

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

AN ORDINANCE ESTABLISHING AN) ORDINANCE NO. 83-166
EQUAL EMPLOYMENT OPPORTUNITY)
AND AFFIRMATIVE ACTION POLICY)
STATEMENTS)

THE COUNCIL OF THE METROPOLITAN SERVICE DISTRICT HEREBY ORDAINS:

Section 1. Purpose and Authority

(a) It is the purpose of this ordinance to establish policies to encourage, enhance and provide equal employment opportunities and to prevent discrimination in employment and personnel practices.

(b) This ordinance is adopted pursuant to 28 CFR, Part 42, Dept. of Justice and 49 CFR Part 21 Circular C1155.1, U.S. Department of Transportation, Urban Mass Transportation Administration (UMTA), and, is intended to comply with all relevant federal and state laws.

(c) This ordinance shall be known and may be cited as the "Equal Employment Opportunity and Affirmative Action Program," hereinafter referred to as the "Program."

Section 2. Policy Statement

(a) Through this program, Metro:

- (1) expresses its strong commitment to provide equal employment opportunities and to take affirmative action to insure nondiscrimination in employment practices;
- (2) informs all employees, governmental agencies and the general public of its intent to implement this policy statement; and,
- (3) assures conformity with applicable federal regulations as they exist or may be amended.

(b) It shall be the policy of Metro to ensure that Equal Employment Opportunities and practices exist for all applicants and employees without regard to their race, color, religion, national origin, sex or handicap. Equal opportunities and considerations will be afforded in recruiting, selecting, hiring, transferring, promoting, compensating and terminating employees.

(c) It shall be the policy of Metro to implement and maintain a plan of Affirmative Action to overcome the effects of discrimination in all areas and activities of employment. Plan

goals will be developed, updated each fiscal year, monitored and assessed to obtain and place qualified women and minorities in positions which reflect a realistic parity with the comparable existing regional labor force and, to provide a uniform and equal application of established employment procedures and practices for all employees. All managers and supervisors shall be responsible for acting in accordance with the affirmative action plan in the processing and treatment of employees.

(d) The policies, practices and procedures established by this ordinance shall apply to all Metro departments and project areas.

(e) The objectives of the program shall be:

- (1) to assure that provisions of this ordinance are adhered to by all Metro departments, employees, employment agencies, subrecipients, contractors and subcontractors of Metro.
- (2) to initiate and maintain efforts to insure equal employment opportunities to all applicants and employees.

(f) Metro accepts and agrees to the statements of the Department of Transportation, Urban Mass Transportation Administration, Circular UMTA C 1155.1, December 30, 1977, "UMTA Interim Equal Employment Opportunity Policy and Requirements for Grant Recipient".

Section 3. Definitions

For purposes of this ordinance, the following definitions shall apply:

(a) "Affirmative Action" - a positive program to eliminate discrimination and noncompliance and to ensure nondiscriminatory practices and compliance in the future.

(b) "Equal Employment Opportunity" means employment activities conducted on an equal opportunity basis without discrimination as to race, sex, religion, national origin, marital status or mental/physical handicap not shown to prevent performance of work available.

(c) "Minority" or "Minority-Groups" means:

- (1) "Black Americans," which includes persons having origins in any of the Black racial groups of Africa;
- (2) "Hispanic Americans," which includes persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race;

- (3) "American Indians" or "Alaskan Natives," which includes persons who are American Indians, Eskimos, Aleuts, or Native Hawaiians; and
- (4) "Asian-Pacific Americans," which includes persons whose origins are from Japan, China, Taiwan, Korea, Vietnam, Laos, Cambodia, the Philippines, Samoa, Guam, the U.S. Trust Territories of the Pacific, and the Northern Marianas.

(d) "Protected groups" or "class status" means women, handicapped persons, those persons cited in #3 above.

(e) "Discrimination" means that act or failure to act, intentional or unintentional, the effect of which is that a person, because of race, color, or national origin, has been excluded from participation in, denied the benefits of, or has been otherwise subjected to unequal treatment.

