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Letter Report: Public-Private Development Project Compliance with Certified Business Enterprise Goals through the 2nd Quarter of Fiscal Year 2010

November 5, 2010

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The Honorable Kwame Brown, Chairperson
Committee on Economic Development
Council of the District of Columbia
1350 Pennsylvania Avenue, N.W., Suite 506
Washington, D.C. 20004

Letter Report: Public-Private Development Project Compliance with Certified Business Enterprise Goals through the 2nd Quarter of Fiscal Year 2010

Dear Chairperson Brown:

Pursuant to the Small, Local, and Disadvantaged Business Enterprise Development and Assistance Act of 2005 (the Act), as amended,[1] the Auditor conducted an examination of the compliance of public-private developers with the minimum requirements set forth in Certified Business Enterprise (CBE) Agreements or Memoranda of Understanding (MOU) executed by the Department of Small and Local Business Development (DSLBD) with each developer at the outset of each project.[2]

OBJECTIVES, SCOPE, AND METHODOLOGY

The objectives of this examination were to:

1. determine whether developers complied with the requirements of their CBE Agreements or MOUs through the 2nd Quarter of FY 2010 (March 31, 2010); and

2. assess the procedures used by DSLBD to develop and execute CBE Agreements and MOUs, track and communicate project status, and collect compliance data from developers.

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[1] *See* D.C. Official Code § 2-218.01 of the Small, Local, and Disadvantaged Business Enterprise Development and Assistance Act of 2005, as amended.

[2] The Auditor's Certified Business Compliance Unit is responsible for monitoring and reporting on compliance matters relating to District agencies' adherence to Small Business Enterprise expenditure requirements and the monitoring and tracking expenditures to all Certified Business Enterprises received from District subsidized private development construction projects. The transfer of the CBCU from the Department of Small and Local Business Development to the Office of the D.C. Auditor on October 1, 2009 provides an independent means of assessing whether District agencies and private developers are meeting the minimum requirements set forth in the Small, Local, and Disadvantaged Business Enterprise Development and Assistance Act of 2005, as amended, and providing economic development opportunities to District small businesses.

The examination covered the duration of each developer's project through the 2nd Quarter of FY 2010 (March 31, 2010).

The Auditor reviewed available CBE Agreements and MOUs executed by DSLBD with each developer. The Auditor also reviewed each project's CBE expenditures, submitted to DSLBD, from the beginning of the project until the end of FY 2009, which were provided by DSLBD. Finally, the Auditor reviewed CBE expenditure reports for the 1st and 2nd Quarters of FY 2010 which were submitted directly to the Auditor by developers of public-private development projects.[3]

This examination was conducted as a nonaudit service[4] because of the limitations in data submitted to the Auditor by DSLBD.

BACKGROUND

The Small, Local, and Disadvantaged Business Enterprise Development and Assistance Act of 2005, as amended, states: "It shall be the goal and responsibility of the Department [of Small and Local Business Development] to stimulate and foster the economic growth and development of businesses based in and serving the District of Columbia, particularly certified business enterprises, with the intended goals of:

(A) Stimulating and expanding the local tax base of the District of Columbia;

(B) Increasing the number of viable employment opportunities for District residents; and

(C) Extending economic prosperity to local business owners, their employees, and the communities they serve."

The Act also tasks DSLBD with providing "advocacy, business development programs, and technical assistance offerings" that will "maximize opportunities for certified business enterprises to participate in:

(A) The District's contracting and procurement process;

(B) The District's economic development activities; and

(C) Federal and private sector business opportunities that occur in the District of Columbia."[5]

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[3] Effective October 1, 2009, public-private developers were required to submit quarterly CBE expenditure reports to the Auditor

[4] *See* Government Auditing Standards, July 2007 Revision A3.02 and A3.03a, which states in part that Audit organizations in government entities frequently provide nonaudit services that differ from the professional services provided by an accounting or consulting firm to or for the audited entity. The types of nonaudit services are often performed in response to a statutory requirement, at the discretion of the authority of the audit organization, or for a legislative oversight body or an independent external organization and do not impair auditor independence. Examples of these types of services include providing information or data to a requesting party without auditor evaluation or verification of the information or data.

[5] *See* D.C. Official Code §2-218.13(a) of the Small, Local, and Disadvantaged Business Enterprise Development and Assistance Act of 2005, as amended.

Prior to July 1, 2007, DSLBD and its predecessor, the Office of Local Business Development, established MOUs with developers that received financial assistance from the District government. The MOUs listed the amount that each developer was to spend with CBEs, typically around 35% of the adjusted project budget,[6] however, the MOUs only required that a developer make an effort to meet the CBE expenditure goal. Starting July 1, 2007, DSLBD began executing CBE Agreements that required developers to meet specified CBE expenditure goals.

Prior to the establishment of the Certified Business Compliance Unit in the Office of the District of Columbia Auditor on October 1, 2009, DSLBD was responsible for receiving, monitoring, and reporting expenditures with CBEs based on quarterly expenditure reports received from developers. Since the October 1, 2009 transfer, the Auditor reviewed DSLBD's database of public-private development projects and determined that, as of March 31, 2010, there were 275 unique projects stored in DSLBD's database. Of these 275 projects, the Auditor was able to monitor CBE expenditures for the following:

- 30 projects that were completed and have a documented CBE expenditure goal; and
- 45 projects that are ongoing and have a documented CBE expenditure goal.

The Auditor was unable to monitor compliance for the remaining 200 projects which fall into the following categories:

- 46 projects that have an unknown CBE goal because DSLBD could not locate a complete CBE Agreement or MOU;[7]
- 93 projects with an unknown status because: 1) DSLBD could not provide information on whether the project is ongoing or completed; and 2) the developer did not submit expenditure reports in FY 2010; and
- 61 projects that have an unknown CBE goal and an unknown status.

To summarize, there are 107 projects that have an unknown CBE goal because DSLBD could not locate a complete CBE Agreement or MOU, and there are 154 projects with an unknown status. The Auditor made multiple attempts to obtain more information from DSLBD on these 200 projects, but DSLBD management was unable to satisfy the requests. The following section and appendices provide more detail on all of these projects.

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[6] The adjusted project budget represents the total project budget less taxes, fees, utilities, and other costs that cannot reasonably be expected to be expended with CBEs.

[7] DSLBD either could not locate the CBE Agreement/MOU at all or provided a CBE Agreement/MOU that was missing the signature of the developer and/or the signature of the Director of DSLBD.

RESULTS OF THE AUDITOR'S ANALYSIS

Of the 30 Completed Public-Private Development Projects that the Auditor Was Able to Monitor, 24 Projects Met CBE Expenditure Goals and 6 Projects Did Not Meet CBE Expenditure Goals

The CBE Agreement or MOU for each public-private development project defines the CBE expenditure goal for the life of that project. Thus, developer compliance with CBE goals can only be assessed when the project has been completed. CBE expenditure goals vary from project to project, but they often represent approximately 35% of the adjusted project budget.

Because of the important distinction between projects with CBE Agreements that require compliance with CBE expenditure goals versus projects with MOUs that only require an effort to meet goals, the Auditor has broken down the detailed compliance results into two distinct tables:

- Table I presents the compliance status of 11 completed projects with CBE Agreements; and
- Table II presents the compliance status of 19 completed projects with MOUs.

