Tribune photo by Zbigniew Bzdak

Ozinga Bros. cement trucks are seen all over the city.

How firm beat city set-aside program

White-owned concrete company created minority firms to get increased share of business with the city

By Sam Roe and Laurie Cohen
Tribune staff reporters

The boldly striped red and white cement trucks have long been a common sight in Chicago, pouring concrete for miles of curbs and sidewalks as well as for skyscrapers, Comiskey Park and Navy Pier.

The trucks have brought their owners, Ozinga Bros. Inc., tens of millions of dollars in city contracts and launched members of the family-owned firm to noted positions in local political and charitable circles.

But behind the scenes, documents and interviews show, the Ozinga firm repeatedly dodged city rules and exploited an affirmative-action program to win lucrative contracts.

Now Ozinga trucks pour concrete for the city under an unusual deal: The city has exempted the company from virtually all minority set-aside requirements.

As City Hall wrestles with scandals in its programs to lift minority- and women-owned businesses, the Ozingas provide a case study in how a white-owned company can work the system—and win.

The company's actions include creating a spinoff concrete firm in the 1980s to win city business reserved exclusively for minority-owned companies. Martin, Richard and James Ozinga—all white men—enlisted the help of two African-American churches in Chicago's depressed South Side, giving nine church members 51 percent ownership to technically meet the city's rules.

But two of the African-American church members now say the spinoff company was bogus and that minorities had little control of the business. "It was a classic front," church member Henry Washington says.

Ozinga Bros., an 800-employee firm based in Orland Park, denies any wrongdoing, saying

PLEASE SEE **OZINGA,** PAGE 16

OZINGA: Venture fails to work, so 2nd is set up

CONTINUED FROM PAGE 1

it has always followed the rules and been open about its business practices.

Regarding allegations that the company once operated a front, Martin Ozinga, the president of Ozinga Bros., says, "I'm extremely disappointed that people feel that there was something less than a very noble effort being put forth there."

When the Ozingas' business venture with the churchgoers did not work out, the Ozingas replaced them in the early 1990s with an African-American, a Cuban-American and a native of Indonesia.

This time, with the business-savvy Indonesian-American as president, the spinoff won an $11 million city contract that was open to minorities and non-minorities alike—including the white-owned Ozinga Bros.

The Indonesian-American, Bing Goei, recalls that Martin Ozinga was upset. He says the Ozingas did not want their own minority-owned firm competing against them—a charge Martin Ozinga denies. The Ozingas bought out the company, told Goei he would be fired and then scrapped the whole venture. Goei left before he was fired.

Fed up with affirmative-action rules, the Ozingas sued the city in 1996. Although they had previously told city officials they wanted to help minority businesses, they now argued that the set-aside program was unconstitutional and that minorities should not get advantages.

After the suit was filed, the city cut the Ozingas a rare deal: It would excuse them from virtually all requirements regarding hiring minority and women subcontractors.

City Law Department spokeswoman Jennifer Hoyle defends the deal, saying the Ozingas proved they could not find minority subcontractors. She also says city officials had concerns about the Ozingas' spinoff company but that it restructured to the city's satisfaction.

Martin Ozinga, a devout Christian and wealthy Republican who was on the GOP's short list to replace Jack Ryan in last fall's race for the U.S. Senate, calls the entire set-aside concept unworkable. He says the Ozingas wanted to scrap the city's program because they found it "basically un-American, trampling all over our civil rights."

"We're forcing our capitalistic free-enterprise system to participate in a completely race-based system that functions completely contrary to free enterprise," he says. "You try to mesh the two together, and you get chaos. And that's what we experienced: chaos."

For years, the world of city contracts was a good old boys network, run by white men. Minorities and women were essentially shut out.

Tribune photo by Zbigniew Bzdak

Martin Ozinga is president of Ozinga Bros. Inc., a concrete company that has made tens of millions in city contracts.

In 1985, the city tried to improve the situation. The city asked white contractors winning contracts to set aside 25 percent of the work for minority-owned subcontractors and 5 percent for women-owned firms.

Lucrative theory

In theory, this guaranteed millions of dollars in new business for minorities while taking money away from white firms.

