

Set-aside claims doubted

Records indicate city dollars to minorities, women overstated

By Laurie Cohen and Sam Roe
Tribune staff reporters

For years, Mayor Richard Daley and other city officials have said they have given minorities and women hundreds of millions of dollars in city contracts—usually 30 to 45 percent of the total annual contract money.

But the city's own lawyers and a city consultant have indi-

cated that the city has overstated the share of city contract dollars that minority and women business owners have received, court and city records show.

Part of the reason for the discrepancy, the records show, is the way the city reports its numbers. In frequent news releases and public speeches, city officials have disclosed solely how much money has been promised to minorities and women at the

outset of city projects—not how much was eventually received.

It is unclear precisely how much these businesses are paid. The city does not release these figures and will not say whether it tracks the information.

The only significant study on the topic was conducted in 1997 by city consultant Timothy Bates. His analysis, disclosed in court filings, examined a portion of the contracts and concluded that minorities received

only half the share promised.

City contracts also have been beset by fraud, which can lower the true amount going to minorities and women, city officials acknowledge. This abuse includes the use of fronts, or firms masquerading as being owned by minorities or women while actually being controlled by white men.

As recently as a year ago,

PLEASE SEE **CONTRACTS**, BACK PAGE

FROM PAGE ONE

CONTRACTS: City touted award data, not payouts

CONTINUED FROM PAGE 1

Brian Crowe, an attorney representing the city in a case involving city contracts, said in court that the city's publicly stated numbers on minority contracts should be "greeted with great skepticism."

The figures, Crowe said, "do not accurately portray the real economic impact" on companies owned by women and minorities. His remarks were not widely reported at the time. In an interview this week, Crowe confirmed that his statements in court last May were accurate but said he is not sure whether the situation persists.

Each year, the city spends more than \$1 billion through thousands of city contracts—lucrative deals to build roads, dispose of garbage and expand the city's two airports. Daley has courted voters and political allies by saying that the city is using a substantial amount of that money to help minority and women business owners.

The mayor did not respond to repeated requests for comment.

Jessica Maxey-Faulkner, spokeswoman for the city's Procurement Services Department, which oversees city contracts, said the city's numbers are not misleading. Officials, she said, clearly report the amount of contract money awarded at the beginning of projects.

She said that for some contracts, such as those lasting several years, disclosing the awards, or the amount of money promised at the outset, is the most accurate way to report the figures. The city law requiring that contracts go to minorities and women refers to awards.

She would not comment on statements by the city lawyer and the consultant questioning the numbers.

The issue of who really benefits from city contracts is especially important now. In response to a federal court ruling, the city has been wrestling with



Tribune photo by Scott Strazzante

Company executive Theresa Kern (left) and Ald. William Beavers discuss set-aside program revisions Tuesday at a public hearing.

how to restructure its program that sets aside contract dollars for minorities and women. The City Council heard testimony this week.

Historically, minorities and women were essentially shut out of city contracts. It was a good old boys network, run by white businessmen, former city officials say. One former city purchasing official, Leroy Bannister, who is African-American, said the world of city contracts was worse than the segregated South, where he grew up in the 1950s and 1960s.

In 1985 the city tried to improve the situation by setting goals for contract dollars: 25 percent of its business would go to minorities and 5 percent to women.

The City Council made these goals law in 1990, with Daley calling the decision "a historic occasion for Chicago." He said the new rules would "guarantee that minority and women entrepreneurs enjoy fair participation in city business."

Soon the city was touting the program's success, reporting in 1992 that it was awarding an even greater share of money to

minorities and women than the law required.

In 1996 the city asked Bates, a veteran city consultant, to assess the program. As part of his work, he wanted to check how much minorities and women were receiving, suspecting that the city's figures were high.

When he asked the city's Purchasing Department for data, he said, he was initially ignored. In fact, the city took a year to produce the information and only after he asked the city Law Department to intervene.

"It was a bit like pulling teeth," Bates, a professor at Wayne State University in Detroit, recalled in an interview.

Even after a year, he did not receive all the data he wanted. He had hoped to look at how much was actually paid to prime contractors and subcontractors on 1992 contracts. Instead he had to focus just on prime contracts, analyzing payouts over the following five years.

His study suggested that 14 percent of the money was going to minorities—much smaller than the 30 percent the city had claimed and well below the 25

percent mandated by law.

The consultant wrote to city lawyers to express his concerns. He said that the city's figures and his numbers were so far apart that "a political issue could arise" and that people could wonder whether the city inflated its numbers to comply with the law.

"The city certainly can and should be on top of these issues," his letter stated.

But the city continued to publicize the same kind of numbers Bates was concerned about.

In 2001 the city said that in the previous year it awarded 42 percent of contract money to minorities and women, an increase of 7 percentage points from 1999.

"These numbers prove that we are not only fulfilling, but significantly exceeding our commitment to the participation of minority- and women-owned business on city work," the mayor said.

In an interview, Bates, who remains a city consultant, said "it could be very misleading" to solely look at how much money is awarded under a contract to a business. "What do you want to

get if you are a business?" he said. "An award or a payout?"

He said that it is "unacceptable" to promote just awards. "Award data gives [city purchasing officials] an image they are comfortable with," he said.

What is promised and what is actually received differ for various reasons. Minority subcontractors say money pledged to them by white firms to comply with the program often is not paid. They also say that when city projects expand, the added work disproportionately goes to white businesses—a conclusion similar to one Bates reached.

Fraud is another factor. The city has several compliance officers who are responsible for monitoring the contracts for abuse. In a 2001 news release, the city said, "Every piece of work done for the City of Chicago is in compliance, whether it's construction, commodities, work services, small orders or professional services."

But in court records, city officials state otherwise. Terrence Moore, a city compliance officer, testified last year that fronts were relatively common and estimated that a quarter to a third

of city projects that he was familiar with might include fronts.

Moore would not comment for this story. Maxey-Faulkner, the spokeswoman for his department, said Moore was only able to prove once a year that a company was acting as a front.

Last year, two members of the politically connected Duff family were indicted for allegedly using fronts to win more than \$100 million in city contracts. They have denied the charges.

Today, part of the set-aside program is being restructured to comply with a recent court order. In 1996 the Builders Association of Greater Chicago sued the city, arguing that setting aside a portion of construction contract dollars was unconstitutional because it discriminated against white men.

To defend itself the city needed to show that minorities and women still faced bias and that the city was partly to blame. The city lawyers had to demonstrate that despite the city's efforts, some money continued to go to contractors who discriminated against minorities and women.

That helps explain why city lawyers argued in open court that the city was overstating the success of the program, contradicting what the mayor and others had said for years.

"It puts the city in an unenviable position," said Jack Hagerly, one of the city's lawyers. "When you defend this kind of case you have to paint your client as a bad actor."

In the end a judge ruled that portions of the program were not aiding those most in need. He gave the city until June to fix the problem.

Last year the city reported that it awarded 46 percent of its contract dollars, or about \$585 million, to women and minorities.

Bannister, the former purchasing official, who is now a prominent real estate developer, said he doubted the city's numbers years ago and doubts them today.

"If you live in the African-American community and you look at the government making these grand announcements about awards to African-American contractors, and you keep getting repeated complaints, you know something is not connecting," he said.