



Minneapolis Department of Civil Rights
Contract Compliance Division
2018 Annual Report



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Introduction

The Minneapolis Department of Civil Rights Contract Compliance Division (“Division”) ensures that City of Minneapolis projects and contracts include women, minority, and low-income people. The Division also ensures that workers on construction projects are paid in accordance with the law. This report summarizes the Division’s contract compliance activities for 2018.

Division Program Areas

Minority and Women Business Inclusion

- Administer the Small and Underutilized Business Program.
- Ensure minority and women owned businesses participate in City procurement.
- Conduct outreach to and certify minority and women owned businesses.

Female and Minority Workforce Inclusion

- Enforce City's construction workforce goals (of 20% female and 32% minority workers).
- Ensure female and minority construction workers are employed on City construction and development projects.
- Support partner organizations to increase the number of female and minority workers.

Affirmative Action

- Conduct pre-award compliance reviews of City contractors and Developers.
- Ensure adherence to Affirmative Action and Equal Employment Opportunity laws.
- Review and approve Affirmative Action Plans.

HUD Section 3 Program

- Administer the City's HUD Section 3 Program.
- Ensure low income resident and business inclusion on Section 3 covered projects.
- Conduct outreach to and certify low income residents and businesses as Section 3.

Labor Compliance

- Monitor and enforce prevailing wage laws and Federal Labor Standards Act on projects.
- Conduct pre-award compliance reviews of contractors and ensures workers are classified and paid correctly.
- Administer the back payment of wages to workers.

Minority and Women Business Inclusion

Small and Underutilized Business Program

The Division administers the Small and Underutilized Business Program (“SUBP”) which redresses past discrimination and aims to prevent discrimination against minority and women owned business enterprises (“MBEs and WBEs”) in City procurement.

Goal Setting on City Procurement

Each City procurement opportunity is reviewed for specific goals based on the project scope, subcontracting opportunities, and availability of qualified MBEs and WBEs¹. This process is known as “Goal Setting.” Goals may be set on contracts over \$100,000 for projects included during this reporting period².

In 2018 the Division reviewed **200** procurement opportunities for goals.

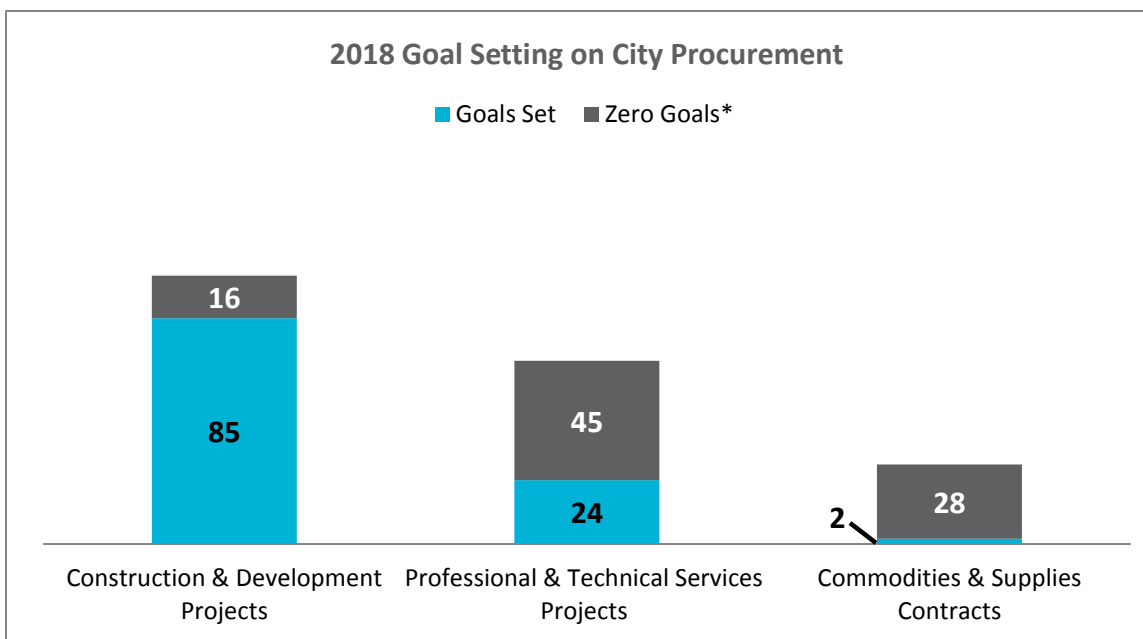


Figure 1: Displays number of procurement opportunities reviewed for project or contract specific goals.