Table I
Compliance of Completed Public-Private Development Projects with CBE Agreements

#	Project Name	CBE Agreement Execution Date	CBE Goal	CBE Expenditures	% of Goal Achieved
1	510 Newton Street, NW - CONSYS, Inc. - United General Contractors	5/21/2009	$25,340	$188,000	742%
2	Vestry of Rock Creek Parish	11/27/2007	$56,774	$229,852	405%
3	American Educational Research Association	7/25/2007	$370,561	$709,117	191%
4	Mi Casa Inc. - 1320 Trinidad Ave, NE	1/9/2009	$51,625	$84,780	164%
5	Jesuit Conference Inc.	9/24/2007	$470,750	$728,770	155%
6	Thomas B. Fordham Foundation	10/25/2007	$325,500	$472,876	145%
7	Pew Charitable Trust	3/3/2008	$11,032,000	$13,084,386	119%
8	Knowledge is Power Program of District of Columbia -KIPP DC- PCS – Will Academy	8/4/2008	$3,279,914	$3,439,159	105%
9	American Sociological Association - ASA	11/28/2007	$577,500	$477,351	83%
10	1331 L Street, N.W.	1/17/2008	$8,676,479	$6,933,355	80%
11	Madame Tussauds Washington DC	12/20/2007	$2,726,850	$287,167	11%

Table II
Compliance of Completed Public-Private Development Projects with MOUs

#	Project Name	MOU Execution Date	CBE Goal	CBE Expenditures	% of Goal Achieved
1	Sidwell Friends School	6/6/2005	$1,050,000	$3,320,656	316%
2	United Planning Organization	4/2/2002	$1,116,500	$3,175,062	284%
3	Embassy Suites Hotel - 1000 K LLC	1/11/2004	$16,268,294	$30,463,850	187%
4	Wesley House Limited Partnership - Wesley Senior Housing	8/22/2006	$4,652,122	$8,249,412	177%
5	Sibley Memorial Hospital -2002	7/19/2002	$9,699,025	$16,723,334	172%
6	Shakespeare Theater Project - 620 F Street, NW	11/26/2002	$6,998,586	$10,565,416	151%
7	Hunter Pines Limited Partnership -Hunter Pine Apartment	5/4/2006	$2,297,249	$3,363,434	146%
8	Howard Hill Limited Partnership - Howard Hill Apartments	12/23/2004	$646,412	$883,005	137%
9	A&R Development Corp. -Capitol Gateway Estate Project- Henson LLC	11/3/2003	$26,385,117	$35,864,691	136%
10	Portal's Hotel Site - The Mandarin Hotel	2/28/2002	$19,075,000	$24,973,309	131%
11	Freedom Forum, Inc. - Newseum Project	11/28/2006	$7,020,656	$9,097,992	130%
12	600 Second Street Holdings, LLC - Station Place - Building 2	2/3/2004	$20,365,426	$24,847,687	122%
13	NJA Hotel LLC -Capitol Hill Towers - Marriott Courtyard	3/12/2004	$6,483,859	$7,635,517	118%
14	Golden Rule Plaza Project	8/15/2001	$4,004,700	$4,396,452	110%
15	New Fairmont LP - New Fairmont I & II Projects	5/25/2004	$2,905,000	$3,093,388	106%
16	DC Preparatory Academy - DCPA	6/17/2005	$1,374,188	$1,395,789	102%
17	Gallery Place Holdings, LLC	6/19/2001	$30,014,929	$28,956,609	96%
18	Lowell School	12/28/1998	$1,986,600	$1,656,625	83%
19	St. Coletta Special Education Public Charter School, Inc	6/6/2005	$5,253,500	$400,000	8%

In summary, the Auditor determined that 11 projects with CBE Agreements have been completed. Of those 11 projects, we found that:

- 8 met the CBE expenditure goal; and
- 3 did not meet the CBE expenditure goal.

The Auditor determined that 19 projects with MOUs have been completed. Of those 19 projects, we found that:

- 16 met the CBE expenditure goal; and
- 3 did not meet the CBE expenditure goal.

The Auditor's findings indicate that some developers take CBE goals seriously and make substantial efforts to meet those goals. Nonetheless, 20% of the 30 developers that the Auditor was able to monitor did not meet their CBE goals; this represents a serious failure in the District's efforts to support the CBE community and fulfill the goals of the Act.

As noted above, compliance with CBE expenditure goals can only be assessed when the public-private development project has been completed. However, it is important to monitor ongoing projects to ensure that they are on course to meet CBE goals. Again, because of the important distinction between projects with CBE Agreements versus those with MOUs, the Auditor has broken down the 45 ongoing projects we were able to monitor into two distinct appendices:

- Appendix I presents the status of 35 ongoing projects with CBE Agreements; and
- Appendix II presents the status of 10 ongoing projects with MOUs.

Recommendations

1. DSLBD should include penalties for developers that do not meet CBE expenditure goals in all CBE Agreements.

2. DSLBD should develop and implement a standard operating procedure to contact developers that are not on course to meet their CBE goal at least once every three months and provide support in identifying appropriate CBEs with the necessary skills for the project.

3. DSLBD should maintain a public database of non-compliant developers.

9 Public-Private Developers Submitted CBE Agreements On Time

On October 1, 2009, DSLBD began requiring public-private developers to submit a copy of their fully executed CBE Agreement to the Auditor and meet with the Auditor within 10 days of the date of execution of the Agreement. This requirement provides the Auditor with an opportunity to explain the compliance monitoring process to developers.

Appendix III presents the compliance status of the nine developers that obtained fully executed CBE Agreements from DSLBD between October 1, 2009 and March 31, 2010. In summary, the Auditor found that all nine developers submitted their CBE Agreement to the Auditor and met with the Auditor on time.

Of the 55 Public-Private Developers That Submitted Required Quarterly CBE Expenditure Reports in FY 2010, 18 Submitted Complete Reports On Time, 10 Submitted One or More Complete Reports Late, and 27 Submitted One or More Incomplete Reports

The CBE Agreement or MOU for each public-private development project defines the due date for quarterly CBE expenditure reports. Appendix IV presents the compliance status of the 55 developers that submitted required quarterly CBE expenditure reports to the Auditor for the 1st and 2nd Quarters of FY 2010. In summary, the Auditor found that:

- 18 developers submitted complete 1st and 2nd Quarter FY 2010 reports on time;
- 10 developers submitted one or more complete quarterly FY 2010 reports late; and
- 27 developers submitted one or more quarterly reports in FY 2010, but they did not contain complete data.

Of the 55 public-private developers that submitted quarterly reports, the Auditor was able to monitor 46 developers. Of the 46 monitored projects, one was completed and 45 are the ongoing projects described on page 6 of this report and listed in Appendices I and II. The remaining 9 projects could not be monitored because DSLBD could not provide the public-private developer's CBE Agreement or MOU to the Auditor.

This finding indicates that many developers are not complying with the reporting requirements in their CBE Agreements or MOUs and DSLBD, in many cases, has failed to obtain and maintain executed CBE Agreements and MOUs for a significant number of development projects. Furthermore, DSLBD has not provided support and outreach to non-compliant developers. Without timely and complete expenditure reports, the Auditor is unable to assess whether developers are on course to reach their CBE goals.