Ozinga Bros. did not wait long to take action.

Martin Ozinga approached the leaders of two African-American churches—Roseland Christian Reformed Church and Pullman Christian Reformed Church—with an idea: What if the Ozingas and the churches joined forces to create a minority-owned concrete company to take advantage of new city and state goals?

The churches could keep their share of the profits, and people from the neighborhoods could be hired to drive cement trucks. As for the Ozingas, they could get a piece of contracts that might not otherwise be available to them.

Church leaders loved the idea. "We hoped this would be profitable and bring money flowing into our ministries," recalls Rev. Richard Williams, pastor at the Pullman church.

Trust was not an issue. The Ozingas were noted businessmen, and they belonged to the same denomination: the Christian Reformed Church. In fact, the Ozingas had been generous donors to Christian Reformed causes and to the Pullman and Roseland churches.

Soon, the two churches created a non-profit group and selected nine worshipers—none of whom knew anything about the concrete industry—to serve on the group's board of directors. This non-profit, along with the Ozingas, formed the new company, known as Metro Mix.

The Ozingas gave the church group a loan to cover 51 percent of the business. The Ozingas kept 49 percent.

Hired as general manager was Pierre Chestang, an African-American religious broadcaster with no construction experience.

Problems quickly arose. When Metro Mix applied for minority status with the city and state, officials denied the requests, saying the firm's ties with Ozinga Bros. were too close.

The Ozingas and the church leaders restructured their joint company, and, finally, in 1990, the city granted it minority status. The state still refused.

With its city designation in hand, Metro Mix started winning contracts. One involved Ozinga Bros. hiring Metro Mix—its own minority spinoff—as a subcontractor. This allowed Ozinga Bros. to meet the city's set-aside goals, which by then had become law.

Some church members became increasingly skeptical about Metro Mix. Pastor Williams says that even though the church non-profit technically owned 51 percent, the Ozingas were financing the business; therefore, the church leaders "had to listen to" what the Ozingas told them.

"We were not real owners," the minister says. "It was kind of a paper thing."

Williams was in the odd position of running some of the management meetings. "I didn't know anything about business or concrete," he says. "I was the pastor of a church."

Sharing his concern was Henry Washington, a leader of the church group who was retired from the Small Business Administration, where he had screened applications for federal contracts reserved for minority companies. One of his jobs was to help detect suspected fronts.

He says Metro Mix was clearly a front because the African-American owners "didn't have any say at all. None whatsoever." Washington says he voiced concerns to other church members, but they were reluctant to act. "They were thinking about the profits that could be earned from it all," he says.

Martin Ozinga says that the venture was not a front. But as 49-percent owners, he says, the Ozingas wanted the company run properly.

"We're not going to sit there quietly when we see something that is maybe not going well or we see an area that needs improvement or an opportunity that should be pursued."

In 1993, the Ozingas and the churches decided to scrap the business, largely because the state would not recognize it as minority owned.

'Never again'

Williams says the venture provided some money for the churches but not much. "I remember saying that I would never get involved in something like this again," he says.

The Ozingas did not give up. Instead, they restructured to meet state requirements.

By 1994, the new 51-percent owners of Metro Mix were Chestang, the African-American involved in the old Metro Mix firm; Jose Diaz, a Cuban-American with some experience in the concrete industry; and Goei, the native of Indonesia.

Goei lived in Grand Rapids, Mich., where he was a race relations official for the Christian Reformed Church. Martin Ozinga's father, also named Martin and a major donor to Christian Reformed causes, contacted Goei about becoming a Metro Mix owner. Goei ended up commuting to Chicago, staying during the week in the home of Martin Ozinga's father in suburban Evergreen Park.

Unlike the church group, the three minorities—Goei, Chestang, and Diaz—invested their own money in Metro Mix. Each wrote checks for $68,000 to obtain 17 percent, or 51 percent total, of the new company. The Ozingas held 49 percent.

Goei was designated president. He recalls that Martin Ozinga told him to accomplish three things: make Metro Mix profitable, independent and self-sufficient. "And I believe that's what I did," he recalls.

In fact, he says, he accomplished it too well.

