training Program did an effective job of recruiting participants but was not able to balance diversity as planned. The program exceeded its diversity targets for women in all categories. Asian or Pacific Islanders and American Indians or Alaska Natives were slightly underrepresented, and disadvantaged individuals were overrepresented.

¹¹ This table displays goals and target participants as shown in the Program Final Report. Some target participant numbers would be slightly higher if calculated using stated goals. Actual performance exceeded target performance using either calculation. Our actual participants as a percent of target participants varies slightly from the Program Final Report due to rounding.

¹² The LMCOC revised the original goal of 60 participants stated in the Request for Proposals to 79 participants, based on funding availability.

Exhibit C.4: Community Construction Training Enrollment Distribution, by Category

	Target %	Actual %	Male (Target)	Male (Actual)	Female (Target)	Female (Actual)	Total (Target) ¹³	Total (Actual)
African American	50%	41%	27	23	13	20	40	43
Asian or Pacific Islanders	13%	4%	7	1	3	3	10	4
Hispanic	10%	19%	5	13	3	7	8	20 ¹⁴
American Indian or Alaska Native	12%	5%	6	2	3	3	9	5
Disadvantaged individuals non race specific	15%	31%	8	22	4	10	12	32 ¹⁵
Total Program Enrollments:	100%	100%	53	61	26	43	79	104

Assumes distribution of 1/3 female and 2/3 male.

Source: Community Construction Training Program: RFP 4/23/2013 and Program Final Report to LMCOC, (no date) CAWS.

Several factors may have prevented the program from achieving even better results:

- Construction contracts were in place before program funding could be awarded. Pre-Apprenticeship Training Program partners did not have the ability to anticipate and respond to specific project workforce needs.
- Outreach activities did not occur as planned. The Outreach Request for Proposals did not generate sufficient bids. With LMCOC approval, money was distributed to the Community Construction Training Program recipients (Pre-Apprenticeship Training Programs) to perform selected outreach activities.
- The CBA required that the programs be “BOLI-certified, signatory to and supportive of the CBA”. Only four Pre-Apprenticeship Training Programs met program requirements; three were selected for awards. More analysis is needed to determine if the few available BOLI-approved Pre-Apprenticeship Training Programs and qualified Community Based organizations would be sufficient to meet pre-apprenticeship training demands.

The Community Construction Training Program had limited direct impact on the two Water Bureau pilot projects. Approximately 53 (51%) of trainees entered apprenticeship programs, but only six of these apprentices worked on one of the two Water Bureau projects. CBA funded programs and strategies were likely effective in building the capabilities and capacity of women and minority contractors and workers not yet engaged on City projects. A longer term analysis would be needed to confirm this.

¹³ Calculated using target percentages.

¹⁴ The Program Final Report reported a total of 19 Hispanic participants; of these, 13 were male and 7 were female. We adjusted the total to 20.

¹⁵ The Program Final Report reported a total of 35 disadvantaged participants; of these, 22 were male and 10 were female. We adjusted the total to 32.

Technical Assistance Program Performance

The CBA 1% funds also supported a Technical Assistance Program, designed to build the capacity of certified MWDBEs to be successful and grow their businesses in the construction industry. The program included two elements:

- Business Advising Services. The program created a pool of qualified MWDBE Advisor Vendors to provide consultation and support to other MWDBE firms working in the construction industry. Services included tailored business advising, mentoring, and resource referrals.
- Ala Carte Services, such as training, software, and supplies were provided to MWDBE firms upon approval by the Program Manager.

The Business Advising Services and related Ala Carte Services were designed and developed specifically for these pilot projects. A significant amount of the program's resources, approximately 40%, were devoted to design, development and supervision of the program, including the services of a Program Manager and Program Advisor. According to interviewees, the time required to design and launch the Technical Assistance program delayed assistance to pilot project contractors.

The Technical Assistance Program had limited direct impact on the two Water Bureau pilot projects:

- Twenty-six M/W/DBE/ESB firms were assessed by one of the five Advisor Vendors. Of these, 22 actively participated in Technical Assistance Services.
- Ten of the 26 firms were awarded subcontracts on one or both of the pilot projects (three on Kelly Butte, six on Interstate, and one on both projects.) Client firms were awarded \$1,616,968, or 6.27% of total funds awarded to M/W/DBE/ESB firms on the combined projects.
- According to the Project Manager, four additional firms were unsuccessful bidders.
- Twelve firms received Ala Carte funds. Of these, two were training providers. Only three recipients were subcontracted to work on a pilot project (one on Kelly Butte, one on Interstate, and one on both projects).