Recommendations

1. DSLBD should include a provision in all CBE Agreements to penalize developers that do not submit complete and timely quarterly CBE expenditure reports.

2. DSLBD should provide support to developers that are not meeting their requirements.

3. DSLBD should locate all missing CBE Agreements and MOUs and provide them to the Auditor.

DSLBD Could Not Provide Information on the Status of 154[8] Public-Private Development Projects that Did Not Report Expenditures in the 1st and 2nd Quarter of FY 2010

The Auditor requires detailed information on the status of all public-private development projects in order to monitor CBE expenditure compliance. Without information on whether construction on the project has not yet begun, is ongoing, or has been completed, the Auditor cannot make a determination as to the CBE goal compliance status of the project. Currently, the Auditor is notified of new projects when: 1) DSLBD creates a new record in their project database; or 2) DSLBD or the developer submits the CBE Agreement to the Auditor. In light of DSLBD's frequent turnover in key personnel and ineffective management of this function, this process is neither effective nor efficient. Also, it does not ensure the development and execution of CBE Agreements at all or in a timely manner. Similarly, there is no official process by which the Auditor is notified when a project is completed.

Appendix V presents a list of 154 projects that did not submit CBE expenditure reports in FY 2010 and for whom DSLBD could not provide a definitive status as to whether construction on the project has not yet begun, is ongoing, or has been completed. Until the Auditor receives clear documentation on the status of these 154 projects, there is no way to accurately assess and report on compliance.

Recommendation

> DSLBD should develop and implement a standard operating procedure to track the status of every public-private development project and formally and immediately notify the Auditor of the initiation and completion of construction on public-private development projects.

DSLBD Could Not Locate Complete CBE Agreements or MOUs for 107[9] Public-Private Development Projects

In order to properly monitor compliance of public-private developers, the Auditor requires a fully executed, complete, and accurate CBE Agreement or MOU. Without these documents, the Auditor has no way of verifying a project's CBE expenditure goal or establishing a due date for quarterly expenditure reports. After several requests over the past few months, DSLBD was not able to locate CBE Agreements or MOUs for 107 projects listed in Appendix V. DSLBD is continuing its effort to locate the fully executed documents so that the Auditor can include a CBE compliance assessment of these projects in the year-end compliance report where necessary.

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[8] The 154 projects with an unknown status are a subset of the 200 projects for which the Auditor could not monitor compliance with CBE expenditure goals.

[9] The 107 projects with missing CBE Agreements or MOUs are a subset of the 200 projects for which the Auditor could not monitor compliance with CBE expenditure goals.

Recommendations

1. DSLBD should develop and implement a standard operating procedure by which the Auditor is formally and immediately notified of the execution of each CBE Agreement. DSLBD should also promptly provide a copy of the executed CBE Agreement to the Auditor.

2. DSLBD should develop a secure and well-organized record-keeping system and database of all current and future executed CBE Agreements.

3. DSLBD should locate all missing CBE Agreements and MOUs and provide them to the Auditor.

DSLBD Executed Target Sectors in 33 CBE Agreements Without Proper Review and Approval

A target sector is defined in most CBE Agreements as a trade, service, or function that the developer believes no CBE can perform. After the CBE Agreement is executed, DSLBD asks developers to submit a list of professional services, trade specialties, or other vocational areas in which CBEs either lack capacity, lack capability, or in which such firms traditionally do not participate as prime contractors in construction projects of this nature and size. DLSBD typically includes the list as an addendum to the CBE Agreement and includes an approval signature line for both the Director of DSLBD and the public-private developer. Developers are given additional credit[10] toward their CBE goal if they use a Disadvantaged Business Enterprise (DBE) to perform work in any of the specified areas.[11] This feature is an incentive for public-private developers to hire DBEs to perform these trades, services, and functions who might otherwise never obtain an opportunity to learn and/or perform certain trades.

Out of the 88 CBE Agreements provided to the Auditor that include target sector provisions, the Auditor found 33 Agreements in which DSLBD allowed public-private developers, by default, to dictate the terms of their target sectors without ensuring a complete review and approval by DSLBD staff. In these 33 CBE Agreements, DSLBD included a provision that allowed for a developer's target sector list to be "deemed approved" if DSLBD did not complete its review of the list within 10-30 days of its receipt. The 33 projects can be found in Appendix VI. For example, one CBE Agreement which DSLBD executed on July 11, 2008 states, "...If DSLBD does not complete its review (of Target Sector) within 30 days of its receipt of the relevant information, the reporting bonus will be deemed approved." Another CBE Agreement, which DSLBD executed on February 25, 2008 states, "If the Director does not complete his/her review within 10 business days of receipt of the relevant information, the Reporting Bonus shall be deemed approved."

[10] Additional credit is calculated by multiplying the amount of the eligible expenditure by an assigned value, such as 1.5. This assigned value varies between CBE Agreements. Therefore, in this example, every $1 that a developer spends with a DBE in a target sector vocational area counts as $1.50 towards the developer's CBE goal.

[11] Nearly all CBE Agreements or MOUs with target sector provisions allow additional credit to be granted only when the developer hires a DBE. However, there are several Agreements that allow developers to hire other types of CBEs to attain additional credit. See the finding on page 11 of this report for more information on this variation.

The effect of this provision is that developers can receive inappropriate extra credit toward their CBE expenditure goals. For example, one developer submitted a lengthy Target Sector list that was deemed approved by DSLBD, without the official signature of the Director of DSLBD. The list included two professional services, architecture and carpeting/flooring, for which the Auditor found many eligible CBEs who could have performed the work. There were at least 12 CBE architecture firms listed in DSLBD's CBE Business Online database and at least 33 CBE carpeting/flooring firms listed in CBE Business Online. Therefore, this developer could receive inappropriate extra credit toward the project's CBE expenditure goal for architectural and carpeting/flooring work performed. Furthermore, DSLBD's lack of review and approval adversely impacts the opportunities available to all qualified CBEs throughout the District. Every dollar of inappropriate extra credit granted to a developer reduces the incentive for that developer to hire other CBEs to work on the project.

The Auditor has serious concerns with DSLBD's lack of formal review and approval of every component of the CBE Agreements executed with public-private developers. This practice allows for developers to inappropriately influence the terms of their CBE Agreements without ensuring a thorough review by DSLBD.

Recommendation

DSLBD should ensure that CBE Agreements do not allow for any terms to be finalized without complete review and approval by the Director of DSLBD.

DSLBD's Process for Establishing Target Sectors is Inefficient

As described above, developers are asked to devise a list of professional services, trade specialties, or other vocational areas for which they will receive extra target sector credit and submit the list to DSLBD after execution of the CBE Agreement. The target sector list is typically included as an addendum to the CBE Agreement.