In 1994, he submitted a bid on behalf of Metro Mix for an $11 million city concrete contract, competing directly with a bid from Ozinga. He says he thought there was little chance the upstart company would get the job.

But when the bids were opened, Metro Mix won.

Soon, the firm had 25 trucks, painted solid red to distinguish them from Ozinga's red-and-white striped ones. Goei says sales doubled, as did employment, with the vast majority of the workers being minorities.

Martin Ozinga, meanwhile, was on a yearlong, around-the-world backpacking trip with his six sons. He made it a point never to touch base with the office.

When he returned, he was upset to learn that Metro Mix won the lucrative city contract, Goei says. This ultimately led, he says, to the Ozingas telling him he would be fired and closing Metro Mix.

Martin Ozinga tells it differently. He says that when he returned from his trip, he found that Goei was making decisions without consulting the Ozingas, including buying a second concrete plant, just blocks from an Ozinga Bros. facility. Plus, he says, Metro Mix was growing too fast and losing money.

"We've got a very good name in this industry," he says, "and I'm not going to let one of my companies file for bankruptcy."

Available public documents do not resolve the dispute.

The Ozingas took control of Metro Mix by buying the 17 percent of the company's shares owned by Diaz, the Cuban-American. Now holding 66 percent of the shares, the Ozingas shut down Metro Mix.

The third minority owner, Chestang, says he learned about the company's demise when he called back to the office while on vacation.

Goei has since moved back to Grand Rapids, where he now owns one of the area's largest retail flower chains and is a prominent advocate for minority businesses.

He says the Ozingas did not want to compete with their own spinoff. "They felt we were infringing on their right, their ability to maximize their profits," he says.

Firm sues city

Two months after shutting Metro Mix, the Ozingas made a complete turnabout. After years of saying they wanted to help minorities, the Ozingas sued the city, arguing that its set-aside program discriminated against white male contractors.

The 1996 suit mirrored one filed earlier by the Builders Association of Greater Chicago. Both cases dragged on for years in federal court in Chicago.

In the meantime, Ozinga Bros. in 1997 won the city's new concrete contract. When it did, the city excused the company from virtually all requirements to share some of the work with firms owned by minorities and women.

And that deal continues today.

Instead of paying $11.8 million since 1997 to minority subcontractors—the normal share for minorities—the Ozingas pledged to pay about $560,000, or about 20 times less. Martin Ozinga says the firm actually paid more than it pledged, but he could not immediately say how much.

In court, an Ozinga lawyer said the city granted these "waivers" because of the company's suit against the city.

The city denies that claim, saying officials granted Ozinga waivers because the company successfully argued that it could not find minority subcontractors at a reasonable price.

But at least one minority firm says it offered to help Ozinga.

Speedy Redi-Mix's Edward Forte says that in 2002 he agreed to bid as a subcontractor if Ozinga promised to hire his firm, but Ozinga declined. Martin Ozinga says he does not recall the offer.

To avoid such headaches, the city in 2002 reserved part of its concrete business solely for minority-owned firms. They would not have to rely on white contractors to hire them as subcontractors. The Ozingas fought that change in court but lost.

Meanwhile, the builders association prevailed in its suit. A judge agreed that the city's set-aside program was not helping those firms most in need. So the city tightened eligibility rules. The similar Ozinga suit was dismissed.

Ozinga's current contract with the city began in March 2003. Several months later, an Ozinga Bros. subsidiary donated $25,000 to the pro-Daley Hispanic Democratic Organization. It was the single biggest political donation the Ozingas, all Republicans, have given in the last 10 years, state records show.

Martin Ozinga says the donation was given because the Democratic group supports politicians in the Pilsen area, where the Ozingas have a plant. He says he did not expect, nor receive, any favors from the city in return for the donation.

Several of Ozingas' former business partners say that Chicago needs more minority businesses like Metro Mix.

Bing Goei, the former Metro Mix president, says when he visits Chicago he looks out the car window while on the expressway and catches a glimpse of the old Metro Mix concrete plant. Had the firm continued, he says, "it would have been a wonderful success story. But you know what? It's not. It's done."