

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

An Ordinance amending Chapter 2.04 of the Metro Code relating to Metropolitan Exposition-Recreation Commission contract procedures.	} } } } } }	Ordinance No. 88- 279 Introduced by: Convention Center Committee
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WHEREAS, The Council of the Metropolitan Service District established by Ordinance No. 87-225 a Metropolitan Exposition-Recreation Commission (hereinafter the "Commission") to operate regional convention, trade and spectator facilities; and

WHEREAS, This Ordinance clarifies the role of the Council as the Contract Review Board for the Commission; and

WHEREAS, This Ordinance exempts the three classes of contracts listed in Exhibit A, attached hereto and by this reference incorporated herein, from the competitive bid process and these exemptions require that the findings detailed in ORS 279.015 (2) be adopted by the Council; and

WHEREAS, The required findings are 1) that it is unlikely that the exemptions will encourage favoritism in the awarding of public contracts or substantially diminish competition; and 2) that the exemption will result in substantial cost savings; and

WHEREAS, The Council, sitting as the Contract Review Board of the Commission, makes the above-described findings based upon the factors listed for each exemption class in Exhibit A; now, therefore,

THE COUNCIL OF THE METROPOLITAN SERVICE DISTRICT HEREBY ORDAINS:

Section 1. Section 2.04.035 is amended to read as follows:

"2.04.035 Metropolitan Exposition-Recreation Commission:

"The Metropolitan Exposition-Recreation Commission shall have authority to enter into contracts pursuant to Metro Code Section 6.01.04(j); provided, however, that prior to the adoption of contracting rules by the Commission such purchases shall be made pursuant to the procedures and policies set forth in this

chapter; and provided further that the Metropolitan Service District Contract Review Board created pursuant to Section 2.04.020 of this Code shall be the local Contract Review Board for the Commission for the purpose of granting exemptions from competitive bidding or other requirements of public contract law. [For this purpose] The Metropolitan Exposition-Recreation Commission may without the prior approval of the Executive Office enter into contracts in any amount. No contract may be approved or executed for any amount in excess of the amount authorized in the budget.” The Metropolitan Exposition-Recreation Commission shall file copies of all contracts and amendments thereto with the Department of Finance & Administration.

THE COUNCIL OF THE METROPOLITAN SERVICE DISTRICT, SITTING AS THE CONTRACT REVIEW BOARD FOR THE METROPOLITAN EXPOSITION-RECREATION COMMISSION, HEREBY ORDAINS:

Section 2. Section 2.04.041(b) is amended to read as follows:

“(b) Board Rule: The following classes of public contracts are exempt from the competitive bidding process based on the findings by the Contract Review Board that the exemption will not encourage favoritism or substantially diminishing competition for public contracts and that such exemptions will result in substantial cost savings:

“(1) Purchase and sale of Zoo animals.

“(2) Purchase and sale of Zoo gift shop retail inventory and resale items.

“(3) All contracts estimated to be less than \$15,000 provided that the selection process described in the appropriate Code sections is followed.

“(4) Contracts estimated not to exceed \$25,000 for road, highway or parking lot maintenance provided that at least three (3) competitive quotes are obtained, if available, and a record of said quotes and efforts to obtain them are maintained.

“(5) Emergency contracts when the Executive Officer makes written findings that an emergency exists and that the emergency consists of circumstances that could not have been reasonably foreseen and requires prompt execution of a contract to remedy that condition. An emergency contract must be awarded within sixty (60) days of the declaration of the emergency unless the Board grants an extension.

“(6) Purchase of food items pursuant to Section 2.04.090.

"(7) Contracts for warranties in which the supplier of the goods or services covered by the warranty has designated a sole provider for the warranty service.

"(8) Contracts for computer hardware and software. Selection procedures for these contracts, however, must follow the RFP process outlined in Section 2.04.050, "Personal Services Contracts."

"(9) Contracts under which Metro is to provide a service only and incurs no financial obligation to another party.

"(10) Contracts for the lease or use of the Oregon Convention Center or other facilities operated by the Metropolitan Exposition-Recreation Commission.

"(11) For purchases by the Metropolitan Exposition-Recreation Commission, all contracts estimated to be less than \$31,000 provided that any rules adopted by the Commission which provide for substitute selection procedures are followed.