Section 4. Notice to Subrecipients, Contractors and Subcontractors

Subrecipients, contractors and subcontractors of Metro accepting contracts or grants under the Program shall be advised that failure to carry out the requirements set forth in this ordinance shall constitute a breach of contract and, after notification by Metro, may result in termination of the agreement or contract by Metro or such remedy as Metro deems appropriate.

Section 5. Affirmative Action Officer

The Executive Officer shall by Executive Order, designate an Affirmative Action Officer and, if necessary, other staff adequate to administer the Program. The Affirmative Action Officer shall report directly to the Executive Officer on matters pertaining to the Program and consistent with this ordinance.

Section 6. Affirmative Action Goals

(a) The Metro Council shall, by resolution each June, establish Affirmative Action Goals to ensure equal employment opportunities. Such annual goals shall be established separately by fund and job category for minorities and women.

(b) Annual goals will be established taking into consideration a work force study and analysis.

Section 7. Responsibilities and Procedures

The Executive Officer shall, by Executive Order, assign responsibilities for the administration and implementation of the Program. He shall establish measures to ensure compliance and record progress toward meeting the goals and objectives. The

Executive Officer shall establish a procedure for receiving and responding to complaints against Metro and its subrecipients, contractors and subcontractors for violations of this Ordinance.

ADOPTED by the Council of the Metropolitan Service District
this 20th day of December, 1983.



Presiding Officer

ATTEST:



Clerk of the Council

0235C/366
11/07/83

STAFF REPORT

Agenda Item No. 7.2

Meeting Date Dec. 20, 1983

CONSIDERATION OF AN ORDINANCE NO. 83-166 FOR
THE PURPOSE OF ESTABLISHING THE METRO EQUAL
EMPLOYMENT OPPORTUNITY AND AFFIRMATIVE ACTION
POLICIES, AND APPROVING RESOLUTION NO. 83-436
FOR ADOPTING AFFIRMATIVE ACTION GOALS AND
OBJECTIVES

Date: October 25, 1983

Presented by: Jennifer Sims and
Dick Karnuth

FACTUAL BACKGROUND AND ANALYSIS

The proposed Ordinance will establish Metro policies on Equal Employment Opportunity and Affirmative Action and set the policy framework for a program. The Ordinance requires designation of an Affirmative Action Officer. The Executive Officer is directed to establish staff responsibilities and a complaint procedure. Finally, contractors, subcontractors, and subrecipients are required to comply with the policies.

The proposed resolution will establish a long-term goal and annual goals and objectives for the current year. As provided in the Ordinance, annual goal setting will occur in June each year beginning in 1984. The proposed goals are detailed separately for minorities and women by job category and operating fund. In short, the objectives are to maintain the current status where the goals have been achieved and to reach the goals where they have not been met.

A separate document titled "The Affirmative Action Plan Narrative and Support Documentation" provides the plan documentation. It includes a work force utilization analysis as the basis for goal setting and an assessment of employment practices

The proposed policies and goals and objectives combined with the technical report conform with federal requirements. Metro's "cognizant federal agency" for civil rights purposes is the Urban Mass Transportation Administration (UMTA). As such, UMTA has issued Circular 1155.1 which stipulates the general contents and requirements of an Equal Opportunity Opportunity (EEO) and Affirmative Action program.

On July 2, 1982, Metro was informed that UMTA had previously inappropriately exempted Metro from the need to submit an Affirmative Action Program consistent with the Circular. With

technical assistance from UMTA's Civil Rights Officer sections of an Affirmative Action Plan were drafted and submitted to UMTA on October 7, 1982 and October 28, 1982. Conditional approval, including suggested revisions, was received on March 31, 1982. This put the organization in compliance with UMTA requirements and allowed Metro to continue development and finalization of the Plan. Final approval will be sought from UMTA when the Council adopts the policies and goals.

Daily and ongoing personnel functions have and continue to include attention to equal employment opportunity through affirmative actions. Based upon the assessment of employment practices conducted in plan preparation, it was determined that recruitment and selection should receive more attention and emphasis. As a result, community outreach has been stepped up, with personal contacts being made, informational brochures developed and distributed, follow up agency contacts made and a career day ad placed in a local minority newspaper. Recent internal actions include development and implementation of recruitment procedures, monthly status reports from the Personnel staff, redesign of the employment application form, and monitoring of the screening and interviewing process.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends adoption of the Ordinance No. 83-166 and Resolution No. 83-436.

