



Minnesota Utility Contractors Association

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September 1, 2015

VIA Email and U.S. Mail

Commissioner Kevin Lindsey
Department of Human Rights
Freeman Building
625 Robert Street North
St. Paul, MN 55155

RE: EEO Workforce Minority Goals: Facts, Misconceptions, and a Solution

Dear Commissioner Lindsey:

On behalf of the members of the Minnesota Utility Contractors Association (MUCA), representing over 130 companies engaged in the construction of critical underground infrastructure (sewer, water, storm water, gas, electric, cable, fiber optic, etc.), I am writing in hopes of opening a dialogue regarding the 32% minority Workforce Goal as established by your office. I want to share some facts with you. Did you know...

- **FACT: Excavation work has a 112% higher fatality rate than general construction.**
- **FACT**: A typical underground utility construction project does not require hundreds or thousands of workers. A small crew of 4-5 people (each with a specific job skill) is typical regardless of the length (miles/distance) of the project as the process of installing infrastructure is methodical in nature to ensure public safety and less interruption of service.
 - As an example, you wouldn't dig a 10 mile trench and lay the pipe or cable all at once...it's done in sections, unlike a vertical project, where you can have carpenters, electricians, drywall, masons, landscape, metal workers, roofers, truckers, and cleaning crews all working on the same project at the same time (i.e. U.S. Bank Stadium).
- **FACT**: The Minnesota Laborers' Union represents approximately 9,500 skilled construction Laborers statewide. In the Twin Cities Metropolitan area alone, the Laborers Union membership includes more than 850 minority and 400 female skilled and trained Journeywork and Apprentice Laborers. That means that even the **Laborers Union at its peak can ONLY provide an 8.9% minority workforce** – and that's for *all the various types of construction work available*.
- **FACT**: Per the Affirmative Action Statistics Data Packet compiled by DEED along with MDHR, (5 year data 2006-2010) under All Construction and Extraction Occupations (620-694) that would apply to MUCA Members (and their specific niche of the construction industry), there's an average availability of **only 6.9% in the Minority Labor Force**.

Given the above facts, establishing a 32% minority workforce goal, especially for those in underground utility construction and excavation activities, is extremely challenging and has been extraordinarily difficult for this niche industry to meet that goal. 29% of the 41 projects listed on the MDHR website are this type of construction. Underground infrastructure is not for everyone; very few people (regardless of race or gender), are willing to jump in a ditch and work in a dirt hole every day. It's risky and not easy to do.

OUR MISSION

To promote the underground utility industry by providing safety training, continuing education, scholarships and legislative relations.

OUR VALUES

Honest Communications
Transparent Leadership
Authentic Engagement

Let's set aside the facts and focus on the misconceptions versus the reality.

Misconception: All construction is the same and requires the exact same skillset and number of workers, regardless of whether you're building a home, restoring an aging Capitol Building, building a new football stadium, constructing a large bridge to cross a river, or installing a sanitary sewer system in a community.

Reality: Each different type of construction requires different skill sets and varying numbers of qualified workers.

Misconception: Contractors are prejudice, don't want to hire minorities, or aren't making a 'real' effort.

Reality:

- One contractor tried to hire six minorities this year...all six failed the drug test.
- One contractor successfully hired one minority who passed the drug test and the physical/wellness test, went through the company orientation and spent his first day working with and shadowing the crew he was assigned to. He called back the next morning to quit explaining, 'this work is too hard.'
- One contractor successfully hired a minority and assigned him to be a pipe watchman, to guard hundreds of thousands of dollars' worth of inventory on the job site. He showed up for two days and then quit.
- One contractor successfully hired a minority who worked for them for two days, then didn't show up for three days, then called to ask for his job back (which they allowed), only to end up quitting again.
- One contractor hired a minority graduate from Summit Academy that didn't understand (or wasn't trained properly) that construction -especially excavation- is not safe during heavy rains. He was upset that he wasn't going to be earning a living that day and quit.