Out of the 88 CBE Agreements provided to the Auditor that include target sector provisions, the Auditor found 55 Agreements in which DSLBD must formally approve the target sector list before it can go into effect. The Auditor found that this process causes unnecessary delays in finalizing the terms of CBE Agreements. DSLBD can sometimes take weeks or months to approve target sector lists and/or forward them to the Auditor. During these delays, developers have sent unapproved target sector lists directly to the Auditor so that they can be credited for expenditures made within the target sector provisions. However, without finalized terms, the Auditor cannot properly assess compliance with CBE expenditure goals because it is impossible to determine whether the developer should receive extra credit for certain expenditures. The Auditor sees no reason why the target sector list cannot be finalized prior to execution of the CBE Agreement and incorporated into the Agreement at the time of execution.

Recommendation

DSLBD should incorporate target sector lists into the CBE Agreement at the time of execution.

DSLBD Allowed For a Significant Amount of Unnecessary Variation in CBE Agreements

In reviewing the 168 CBE Agreements and MOUs provided by DSLBD, the Auditor found that the Agreements include an unnecessary amount of variation that creates confusion for developers and DSLBD, and limits the Auditor's ability to effectively monitor public-private development projects.

The most problematic variations are listed below.

- 131 CBE Agreements include a total project budget, however, 37 do not, making it impossible for the Auditor to assess the appropriateness and accuracy of the adjusted project budget and CBE expenditure goal for those projects.
- 97 CBE Agreements require developers to submit quarterly CBE expenditure reports within 30 days of the end of the quarter. However, there is no consistency throughout all CBE Agreements and the remaining 71 CBE Agreements have varying due dates for quarterly CBE expenditure reports. For example, some CBE Agreements include due dates of 15, 45, or 60 days after the end of the quarter. This unnecessary variation forces the Auditor to wait until at least 60 days after the end of each quarter to issue complete compliance reports.
- DSLBD does not state project names consistently in CBE Agreements. DSLBD sometimes uses the developer's name and sometimes uses the prime contractor's name in the CBE Agreement. Additionally, the project name on the CBE Agreement does not always match the project name in DSLBD's project database. This inconsistency makes project tracking considerably more difficult for both DSLBD and the Auditor.
- The Auditor found numerous inconsistencies in the language used to describe target sectors and how they are to be applied in the 88 CBE Agreements provided to the Auditor that include target sector provisions. For example, some CBE Agreements indicate that the developer shall only receive extra credit toward their CBE goal if they use a DBE for services that fall within a target sector. In other CBE Agreements, developers receive target sector credit for using any CBE that is *not* a DBE. Some CBE Agreements allow for varying credit to be granted to a developer depending on whether they use a DBE or a CBE to perform the work. And finally, one CBE Agreement included a provision that allowed the developer to receive extra credit for "every dollar expended with a SBE and/or DBE for services *not included* in a Target Sector." (Auditor's emphasis)

These inconsistencies make it especially difficult for DSLBD and the Auditor to track all of the differences between hundreds of CBE Agreements and ensure timely compliance with the varying requirements.

Recommendation

While the Auditor acknowledges that individual contract language may differ based on economic circumstances, DSLBD should standardize its CBE Agreement language to the greatest extent possible to streamline project tracking and compliance. Furthermore, DSLBD should consider amending existing CBE Agreements that contain these types of variations.

CONCLUSION

The Auditor found that some public-private developers have worked hard to achieve their goals, submit complete and timely CBE expenditure reports, and submit CBE Agreements to the Auditor. However, the remaining developers are not complying with requirements that are aimed to enhance the District's CBE community by stimulating and expanding the local tax base, increasing the number of viable employment opportunities for District residents, and extending economic prosperity to local business owners, their employees, and the communities they serve.

Furthermore, DSLBD's ineffective organization and management and lack of policies and procedures have resulted in poor implementation of the District's CBE program for public-private development projects. DSLBD's inability to locate CBE Agreements and MOUs, determine the status of projects, and notify the Auditor of key milestones for each project highlights the lack of control that has pervaded this program for some time.

Respectfully,

Deborah K. Nichols

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District of Columbia Auditor

APPENDICES

APPENDIX I

Progress Towards CBE Goal of Ongoing Public-Private Development Projects with CBE Agreements

#	Project Name	CBE Agreement Execution Date	CBE Goal	CBE Expenditures	% of Goal Achieved
1	Georgetown University -Series A, B, and C	7/19/2007	$226,300,000	$189,368,192	84%
2	Corcoran Gallery of Art - Roofing Project	7/25/2007	$2,800,000	$2,786,161	100%
3	Forest City SEFC, LLC - The Yards - South Eastern Federal Center (Waterfront)	8/10/2007	$399,096,997	$10,305,227	3%
4	Council on Foreign Relations - CFR	8/13/2007	$7,655,742	$6,789,247	89%
5	American Immigration Lawyers Association	12/3/2007	$3,417,670	$528,365	15%
6	DC Arena L.P. - Verizon Center	12/20/2007	$9,161,250	$0	0%
7	American Association for the Advancement of Science - AAAS	12/31/2007	$12,449,500	$3,682,973	30%
8	Cesar Chavez - PCS -Public Charter Schools for Public Policy	1/9/2008	$2,703,610	$480,663	18%
9	Arena Stage - Washington Drama Society	2/20/2008	$36,767,613	$0	0%
10	American Legacy Foundation	3/5/2008	$2,664,090	$2,549,007	96%
11	Center for Strategic & International Studies, Inc.	3/20/2008	$21,465,500	$0	0%
12	National Child Research Center - NCRC	4/22/2008	$2,004,218	$495,704	25%
13	Children's National Medical Center - Children's Hospital	5/1/2008	$62,761,187	$23,104,661	37%
14	The Estates at MT. Vernon, LLC - Truxton Row	5/2/2008	$1,350,574	$452,538	34%
15	Howard Theatre Development Group, LLC (Restoration)	5/23/2008	$5,917,749	$1,640,437	28%
16	AAMC - Association of American Medical Colleges (SQ 24 Project)	5/28/2008	$7,201,724	$5,030,082	70%
17	Waterfront Associates, LLC (Waterfront Station)	7/11/2008	$162,140,594	$86,243,458	53%
18	Euphemia L. Haynes Public Charter School, Inc.	8/4/2008	$3,822,134	$2,382,263	62%
19	St. Martin's Apartments, L.P.	8/27/2008	$11,440,791	$8,260,642	72%
20	American Society of Hematology - ASH	1/15/2009	$4,117,163	$1,084,791	26%
21	Washington Center for Internships and Academic Seminars 2009	1/27/2009	$12,234,517	$1,895,777	15%
22	Blue Skye Development LLC -Mixed Income- 6425 14th St, NW	4/15/2009	$1,187,162	$1,815,108	153%
23	3800 LOTS, LLC - 3825-3829 Georgia Ave NW	5/19/2009	$1,432,988	$0	0%