COMMITTEE CONSIDERATION AND RECOMMENDATION

On December 12, 1983, the Council Coordinating Committee recommended Council adoption of Ordinance No. 83-166, as amended, and adoption of Resolution No. 83-436.

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Nays: Councilors Banzer, Bonner, Oleson, Van Bergen, and Williamson.

Motion carried.

(Note: See after Agenda Item 8.1 for reconsideration of this item)

7.2 Ordinance No. 83-166, for the purpose of establishing the Metro Equal Employment Opportunity and Affirmative Action Policies, and Resolution No. 83-436, for the purpose of adopting goals and objectives in the Affirmative Action Plan as the approved goals for fiscal year 1983-84. (Second Reading)

Councilor Kirkpatrick reported that the Council Coordinating Committee was recommending adoption of the Resolution and Ordinance, with an amendment.

Jennifer Sims, Budget & Administrative Services Manager, stated the proposed amendment to the ordinance was a technical change to correct the specific federal regulation citation applicable to affirmative action. She pointed out that the ordinance in the agenda packet reflected the proposed change.

Motion to amend: Councilor Kirkpatrick moved to amend Ordinance No. 83-166, Section 2(f) to read as follows:

(f) Metro accepts and agrees to the statements of the Department of Transportation, Urban Mass Transportation Administration, Circular UMTA C 1155.1, December 30, 1977, "UMTA Interim Equal Employment Opportunity Policy and Requirements for Grant Recipient".

Councilor Kafoury seconded the motion.

There was no public testimony.

Vote: The vote on the motion to amend resulted in:

Ayes: Councilors Banzer, Bonner, Deines, Etlinger, Hansen, Kafoury, Kelley, Kirkpatrick, Oleson, Van Bergen, Waker, and Williamson.

Nays: None.

Motion to amend carried.

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Vote: The vote on the main motion to adopt Ordinance No. 83-166, as amended, made by Councilors Kirkpatrick and Kelley on November 22, 1983, resulted in:

Ayes: Councilors Banzer, Bonner, Deines, Etlinger, Hansen, Kafoury, Kelley, Kirkpatrick, Oleson, Van Bergen, Waker, and Williamson.

Nays: None.

Motion carried, Ordinance adopted.

Motion: Councilor Kirkpatrick moved adoption of Resolution No. 83-436. Councilor Kafoury seconded.

Vote: The vote on the motion to adopt Resolution No. 83-436, resulted in:

Ayes: Councilors Banzer, Bonner, Deines, Etlinger, Hansen, Kafoury, Kelley, Kirkpatrick, Oleson, Van Bergen, Waker, and Williamson.

Nays: None.

Motion carried, Resolution adopted.

7.3 Ordinance No. 83-167, relating to the Solid Waste Rate Review Committee structure; amending Metro Code Section 5.01.170. (Second Reading)

Presiding Officer Banzer requested that the ordinance be tabled. She said the ordinance was premature and should not be acted upon until the Services Committee had reviewed the overall structure and mission of the Rate Review Committee.

Motion: Councilor Hansen moved to table Ordinance No. 83-167. Councilor Kafoury seconded the motion.

Vote: The vote on the motion to table Ordinance No. 83-167 resulted in:

Ayes: Councilors Banzer, Bonner, Deines, Etlinger, Hansen, Kafoury, Kelley, Kirkpatrick, Oleson, Waker, and Williamson.

the staff and Councilor Hansen for the work they had done. He said he believed the document was a workable one and supported the Council's efforts to adopt a plan. In response to Councilor Deines' comments regarding the five-day "window", he said contractors were overwhelmed by the amount of documentation which must be submitted with their bids and needed the extra time to comply with requirements.

Mr. Barker, Council Assistant, asked Mr. Anderson what the differences were between the City of Portland's plan and the proposed Metro plan. Mr. Anderson responded that the major difference between the plans was that Metro's plan would use the City of Portland's certification list of MBE's as well as other DOT certifying agencies. He said by in large Metro's plan was a mirror of Portland's plan.

