

# MEMORANDUM

**TO:** Boysie Jackson, Chief Procurement Officer  
City of Detroit

Kim Rustem, Director  
CRIO

LaJuan Counts, Director  
Demolition Department

**FROM:** Council President Brenda Jones

**DATE:** October 20, 2021

**RE:** **Invest in Detroit Procurement Amendments Discussion Follow Up**

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As the sponsor of over 10 pieces of legislation, it is customary for me to work with the impacted city departments to develop policies prior to the final ordinance being drafted. This process has proved to lessen the burden on the Law Department as seen with the passage of the Community Outreach Ordinance in September 2020 where I worked with various members of the Mayor's Office to develop the policy before the law was drafted.

Understanding the impact of the proposed changes to the procurement process, my office began reaching out to the Office of Contracting and Procurement, the Office of Civil Rights Inclusion and Opportunity and executive leadership within the Mayor's Office. Since November 2020, my office has sent numerous emails, provided several policy management plans and held discussions with the departments on the Invest in Detroit Procurement Amendments. I listened to the departmental representatives and made numerous policy updates as a result of their concerns. As the administrative representatives and the impacted departments, it was the responsibility of either the Office of Contracting and Procurement or the Office of Civil Rights Inclusion and Opportunity to notify city departments of the changes. During the drafting of the Community Outreach Ordinance both the Director of Development and the Director of the Department of Neighborhoods coordinated meetings with other departments and entities. This action was not taken by either department.

**During today's discussion I heard the following concerns:**

1. *Equalization credits and contract costs*

During the development of the amendments, I requested a report from the Office of Contracting and Procurement on the current city expenditures relative to the application of equalization credits and was informed that the current data process did not allow for the submission of responses to my concerns. I am unclear on how there can be the assumption that the increase in credits for businesses that invest into the city, hire Detroit residents and invest into the advancement and quality of life of their workforces will negatively impact the procurement process without the evaluation of the way that equalization credits are awarded today. The failure to provide the requested data shows yet another gap in data collection and evaluation processes within the Office of Contracting and Procurement which further substantiates the need for the City of Detroit to invest into the restructuring of the department. We cannot determine frequency nor increase equity as we spend residents' tax dollars if we are not able to analyze the current use of equalization credits. Therefore, as my colleague Council Member Benson stated during the discussion, "*We are a consumer with our tax payer's dollars,*" "*We are prioritizing our own businesses to make sure that residency and doing business here has its privileges,*" and "*We're showing our businesses that we value them and are willing to spend a little bit more on them to do business here in the City of Detroit.*"

2. *Departmental staffing increases and the impact on the procurement process.*

During the meeting, Chief Procurement Officer Boysie Jackson stated "*collection of data is not my opinion of what my job should be.*" However, it is the job of the Detroit City Council to approve city contracts and this City Council has made it a priority that Detroit residents be hired by city contractors. The only way for the City Council to evaluate workforce is for the department to collect and submit data. Furthermore, currently the Office of Contracting and Procurement is failing to submit employment data, depending on an opinion from the law department. The opinion states that in order for employment information to be provided, it must be submitted within the bid as established by law. Therefore, today's discussion is in direct conflict with the advice of the law department to establish target reporting requirements at the time of the bid. The law change is the **only** mechanism by which the department has shown that it will collect the data to guarantee accountability and transparency.

Several departments expressed concerns with the impact of the changes on the delivery of services. However, throughout my tenure on the City Council there have been several issues related to the delivery of services as a result of the current procurement process. The City Council has been rushed to vote on critical contracts and has suffered weekend legislative review as a result of a flawed procurement process. I cannot accept the process as an exchange for Detroit opportunities. The department is proposing that we fail to fix issues with inclusion, equity, transparency, opportunity and accountability in order to save the process rather than fix the process to save the people. The failure of the Office of Contracting and Procurement to deliver a streamlined efficient procurement process has been an issue within city government for some time and the process is not

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the burden of the people of the City of Detroit. The process should not be the reason for the City of Detroit not to implement equitable, transparent and accountable law changes. The concerns of the departments furthermore substantiate the need for departmental restructuring with improved planning, collaboration, consolidation and time management processes within the Office of Contracting and Procurement.

Additionally, financial investments were made into the department for over two budget cycles. The department currently has \$250,000 set aside for strategy and outreach staff.

**Please provide responses to the below questions:**

1. What is the average timeframe for a buyer to procure a contract?
  - a. How does leadership monitor performance for efficiency and time management?
2. How many employees does the department currently employ?
  - a. How many contracts does each employee successfully procure weekly? Monthly? Quarterly? Annually?
  - b. What measures are taken by leadership to evaluate employee performance, train employees and provide professional development support for employees to improve current work performance?
3. How many vacancies does the department have?
  - a. How long have those positions been vacant?
  - b. What measures have the department taken to fill vacancies?
  - c. What is the department's plan to decrease vacancies to improve procurement processes?
  - d. Please provide positions, salaries and roles of those vacancies?
4. How many employees does the department have assigned to strategy, outreach and recruitment?
  - a. Please provide positions, responsibilities and salaries.

