

GOVERNMENT

Falling short on minority contracts



CONTRACT WORK: Jose Marcano, left, president of JM Painting & Plastering, discusses a job at the International Tennis Hall of Fame & Museum with Michael J. Behan Jr., president of Behan Bros. General Contractors and Construction Managers. Marcano estimates about half of his work comes through sub-work as a Minority Business Enterprise on public contracts. (The hall of fame project is private work and not subject to MBE regulations.) PBN

PHOTO/MICHAEL SALERNO

By Mary MacDonald

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Twenty-nine years after a Rhode Island law required at least 10 percent of all state contract and purchase awards to go to minority- or women-owned companies, some representatives of these businesses say they are still waiting for the promised share of public work.

The state's population in that time has changed dramatically. Residents of Latino, African-American or Asian-American descent represented 24 percent of the Ocean State population in 2013, compared with 7 percent 30 years earlier, according to a 2013 executive order by Gov. Lincoln D. Chafee to promote minority-business contracting.

Despite the law and the increasing diversity of Rhode Island, the state office overseeing compliance with the requirement in December estimated that certified minority business enterprises, or MBEs, are receiving 4.5-5 percent of the state's contracts and purchase awards.

That estimate is based on reports generated by the MBE Compliance Office in 2014, according to Allison Rogers, director of policy for the state's Department of Administration. It is an estimate, in part, because the state lacks the tracking capability to determine how many dollars are going to minority subcontractors. The state tracks data on direct payments to prime

contractors, who then pay the subcontractors. The state receives information on “commitments” to pay MBE subcontractors from the contractors when bids are awarded.

Eighteen months after Chafee’s executive order, intended in part to promote policies that would make the minority-business-enterprise program more effective, state officials say they are continuing to make improvements.

The state now has an office overseeing all diversity-related hiring and contract issues. And the state is researching a change to the bidding process, which would assign additional weight, or points, for contracts that fulfill minority-business participation, according to a report issued in September by Steven T. Hartford, director of the R.I. Department of Administration.

The state also is exploring additional methods to track subcontractor payments, Rogers said. “Improving the tracking system is a top priority for the state,” she said in an email.

Cheryl A. Burrell, the new associate director for the Office of Diversity, Equity and Opportunity, said the state is taking steps to improve compliance. A pilot begun in the past month will assign a weight for minority-business participation in evaluation of all requests for proposals. The staff overseeing the minority-business enterprise program is small, two full-time employees, she said. They oversee about 15,000 to 20,000 contracts annually. Technology improvements, Burrell said, could allow the state to require contractors to enter payments for subcontractors, which would create an automatic tracking mechanism.

“I don’t think we can say we’ve not tried,” she said. “There’s more to be done, clearly.”

Associations representing minority-owned businesses are frustrated by the lack of clear accountability through records, and say it has contributed to a culture of exclusion.

Among other concerns, some minority contractors say that the state certification process can be time-consuming and requires substantial documentation. But to compete, the businesses need the certification. The state only counts dollars that head to certified contractors as meeting the minority-business-enterprise requirement.

“It’s a vicious cycle,” said Luis A. Torrado, owner of Torrado Architects, who is president of the Latino Contractors Association. “We have a lack of certified, minority contractors.” The process took about six months for his company. “It’s intense. And people are not willing to go through it because after going through it, nothing happens.”

In early December, the Rhode Island Black Business Association issued a public statement that said its members want accountability and follow-through on public contracts that should be going to minority-owned companies.

Lisa Ranglin, the association's president, said rigorous policies need to be put into place at the state and city levels that are measurable and enforceable. The group is working with other minority-business associations, including the Latino Contractors Association and Black Contractors Association of Rhode Island.

"Let's open up the projects so these contractors have the same access as any contractor across the state," Ranglin said.

The association's statement was prompted by an announcement that the first major development project in "The Link" properties, the former Interstate 195 lands in Providence, was moving forward. The 1.25-acre property at the corner of Chestnut and Clifford streets will be sold to a Dallas company, PPC Land Ventures, and developed into a six-story building for apartment housing for university students, according to the I-195 Redevelopment District Commission.

The purchase and sale agreement for the site, now known as Parcel 28, states that the company will "use its best efforts to employ minority- and women-owned firms and contractors to the extent reasonably possible and to encourage any contractors or subcontractors to do the same."

Although it is to be developed by a private company, the sale agreement indicates that PPC Land Ventures plans to seek city tax incentives, through a tax-stabilization agreement.

The city expects that a tax-stabilization agreement would require compliance with its MBE goals, according to city spokeswoman Ann Gooding. The city's goals provide that 10 percent of the public contracts go to minority-owned firms, while another 10 percent go to women-controlled enterprises.

Ranglin was critical of the language in the sale agreement, and said the association's contractors were concerned they would be bypassed. As the first of the I-195 projects to move ahead, she said the association wanted to make a strong public statement about including minority contractors in the development. She's since had a conversation with the developer, and planned to speak with Colin Kane, chairman of the redevelopment commission.

Kane could not be immediately reached for comment. Through a spokeswoman, the commission issued a statement that said in part that the I-195 redevelopment commission "explicitly encourages the participation of MBE/WBE firms in the development of The Link."

For contractors who do not compete for public work, or who bid for subcontract work and are not selected, private construction jobs become the primary source of income. But this is limiting for individual companies, say contractors.

Jhonny Leyva, president of the Black Contractors Association of Rhode Island, is a certified contractor who specializes in commercial painting. He estimates he's had no more than five

subcontracts for public jobs since achieving certification in 2009, all from companies looking for minority-business participation.

As a result, he focuses almost exclusively on private work. His crews last month were in Pittsfield, in western Massachusetts, painting at an apartment complex. He'd rather they stick closer to home. "What frustrates me is I pay taxes in Rhode Island. I have a fleet of vehicles registered here. My business is out of Providence. But I do not benefit at all."

Another painting contractor, Jose Marcano, owner of JM Painting in Cranston, has had some success in landing public work. He estimated about half of his work comes through sub-work as an MBE on public contracts. He had a crew recently working at the International Tennis Hall of Fame & Museum in Newport on a private contract. In upcoming months, he'll be working at the University of Rhode Island. He's concentrated on developing good relationships with the general contractors, he said.

"I qualify because of my experience," he said. "They know my jobs, they know my quality."

Because many of the minority-owned companies are located in Providence or other cities in Rhode Island, the loss of public contract work has an impact on their communities, said Torrado.

"What we want to promote is business ownership," he said. "The minority contractor will not move into the middle class until that happens."

His company specializes in public school construction. Recently, he said, a coalition of minority-business associations, including the Latino Contractors Association, sent a letter to Rhode Island school superintendents, in districts planning a school construction project, and asked them who would be in charge of minority-contract participation. School construction is typically partly financed with state funds, triggering the 10 percent requirement.

No one responded to the associations, Torrado said. "I honestly think some of these communities don't even know," he said. "There are no repercussions. It's ignored." •