"(12) For purchases by the Metropolitan Exposition-Recreation Commission, emergency contracts when the General Manager makes written findings that 1) immediate procurement is essential to prevent a delay in work or extra expense to the Commission in circumstances which could not have been foreseen and avoided; 2) there is a threat of immediate damage to Commission property; or 3) there is an immediate danger to citizens or employees. The General Manager shall report to the Commission at its next regularly-scheduled meeting of any contracts entered into pursuant to this section.

"(13) For purchases by the Metropolitan Exposition-Recreation Commission, contracts for equipment repair or overhaul but only when the service and/or parts required are unknown before the work begins and the cost cannot be determined without extensive preliminary dismantling or testing."

ADOPTED by the Concil of the Metropolitan Service District this 22nd day of December, 1988.



Mike Ragsdale, Presiding Officer

ATTEST:



Clerk of the Council

I certify this ordinance was not vetoed by the Executive Officer.

 1/6/89

Clerk of the Council

Date

EXHIBIT A

**NEW CLASSES OF EXEMPTIONS AND FINDINGS REQUIRED
BY ORS 279.015(2)**

1. Establishment of \$31,000 Limit for Formal Purchasing

FINDING: Does not limit competition.

- A. Encourages increasing competitive involvement by local, small business by eliminating the mystery, complexity and time-consuming nature of Commission procurement practices.**

Formal bid specifications can be extremely lengthy and complicated causing many contractors who might be qualified to perform the work not to bid in a timely manner, or at all.

- B. Small businesses, particularly women-owned and disadvantaged, have greater difficulty in securing the necessary bonds to meet the bid requirements. (All purchases which are bid must be accompanied by bid security and all public improvements require performance bonds.)**
- C. Purchases between \$2,500 and \$31,000 will be subject to three (3) quotes, one of which must be DBE/WBE.**

FINDING: Cost Savings.

- A. Cuts the costs incurred in specification preparation, Commission action, contract administration, advertising, printing and clerical costs and staff time.**

Cost estimates in the Purchasing Division, City of Portland are that formal purchases cost approximately \$318, while an informal purchase costs approximately \$25. Additional costs can range from \$241 to \$872 per contract for the specification preparation, contract administration, clerical costs, staff time, etc.

Formalized bid specifications require reference to all applicable portions of federal, state and municipal laws, codes or regulations in relation to the designated project. This referencing requires in itself a great deal of coordination and staff time. This process generally requires many drafts of such information through its process of scrutiny and correction.

- B. Eliminates costly delays in obtaining needed supplies and services due to formalized processing and handling procedures.

The formalized bid process may require up to an additional 45 days to complete.

- C. Cuts the cost of purchasing process by eliminating the excess paperwork requirements for the purchase of routine, non-controversial goods and services, e.g., paper products, janitorial products, office supplies, purchased labor, and unique building materiel.

- D. Harold Vaughn, former purchasing agent for the City of Portland, believes that over the 10-year history the single most important factor which saved money in the purchasing area was raising the \$2,500 formal bid limit to \$20,000 and tying the limit to the consumer Price Index for the Portland Metropolitan Area as determined by the U.S. Department of Labor, Bureau of Labor Statistics. By providing for the inflation factor, it has allowed the formal purchasing limit to increase over the years from \$20,000 to its current level of \$30,694.

- E. Quotes will be lower without the formal bid process because the vendor doesn't have to deal with bonds, which ties up their cash flow. There is also less paperwork and time involved in the process.

2. Emergency Purchases

FINDING: Does not limit competition.

- A. The very nature of emergency purchases precludes competition. The goods and services must be obtained immediately and no time is available in which to allow competition.

FINDING: Cost Savings

- A. Without prompt attention, many emergency situations result in aggravated, costly problems.
- B. The convention, trade and spectator business may require many unusual or unforeseen, event-related lessee requirements which must be provided as quickly as possible.

3. Equipment Repair or Overhaul

FINDING: Does not limit competition.

