

City wrestles with policing its jobs policy

By Melissa Tabeek, Special to the Reporter

Dorchester Reporter

March 1, 2012

Most companies that win contracts for publicly funded building projects in Boston continue to fall well short of city-mandated minimum-hiring thresholds, according to a Reporter analysis of city reports. The Boston Residents Job Policy (BRJP), a city ordinance, is aimed at ensuring diversity – of Boston residents, minority groups, and females – in work being done with public money.

The policy sets out specific targets: City-hired contractors are directed to make sure that, at minimum, 50 percent of all workers on a job site are Boston residents, 25 percent are minority citizens, and 10 percent are female.

The policy – in place since the 1980s— gives contractors a goal to meet when they are composing their workforce, but over the years, city officials have been careful to avoid using it as a cudgel to force companies to meet the exact minimums laid out in the policy.

But, there are repercussions for companies that do not make a “good-faith effort” to try.

In a story last week, the Reporter revealed that a New Hampshire-based contractor — Sunshine Paving— has been under more intense scrutiny from city officials for their dismal hiring record to date as they oversee the reconstruction of Cronin-Wainwright Park. (The park has recently been re-named in honor of Rev. Dr. William Loesch.)

Sunshine Paving first caught the attention of the Boston Resident Jobs Policy Office when the contractor Sunshine Paving didn’t submit their payroll as required under the policy, according to Brooke Woodson, who oversees enforcement of the policy for the Menino administration.

When it became clear to Woodson that Sunshine Paving was not making a “best faith effort” to meet target hiring numbers, he took action, withholding three lump payments totaling \$355,000 for work done at the park over the last few months.

Work at the park— nestled between Codman Square and St. Mark’s Area— has come to a halt as the company and city officials work out a solution to the hiring problem.

Woodson said his office uses more than just numbers to determine if there has been a real effort made by the contractor to diversify their work force.

“Some of the questions we ask are: are they submitting their paperwork and payroll on time? What are the trades they’re utilizing? Is there outreach in the community? Is there outreach to the city’s job bank?” said Woodson.

Before construction begins on a project, there is a pre-construction meeting held with contractors and representatives from the Boston Redevelopment Authority or the BRJP Office, depending on the project. This is when contractors are informed of the Job Policy and asked to sign a contract agreeing to make a best faith effort to meet the numbers in the ordinance.

When contractors do not make a good faith effort, Woodson said, they will be called in for a “corrective action meeting” to discuss how the contractor can meet their goals. Woodson’s office has the authority to withhold payments, sanction suspension payments, terminate a contract, recover the contract award price as liquidated damages and deny right to participate in future projects for up to three years.

“Actions like these [sanctions and withholding payments] usually gets their attention and they usually change their behavior,” said Woodson.

Payment suspensions —like the one now in place at Cronin-Wainwright Park— is relatively rare, but it has happened before. When Turner Construction and Gilbane —two construction firms— have not met their numbers in the past, Woodson said they worked out a settlement in which the companies made donations to two groups working to support job creation and training in Boston: Madison Park Vocational High School and Youth Building Boston, a non-profit organization.

The complexities of enforcing the Jobs Policy are more readily available now, in part, because the hiring statistics are posted online at the BRA website. The Boston City Council in 2010 passed an amendment to the original Jobs Policy ordinance requiring the Boston Employment Commission (BEC) — a liaison committee established to work with the BRJP Office to monitor compliance — and the BRA to make information available online.

According to statistics reviewed by the Reporter on the BRA’s website, from 2009 to 2011, the number of Boston residents hired for publicly-funded jobs decreased to 32.3 percent from 36.9 percent. Minority hiring dropped as well, decreasing to 29.9 percent from 41.4 percent. Female numbers made a small gain, increasing to 3.8 percent from 3.3 percent.

The BRA also tracks and posts statistics on hiring for private construction jobs in the city in a separate database. According to a Reporter analysis of these figures, there have been small gains in privately-funded projects happening from 2009 to 2011. Resident numbers increased to 31.5 percent from 29.8 percent in that time frame, while the number of minorities increased to 33.8 percent from 28.9 percent. Female hiring increased slightly also, to 4.7 percent from 4.2 percent.

Woodson says one has to take into effect the market when looking at these numbers.

“The market fluctuates like anything else...A lot of the factors are outside of the city’s control, year to year and month to month,” said Woodson, who added that people moving out of the city for the suburbs may have something to do with the decrease in numbers.

State Rep. Martin Walsh, who also serves as secretary-treasurer of the Boston Building Trades Council, agrees with Woodson’s assessment. Walsh explained that the drop in compliance can be attributed to a rough economy.

“[2009 to 2011] was a very bad time for jobs...When there is more work around, the numbers are more accurate,” said Walsh.

He added that when there is a lack of work, companies are more likely to keep their core work force, rather than adding new employees.

“The city is doing a great job with enforcement,” Walsh said. “In the last year or so, they have really picked up on it. [The BRJP] is one of the prerequisites to work in the city. That’s not a lot to ask for of a company when they’re working here, making their money here. They should be held to a standard.”

Lewis Finfer, executive director of the Massachusetts Action League, said Boston Job Policy is widely viewed as one of the stronger ordinances nationally. Los Angeles, which just adopted a Construction Careers and Project Stabilization Policy in 2008, aims to have 30 percent of total work hours be local and community area workers, with 10 percent disadvantaged workers.

City Councillor Charles Yancey is not satisfied, however, and wants to see better compliance figures.

“I don’t think [the numbers] are reasonable. I think they should be higher, particularly for women and people of color,” he said.

Walsh believes that new and upcoming projects will not only create job opportunities for the people working in the city of Boston, but in six months, will provide a good benchmark for better evaluating compliance of contractors with the BRJP.

“There’s a lot of work in Boston that is coming down the road in 6 months. There are 10 to 12 jobs starting that will get those numbers up,” said Walsh. “We’ll be able to get people off the bench because companies will need to hire outside their workforce.”

Walsh points to pre-apprenticeship programs such as Building Pathways — a partnership between the Boston Housing Authority, The Construction Institute, and the building trades — that are a step in the right direction to get new people in the workforce.

Last year Building Pathways had a class of 14, all of whom found jobs. Looking forward, Walsh hopes this year’s class of 16 will do the same, and the program will continue to grow.

“We’ve had a 100 percent placement rating in the unions,” said Walsh.