Councilor Etlinger asked if the City of Portland and Multnomah County had the five-day "window" for submission of MBE goal compliance documentation in their plans. Mr. Anderson responded that Multnomah County did have the "window" and Ms. Klobertanz said the City of Portland also had the five-day language.

The ordinance was then passed to second reading on December 20, 1983.

7.2 Consideration of Ordinance No. 83-166, for the purpose of establishing the Metro Equal Employment Opportunity and Affirmative Action Policies; and Resolution No. 83-436, for the purpose of adopting the Goals and Objectives in the Affirmative Action Plan as the approved goals for FY 1983-84. (First Reading)

Councilor Kirkpatrick reported that the Council Coordinating Committee unanimously recommended Council adoption of Ordinance No. 83-166. She said the Committee would hold a work session on the ordinance at its December 12 meeting and the ordinance would come back to the Council for second reading on December 20.

Motion: Councilor Kirkpatrick moved adoption of Ordinance No. 83-166. Councilor Kelley seconded the motion.

Ms. Jennifer Sims, Budget & Administrative Services Manager, presented the staff report, as contained in the agenda of the meeting.

Deputy Presiding Officer Oleson asked Mr. Karnuth how the complaint system worked. Mr. Karnuth, Personnel Assistant, explained the two pronged system for discrimination complaints--for applicants for positions at Metro; and for employees of Metro.

The ordinance was then read a first time, by title only.

The ordinance was passed to second reading on December 20, 1983.

7.3 Consideration of Ordinance No. 83-163, relating to Solid Waste Disposal Charges and User Fees; amending Metro Code Sections 5.02.040, 5.02.050 and 5.01.050; and declaring an emergency. (Read Twice).

Deputy Presiding Officer Oleson noted there were three motions on the floor:

Motion 1: To adopt the ordinance (Hansen/Williamson)

Motion 2: To amend the main motion to delete the last two sentences from Section 1(b) and Section 2(d). (Deines and Etlinger)

Motion 3: To substitute the motion by Councilors Deines and Etlinger to amend the last two sentences in Section 1(b) and Section 2 (d) to read as follows: "The minimum charge for private trips shall be waived for any person delivering one-half cubic yard or more of waste delivered at the extra yardage rate", and to change the base disposal rate from \$9.64 to \$9.70. (Hansen/Kirkpatrick)

Councilor Hansen said the language in Sections 1 and 2 would encourage recycling by offering a reduced rate to those bringing recycled materials to St. Johns or CTRC along with a small amount of material to be landfilled. Councilor Deines argued that the language should not be included. He said public funds should not be used to induce people to bring recyclables to Metro landfills. He said they would not ask a private landfill operator to reduce his rates for that purpose without allowing him to make up the cost somewhere else. Councilor Etlinger responded by saying that just as it was sometimes needed to spend public funds to encourage minority businesses, it was also necessary at times to use public funds to encourage people to do something in the interest of conserving resources.



METROPOLITAN SERVICE DISTRICT
Providing Zoo, Transportation, Solid Waste and
other Regional Services

December 22, 1983

Rick Gustafson
Executive Officer

Metro Council

Cindy Banzer
Presiding Officer
District 9

Bob Oleson
Deputy Presiding
Officer
District 1

Richard Waker
District 2

Charlie Williamson
District 3

Corky Kirkpatrick
District 4

Jack Deines
District 5

George Van Bergen
District 6

Sharron Kelley
District 7

Ernie Bonner
District 8

Bruce Etlinger
District 10

Marge Kafoury
District 11

Gary Hansen
District 12

Ms. Jane McGarvin
Clerk of the Board
Multnomah County
1021 S.W. 4th Avenue
Portland, OR 97204

Dear Ms. McGarvin:

Enclosed are true copies of the following ordinances
adopted by the Council of the Metropolitan Service
District on December 20, 1983:

Ordinance No. 83-165, an Ordinance establishing a
Disadvantaged Business Program.

Ordinance No. 83-166, an Ordinance establishing an
Equal Opportunity and Affirmative Action Policy
Statements.

- Please file these ordinances in the Metro ordinance files
maintained by your county.

Sincerely,

Everlee Flanigan
Clerk of the Council

EF/gl
0463C/D4

Enclosures

527 SW Hall St.
Portland, OR
97201
503/221-1646