- A. It is impossible to write specifications in these situations because we have been unable to identify the problem. Unless the equipment is simply replaced, competition is irrelevant.**

FINDING: Cost Savings

- A. Dismantling/repair is more cost effective than the purchase of new equipment.**

METROPOLITAN EXPOSITION-RECREATION COMMISSION

PURCHASING GUIDELINES

November 22, 1988

Approved by **MERC** Resolution No. 12 on 11-22, 1988

**METROPOLITAN EXPOSITION-RECREATION COMMISSION
PURCHASING MANUAL**

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METROPOLITAN EXPOSITION-RECREATION COMMISSION

PURCHASING PROCEDURES

1.0 DUTIES AND POWERS

In accordance with Ordinance No. 87-225 of the Metropolitan Service District, the Metropolitan Exposition-Recreation Commission (referred to as Commission) is empowered to enter into contracts, incur obligations and do all other acts and things necessary or convenient to carry out the purposes of providing convention, trade and spectator facilities. Specifically, the Commission has the authority to enter into contracts of such types and in such amounts, including intergovernmental agreements, as the Commission may deem necessary, appropriate, or convenient for the renovation, equipment, maintenance, repair, operation, and marketing of the use of buildings and facilities for which it is responsible, and for professional and other services. The Council of the Metropolitan Service District shall serve as the contract review board.

1.1 DISADVANTAGED AND WOMEN-OWNED BUSINESS POLICY

The Commission hereby adopts the provisions of the Metro Disadvantaged Business Program (Metro Code Sections 2.04.100 through 2.04.180) as they apply to locally-funded contracts.

[2.04.100] Disadvantaged Business Program, Purpose and Authority

(a) It is the purpose of this ordinance to establish and implement a program to encourage the utilization by Metro of disadvantaged and women-owned businesses by creating for such businesses the maximum possible opportunity to compete for and participate in Metro contracting activities.

(b) The portions of this ordinance which relate to federally funded contracts are adopted pursuant to 49 CFR 23 and are intended to comply with all relevant federal regulations. Federal regulation 49 CFR 23 and its amendments implement section (105)(f) of the Surface Transportation Assistance Act of 1982 relating to the participation by Minority Business Enterprises in Department of Transportation programs.

(c) This ordinance shall be known and may be cited as the "Metro Disadvantaged Business Program," hereinafter referred to as the "Program."

(d) This ordinance supersedes the Metro "Minority Business Enterprise (MBE) Program" dated October 1980 and amended December 1982. (Ordinance No. 83-165, Sec. 1; amended by Ordinance No. 84-181, Sec. 1.)

[2.04.105] Policy Statement

(a) Through this Program, Metro:

- (1) expresses its strong commitment to provide maximum opportunity to disadvantaged and women-owned businesses in contracting;
- (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 is the policy of Metro to provide equal opportunity to all persons to access and participate in the projects, programs and services of Metro. Metro and Metro contractors will not discriminate against any person or firm on the basis of race, color, national origin, sex, sexual orientation, age, religion, physical handicap, political affiliation or marital status.

(c) The policies, practices and procedures established by this ordinance shall apply to all Metro departments and project areas except as expressly provided in this ordinance.

(d) The objectives of the program shall be:

- (1) to assure that provisions of this ordinance are adhered to by all Metro departments, contractors, employees and USDOT subrecipients and contractors.
- (2) to initiate and maintain efforts to increase program participation by disadvantaged and women-owned businesses.

(e) Metro accepts and agrees to the statements of 49 CFR §23.43(a)(1) and (2), and said statements shall be included in all USDOT agreements with USDOT subrecipients and in all USDOT assisted contracts between Metro or USDOT subrecipients and any contractor. (Ordinance No. 83-165, Sec. 2)