#	Project Name	CBE Agreement Execution Date	CBE Goal	CBE Expenditures	% of Goal Achieved
24	3800 Storefronts, LLC 3813-3815 Georgia Ave NW	5/19/2009	$401,450	$0	0%
25	High Street Development - Keystone Plus Construction	5/20/2009	$41,388	$0	0%
26	R&R LLC - 1205 Delafield Place NW	7/7/2009	$33,924	$0	0%
27	Reyes LLC - 2305 1st Street	7/7/2009	$41,983	$0	0%
28	Blue Skye - Hayes Street Project	7/10/2009	$1,292,213	$844,282	65%
29	DIX Street Corridor Revitalization Partners LLC - Dix Eastern	7/14/2009	$4,080,832	$151,971	4%
30	Sibley Memorial Hospital - Lucy Webb Hayes National - 2009	7/15/2009	$7,500,000	$5,619,679	75%
31	1819 H Place NE - Kahssaye Tekle	8/5/2009	$21,525	$50,000	232%
32	Mi Casa - Ivy City	9/10/2009	$322,060	$39,608	12%
33	Methodist Home of DC - Military Rd NW Project - The Methodist Home Forest Side	12/15/2009	$3,655,393	$1,092,481	30%
34	Park Vista Apartments	2/18/2010	$4,129,330	$0	0%
35	Sheridan Terrance Redevelopment, LLC	3/5/2010	$28,970,740	$0	0%

APPENDIX II

Progress Towards CBE Goal of Ongoing Public-Private Development Projects with MOUs

#	Project Name	MOU Execution Date	CBE Goal	CBE Expenditures	% of Goal Achieved
1	HILLEL - The Foundation for Jewish Campus Life	6/3/2004	$1,137,500	$506,474	45%
2	National Association of Realtors - NAR	2/15/2005	$7,042,000	$4,397,115	62%
3	Howard Road Academy Public Charter School	4/5/2005	$2,156,058	$1,124,081	52%
4	Hines - (Former) Old Convention Center Site Redevelopment - CityCenterDC	6/8/2005	$195,287,019	$17,839,080	9%
5	Protestant Episcopal Cathedral Foundation - PECF	6/22/2005	$9,635,627	$4,645,444	48%
6	American College of Cardiology Foundation - ACCF	6/27/2005	$3,345,821	$2,230,846	67%
7	American Association of Homes and Services for the Aging, Inc - AAHSA	9/4/2005	$1,550,328	$730,121	47%
8	Thurgood Marshall Academy	9/28/2005	$3,640,000	$1,241,901	34%
9	K Street Developers, LLC / Union Place Phase I / Cohen Comp.	1/18/2006	$14,999,880	$2,796,019	19%
10	Society for Neuroscience - 1121 14th Street (property)	2/1/2006	$2,138,500	$378,332	18%

APPENDIX III

Public-Private Developer Compliance with Requirement to Submit CBE Agreement to the Auditor

#	Project Name	Date Agreement Executed	CBE Goal Amount	Submission of CBE Agreement
1	Community Connections Real Estate Foundation	12/31/2009	$2,336,705	On Time
2	Jasper29T	12/14/2009	$4,005,512	On Time
3	Jobs Partnership Inc. - Lower Georgia Avenue Job Training Center	1/19/2010	$1,708,071	On Time
4	Kelsey Gardens Property Company, LLC - Addison Square at Kelsey Gardens	12/10/2009	$17,757,823	On Time
5	Methodist Home of DC - Military Rd NW Project - The Methodist Home Forest Side	12/15/2009	$7,310,785	On Time
6	Mount Lebanon Community Service Center - Oakmont	12/31/2009	$488,233	On Time
7	Park Vista Apartments	2/18/2010	$4,129,330	On Time
8	Sheridan Terrance Redevelopment, LLC	3/5/2010	$28,970,740	On Time
9	Sports Collaborative	12/14/2009	$156,726	On Time

APPENDIX IV

Public-Private Developer Compliance with Requirement to Submit Quarterly CBE Expenditure Reports to the Auditor

#	Project Name	Submitted Complete Reports on Time	Submitted Complete Reports Late	Submitted Incomplete Reports
1	American Association for the Advancement of Science - AAAS	X		
2	American Association of Homes and Services for the Aging, Inc - AAHSA	X		
3	American College of Cardiology Foundation - ACCF	X		
4	American Immigration Lawyers Association	X		
5	American Legacy Foundation	X		
6	Arena Stage - Washington Drama Society	X		
7	Army Distaff Foundation	X		
8	Corcoran Gallery of Art - Roofing Project	X		
9	Council on Foreign Relations - CFR	X		
10	Hines - (Former) Old Convention Center Site Redevelopment - CityCenterDC	X		
11	Howard Road Academy Public Charter School	X		
12	Methodist Home of DC - Military Rd NW Project - The Methodist Home Forest Side	X		
13	National Association for Education of Young Children - NAEYC	X		
14	National Association of Realtors - NAR	X		
15	Protestant Episcopal Cathedral Foundation - PECF	X		
16	Sibley Memorial Hospital - Lucy Webb Hayes National - 2009	X		
17	Thurgood Marshall Academy	X		
18	Waterfront Associates, LLC (Waterfront Station)	X		
19	1819 H Place NE - Kahssaye Tekle		X	
20	3800 LOTS, LLC - 3825-3829 Georgia Ave NW		X	
21	3800 Storefronts, LLC 3813-3815 Georgia Ave NW		X	
22	Blue Skye - Hayes Street Project		X	
23	Blue Skye Development LLC -Mixed Income- 6425 14th St, NW		X	
24	Center for Strategic & International Studies, Inc.		X	
25	DIX Street Corridor Revitalization Partners LLC - Dix Eastern		X	
26	High Street Development - Keystone Plus Construction		X	
27	Howard Theatre Development Group, LLC (Restoration)		X	

#	Project Name	Submitted Complete Reports on Time	Submitted Complete Reports Late	Submitted Incomplete Reports
28	St. Elizabeth New Hospital Project - Department of Mental Health		X	
29	AAMC - Association of American Medical Colleges (SQ 24 Project)			X
30	American Society of Hematology - ASH			X
31	Barbara Chambers Children's Center			X
32	Cesar Chavez - PCS -Public Charter Schools for Public Policy			X
33	Children's National Medical Center - Children's Hospital			X
34	Community Connections Real Estate Foundation			X
35	DC Arena L.P. - Verizon Center			X
36	DC Preparatory Academy - DCPA			X
37	Euphemia L. Haynes Public Charter School, Inc.			X
38	First Vehicle Services			X
39	Forest City SEFC, LLC - The Yards - South Eastern Federal Center (Waterfront)			X
40	George Washington University (GWU)			X
41	Georgetown University -Series A, B, and C			X
42	HILLEL - The Foundation for Jewish Campus Life			X
43	K Street Developers, LLC / Union Place Phase I / Cohen Comp.			X
44	Mi Casa - Ivy City			X
45	National Child Research Center - NCRC			X
46	Park Vista Apartments			X
47	R&R LLC - 1205 Delafield Place NW			X
48	Reyes LLC - 2305 1st Street			X
49	Sheridan Terrance Redevelopment, LLC			X
50	Society for Neuroscience - 1121 14th Street (property)			X
51	St. Martin's Apartments, L.P.			X
52	The Estates at MT. Vernon, LLC - Truxton Row			X
53	Trinity (Washington) University			X
54	Washington Center for Internships and Academic Seminars 2009			X
55	Washington Hospital Center - Med Star Health, Inc			X

APPENDIX V

Public-Private Development Projects with Unknown Status That Didn't Report CBE Expenditures in FY 2010 and/or Missing or Incomplete CBE Agreements or MOUs