This program supplemented services that Hoffman Construction provided to its subcontractors. Construction firms we contacted, including Hoffman, provide some sort of technical assistance to minority and women subcontractors on its projects in order to meet City diversity contracting requirements.

Recommendations from Stakeholders

Stakeholders we interviewed identified opportunities to improve CBA administration and programs:

- Conduct fewer Committee meetings. Consider combining the LMCOC and Compliance Subcommittee. (The LMCOC made this change as the projects progressed.)
- Make improvements to technical assistance programs and services. Technical assistance was valuable, but started too late to make a difference on the two pilot projects.
- Restructure administrative costs. Consider both project duration and hard construction costs when determining an appropriate administrative budget.

- Provide stakeholders with access to detailed, disaggregated workforce diversity and M/W/DBE/ESB contracting for better program analysis and evaluation.

D. Comparative Analysis

Overview

Using CBA goals, we compared contractor performance on CBA pilot projects Interstate and Kelly Butte with the performance of four comparable City projects: Balch Consolidated Conduit Support Sewer Replacement (Balch), SW Moody Avenue, Mt. Tabor Water Distribution Upgrades (Mt. Tabor), and Streetcar Loop.¹⁶ Projects varied in size and scope, but each used the Construction Manager/General Contractor (CM/GC) alternative method of contract delivery. All projects were subject to some form of a targeted hire program¹⁷. Interstate and Kelly Butte were part of the CBA pilot. Other projects were subject to the City's Good Faith Effort and Workforce Training & Hiring Programs¹⁸. Two projects, Balch and Mt. Tabor, also participated in the City's Sheltered Market Program (SMP).¹⁹

Workforce and contracting diversity goals varied by project:

- The CBA pilot projects (Interstate and Kelly Butte) were subject to separate workforce goals for hiring female and minority apprentice and journey workers (18% and 9% of project workforce respectively). In addition, the CBA specified that 22% of hard construction costs would go to M/W/DBE/ESB firms. The LMCOC revised a related goal and determined that 12% of hard construction costs would go to M/W/DBE firms.²⁰
- Mt. Tabor's Workforce Plan included an aspirational goal that 20% of apprentice hours would be performed by minorities and women, and a commitment that 35% of subcontracts would be made with M/W/DBE/ESB firms.
- Balch and Moody had no diversity-related workforce goals. The Balch diversity plan established an aspirational goal that \$3.4 million of contracts would be given to M/W/DBE/ESB firms. SW Moody's diversity plan established an aspiration goal of 22% of

¹⁶ For the purposes of this report we are using the abbreviated project titles used by City Procurement Services.

¹⁷ "Targeted hire" programs include tools or mechanisms to increase the participation of socially and economically disadvantaged workers in public construction projects. City mechanisms to increase the availability and accessibility of construction opportunities for minorities and women include Project Labor Agreements with workforce provisions, contract provisions, executive orders, resolutions, and Community Benefits Agreements.

¹⁸ The Good Faith Effort Program requires prime contractors to make an effort to provide subcontracting opportunities to state certified M/W/ESB firms. The Workforce Training and Hiring Program, created by City Ordinance on Feb. 16, 1994, applies to City construction projects over \$200,000. It establishes a process for actively recruiting and training a diverse workforce and provides services to help contractors comply.

¹⁹ The Sheltered Market Program (SMP) was designed to improve opportunities and build capacity of state certified M/W/ESB firms in the regional construction industry to compete in the open market at a prime contracting level. The SMP allows up to one-half of all new formal construction projects from \$100,000 to \$200,000 to be bid to program participants. SMP primes are required to attempt to utilize available SMP firms for sub-contracting on projects bid within the program.

²⁰ Each CBA specified that 22% of hard construction costs would go to M/W/DBE/ESB firms and that 12% of the 22% would go to M/W/DBE firms. The LMCOC later determined that the latter goal would be revised to 12% of hard construction costs. Performance was reported using the updated measure.

subcontracts to M/W/DBE/ESB firms, and that \$5.0 million of contracts would be given to M/W/DBE/ESB firms.

- Streetcar Loop was subject to federal DBE contracting requirements, and had a goal that 16% of federal project funds would be given to DBE firms. The project had aspirational workforce goals, but no other contracting goals.
- All projects were required to fill 20% of project work hours using registered apprentices.

On July 19, 2012 the City of Portland approved an aspirational workforce goal of 27% minorities and women on City-funded construction projects, to include 18% minorities and 9% women. None of the comparable projects was subject to these updated workforce goals since they were already under contract.