Good Faith Efforts Reviews

A bidder or proposer must meet the established goals or demonstrate good faith efforts (make every necessary and reasonable effort) to meet the goals prior to bid or proposal submittal. To assist bidders and proposers in their good faith efforts to include MBEs and WBEs, a checklist of GFE requirements, a list of qualified MBEs and WBEs, and a memo that explains procedural requirements are provided with bid specifications and Requests for Proposals. If a bidder or proposer has not provided information at the time of bid opening that it will meet the contract goals, the Division will conduct a good faith effort (“GFE”) review to determine if the bidder or proposer made a good faith effort. Bidders or proposers not making a good faith effort are denied the contract. If the Division determines a bidder or proposer made a good faith effort, the Division will recommend the bidder be awarded the contract and hold the bidder to its participation commitment. The Division conducts ongoing compliance to ensure contractors continue to make efforts to meet their contractual commitments.

¹ Zero Goals: * Goals are set at zero if subcontracting opportunities are minimal, nonexistent, or there are insufficient numbers of available MBEs and WBEs

² See Minneapolis Code of Ordinance Ch. 423 (Small and Underutilized Business Program). The threshold was raised to mirror the City’s formal bidding threshold of \$175,000 on January 1, 2019.

In 2018, the Division conducted 72 pre-award reviews. In 44 out of 72 pre-award reviews, the bidder met the goals for minority and women business inclusion. In the other 28 pre-award reviews, the bidder did not meet the goals, and the Division conducted a good faith effort review of that bidder. Of the 28 GFE reviews 22 were approved to move forward and six (6) were denied³.

MBE and WBE Business Inclusion on Closed Construction and Development Projects

In 2018, 58 construction and development projects with MBE and WBE inclusion goals were closed by the Division.⁴ The combined construction contract amount for the 58 projects was \$211,026,605. MBE participation was \$20,183,702 (10%) and WBE participation was \$21,255,969 (10%) on these projects. To view a breakdown of the 2018 MBE/WBE participation by ethnicity see appendix.

	# of Projects	Total Contract Amount	Participation ⁵	
			MBE	WBE
2015	56	\$83,436,480	\$5,524,367 (7%)	\$5,474,611 (7%)
2016	37	\$189,084,774	\$10,682,378 (6%)	\$10,592,396 (6%)
2017	36	\$144,499,927	\$8,883,711 (6%)	\$7,123,720 (5%)
2018	58	\$211,026,605	\$20,183,702 (10%)	\$21,255,969 (10%)

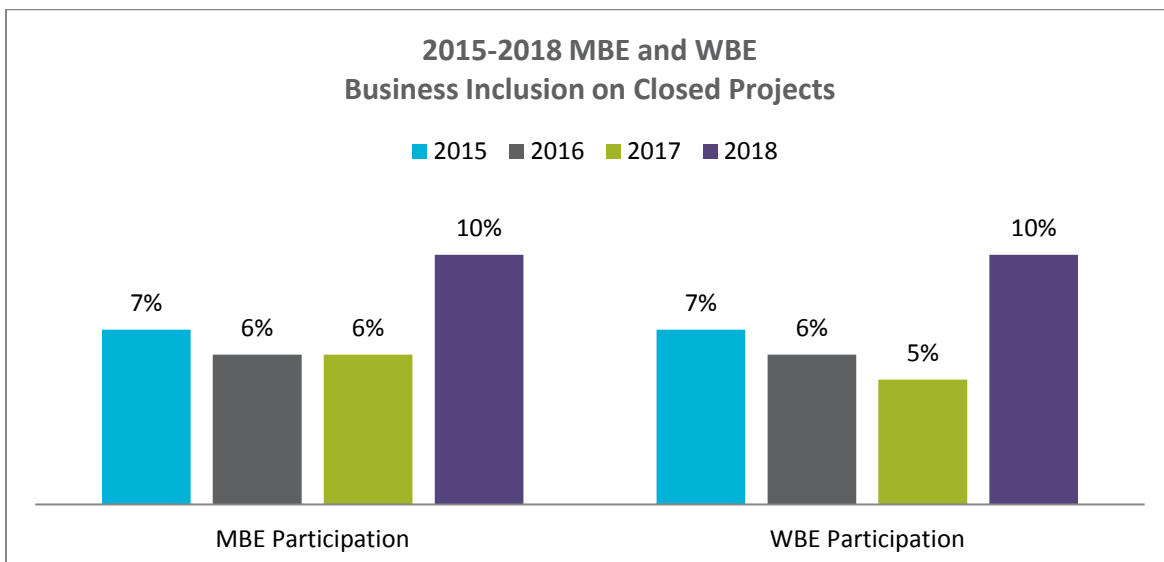


Figure 4: Compares the participation of MBEs and WBEs on construction and development projects.