#	Project Name	Unknown Status	Missing CBE Agreement/ MOU
1	100 Bryant St NW - Reza Fathi , Abbas Fathi	X	
2	1001 Quebec St - Massoud Mamassani	X	
3	1100 13th Street, LLC - Franklin Square North Project	X	
4	124 15th Street SE	X	X
5	1314 K Street Tenants Association	X	X
6	1504 6th St, NW - United General Contractors	X	
7	1737 L Street - Negesti Tekle	X	
8	1800 M St. NE - Sandra McDonald Spence and Kayla McDonald	X	
9	2 M Street Redevelopment LLC - Northwest One	X	
10	2300 Pennsylvania Avenue, LLC	X	X
11	251 Massachusetts Avenue, LLC - Mount Vernon Place		X
12	3004 13th Street LLC	X	
13	3200 Thirteenth Street, LLC	X	X
14	333 K Street NE - Morgan Kelleher	X	
15	3910 Georgia Ave Associates LP - Georgia Commons	X	X
16	4010 Third Street Partners, LLC	X	
17	4100 Georgia Ave., LP	X	X
18	4211 Second Street, LLC - Victory Hills Apartment		X
19	4925 Nash Street, LLC - North Capitol Collaborative, Inc.	X	
20	54th Street Corporation		X
21	57 Bryant St, NW - Scott Zimmerman	X	
22	600 Second Street Holdings, LLC - Station Place - Building 1		X
23	627 14th Place - J. Michael Hager	X	
24	646 I Street, NE - United General Contractors	X	
25	700 2nd Street N.E. - Station Place - Building 3		X
26	756 Park Road	X	X
27	A Street Manor Cooperative	X	
28	AARP Foundation		X
29	ABDO Development - Senate Square Towers, LLC - Old Children Museum		X
30	Abraham & Laura Lisner Home		X
31	American Chemical Society		X
32	American College of Obstetrics & Gynecologists		X
33	American Council on Education		X
34	American Geophysical Union		X

#	Project Name	Unknown Status	Missing CBE Agreement/ MOU
35	American Library Association	X	
36	American National Red Cross		X
37	American Psychological Association - APA	X	
38	American Society for Microbiology		X
39	American University	X	
40	American University - 2008	X	X
41	Anacostia Gateway Office Building- 1800 MLK, Jr. SE, Washington		X
42	ARCH - Development Corporation - THEARC Phase II	X	
43	Army Distaff Foundation		X
44	Asheford Court Land Development	X	X
45	Atlantic Building Project / Carr America Development, Inc. 950 F Street , NW / Jemal's Atlantic, LLC		X
46	Barbara Chambers Children's Center		X
47	Barcelona		X
48	Barrack Row Main Street	X	X
49	Bates Street Townhomes Cooperative, Inc.	X	X
50	Brentwood RI, LLC - Rhode Island Place Shopping Center	X	
51	Brightwood Gardens Cooperative	X	X
52	Broadcast Center One - Broadcast Residential Partners, LLC	X	
53	Broadway Capitol, LLC - Old Children Museum (at Senate Square)	X	
54	Brookings Institution	X	
55	Brownstein Commons Condominiums -Trenton Terrac- WCS Construction -Archer Park	X	
56	Bruke G. Siraga and Genet H. Mamo - 3620 Rock Creek	X	
57	Bryan Square Townhouses - EYA Development, Inc.	X	
58	Camp Simms Project	X	X
59	Canal Park Development	X	
60	Capital Area Food Bank	X	X
61	Capitol Quarter Project - EYA Construction Inc. - Capper - Carrollsburg Venture, LLC - Hope VI Funding Project	X	
62	Carnegie Edowment for International Peace		X
63	Carver Senior Apartments - 4800 East Capitol St. NE - New Market Investor	X	X
64	CAS 4000 Kansas Ave	X	X
65	Catholic University of America	X	
66	CEMI-MINI Highlands, LLC	X	
67	Center for Community Change (CCC)	X	
68	Centex Homes - Danbury Station - Southwest Project	X	
69	Central Union Mission - Gale School	X	X
70	Charter Schools Development Corporation - CSDC		X
71	Child & Family Services	X	X
72	Children's Defense Fund	X	X

#	Project Name	Unknown Status	Missing CBE Agreement/ MOU
73	CHR, LLC / CHRII, LLC - Shops at Park Village	X	X
74	CIH / VMS Restorations, LLC - Home Again Initiative (HAI) - Castel Development Corporation	X	X
75	City Vista		X
76	Columbia Hospital For Women		X
77	Community Academy Public Charter School - PCS	X	
78	Community Connections Real Estate Foundation		X
79	Comstock East Capitol LLC	X	
80	Connecticut & K Associated LLC - 1717 K Street NW (PUD)	X	
81	Dance Institute of Washington, DC	X	
82	DASH Properties	X	X
83	DB Residential Partners, LLC - Minnesota-Benning	X	
84	DC CY Owner, LLC - Marriott Courtyard US Capitol		X
85	DC USA Retail Center - Parcel 27 Columbia Heights	X	
86	Department of Transportation Headquarters Project (DOT) - JBG/SEFC Venture, LLC	X	
87	Dilargachew Belay - 1644 Gales St, NE	X	
88	E Street Cooperative Association, Inc.	X	X
89	East of the River Community Development Corp. - Jasper Place & T Apartments	X	
90	EDC Headquarters - Sigma Investments, LLC	X	
91	Edmund Burke School, Inc.	X	
92	First Vehicle Services		X
93	FP/MLK LLC	X	X
94	Franklin Parking Lot projects	X	
95	Fredrick Douglass - Stanton Community Redevelopment, LLC - Henson Ridge Housing Project - Alabama Avenue, SE	X	
96	Friendship Public Charter School	X	
97	George Washington University (GWU)		X
98	Georgetown Day School - GDS	X	
99	Georgia and Lamont - The Heights on Georgia Av - 3232 Georgia Ave NW	X	
100	Georgia Avenue Façade Improvement	X	X
101	Gonzaga College High School	X	
102	Henry J. Kaiser Family Foundation	X	
103	HILLEL - The Foundation for Jewish Campus Life	X	
104	Hoffman-Struever Waterfront LLC - SouthWest Waterfront, LLC	X	
105	Hogar Hispano, Inc. & National Council of La Raza, Inc	X	
106	Hospital for Sick Children	X	
107	Howard University	X	
108	Howard University Hospital		X
109	HQ Hotel, LLC - Marriott Marquis Convention Center Hotel	X	
110	HSC Pediatric Center - Hospital for Sick Children	X	X