Comparable Performance

Each of the six projects met or exceeded their required project performance goals or targets, with some exceptions. CBA pilot projects Kelly Butte and Interstate did not meet the CBA's 9% target for journey-level women. At 19.37% and 19.73% respectively, Mt. Tabor and Streetcar Loop projects were just shy of the required 20% work hours for registered apprentices. At 17.17%, Balch was well-short of this target.

Two projects did not meet one or more of their self-identified aspirational goals. On the Mt. Tabor project, 16.23% of total work hours were performed by minorities and women. The project's aspirational goal was 20%. Streetcar Loop's 9.85% of project hours performed by women nearly met its 10% aspirational goal.

Projects performed well when measured against most CBA workforce diversity goals:

- CBA pilot projects and three of the four comparable projects exceeded CBA apprenticeship goals for both minorities and women.
- CBA pilot projects and two of the four comparable projects exceeded CBA goals for minority journey hours. A third comparable project was within 1% of achieving the goal.
- Comparable projects did not have workforce diversity requirements since these were not added to contracts until late in 2012. However, two projects with aspirational workforce diversity goals (Streetcar, Moody) exceeded most CBA workforce diversity goals.²¹
- Five of the six projects, including the two CBA pilot projects, failed to meet CBA goals for utilizing women journey workers. At 11.77%, only the SW Moody Avenue project exceeded this goal.

Projects also performed well against CBA contracting diversity goals. All projects exceeded the 22% percent of construction costs to M/W/DBE/ESB firms. Over 37% of project costs were subcontracted to M/W/DBE/ESB firms on the Interstate project and over 31% on the SW Moody Avenue project. All

²¹ Mt. Tabor also established an aspirational goal of 20% utilization of minority and female apprentices. It achieved 11.69%

projects but Mt. Tabor also exceeded the goal of 12% to M/W/DBE firms.²² Project performance against CBA goals is highlighted in the exhibits D.1, D.2 and D.3 below.