Commissioner, the truth is that the industry *needs* qualified workers. The realities outlined above are not the exception, they are common place. It's the number one issue I hear when visiting. It's also the cover story of MUCA's Underground Press magazine this spring (see enclosed) and the MUCA Board has determined workforce development as our number one priority in our strategic plan for the next three to five years. They don't care about color or gender; they need qualified workers who will show up on time and are drug free.

The investment and effort contractors continue to make in complying with this goal is honorable. Their experience with MDHR however, could use improvement. This photo is an actual response to an MDHR audit (60 hours of work to research and compile). The response from the MDHR team when queried was "we didn't read it because it was so well done." Yet the company never received written confirmation of compliance after satisfying MDHR's request. Why?



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MDHR publicly labels companies as deficient in their practices, threatens to remove their certification, or doesn't respond with written confirmation of compliance after submitting hundreds of pages in response to an audit. This is paramount to being bullied.

The irony of being *bullied* by the Department of *Human Rights* is not lost. MDHR believes many companies aren't trying hard enough, and industry believes MDHR set an unrealistic goal considering the lack of qualified candidates available. What's the solution?

We need to change the narrative of diversity from "numbers" to "quality".

How do we do that?

I've enclosed for your review a summary of the Legacy I3 program that's working in Arizona to get minorities and women into the energy industry. I had the privilege of attending a workshop with Deon Clark last month. Deon's story is amazing as a south Chicago native who rose to become one of a select few certified to operate a nuclear power plant (he's above a nuclear engineer). I've received permission from Deon to share this with you.

Deon's approach is different than any current program Minnesota has in place. As an industry, we need to enhance our efforts by understanding everyone's diversity blind spots (natural tendencies we all have to make decisions based on our life experiences and what we've been taught – our paradigms, mental models and particular point of view), understanding culture competence (ability to interact effectively with people of different cultures), and the natural barriers to intercultural communication.

The Legacy I3 program operates in three phases:

Phase 1: Change the narrative regarding our approach to diversity (from 'numbers' to 'quality').

Phase 2: Understand the root cause for lack of female and minority participation in our industry.

Phase 3: Establish a low-cost sustainable talent pipeline program for short term and long term needs.

As Deon notes:

- The question is not 'How do we find more women and minorities for our high skilled, high wage jobs'.
- The question is 'How do we DEVELOP more women and minorities to be highly qualified candidates for our high skill, high wage jobs.'

Given the misconceptions and reality, is it possible that MDHR's paradigm of 'contractor bad' is projected on the industry unfairly... and what if the mental model of the 'construction industry' held by women and minorities lacks awareness of the great careers and money to be made in the industry (without hundreds of thousands of dollars spent on education first?).

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We won't know until we have a candid conversation first. A program that effectively develops approaches to attracting more women and minorities, and then establishing and implementing not only a Workforce program, but an Economic Development program model (demonstrated success... think 'Money Talks!').

Any government entity (MnDOT, DHR, etc.) can spew forth numbers they'd like to see. Without establishing a meaningful conversation among all stakeholders, understanding the challenges (on both sides), and then developing a robust program... it remains just a 'number' filled with 'hope', not a real effort to effect meaningful change in people's lives.

I'm hopeful that I can bring Deon to speak at the Construction Industry Conference held by DOLI next February. His message is powerful – especially coming from a south Chicago minority who has achieved so much, regardless of his environment and upbringing.

On behalf of the members of MUCA, I'd like to request a meeting with you to discuss our efforts in Workforce Development. Perhaps we could share some ideas on solutions that serve the contractors need for a pipeline of qualified workers, MDHR's need to accomplish the goal of increasing the pool of qualified workers (especially women and minorities), and the public's desire to have equal opportunities for great jobs.

Thank you for your careful consideration and I'm hopeful we can begin a candid conversation to solve this issue for all involved.

Warmest regards,

A handwritten signature in cursive script that reads "Stephanie Menning".

Stephanie Menning, CAE, IOM
Executive Director

Enclosures:

1. [MUCA Underground Press, Spring 2015 edition](#)
2. TCI Solutions, Legacy I3 Workforce Preparation and Economic Development Program, 2015 Pilot Program Final Report
3. TCI Solutions, Understanding Our Blind Spots