³ Two GFEs denied resulted in a request for reconsideration. A reconsideration meeting was held and the Division’s decision was overturn.

⁴ Closed projects are completed construction and development projects that the Division has conducted an administrative closeout process for, which includes verification of payments made to MBEs and WBEs.

⁵ To obtain the participation percentage, the amount paid to MBEs and WBEs is divided by the total construction contract amount.

Minnesota Unified Certification Program

To count towards the MBE and WBE inclusion goals, the SUBP ordinance requires firms to meet the certification standards established by the Minneapolis Department of Civil Rights director. The City has adopted the Minnesota Unified Certification Program (“MNUCP”) certification as the SUBP certification standard. The MNUCP is a group of state and local agencies certifying Disadvantaged Business Enterprises and MBEs or WBEs. The certifying agencies are:

- City of Minneapolis
- Minnesota Department of Transportation
- Metropolitan Council
- Metropolitan Airports Commission

To become certified, minority and women owned businesses must meet the following criteria:

- At least 51% owned and controlled by a socially and economically disadvantaged individual.
- The disadvantaged owner(s) is a U.S. citizen or permanent resident.
- The business is for-profit.
- The business’ annual gross receipts do not exceed \$23.98 million or the Small Business Administration size standard.
- The disadvantaged owner’s personal net worth does not exceed \$1.32 million.

In 2018 the Division certified 28 firms, as well as conducted NAICS code additions for currently certified firms and other certification duties required by membership in the MNUCP.

Female and Minority Workforce Inclusion

On July 17, 2017, the Minnesota Department of Human Rights announced new aspirational goals for the metro area⁶. The new recommended workforce goals for construction have been set at 20% female hours and 32% minority hours. The Minneapolis City Council adopted these new goals, effective as of October 1, 2017. The Division monitors these projects to ensure contractors commit to use female and minority workers, adhere to their commitments, and make efforts to recruit, hire, and train females and minorities.

Workforce Inclusion for Women and People of Color on Closed Construction and Development Projects

In 2018, 55 construction and development projects with workforce inclusion goals were closed by the Division. Total workforce hours for these projects were 1,104,723 hours, of which female hours were 61,287 hours (6%) and minority hours were 258,044 hours (23%).

	# of Projects	Total Project Hours	Final Participation	
			Women	PoC
2015	72	570,937	23,010 (4%)	119,096 (21%)
2016	53	1,260,161	65,315 (5%)	270,643 (21%)
2017	43	848,712	37,299 (4%)	202,048 (24%)
2018	55	1,104,723	61,287 (6%)	258,044 (23%)

⁶ Previous goals were 6% of labor hours for women and 32% for people of color.

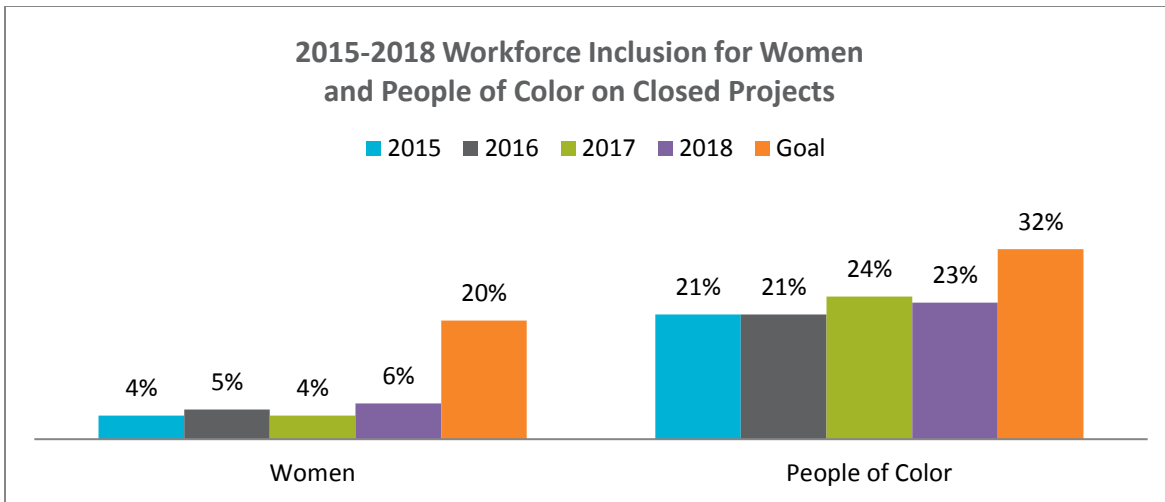


Figure 7: Compares workforce inclusion of female and people of color workers on closed construction and development projects.