Exhibit D.1

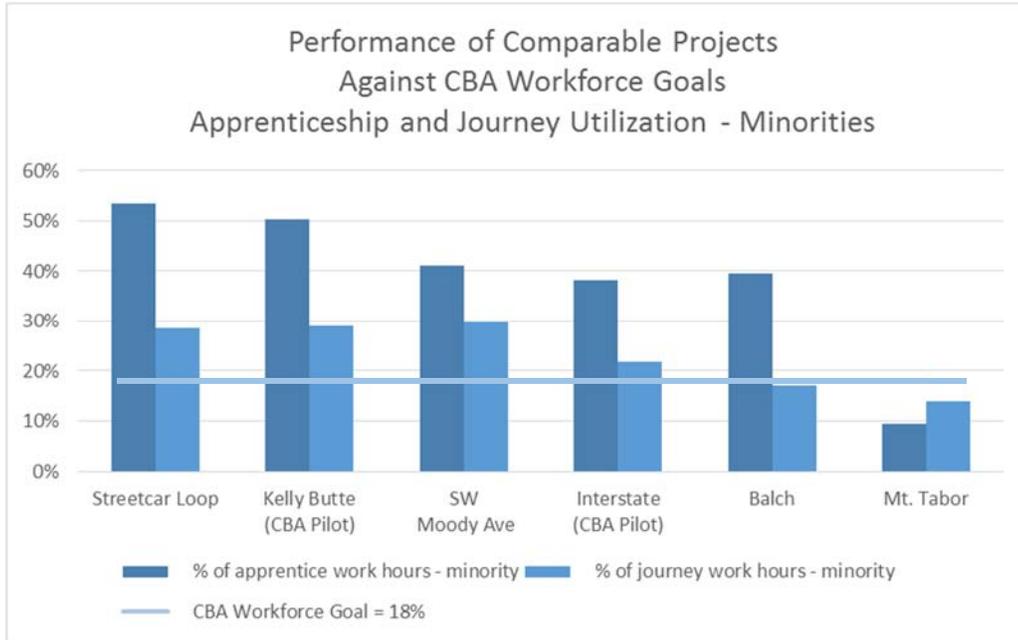
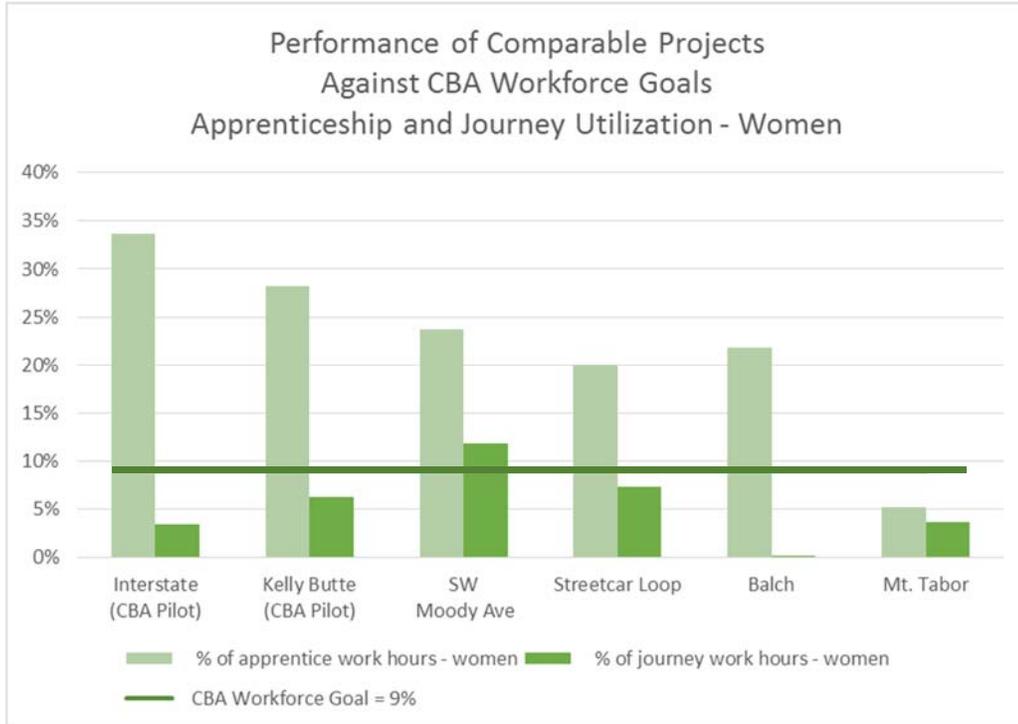
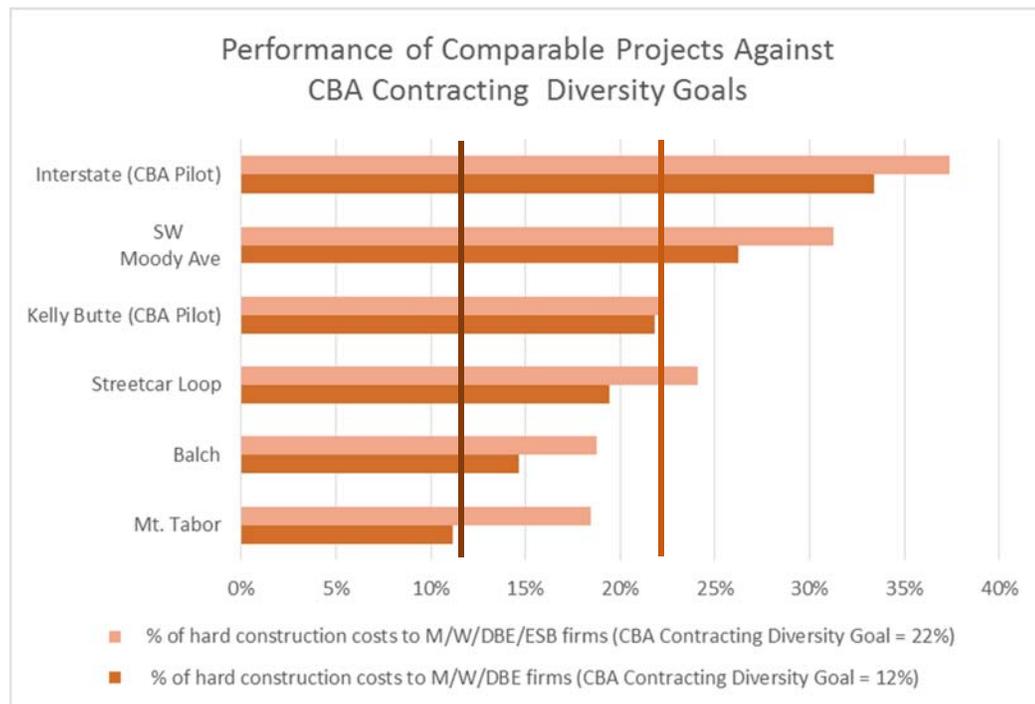


Exhibit D.2



²² Comparable projects did not separately report dollars paid to Disadvantaged Business Enterprises (DBEs). These were likely included in M/W/ESB totals, where applicable.

