

June 14, 2018

Elissa Silverman
Councilmember At-Large
Chair, Committee on Labor and Workforce Development
John A. Wilson Building
1350 Pennsylvania Ave, NW
Suite 408
Washington, DC 20004

Re: *First Source Public Oversight Roundtable, Response to Letter dated May 22, 2018*

Dear Councilmember Silverman,

Below is the Department of Employment Services' (DOES) response to the letter dated May 22, 2018, concerning the First Source oversight roundtable to be held on June 21, 2018.

General Questions

1. In its response to the Auditor regarding the Auditor's report, DOES stated that it is making several technological updates. What is the timeline for completing these updates? Does DOES plan other technological updates? If so, please describe the content and timeline.

Response: DOES is assessing the capabilities of its current First Source data systems - FORRS, LCPtracker, and the First Source Register (DCNetworks) – in order to determine a means to better track the data, monitor, and enforce the entirety of the First Source law and its requirements. The assessment and enhancement of the systems are ongoing. The next phase of enhancements to these systems is expected to be completed in the fall.

2. The public First Source Online Registration and Reporting System (FORRS) webpage includes a "Status of Compliance" column where beneficiaries subject to the law are listed as "in progress," "met requirements," "did not meet requirements," or "contact First Source." Some are also blank. This was also noted in the Committee's FY19 budget report and recommendations. Is DOES updating FORRS to ensure that the compliance status is public for each project, either by listing the status or explaining why the status is unknown or not reported?

Response: DOES has corrected the issue that led to several blank compliance statuses. D.C. Code § 2-219.04a requires that "employment agreements" be listed, along with their compliance status, and not the status of the project as whole. The enhanced First Source systems will ensure this status is continuously collected moving forward.

3. At least once every three years, DOES is required by law to review the hours and reporting requirements for the construction projects over \$5 million to determine their appropriateness and make findings in a report to the Council. In its responses to the

Auditor, DOES stated that the Department will complete its assessment by September 30. When does DOES expect to make its recommendation to the Council?

Response: [The assessment is on track to be submitted to the Council this fall.](#)

4. In its pre-performance hearing responses (#76), DOES was unable to report the number of hires on First Source projects in FY18, stating that the Department is “updating software to rectify the timeliness of reporting issues.” Please elaborate as to what exactly this means. Is the Department currently tracking the compliance of active First Source projects?

Response: [Yes. DOES now has the capability to report the number of hires on current First Source projects. DOES is collecting data, conducting desk reviews, and making site visits to validate and ensure Employers’ and Contractors’ reported data is accurate. DOES is also actively enhancing data systems in order to eliminate instances of user error \(employer errors\).](#)

First Source Register

5. What is the specific URL where an employer can view names of individuals on the Register?

Response: www.dcnetworks.org

6. Please provide the Committee with an Excel spreadsheet with information for everyone currently on the Register, including: Date individual was added to the register; ANC of residence; and whether or not the individual is receiving unemployment insurance. What additional information does the Department maintain on registrants?

Response: [DOES maintains a responsibility to protect the identities of those in the Register. We can, however, share that there are 18,236 people in the Register--all of whom are unemployed. DOES is also currently implementing new software to capture ANC information. Please see attached Excel spreadsheet.](#)

7. Please describe the mechanics of the referral process. How does DOES go about selecting the specific individuals in the First Source register to refer for interviews?

Response: [DOES uses ONET Codes and other identifiers in the DC Networks system to match resumes with job description skill requirements.](#)

8. How does DOES meet the statutory requirement to refer for interviews individuals on the register who are unemployed and not receiving unemployment insurance, given that the Department still needs to update the coding to determine whether or not the individual is still unemployed (see Footnote 3)?

Response: DOES publishes a calendar of hiring events every week. Qualified job seeking District residents receive invitations to participate in immediate employment opportunity interviews.

9. Please describe the process by which DOES selects individuals in the specific ANCs of projects and refers them for interviews? By what process does the Department determine that an individual that it plans to refer for an interview still lives in the ANC of the project?

Response: DOES partners with community-based organizations to provide support services and event outreach to drive constituents in identified neighborhoods to targeted hiring events with employers participating on-site interviews. DOES also dispatches the Workforce on Wheels mobile unit to connect existing residents with immediate employment opportunities extended via employer partners. American Job Center staff follows up with job seekers identified by Workforce on Wheels community campaigns.

10. The law states that in compiling and maintaining the Register, DOES is to contact ANCs, community groups, and others for names of unemployed residents. Please provide a list of any ANCs or community groups from which names were received in FY17. How many people did DOES add to the Register as a result of these efforts in FY17? In FY18, through May 1?