Affirmative Action

An AAP is a combination of policies and procedures a company utilizes to prohibit discrimination and promote equal employment opportunities for women, people of color and disabled individuals. Minneapolis Code of Ordinance 139.50(d) requires every developer, contractor, consultant, supplier, or vendor entering into a contract with the City to have an approved AAP on file with the Minneapolis Department of Civil Rights prior to contract execution if:

- The contract meets or exceeds \$100,000, either at the time of contract execution or at any point during the life of the contract.
- There is more than one simultaneous active contract with a combined total over \$100,000.

Prior to contract execution, the Division receives requests for affirmative action approvals from City departments to ensure compliance with the ordinance requirement. The Division works with companies to develop, review, audit and approve the contractors' AAPs. In 2018 the Division processed and approved **202** AAPs.

HUD Section 3 Program

As a recipient of federal funds, the City and its contractors must comply with the HUD Section 3 regulation on Section 3 covered projects. HUD Section 3 ensures that jobs, training and contracting opportunities created by Section 3 covered projects shall be afforded to low income residents and businesses (Section 3 Residents and Section 3 Businesses). Section 3 does not supersede competitive bidding requirements; instead it expressly encourages, to the greatest extent feasible, a Section 3 preference in the evaluation of bids. The goals on Section 3 covered projects are 10% Section 3 Businesses and 30% Section 3 Residents. The Division complies with Section 3 by:

- Enforcing compliance on Section 3 covered projects.
- Conducting a "greatest extent feasible" review on contractors.
- Certifying residents and businesses as Section 3.
- Maintaining a list of Section 3 Residents and Businesses and sharing with contractors.
- Identifying training and contracting opportunities for Section 3 Residents and Businesses.
- Reporting on Section 3 activities to federal government.

Section 3 Business Inclusion

In 2018, six (6) Section 3 covered project were closed by the Division. The total construction contract amount for these projects was \$32,710,304. Of that, \$2,573,993 (8%) went to Section 3 Businesses. For a breakdown of Section 3 business inclusion projects refer to the table in the appendix.

Section 3 Collaboration

The Division has been closely working with local government agencies to form a Section 3 Collaborative to:

- Offer one centralized certification system.
- Standardize compliance and reporting practices.
- Collaborate on outreach efforts.
- Reduce stigmas associated with Section 3.
- Assist contractors to quickly identify Section 3 Residents and Businesses.

Current members:

- City of Minneapolis
- City of Saint Paul
- Minneapolis Public Housing Authority
- Saint Paul Public Housing Authority
- Anoka County
- Hennepin County
- Ramsey County
- Washington County

Labor Compliance

Construction and development projects covered by the federal Davis-Bacon and Related Acts, Minneapolis Public Works Ordinance, or the CPED Prevailing Wage Policy require the payment of prevailing wages to workers.

Wage Recovery

The Division ensures accurate wages are paid to workers. For 2018, the Division recovered \$19,423 for 41 workers on 14 projects. This information is detailed in the appendix.

Apprentices

The division ensured workers classified as apprentices were registered in a State approved program, paid in accordance with their pay and benefit scale, and utilized within the approved ratios. In 2018, **595** apprentice agreements were verified.

Outreach Activities

In addition to compliance, the Division continues to engage in outreach to assist contractors in meeting inclusion goals, affirmative action, complying with prevailing wage and assisting small businesses with certifications. In 2018, the Division engaged in the following:

- Presented and attended **58 pre-bid**, pre-proposal or pre-construction meetings to discuss the City's business and workforce inclusion goals.
- Presented the City's construction forecast at the 2018 Construction Conference.
- Conducted ten (10) City Construction onsite visits and 28 Disadvantaged Business Enterprise (DBE) Certification onsite Inspections.
- Attended the Section 3 collaborative meetings.
- Attended the Meet and Greet for the MoZaic East Project.
- Held one General Contractor Training to inform contractors on City projects of City contract requirements like SUBP, Prevailing Wages, and other contract items.
- Tabled at the University of Minnesota's Supplier Diversity Expo and attended their small business networking event.
- Participated in the "Doing Business with the City" events.
- Held a City Project Manager (PM) Training to inform City PM's of Division program areas and recent updates.
- Attended the Small and Disadvantaged Business Opportunities Council (SADBOC) monthly meetings.