#	Project Name	Unknown Status	Missing CBE Agreement/ MOU
111	Hunter Pines Limited Partnership - Super Giant Super Market Project	X	X
112	Hyacinth Place, LLC	X	X
113	Ideal Academy PSC - Public Charter School	X	
114	International Spy Museum (House on F Street)		X
115	Jasper29T	X	
116	Jobs Partnership Inc. - Lower Georgia Avenue Job Training Center	X	
117	John F. Kennedy Center For Performing Arts	X	X
118	JW King Seniors Center - 4638 H St., SE - Home Again	X	X
119	Kelsey Gardens Property Company, LLC - Addison Square at Kelsey Gardens	X	
120	Kennedy-Warren Apartment Project - The Klingle Corporation	X	
121	Kentucky Scott, LLC (Kennedy Street Apartments)	X	X
122	Kipp DC- Douglass Road - Douglas School	X	
123	Knox Hill Village - Anacostia Economic Development Corporation	X	
124	L5K, LLC - Lowe - City Vista - Project - The Wax Museum Site	X	
125	Landmark Lofts Project - ABDO Development LLC	X	X
126	Latin American Youth Center Inc.	X	
127	Level 2 Development LLC - L2CP, LLC (View 14)	X	
128	Marshall Consulting Group, LLC - Alicia Marshall	X	X
129	Marshall Heights Comm. Development Corporation	X	X
130	Mary Claire House - So Others Might Eat, Inc. - SOME		X
131	Mi Casa, Inc. - Home Aging Initial Project	X	X
132	Mission First Development - Home Again Initiative - Bundle #1		X
133	Mount Lebanon Community Service Center - Oakmont	X	X
134	Mount Pleasant and Columbia Heights Façade Improvement	X	X
135	National Association for Education of Young Children - NAEYC		X
136	National Association of Student Personnel Administrators - NASPA	X	X
137	National Community Reinvestment Coalition - NCRC	X	
138	National Law Enforcement Officer's Memorial -Store	X	X
139	National Museum of Crime & Punishment	X	
140	National Osteoporosis Foundation		X
141	National Rehabilitation Hospital		X
142	NC Firehouse LLC	X	
143	New Columbia Community Land Trust Inc - NCCLT -1703 Euclid St NW	X	X
144	Noma West - Eckington One	X	
145	Parcel 34 LLC (Solea)	X	
146	Parcel 42 Partners, LLC - Horning Brothers	X	X
147	Park Southern Neighborhood Corporation	X	X
148	PerStar M Street Partners LLC	X	
149	Petworth Metro Ventures, LLC	X	

#	Project Name	Unknown Status	Missing CBE Agreement/ MOU
150	Planned Parenthood Federation of America, Inc.	X	X
151	Population Services International - PSI	X	
152	Portal's Project - Phase III	X	X
153	Progressive Life Center, Inc.	X	
154	Pulte Homes - Fort Lincoln - Dakota Crossing Project		X
155	Qualified Zone Academy	X	X
156	Quest Cooperative Inc.	X	X
157	Republic Square Project		X
158	Retirement Housing Foundation and Plymouth Congressional United Church of Christ -Open Arms Housing	X	
159	Rhode Island Avenue Metro, LLC	X	
160	Salvation Army - Solomon G. Brown Corps Center - a Georgia Corp.		X
161	Sanctuary Plus - My Sister's Place, Inc.	X	X
162	Shipley Park Apartments Renovation - 2540 Southern Ave., SE		X
163	Shops at Park Village - Formerly known as "Camp Simms' - part of CHR, LLC	X	X
164	Somerset Cavalier Partners, LLC		X
165	Southview Redevelopment Limited Partnership		X
166	Sports Collaborative	X	
167	St. Elizabeth New Hospital Project - Department of Mental Health		X
168	St. John's College High School	X	X
169	St. Luke's Condominiums- aka - Georgetown Heights Condominiums		X
170	St. Paul Community Development Corp. - St Paul at Wayne Place	X	X
171	Strand Redevelopment - Washington Metropolitan Community Dev	X	X
172	Strategic Housing Initiative Program -SHIP- Peaceoholics, Inc.	X	X
173	SW Waterfront, LLC	X	
174	TCB Fairlawn Marshall Housing, LP	X	
175	Team Eckington, LLC - 201 Florida Ave, NE Hotel Project	X	X
176	Telitha Koum Cooperative Project - The Elizabeth Ministry, Inc.	X	X
177	Tivoli Square Projects - Tivoli Partners		X
178	Trinity (Washington) University	X	X
179	Unified Communication Center - UCC - Technical Systems - OCTO	X	
180	Unified Communication Center (UCC)	X	
181	Unified Communication Center (UCC) Architectural / Engineering - OCTO	X	
182	Unified Communication Center (UCC) Construction - OCTO	X	
183	Unified Communication Center (UCC) Project Management - OCTO	X	
184	Union Station Redevelopment Corp.	X	X
185	Unity Health Care Inc. - Upper Cardozo Community Health Center	X	X
186	Urban Institute	X	X
187	Verizon Washington, DC Inc.	X	
188	Verona Parc - Triangle II Euclid Street, LLC		X

#	Project Name	Unknown Status	Missing CBE Agreement/ MOU
189	Veteran's Center Annex Project	X	
190	Victory Housing, Inc. - Victory Heights		X
191	Washington Hospital Center - Med Star Health, Inc		X
192	Washington International School	X	
193	Washington Jesuit Academy	X	
194	Washington Mathematics Science & Technology Public Charter School, Inc. - PSC	X	
195	Wesley Theological Seminary of the United Methodist Church	X	
196	WestEnd25	X	
197	Wheeler Terrace Apartments Redevelopment	X	X
198	William E. Doar, Jr. Public Charter	X	X
199	Woodley House, Inc.	X	X
200	Zagami House LLC	X	

APPENDIX VI

Public-Private Development Projects with "Deemed Approved" Target Sector Provision in the CBE Agreement

#	Project Name	CBE Agreement Execution Date
1	1331 L Street, N.W.	1/17/2008
2	4010 Third Street Partners, LLC	2/8/2008
3	American Immigration Lawyers Association	12/3/2007
4	American Legacy Foundation	3/5/2008
5	American Sociological Association - ASA	11/28/2007
6	Arena Stage - Washington Drama Society	2/20/2008
7	CEMI-MINI Highlands, LLC	11/1/2007
8	Center for Strategic & International Studies, Inc.	3/20/2008
9	Children's National Medical Center - Children's Hospital	5/1/2008
10	Comstock East Capitol LLC	12/3/2007
11	DC Arena L.P. - Verizon Center	12/20/2007
12	East of the River Community Development Corp. - Jasper Place & T Apartments	12/31/2008
13	Euphemia L. Haynes Public Charter School, Inc.	8/4/2008
14	Forest City SEFC, LLC - The Yards - South Eastern Federal Center (Waterfront)	8/10/2007
15	Hoffman-Struever Waterfront LLC - SouthWest Waterfront, LLC	7/11/2008
16	HQ Hotel, LLC - Marriott Marquis Convention Center Hotel	5/1/2009
17	Ideal Academy PSC - Public Charter School	12/18/2007
18	Jesuit Conference Inc.	9/24/2007
19	Knowledge is Power Program of District of Columbia -KIPP DC- PCS – Will Academy	8/4/2008
20	National Child Research Center - NCRC	4/22/2008
21	NC Firehouse LLC	3/13/2008
22	Pew Charitable Trust	3/3/2008
23	Population Services International - PSI	11/15/2007
24	Rhode Island Avenue Metro, LLC	6/19/2008
25	Square 54	8/3/2009
26	St. Martin's Apartments, L.P.	8/27/2008
27	SW Waterfront, LLC	6/12/2009
28	The Estates at MT. Vernon, LLC - Truxton Row	5/2/2008
29	Thomas B. Fordham Foundation	10/25/2007
30	Vestry of Rock Creek Parish	11/27/2007
31	Washington Mathematics Science & Technology Public Charter School, Inc. - PSC	7/8/2008
32	Waterfront Associates, LLC (Waterfront Station)	7/11/2008
33	Zagami House LLC	3/20/2008

AGENCY COMMENTS

AGENCY COMMENTS

On October 21, 2010, the Auditor submitted this report in draft to the Director of the Department of Small and Local Business Development (DSLBD) for review and comment. The Auditor received written comments from the Director of DSLBD on November 1, 2010. The Auditor made no changes to the report as a result of the comments. All agency comments are appended in their entirety to this final report.