Response: The career resource agencies include Academy of Hope; Amazing Love Health Services; America Works; Anacostia Mentoring Employment Network; Atlas Performing Arts Center; Building Futures; Community Partnership; Calvary Women's Services; Covenant House; CSOSA; D.C. Central Kitchen; D.C. Housing Authority (DCHA); Department of Employment Services (DOES); Edgewood Brookland Collaborative; Friendship Place; Goodwill of Greater Washington; Grant Associates; Helping Hands of D.C.; Living Wages Adult Education Program; Martha's Table; OIC; RCM of Washington; Sasha Bruce; Strive D.C.; Samaritan Ministry; Skyland Workforce Center; So Others Might Eat; Southeast Ministry; UDC Community College; UDC Workforce; Uniting People with Opportunity (UPO); and Jubilee Jobs. DOES has served a combined total of more than 7,500 community members by hosting regular career fairs from FY 17 to May 1. Unfortunately, we are unable to delineate between those added through our First Source efforts and those added at other job events.

DOES is unable to provide the Committee with the exact number of people added to the Register as a result of our various efforts. We believe any attempt to do so would vastly underestimate then number of residents assisted and given access to First Source job information. DOES often helps organizations partner with development projects. While these

efforts may lead to First Source job outreach and events, the data is simply not captured in our system.

Enforcement

11. How many total First Source agreements is the Department currently monitoring?

Response: DOES is currently monitoring 1,037 agreements.

12. How many projects and employers in total were found to not be in full compliance in FY17? How many in FY18, as of May 1?

Response: DOES assesses and verifies reports submitted by beneficiaries and contractors between 60 to 90 days after the conclusion of a project. The agency is closing out some projects and, once complete, non-compliance letters will be issued and penalties will be assessed. The success of our monitoring program has prevented any beneficiaries and contractors from being out of compliance at the conclusion of the project.

13. Along with their final request for payment, contractors are required to submit a report detailing their compliance with First Source or request a waiver. The Auditor reported that DOES conceded that this requirement has not been met. Have any contractors submitted these reports since FY16? If not, by what process has DOES issued non-compliance letters and assessed penalties?

Response: To clarify, the final request for payment is between the beneficiary and the contracting agency and is not submitted to DOES. At all times throughout a project, DOES monitors the beneficiary and/or their contractors and sends non-compliance letters when applicable. When a beneficiary is non-compliant, it will be notified and/or penalized. DOES is working with the contracting agencies to streamline the process of requesting First Source compliance statistics before issuing final payment. The initiative to close that gap includes:

- a. Creating a process for agencies to request contract compliance statistics before issuing final payment;
- b. Regular collaboration meetings with agencies with First Source projects;
- c. Ongoing First Source trainings with DC contracting agencies;
- d. Planning system enhancements to share First Source contract compliance status with other agencies; and
- e. Director-to-director meetings to facilitate data sharing.

Compliance is measured at the end of the project/contract and after the certificate of occupancy is received and DOES conducts a full audit of a project's compliance with the First Source law and the requirements of the agreement. Contractors are required to report throughout the project until their scope of work is complete. DOES conducts desk reviews

and site visits to assess compliance of employers/contractors up to their contract end date. A Compliance Status Update – Closeout letter is submitted to the employer/contractor with final statistics and, if appropriate, a request for a breakdown of direct and indirect labor costs. DOES uses these costs in the calculation of potential penalties. The upcoming FORRS Phase 3 enhancement will allow the beneficiaries/employers/contractors to check and confirm the submission of its final report so that DOES is automatically on notice by FORRS that the final report has been submitted.

14. In its March 2018 report on the Office of Contracting and Procurement, the Office of the Inspector General noted: “Given that numerous agencies issue task orders during a 5-year contract period, it is...unclear what constitutes the Contractor’s ‘final request for payment from the District,’ and as such, when compliance with the hiring requirement should be verified.” Has DOES discussed with OCP and DGS how to clarify for contractors what the “final request for payment” means?

Response: The aforementioned director-to-director meetings and proposed trainings clarify the First Source requirements and data expectations prior to a “final request for payment.” DOES has specifically begun these activities with OCP, DGS, and their connected contractors.

15. In the latest semi-annual report covering the second half of 2017, the Department reported that it “conducted 3,000 total compliance related reviews (including desk audits).”

- a. How does DOES select a project or contractor to review? What are the parameters for choosing a company to review for an audit? For a site visit? Is there an algorithm the Department uses to automatically generate companies to review? Or do you use targeted investigations that go to where problems are suspected based on certain factors? What are those factors?

Response: Each monitor conducts desk reviews and site visits for all active projects/contracts. Desk Reviews are conducted weekly, and site visits are conducted for each project at the beginning, middle, and closeout of the project, unless an issue arises that calls for more site visits. On certain projects of significant size and scope, DOES meets monthly to review compliance of the contractors.