- Assisted with the New Disadvantaged Business Enterprise (DBE) Orientations.
- Held three technical assistance walk-in sessions to discuss the Small and Underutilized Business Program (SUBP) ordinance changes and updates to the bidding process regarding SUBP.
- Tabled at the Annual Small and Disadvantaged Business Opportunities Council's (SADBOC) Government Procurement Fair.
- Attended the Disparity Study Meetings and outreach events regarding the outcomes of the City's Disparity Study.

Target Center Renovation

The Division has been asked to report quarterly on the equity and inclusion activities placed on the Target Center Renovation project. The project is now complete and included in the appendix is a report that summarizes compliance activities.

Conclusion

The Division continues to be an essential part of the City's efforts to include women, people of color, and low-income people on City projects and contracts. Previous reports can be found online at:

www.minneapolismn.gov/civilrights/contractcompliance/monthlyreports

Appendix

Target Center Renovation – Background

Division staff was directed to ensure compliance with the following equity and inclusion provisions:

- Minority and women business inclusion on the Architectural and Engineering services contract.
- Minority and women business inclusion on construction contract.
- Female and minority workforce inclusion goals of 6% female and 32% minority.
- Local hiring of zip codes with high unemployment and high poverty.
- Inclusion of apprentices and professional interns.

In turn, these provision(s) were included as Equity Plan Requirements in the Request for Proposal(s) used to select the Architectural and Engineering Services (“A/E”) firm and the Construction Manager at Risk (CMaR). Compliance with the Equity Plan Requirements was a factor in vendor selections. The City selected and contracted with Architectural Alliance for the A/E services and Mortenson Construction (“Mortenson”) for the CMaR contract.

Professional Services Contracts

Minority and Women Business Inclusion

Minority and women business inclusion goals were set at 8% MBE and 11% WBE based on the project scope, subcontracting opportunities, and availability of qualified MBEs and WBEs.

Architectural Alliance provided a proposal that detailed commitments⁷ of 9% (or \$599,250) MBE and 11% (or \$753,300) WBE (see chart below). The Division confirmed with the MBEs and WBEs their intent to contract with Architectural Alliance. A good faith efforts review was conducted and the Division determined Architectural Alliance made a good faith effort. The City entered into contract with Architectural Alliance for \$7,000,000.

The contract is 100% complete through the fourth quarter. Architectural Alliance has been paid \$10,264,600. Of that, MBE participation was 7% (or \$716,495) and WBE participation was 10% (or \$1,072,158)⁸.

Business	MBE or WBE	Performed	Subcontract Commitments	Final Payments
4RM+ULA	MBE	Yes	\$250,000	\$394,320
Buildings Consulting Group	MBE	Yes	\$46,750	\$32,360
Chase Engineering	WBE	Yes	\$43,400	\$25,883
EVS Engineering	MBE	Yes	\$39,000	\$91,965
Lighting Matters	WBE	Yes	\$195,000	\$281,171
Martinez Geospatial	MBE	Yes	\$263,500	\$197,850
Questions & Solutions Engineering, Inc.	WBE	Yes	\$92,900	\$83,773
Studio Hive	WBE	Yes	\$225,000	\$493,984
Technology Management Corp.	WBE	Yes	\$197,000	\$187,348
Total:			\$1,352,550	\$1,788,653

⁷ Based on initial contract amount \$7,000,000

⁸ Participation is verified through payments made to MBEs and WBEs. Percentages based on GC payouts

Construction Contracts

Mortenson provided a detailed Equity Plan with their proposal that outlined its commitments to community engagement, business and workforce diversity inclusion. Their plan also included partnerships with mid-sized minority owned Thor Construction and Tri-Construction, a minority-owned North Minneapolis-based construction company.

On April 12, 2016, a pre-construction meeting was held between City staff and Mortenson. All compliance details of the equity and inclusions provisions were discussed in detail. Mortenson provided detailed Monthly Compliance Reports to the City.

The project is now complete and below is a summary of the equity and inclusion participation results.