Exhibit D.3



Activities and Strategies

Many of the same activities and strategies to improve workforce and contracting diversity were employed on both CBA and non-CBA projects. All contractors were required to prepare workforce and contractor diversity plans and to include these with responses to Requests for Proposals. Some of the strategies outlined in comparable project contractor plans and described in interviews or e-mails included:

- Use of a consultant. All firms indicated they contracted with an M/W/DBE/ESB firm for assistance with diversity programs and outreach.
- Outreach to minorities and women. Activities (conducted by the prime contractor or consultant) including job fairs, community events, school to work programs, and internships.
- Outreach to M/W/DBE/ESB firms, including public notices, advertisements, and letters to firms, outreach conferences, trade fairs, and local contracting meetings.
- Bid assistance, including pre-bid meetings, support for projects greater than \$200,000, opportunities to review plans and specifications, and pre-bid meetings, help with writing Requests for Information responses, and review of bidding procedures.
- Technical assistance to M/W/DBE/ESB firms, including assistance with cash flow projections, workshops on bonding, estimating, reporting, contract close out, assistance with paperwork, Informal mentoring, providing Schedule of Values, and capacity building.
- Other assistance to M/W/DBE/ESB firms, including equipment sharing, financial assistance (advance on progress payments, payment advances), reduced or eliminated bonding

requirements, negotiated materials pricing, work packaging (creating smaller work units or collections of work units appropriate to the size and capacity of firms) and help to arrange joint ventures.

- Support to minorities and women in the workforce, including training, anti-harassment and hostile work environment activities, counseling, and language interpretation.
- Work with labor and apprenticeship organizations, including request union dispatch assistance, work with Northwest College of Construction and other community resources, and work with Pre Apprenticeship Training Programs.

Compliance monitoring activities were similar for all projects. City Procurement Services monitored all contracts of \$100,000 or more, and all prime contractors worked with the City to monitor and manage subcontractor compliance. An additional level of monitoring on the CBA pilot projects was provided by the Compliance Monitoring Subcommittee.

CBA pilot projects and two non-CBA projects included contractor and subcontractor penalties for non-compliance in subcontracts. The CBA provided for liquidated damages of \$500 per day for a project contractor or employer's failure to make "Good Faith" efforts to meet diversity goals or provisions. Balch and SW Moody Avenue project diversity plans described non-compliance consequences, included withholding of progress payments and daily damages of \$250 for failure to comply. Mt. Tabor required subcontractors to fulfill their workforce obligations, but did not include any penalties for non-compliance.

All projects had similar data collection and reporting requirements. Contractors reported work hours by trade and ethnicity and contractor/subcontractor utilization and data were captured in the City Procurement Services' BizTrak application. Use of reported information was slightly different for CBA pilot projects, since the LMCOC and Compliance Subcommittee made decisions about how goals would be measured and how data should be displayed.

Costs of Diversity Programs - Comparison

We asked firms to calculate or estimate the costs related to achieving City diversity goals or improving M/W/DBE/ESB participation on their projects. For three of the projects, firms reported costs that included a diversity consultant, staff time related to administration and support of diversity measures, and some technical assistance to M/W/DBE/ESB firms.

Recognizing that certain consultant and labor costs related to diversity are fixed, we elected to compare costs using several measures. (See Exhibit D.4 below.) In general, the CBA pilot project costs appeared to be within the average range for the projects we compared. Diversity-related expenditures as a percent of total construction costs ranged from a low of .31% (Streetcar Loop) to a high of 1.25% (Mt. Tabor). Costs per calendar day ranged from a low of \$169 (Streetcar Loop) to a high of \$244 (Kelly Butte). Costs on the Interstate and Kelly Butte project may have been slightly higher than others, since each project had a specific "CBA Administration" line item in its budget that costs could be charged to.