[2.04.110] Definitions

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

- (1) APPLICANT -- one who submits an application, request or plan to be approved by a USDOT official or by Metro as a condition to eligibility for Department of Transportation (USDOT) financial assistance; and "application" means such an application, request or plan.
- (2) CONSTRUCTION CONTRACT -- means a contract for construction of buildings or other facilities, and includes reconstruction, remodeling and all activities which are appropriately associated with a construction project.
- (3) CONTRACT -- means a mutually binding legal relationship or any modification thereof obligating the seller to furnish supplies or services, including construction, and the buyer to pay for them. For purposes of this ordinance a lease or a purchase order of \$500.00 or more is a contract.
- (4) CONTRACTOR -- means the one who participates, through a contract or subcontract, in the Program and includes lessees.
- (5) DEPARTMENT or "USDOT" -- means the United States Department of Transportation, including its operating elements.
- (6) DISADVANTAGED BUSINESS or DBE -- means a small business concern which is certified by an authorized agency and:
- (a) which is at least 51 percent owned by one or more socially and economically disadvantaged individuals, or, in the case of any publicly-owned business, at least 51 percent of the stock of which is owned by one or more socially and economically disadvantaged individuals; and
- (b) whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.
- (7) EXECUTIVE DEPARTMENT -- means the State of Oregon's Executive Department
- (8) JOINT VENTURE -- is defined as an association of more businesses to carry out a single business enterprise for profit for which purpose they combine their property, capital, efforts, skills and knowledge. A joint venture of a DBE/WBE and a non-DBE/WBE must receive Metro approval prior to contract award to be counted toward any DBE/WBE contract goals.
- (9) LABOR AND MATERIALS CONTRACT -- is a contract including a combination of service and provision of materials other than construction contracts. Examples may include plumbing repair, computer maintenance or electrical repair, etc.

- (10) LESSEE -- means a business or person that leases, or is negotiating to lease, property from a recipient or the Department on the recipient's or Department's facility for the purpose of operating a transportation-related activity or for the provision of goods or services to the facility or to the public on the facility.
- (11) OREGON DEPARTMENT OF TRANSPORTATION OR "ODOT" -- means the State of Oregon's Department of Transportation.
- (12) PERSONAL SERVICES CONTRACT -- means a contract for services of a personal or professional nature.
- (13) PROCUREMENT CONTRACT -- means a contract for the purchase or sale of supplies, materials, equipment, furnishings or other goods not associated with a construction or other contract.
- (14) RECIPIENT -- means any entity, public or private, to whom USDOT financial assistance is extended, directly or through another recipient for any program.
- (15) SMALL BUSINESS CONCERN -- means a small business as defined pursuant to section 3 of the Small Business Act and relevant regulations promulgated pursuant thereto.
- (16) SOCIALLY AND ECONOMICALLY DISADVANTAGED INDIVIDUALS OR DISADVANTAGED INDIVIDUALS -- means those individuals who are citizens of the United States (or lawfully admitted permanent residents) and who are Black Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans or Asian-Indian Americans and any other minorities or individuals found to be disadvantaged by the Small Business Administration pursuant to section 8(a) of the Small Business Act. Certifying recipients shall make a rebuttable presumption that individuals in the following groups are socially and economically disadvantaged. Certifying recipients also may determine, on a case-by-case basis, that individuals who are not a member of one of the following groups are socially and economically disadvantaged:
- (a) "Black Americans," which includes persons having origins in any of the Black racial groups of Africa;
- (b) "Hispanic Americans," which includes persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race;
- (c) "Native Americans," which includes persons who are American Indians, Eskimos, Aleuts, or Native Hawaiians;

(d) "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; and

(e) "Asian-Indian Americans," which includes persons whose origins are from India, Pakistan, and Bangladesh.

(17) USDOT ASSISTED CONTRACT -- means any contract or modification of a contract between Metro and a contractor which is paid for in whole or in part with USDOT financial assistance.

(18) USDOT FINANCIAL ASSISTANCE -- means financial aid provided by USDOT or the United States Railroad Association to a recipient, but does not include a direct contract. The financial aid may be provided directly in the form of actual money, or indirectly in the form of guarantees authorized by statute as financial assistance services of Federal personnel, title or other interest in real or personal property transferred for less than fair market value, or any other arrangement through which the recipient benefits financially, including licenses for the construction or operation of a Deep Water Port.

(19) WOMEN-OWNED BUSINESS ENTERPRISE or WBE --means a small business concern, as defined pursuant to section 3 of the Small Business Act and implementing regulations which is owned and controlled by one or more women and which is certified by an authorized agency. "Owned and controlled" means a business which is at least 51 percent owned by one or more women or, in the case of a publicly owned business, at least 51 percent of the stock of which is owned by one or more women, and whose management and daily business operations are controlled by one or more women. (Ordinance No. 165, Sec. 3; amended by Ordinance No. 84-181, Sec. 2)