- b. What is the breakdown by type of review in the most recent period – how many of the 3,000 were desk audits? How many projects did this involve?

Response: To clarify, there were approximately 3,000 desk reviews in 2017. There were 1,263 desk reviews for all the active projects for the period of July 1, 2017 – December 31, 2017. This number excluded site visits.

- c. How many of the 3,000 compliance reviews were site visits? How many projects did this involve?

Response: There were 31 site visits at 26 projects in the July 1, 2017 – December 31, 2017 reporting period.

16. How does DOES verify DC residency when reported by employers? What data sources and processes are used?

Response: For each D.C resident employee reported, the Beneficiary must be able to provide a District of Columbia issued identification card. If they cannot provide a DC identification card, or if DOES deems it to be necessary, DOES may request additional documentation to verify residency with any of the following: a utility bill (issued within the last 60 days), telephone bill (issued within the last 60 days), homeowner’s or renter’s insurance policy, residential property deed, unexpired Lease or Rental Agreement, official mail received from any Government within 60 days, car or personal loan statement (issued within the last 60 days), or Verification Letter from a shelter where homeless individuals reside.

17. In its review of 124 contracts over \$300,000 awarded by DGS in FY16, the Auditor could not find employment agreements at DOES for 30 of these awards, which totaled \$22 million in government assistance.

a. How many of the 30 awards are still active?

Response: DOES does not have access to DGS contract information. However, DOES has engaged DGS to secure agreements with every eligible project that has not reached the final stages of the construction phase.

b. Of those, how many have now signed employment agreements?

Response: Please see response to subpart a.

c. Please describe any other efforts DOES and DGS are making to ensure that unemployed District residents are getting hired on these projects.

Response: Please see response to subpart a.

18. Is there a reporting mechanism for members of the community who either know or have concerns that a First Source agreement isn’t being upheld? Please describe the process.

Response: Contact information for the First Source Program is prominently displayed on the DOES website, and the community can report concerns by either calling the main number at 202-698-6284 or by reaching out via email to firstsource@dc.gov and mailbox on the DOES website to submit concerns anonymously.

Semi-Annual Reports

19. The July-December 2017 report stated that while 602 employment agreements were received, there were only 38 job openings in that time period.

- a. Please explain why this number is so low, particularly compared to the 436 jobs the Committee recently saw listed on the “Find a First Source job” page on DC Networks.

Response: DOES believes that this data may in fact be underrepresenting the number of job openings, and is currently working to rectify the issue by updating existing data-capturing systems. To clarify, 602 employment agreements would not necessarily create 602 job openings. If the contractor does not create any new positions to work on the project, then there is no requirement to post job openings, unless an existing position of the beneficiary or contractor suddenly becomes available. Additionally, positions may not become available at the beginning of a project so the current numbers may not indicate the final job count. Finally, not every job opening has been captured in DCNetworks by the beneficiaries. We are working to correct this issue internally through system upgrades and externally through outreach.

- b. Please explain how 1,658 individuals were hired from only 38 job openings.

Response: The total numbers of job openings were not uploaded by all beneficiaries to DCNetworks, and D.C. residents were hired by beneficiaries for many positions that were not posted by DCNetworks but posted by other means of the beneficiaries. System updates will make it easier for beneficiaries to post the total number of positions open to DCNetworks that are specifically for First Source Projects. We are also tightening our outreach to ensure that beneficiaries understand that posting positions is required for compliance. Also, many beneficiaries have union obligations and must first seek unemployed D.C. residents that are registered with their union. The residents hired in this manner would not be reflected in the openings posted with DCNetworks.

20. Is the “number of individuals hired on contracts subject to First Source agreements” measuring people on all First Source projects or only those hired on new agreements received during that period?

Response: The “number of individuals hired on contracts subject to First Source agreements” is measured based on the captured hiring during that time period.

21. The number of DC residents on the First Source register has fluctuated over the last three periods – from 6,847 to 4,290 to 6,503. To what does DOES attribute this fluctuation?

Response: To clarify, the First Source register is DCNetworks. DCNetworks is a system open to registration of individuals who also live in other jurisdictions. There was in fact no large fluctuation of DC residents on the register. The reports of 6,847 and 6,503 included accounting of the unemployed individuals who live in neighboring jurisdictions. Over the

last three periods there have been 4,334; 4,290; and 3,538 DC residents in the register, respectively.

22. Per the previous question, the number of individuals on the register dropped by 2,557 during the first half of 2017. 902 DC residents were hired on First Source projects during the first half of 2017. Of the other 1,655 residents that had been in the register, how many of them are employed through other means?