Exhibit D.4

Comparable City Construction Projects Diversity Program Cost Comparison	Interstate (CBA Pilot)	Kelly Butte (CBA Pilot)	Mt. Tabor	Balch	Streetcar Loop	SW Moody Ave
Prime Contractor	Hoffman	Hoffman	Slayden	James W. Fowler	Stacy & Witbeck	Stacy & Witbeck
Total construction costs	\$35,000,000	\$57,250,000	\$ 23,238,378	\$63,993,997	\$ 108,849,748	\$32,937,013
Project dates	11/6/2012 - 5/16/2016	11/1/2012 - 5/31/2016	11/15/2006 - 6/8/2011	10/1/2008 - 5/31/2012	12/11/2008 - 6/24/2014	12/15/2010 - 1/22/2015
Project duration (calendar days)	1,270	1,290	1,643	967	1,993	1,477
Contract type	CM/CG	CM/CG	CM/CG	CM/CG	CM/CG	CM/CG
Total project hours	147,569	227,755	87,928	191,066	444,562	145,612
Total hours to minorities and women	44,982	91,001	14,272	42,463	176,583	59,187
Total subcontracts to M/W/DBE/ESB firms	\$13,075,472	\$12,722,236	\$ 4,281,527	\$12,002,116	\$ 26,207,801	\$10,288,380
Expenditures on diversity initiatives during project	\$ 227,130	\$ 314,897	\$ 290,439	\$ 214,000	\$ 337,500	n/a
Percent of total construction costs	0.65%	0.55%	1.25%	0.33%	0.31%	n/a
Costs per day	\$179	\$244	\$177	\$221	\$169	n/a
Percent of subcontracts to M/W/DBE/ESB firms	1.74%	2.48%	6.78%	1.78%	1.29%	n/a
Costs per hours to minorities and women	\$5.05	\$3.46	\$20.35	\$5.04	\$1.91	n/a

Source: City of Portland Contract Utilization and Workforce Training & Hiring Reports (BizTrak)
 Mt. Tabor M/W/ESB data provided by COP Procurement (not from BizTrak)
 Diversity cost estimates were provided by contractor firms.

E. Lessons from Other Programs

We examined several programs that have as a central component some form of community benefit, to see if there were lessons that could be applied to the CBA. We selected three programs with features that could inform future improvements of the CBA and its processes:

Portland Children's Levy

The Children's Levy, first approved in 2002, is a special tax levy that may only be spent for "cost effective and proven programs" for early childhood, child abuse prevention, after school, mentoring, foster care, and childhood and family hunger. Several elements are relevant to the CBA:

- **Fund allocation process.** Funds are allocated according to program guidelines by a five member Allocation Committee during open meetings. The committee includes a City Council member, Board of County Commissioners member, representative of the Portland Business Alliance, and a citizen of Portland or Multnomah County with knowledge of children's issues. (This could be larger and more representative of stakeholders, according to a City Audit Report²³.)
- **Program design and development.** Like the CBA, the Children's levy includes well-defined goals that were created in response to public input, local data and research. Six program areas were identified to address goals.
- **Strategic funding allocations.** According to the City Auditor's report, the Allocation Committee makes funding decisions based on each applicant's ability to address goals and specific strategies identified as being important to achieving overall goals.
- **Monitoring and outcome reporting.** Each contract has reporting requirements for both service goals (participation) and outcomes. Grantees are monitored by Children's Levy staff, and monitoring includes site visits to evaluate grantee data systems. The Levy contracted with outside experts to develop outcome measures.
- **Limits on administrative expenses.** The ballot measure limits administrative expenses to 5% of the fund.
- **Audit requirements.** The Levy and its programs are subject to independent financial audits and review and audit by the City Auditor.

City of Seattle and Community Workforce Agreement (CWA)

Seattle's priority hire program approves the use of a Community Workforce Agreement (CWA) on all City projects over \$5 million. The CWA was piloted on a project completed in 2014 and extended to other projects in 2015. The program is similar to Portland's CBA in several ways. Signatories include local unions, and the CWA requires a signed Letter of Assent from the prime contractor for each project. Seattle's CWA requires utilization of workers from economically-distressed zip codes, sets apprenticeship utilization goals, and includes veteran employment targets. It also includes a provision for "core employees" to allow non-union contractor participation.

²³ "Portland Children's Levy: Funds benefit children, but goals and structure should be clarified", Office of the City Auditor, February 2015.