Lastly, It should be of the utmost priority for all those supervising work performed within city neighborhoods to protect our residents from environmental hazards and wasteful spending of their tax dollars. Within the last five years we have seen serious issues with demolition contractors, contaminated dirt, underbidding and other process issues that led to a federal investigation, indictments and employee resignations. The required clearances guarantee that all construction contractors within the City of Detroit are putting the health and wellness of Detroiters and their tax dollars first when they complete work in our neighborhoods.

**Please provide responses to the below questions:**

1. Please provide a performance report on all demolition contracts from the first round of approved 30MM Proposal N contracts. It has been 9 months since the approval of the first round of contracts and an update should be available.

4. *Impact on Small Businesses and Minority Contractors*

During today's meeting the Office of Civil Rights Inclusion and Opportunity Director Kim Rustem stated, "It's irresponsible policy to me by requiring our businesses to do something without actually providing them the tools to succeed at it." I completely agree with Director Rustem, which is why the City Council set aside 250K for seed funding for the Procurement Opportunity Fund. A fund for contractors to strengthen their businesses and build capacity to bid on city contracts. However, to date the Administration has not utilized this funding. The fund can always be increased to support small businesses if it is the priority of the Mayor and future City Councils.

Furthermore, increased equalization credits for local businesses will provide small businesses more opportunities to win city bids.

5. *Hiring Plan Requirements*

For clarity, hiring plan requirements only apply to businesses within Michigan with Michigan employees performing services within the City of Detroit. This eliminates many consulting, goods and technology based services that provide specialized services. I continue to point out that there are limitations due to State and Federal Law as it relates to workforce requirements, therefore the current legislation before you seeks to capture as many contractors as legally possible. A very small number of contractors that provide services within the City are outside of the state of Michigan. Most of the contractors out of state are planning consultants and technology specialists. Additionally, hiring plan requirements are triggered after the bids are won so there is no unfair advantage for non-Michigan businesses during the bid process.

Currently, the Office of Civil Rights Inclusion and Opportunity is utilizing an executive order to fine certain contractors that do not meet workforce requirements. As stated during the development of the budget, these fines are not resulting in Detroit jobs but rather administrative support. Since 2019, Detroit At Work has spent \$1.2M of compliance fee dollars on skilled trades readiness and \$4.6M overall however, since 2019, the City has budgeted approximately \$5.9M of compliance fee dollars for skilled trades which equates to a 5% spend of compliance fee dollars on actual skilled trades services. Therefore, the current administrative burden is on the back of the people of the City of Detroit and the contractors who are not receiving a return on their investment. The utilization of hiring plans is a different strategy of accountability and opportunity without any costs to the contractor. It is time for the City of Detroit to try another method. The current methods are not working. However, target reporting and outreach has resulted in positive impacts in creating equity in grounds maintenance services, security services and parks and recreation. Implementation of a hiring plan holds contractors accountable and creates a process for city council to hold the contractors accountable when evaluating the workforce status of the contractor during the consideration of future contractors. As stated, the hiring plan was modeled after current stipulations for development contractors. The administration developed these mechanisms as best practices for the recruitment and hiring of Detroiters. I am unclear on why mechanisms developed by the administration are unreasonable when spending tax payer's dollars on city contracts.

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As it relates to staffing impacts to the Office of Civil Rights, Opportunity and Inclusion, the budget includes 120K for compliance staff for hiring plan monitoring and the new and enhanced certifications. The proposed amendments also remove the department from outreach to allow the department to redirect those staff to compliance if necessary. I requested the Office of Contracting and Procurement to provide a list of all contracts within the threshold and workforce trigger categories. Unfortunately, due to the data collection methods of the department, this could not be submitted to allow for evaluation of the impact of the threshold. However, my office pulled data from our internal database from September 2019-March 2020 where only 14% of the contracts would meet the threshold. Regrettably, the hiring plan requirement could not be assessed due to missing employment information not provided by the department during policy development.

**Please provide responses to the below questions:**

1. How many employees does the department currently employ?
  - a. Please list titles and responsibilities.
2. How many vacancies does the department have currently?
  - a. How long have those positions been vacant?
  - b. What measures have the department taken to fill vacancies?
  - c. What is the department's plan to decrease vacancies?

**Please provide responses to the below questions:**

1. What steps have both the Office of Contracting and Procurement and the Office of Civil Rights, Inclusion and Opportunity taken to increase the number of Detroiters employed on city contracts?
  - a. Please provide a report on performance metrics including contractor, services type, previous Detroit resident employment numbers, current Detroit resident employment numbers

Finally, in addition to all the items addressed above, the effective date of many of the structural improvements within the ordinance is July 1, 2022, providing both departments and contractors substantial time to prepare and develop processes to Invest in Detroit.

CC: Honorable Colleagues  
Janice Winfrey, Detroit City Clerk

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