DSLBD
DC Department of Small & Local Business Development

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OFFICE OF THE DC AUDITOR

November 1, 2010

Deborah K. Nichols
District of Columbia Auditor
Office of the District of Columbia Auditor
717 14th Street, NW, Suite 900
Washington, DC 20005

Dear Ms. Nichols:

Thank you for the opportunity to review and respond to the draft report entitled, "Public-Private Development Project Compliance with Certified Business Enterprise Goals through the 2nd Quarter of Fiscal Year 2010." Below are the Department of Small and Local Business Development's responses to the recommendations contained therein. You will find that many of the recommendations have already been implemented or are in the process of being implemented.

1) DSLBD should include penalties for developers that do not meet CBE expenditure goals in all CBE Agreements.

Except for CBE Agreements executed as a result of an Industrial Revenue Bond (IRB) issuance, DSLBD currently includes contingent contribution penalties in all CBE Agreements. Because IRBs are federal funds that pass through the District rather than District funds, DSLBD does not establish a penalty in those agreements. Instead, the IRB recipient's compliance is graded and that grade is considered if/when the IRB recipient applies for future IRBs or other programs.

2) DSLBD should develop and implement a standard operating procedure to contact developers that are not on course to meet their CBE goal at least once every three months and provide support in identifying appropriate CBEs with the necessary skills for the project.

DSLBD lacks sufficient resources to implement this recommendation. As of October 1, 2009, DSLBD's entire compliance staff was transferred to the Office of the District of Columbia Auditor (ODCA) along with some of DSLBD's compliance functions. DSLBD would need additional human resources to add this to its remaining compliance responsibilities. However, DSLBD does include monetary penalties in its CBE Agreements for failure to achieve or exceed the CBE minimum expenditure and depends on ODCA to monitor compliance as was anticipated by the transfer of DSLBD's compliance staff to ODCA.

Specifically, CBE Agreements require developers to have an initial meeting with ODCA with 10-days of signing a CBE Agreement and to report the following information to ODCA on a quarterly basis:

"Throughout the Expenditure Period, regardless of whether the CBE Minimum Expenditure is achieved before the end of the Expenditure Period, Developer will submit quarterly contracting and subcontracting expenditure reports for the Project which identify:

(i) those contracts where the party providing services, goods or materials was a CBE, including the name of the company and the amount of the contract;

(ii) the nature of the contract including a description of the goods procured or the services contracted for;

(iii) the amount actually paid by Developer to the CBE under such contract that month and to date;

(iv) the certification categories for each vendor/contractor;

(v) the work performed by vendors/contractors in Target Sector(s) and relevant multipliers; and

(vi) the percentage of overall development expenditures which were to CBEs."

3) DSLBD should maintain a public database of non-compliant developers.

While DSLBD lacks the resources to maintain a public "database" of non-compliant developers, DSLBD will publish a list on non-compliant developers on the DSLBD website.

4) DSLBD should include a provision in all CBE Agreements to penalize developers that do not submit complete and timely quarterly CBE expenditure reports.

DSLBD agrees with this recommendation and will implement it.

5) DSLBD should provide support to developers that are not meeting their requirements.

DSLBD makes support available to all developers that are parties to CBE Agreements. Among other things, DSLBD actively advertises contracting opportunities resulting from CBE Agreements, co-sponsors pre-solicitation conferences with Developers and provides information on CBEs available to perform work in various trades.

6) DSLBD should locate all missing CBE Agreements and MOUs and provide them to the Auditor.

DSLBD's predecessor agencies began entering MOUs as far back as 1998 and DSLBD began entering CBE Agreements in 2007. Prior to 2007, MOUs were only kept in hardcopy and, quite frankly, were not maintained in the best possible manner. DSLBD is in the process of trying to locate all of the old hardcopy files and is committed to continuing to provide copies to ODCA as they are located. However, this is a tedious process that will take time to complete. Since 2007, CBE Agreements are maintained electronically and are easily searchable. Further, DSLBD provides a copy of each CBE Agreement to ODCA upon its execution and will continue to do so.

7) DSLBD should develop and implement standard operating procedure by which the Auditor is formally and immediately notified of the execution of each CBE Agreement. DSLBD should also promptly provide a copy of the executed CBE Agreement to the Auditor.

Shortly after ODCA took on compliance responsibilities related to CBE Agreements, DSLBD began providing a copy of executed CBE Agreements to ODCA. Specifically, upon full execution of a CBE Agreement, DSLBD's General Counsel emails a PDF copy of the CBE Agreement to ODCA.

8) DSLBD should develop a secure and well-organized record-keeping system and database of all current and future CBE Agreements.

DSLBD has established such a database in QuickBase and enters all new CBE Agreements upon execution. DSLBD also continues to locate and add older CBE Agreements. However, as stated above, this is a tedious process that will take time to complete with current resources.

9) DSLBD should incorporate target sector lists into the CBE Agreement at the time of execution.

As explained in response 7 above, prior to the issuance of the ODCA draft report, DSLBD began requiring that target sector lists be approved prior to the execution of CBE Agreements.

10) While the Auditor acknowledges that individual language may differ based on economic circumstances, DSLBD should standardize its CBE Agreement language to the greatest extent possible to streamline project tracking and compliance. Furthermore, DSLBD should consider amending existing CBE Agreements that contain these types of variations.

In the past 12 months, DSLBD has greatly reduced the variations in CBE Agreements and moved to a largely standardized template. DSLBD is committed to utilizing the standard format as often as possible. However, as ODCA acknowledges, from time to time there are circumstance surrounding a particular CBE Agreement that necessitate variation from the template. Regarding amending existing CBE Agreements containing variations, it should be noted that DSLBD is only one party to CBE Agreements and does not have the authority to unilaterally amend them.

11) DSLBD should ensure that CBE Agreements do not allow for any terms to be finalized without complete review and approval by the Director of DSLBD.
In making this recommendation, ODCA cites a number of CBE Agreement which allow for passive approval of target sector lists submitted by developers if the DSLBD Director does not respond to a submission in a prescribed time frame. DSLBD addressed this matter prior to the issuance of ODCA's draft report. Currently, target sector lists must be submitted prior to the execution of CBE Agreements and must be approved by DSLBD's Assistant Director for Business Opportunities and Access to Capital and by DSLBD's Director prior to execution of the CBE Agreement.

If you have any questions regarding this response, please do not hesitate to contact me or DSLBD's chief of staff, LeJuan Strickland, at 202-727-3900. Thank you.

Sincerely,

Lee A. Smith III
Director