Seattle's CWA governance model is different from Portland's in that it includes two separate committees. Each has a written charter, specific roles and responsibilities, and identified staff support. They are:

- A Joint Administrative Committee (JAC). The JAC discusses issues, impacts and solutions related to the signed Community Workforce Agreement for all CWA-covered public works projects. Specifically, the committee is tasked with addressing safety, targeted hiring, apprenticeship utilization, preferred entry, job progress and other relevant issues that will affect projects. Membership includes City representatives and signatory unions. The City chairs this committee with support from City Purchasing and City Contracting/Labor Equity staff. Meetings are monthly, and City Project Managers and Prime Contractors are required to attend. Community members, subcontractors and other interested parties are welcome to attend and observe JAC meetings.
- The Priority Hire Advisory Committee (PHAC) provides input on overall priority hire implementation on City projects. Members are appointed to a two year term by the Mayor, and include representatives from construction trade labor unions, community organizations, apprenticeship and pre-apprenticeship training programs and technical advisors. According to the PHAC charter the Committee brings members' expertise to bear on creating a Priority Hire pathway/pipeline; ensures transparency and supporting Priority Hire's implementation through a communications plan; captures stories of success and identifying evidence-based best practice(s); looks out for unintended consequences; and makes investment recommendations to the City about barrier remediation for people of color and women in the trades. The PHAC creates an annual report on overall priority hire progress to Mayor and City Council. The City of Seattle appropriated \$500,000 to support Construction Training and Outreach for disadvantaged workers in 2015. The City issued an RFP in October 2015 and selected apprenticeship training providers to fund. The Priority Hire Implementation Advisory Committee (PHAC) provided input to that procurement.

On Sept. 23, 2013, the Seattle City Council created the Construction Careers Advisory Committee to review the City's current contracting program and outcomes, to study best practices from other jurisdictions, and to make policy and program recommendations based on that work. In its Resolution, the City noted that "San Francisco, the City of Los Angeles, and other jurisdictions, have found comprehensive policies, rather than project by project solutions, to be the most effective means to establish a consistent worker pipeline and continuous job opportunities ...The City would benefit from the experience, perspective and knowledge contractors, labor unions, construction workers, workforce training providers, community members, and City experts have to review the policy approaches of other large cities...and other data, to collaboratively explore, consider impacts and benefits of various policy options and develop comprehensive long term strategies that increase construction career opportunities for women, people of color, and otherwise disadvantaged individuals, particularly Seattle residents, in City-funded construction projects..."²⁴

²⁴ City of Seattle Resolution Number 31485, adopted September 23, 2013.

San Francisco Water, Power and Sewer Community Benefits Program

On January 11, 2011 the San Francisco Public Utilities Commission passed a resolution outlining its Community Benefits Policy. According to the resolution, community benefits are defined as the “positive effects on the community that result from the operation and improvement of our water, wastewater and power services.” Some elements of this program:

- Contractors can receive bid preference points for including commitments to provide community benefits in their proposals. Commitments must be consistent with the goals and outcomes of the Community Benefits Policy. They also must be firm, quantifiable and measurable.
- Community benefits are voluntary, but are binding once they have been incorporated into a final contract or agreement. Community benefits criteria are incorporated into all RFPs over \$5 million.
- All funds are intended to support not for profit or charitable activities. Some examples include workforce development, education, and economic development.

Project Approach and Methodology

At the request of the City of Portland our evaluation included four components:

- 1) A financial analysis of the 1 % set-aside for establishment of the Compliance Monitoring Fund, Community Construction Training, Outreach & Recruitment Fund and the Technical Assistance Fund. This analysis was designed to answer the following questions:
 - Where and how were the funds disbursed? What organizations, employers, or employees received them?
 - What were the funds used for? What specific expenditures were made using these funds, and by whom? Were these types of expenditures consistent with the articles in each CBA? Were they consistent with relevant City policies?
 - How were expenditures authorized? Were expenditures made based on a reimbursement of actual expenses or were funds advanced to cover expenses?
 - How were expenditures documented or verified? What was the final documentation for goods or services received?
 - What rules and procedures, if any, did the Labor Management Community Oversight Committee (LMCOC) develop to administer these funds? Were these rules and procedures consistent with relevant City policies?
 - What was the cost of program administration? What percentage of total project funds were used for program administration? If applicable, what was the administrative cost per program participant? Was the percentage of administrative expenditures relative to project costs consistent with City policies, guidelines or experience?
- 2) A program/process analysis of the CBA pilot programs (the 1% programs). This analysis was designed to answer the following questions:
 - What were the CBA pilot program's desired outcomes and objectives? Did stated CBA performance objectives relate directly to desired program outcomes?
 - How well were desired program outcomes and performance objectives communicated to and understood by contractors, subcontractors and other stakeholders? Were desired outcomes and performance objectives clearly identified in Requests for Proposals? In fund recipient subcontracts or grants?
 - Were fund recipients treated as grantees or contractors? Were contracts or grants structured to help achieve desired results? Were measurable performance objectives and reporting requirements included in contracts or grants?
 - What was the contractual relationship between Worksystems, Inc. and Construction Apprenticeship & Workforce Solutions, Inc. (WSI/CAWS) and the LMCOC?
 - Did Requests for Proposals require respondents to link service design (strategies for training, outreach, recruitment and technical assistance) to overall program outcomes and/or

specific performance objectives? Were these subsequently included in contracts or agreements?