Response: As stated above, there was no drop in registration, those numbers just accounted for reintroducing unemployed individuals who lived in other jurisdictions.

23. What is the average length of time the current 6,503 individuals have been on the register (or a general average if DOES doesn't have specific information on this cohort)?

Response: When unemployed District residents register into the DCNetworks, they are in the system for life. DOES can modify the employment status of residents on the register so that the agency only sends out alerts of those registered in DCNetworks as unemployed. The alert directs the residents to: (1) click link to log into their account and search for First Source jobs, (2) visit the nearest American Job Center, and (3) contact points for any questions. The alerts are sent out on the 15th^{of} each month, as of June 8, 2018 there are 643 positions posted. See attached alert.

Line Hotel

The owners of the Line Hotel are eligible for a tax abatement if they meet the following DC-resident hiring requirements:

- 51% of construction hours;
- At least 342 construction full-time equivalent employees;
- 51% of permanent hotel jobs;
- 51% of the DC resident hotel jobs have to go to Ward 1 residents; and
- Apprenticeships need to be "reserved" for DC residents with a preference going to Ward 1 residents.

24. In its July 2012 First Source agreement, Adams Morgan Hotel Owner LLC (another name for the developer, Sydell) filled out the justification sheet that explains why they would not have any new hires on the project. Please explain, then, why the November 2017 "construction jobs and hours" report shows 55 construction jobs and more than 103,000 construction hours from the developer.

- a. How has DOES monitored Sydell's work to determine whether or not the developer was performing genuine construction work throughout the project and

that should indeed be counted towards the total hours worked by DC residents? In other words, how does DOES confirm that the hours worked that have been reported by Sydell in the monthly reports was legitimate construction work?

Response: Note that the 103,000 hours reported as hours worked includes the hours of Project Managers, Assistants, Supervisors, Developers, Administrators, and other positions related to the development and construction of the Line Hotel.

DOES is committed to ensuring that all data submitted is accurate and that employers are meeting the First Source Law. DOES utilizes multiple methods to verify data, including reviewing certified payrolls and identification, conducting site visits, and obtaining a utility bill (issued within the last 60 days), telephone bill (issued within the last 60 days), homeowner's or renter's insurance policy, residential property deed, unexpired lease or rental agreement, official mail received from any government within 60 days, car or personal loan statement (issued within the last 60 days), Verification Letter from shelter where homeless individuals reside, when appropriate.

b. And if the Owner was conducting legitimate construction work, did DOES require that the First Source employment agreement be amended to reflect that?

Response: The First Source law is based on all construction work. There is no need to amend the First Source Employment Agreement.

25. The monthly "construction and hours" reports track "employees," which is different than the "full-time equivalents" term used in the statutory requirements. For example, on the November report, Two Rivers Site Development is listed as having 13 total employees and two DC employees. However, the next column lists zero hours worked, which would suggest that the "employees" reported shouldn't count towards the FTE tally.

a. How does the Department track FTEs specifically (as opposed to "employees")?

Response: DOES tracked the FTEs by auditing payroll records.

b. The November report is the most recent one DOES submitted to the Committee. Please provide reports through the end of April.

Response: Attached is the Line Hotel report through March 2018.

26. What is the Adams Morgan Youth Leadership Academy (AMYLEA) Expanded Program? They're showing 230 employees on the project, all of which are DC residents – are they performing construction work?

Response: The AMYLEA is a Ward 1 organization engaged by Sydell in January 2017 to support their development effort through their network of local members. It included community outreach, providing neighborhood opportunities for the Sydell pre-opening team, and some miscellaneous construction quality control tasks. Sydell subcontracted

AMYLEA in August 2017 to generate and expand a comprehensive program that would serve AMYLEA's mission of supporting and mentoring youth, while also creating goodwill for the hotel and improve public and community awareness.

The Wharf

In the semi-annual report covering July-December 2017, DOES reported that it was "in the process of closing out Phase 1 of the construction at the Wharf and reviewing the project's compliance with First Source."

27. Phase 1 opened on October 12th. Has Hoffman Madison Waterfront and/or the contractors submitted either its compliance report or waiver request?

Response: No, neither a compliance report nor waiver request has been submitted. Therefore, the audit has not been completed to determine the Wharf's compliance with First Source requirements for 1st Phase of the development. The Wharf First Source compliance report will be submitted once the entire development is complete.

28. When does the Department expect to complete its review of the Wharf's phase 1 compliance with its First Source requirements? The Committee notes that FORRS lists several Wharf contractors as "Did not meet Requirements." Please indicate the results on the Data Template.

Response: The audit has not been completed to determine the Wharf's compliance with First Source requirements for 1st Phase of the development. The Wharf compliance with the First Source Agreement requirements will be measured for the entire development once complete.