Minority and Women Business Inclusion

Minority and women business inclusion goals were set at 9% MBE and 11% based on the project scope, subcontracting opportunities, and availability of qualified MBEs and WBEs. On December 17, 2015, Mortenson held a subcontractor information session to engage stakeholders and diverse businesses.

Final subcontracting participation⁹ for MBE was 11% (or \$13,114,430) and 11% (or \$13,904,992) for WBE businesses. Combined W/MBE participation was 22% (or \$27,019,422).

Female and Minority Workforce Inclusion

Workforce inclusion goals are 6% female and 32% minority. The final total workforce hours were 419,089, of which 11% (or 44,042) were female hours and 38% (or 160,580) were minority hours.

Local Hiring

The local hiring provision requires that efforts were made to employ residents from Minneapolis zip codes with high-poverty and high unemployment. 87 workers from the targeted Minneapolis zip code area worked on this project.

Apprenticeships

The apprenticeship provision required that 10% of workforce hours shall be performed by apprentices. The final participation was 22% (or 91,660 hours) were performed by apprentices.

Professional Interns

The Division utilized its Urban Scholar to also engage in compliance work related to the project. Mortenson and the City will discuss obtaining an Urban Scholar for next summer. Mortenson confirmed that they did not hire an Urban Scholar for this project.

Conclusion

The Division continues to work closely with Architectural Alliance and Mortenson to ensure compliance with the equity and inclusion provisions. Updated quarterly reports will be provided per the staff direction.

⁹ Based on final contract amount \$121,090,642

Ethnicity Breakdown of MBE/WBE Participation on Closed Construction Projects

Ethnicity	2018 Contract totals	Total number of Contracts	Percent of Total Spend
African American	\$5,934,753	39	2.8%
Asian- Indian Subcontinent	\$436,060	4	0.2%
Asian- Pacific Islander	\$3,104,844	20	1.5%
Hispanic	\$2,096,890	25	1.0%
Native American	\$8,611,155	31	4.1%
White Women Owned	\$21,255,969	162	10.1%
Total M/WBE	\$41,439,671	281	19.7%

Section 3 Business Inclusion

Project	Construction Contract	Contractor Commitment	Section 3 Participation
House of Peace	\$149,602	\$0 (0%)	\$0 (0%)
PRG I	\$3,953,000	\$88,276 (2%)	\$96,319 (2%)
PRG II	\$5,150,000	\$140,870 (3%)	\$153,587 (3%)
Hawthorne Eco Village	\$12,428,077	\$1,818,587 (15%)	\$1,972,511 (16%)
Affirmation House	\$715,334	\$43,346 (6%)	\$60,365 (8%)
Opportunity Housing Partnership	\$10,314,291	\$216,115 (2%)	\$291,211 (3%)
Total	\$32,710,304	\$2,307,194 (7%)	\$2,573,993 (8%)

Labor Compliance: Wage Recovery

Project	# of Employees	Amount Recovered	Reason
OP 8501 – Minneapolis Convention Center Expansion Restroom Remodel	6	\$5,526	Misclassified workers
OP 8557 – Roof Replacement and Structural Repairs at Longfellow Recreation Center	3	\$4,006	Apprentices out of ratio
OP 8428 – MBC Life Safety Stages 22 & 23 Remodeling	2	\$2,672	Apprentices out of ratio
PPL Youthlink Supportive Housing	9	\$2,474	Apprentices out of ratio
OP 8467 – Under Freeway Impound Lot Improvements	6	\$1,470	Apprentices out of ratio
Condos on Blaisdell	1	\$893	Apprentice Misclassification
OP 8301 – Northeast Athletic Field Park Recreation Building	3	\$637	Apprentices out of ratio
OP 8476 – Ventilation Unit Replacement at MPRB HQ	2	\$565	Apprentices out of ratio
MoZaic East	2	\$459	Apprentice out of ratio
OP 8397- Wading Pool Improvements at Bryant Square Park	2	\$295	Underpaid wages
OP 8352 – Phillips Community Aquatics Center	1	\$163	Apprentice out of ratio
OP 8331 – Target Center Ice Replacement Project	2	\$112	Apprentices out of ratio
OP 8438- MCC Parking Ramp Intercom Systems Upgrade	1	\$76	Apprentice out of ratio
OP 8565 – Matthews Rec Center HVAC Improvement Project	1	\$75	Apprentice out of ratio
2018 Total	41	\$19,423	