- What was the process for awarding or disbursing moneys from the CBA funds? How were recipients evaluated and selected for award? Are these processes documented?
- How were the CBA pilot projects monitored? Was regular reporting required, and if so was it timely and useful? Were any other monitoring activities conducted (site visits or audits, for example?) Did monitoring identify opportunities for program improvement or technical assistance for fund recipients? Was monitoring consistent with City policies, guidelines or requirements?
- What were the "lessons learned" from the CBA pilot? What suggestions or recommendations do program stakeholders have for the program?

3) A performance analysis of the CBA pilot program, to answer the following questions:

- Did the CBA pilot projects achieve the specific performance objectives and requirements for workforce diversity and M/W/DBE/ESB utilization stated in the CBA?
- What results were achieved in meeting the City's objectives for increasing 1) workforce diversity for minorities and women in the construction trades and 2) contracting and subcontracting opportunities for M/W/DBE/ESBs?
- How did the two CBA pilot projects compare with each other in terms of performance?
- How did strategies funded through the CBA (training, outreach, recruitment and technical assistance) contribute to pilot project performance?

4) A comparative analysis of the CBA pilot program with similar contracts or programs. We considered the following questions:

- How did the performance of the two Water Bureau CBA projects compare with similarly-sized City construction projects using alternative contracting methods and no CBA? (We would need to compare each project's strategies to improve M/W/DBE/ESB utilization and workforce diversity in order to make this comparison useful.)
- How did the costs of recruiting and retaining M/W/DBE/ESB firms for the pilot projects compare with recruitment and retention costs on non-CBA projects?
- Were CBA processes for awarding funds consistent with those used in other similar City programs? How did processes compare?

To complete our evaluation, we interviewed or contacted:

- Teresa Elliott, Portland Water Bureau Chief Engineer (Owner Representative, LMCO)
- Thomas Gilman, Kelly Butte Project Manager, Portland Water Bureau
- Walter Lewandowski, Interstate Project Manager, Portland Water Bureau
- Cary Bubenik, Hoffman Construction Project Manager, Kelly Butte (Contractor Representative, LMCO)

- Gerry Hein, Hoffman Construction Project Manager, Interstate (Contractor Representative, LMCOC)
- Angela Pack, City of Portland Procurement Services (Compliance Subcommittee Member)
- Cathleen Massier, City of Portland Procurement Services (Owner Representative, LMCOC)
- John Gardner, WSI/CAWS
- Casey Bernard, WSI (formerly with Emerald Cities Portland)
- Maurice Rahming, O’Neill Electric (LMCOC Employer Representative and former Vice Chair)
- Michael Burch, PNWRCC (LMCOC Union Representative, Former Vice Chair, and Compliance Subcommittee Member)
- Faye Burch, F.M. Burch and Associates (LMCOC member, Compliance Subcommittee member)
- Willy Myers, Columbia Pacific Building Trades Council (LMCOC member)
- Bill Kowalczyk, Portland Youth Builders, retired (LMCOC member)
- Connie Ashbrook, Oregon Tradeswomen (LMCOC member)
- Pat Daniels, Constructing Hope (LMCOC member)
- Judith Mowry, Acting Director, City Office of Equity and Human Rights
- Scott Thibert, James W. Fowler Construction (Balch Project)
- Jennifer Erickson, Slayden Construction Group (Mt. Tabor Project)
- Julie Greb, Stacy & Witbeck Construction (Streetcar Loop Project)
- Marcia Norrgard, Chief Financial Officer, Worksystems Inc.

We also reviewed and analyzed a significant number of documents provided to us by the City of Portland and collected during our review. Some of these included:

- Model and Modified Community Benefits Agreements
- Construction Contracts for Kelly Butte and Interstate Projects
- Roles and responsibilities of the LMCOC
- CBA program design documents, descriptions, and plans
- Post-program evaluations
- LMCOC Meeting Minutes
- City Purchasing and Contracting Rules
- Program Requests for Proposals, contracts and work products
- Financial transactions, expenditure data
- Reports, descriptions, and audits of comparable programs
- Contractor performance reports
- Subcontractor and Supplier Outreach plans for comparable projects.

Finally we conducted an on-site review of WSI/CAWS financial records, invoices and payment authorizations for CBA-funded work.