[2.04.115] Notice to Contractors, Subcontractors and Subrecipients

Contractors, subcontractors and subrecipients of Metro accepting contracts or grants under the Program which are USDOT-assisted shall be advised that failure to carry out the requirements set forth in 49 CFR 23.43(a) 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. Likewise, contractors of Metro accepting locally-funded contracts under the Program shall be advised that failure to carry out the applicable provisions of the Program shall constitute a breach of contract and, after notification by Metro, may result in termination or such other remedy as Metro deems appropriate. (Ordinance No. 83-165, Sec. 4)

[2.04.120] Liaison Officer

(a) The Executive Officer shall by executive order, designate a Disadvantaged Business Liaison Officer and, if necessary, other staff adequate to administer the Program. The Liaison Officer shall report directly to the Executive Officer on matters pertaining to the Program. (Ordinance No. 83-165, Sec. 5)

(b) The Liaison Officer shall be responsible for developing, managing and implementing the program, and for disseminating information on available business opportunities so that DBEs and WBEs are provided an equitable opportunity to bid on Metro contracts. In addition to the responsibilities of the Liaison Officer, all department heads and program managers shall have responsibility to assure implementation of the Program.

[2.04.125] Directory

A directory of DBEs and WBEs certified of ODOT or the Executive Department, as applicable shall be maintained by the Liaison Officer to facilitate identifying such businesses with capabilities relevant to general contracting requirements and particular solicitations. The directory shall be available to contract bidders and proposers in their efforts to meet Program requirements. (Ordinance No. 83-165, Sec. 6)

[2.04.130] Minority-Owned Banks

Metro will seek to identify minority-owned banks within the policies adopted by the Metro Council and make the greatest feasible use of their services. In addition, Metro will encourage prime contractors, subcontractors and consultants to utilize such services by sending them brochures and service information on certified DBE/WBE banks. (Ordinance No. 83-165, Sec. 7; amended by Ordinance no. 84-181, Sec. 3)

[2.04.135] Affirmative Action and Equal Opportunity Procedures

Metro shall use affirmative action techniques to facilitate DBE and WBE participation in contracting activities. These techniques include:

(a) Arranging solicitations, time for the presentation of bids, quantities specifications, and delivery schedules to as to facilitate the participation of DBEs and WBEs.

(b) Referring DBEs and WBEs in need of management assistance to established agencies that provide direct management assistance to such businesses.

(c) Carrying out information and communications programs on contracting procedures and specific contracting opportunities in a timely manner, with such programs being bilingual where appropriate.

(d) Distribution of copies of the program to organizations and individuals concerned with DBE/WBE programs.

(e) Periodic reviews with department heads to insure that they are aware of the program goals and desired activities on their parts to facilitate reaching the goals. Additionally, departmental efforts toward and success in meeting DBE/WBE goals for department contracts shall be factors considered during annual performance evaluations of the department heads.

(f) Monitor and insure that Disadvantaged and Women Business Enterprise planning centers and likely DBE/WBE contractors are receiving requests for bids, proposals and quotes.

(g) Study the feasibility of certain USDOT-assisted contracts and procurements being set aside for DBE/WBE participation. (Ordinance No. 83-165, Sec. 8, amended by Ordinance No. 84-181, Sec. 4)

(h) Distribution of lists to potential DBE/WBE contractors of the types of goods and services which Metro regularly purchases.

(i) Advising potential DBE/WBE vendors that Metro does not certify DBE/WBEs, and directing them to ODOT until December 31, 1987, and thereafter, to the Executive Department.

(j) Specifying purchases by generic title rather than specific brand name whenever feasible.

(k) Establishing an interdepartmental contract management committee which will meet regularly to monitor and discuss, among other issues, potential DBE and WBE participation in contracts. In an effort to become more knowledgeable regarding DBE and WBE resources, the committee shall also invite potential DBE and WBE contractors to attend selected meetings.

(l) Requiring that at least one DBE or WBE vendor or contractor be contacted for all contract awards which are not exempt from Metro's contract selection procedures and which are 1) for more than \$500 but not more than \$15,001 in the case of non-personal services contracts; and 2) for more than \$2,500 but not more than \$10,001 for personal services contracts. The Liaison Officer may waive this requirement if he/she determines that there are no DBEs or WBEs on the certification list capable of providing the service or item. For contracts over the dollar amounts indicated in this section, all known DBEs and WBEs in the business of providing the service or item(s) required shall be mailed bid or proposal information.

(m) The Executive Officer or his/her designee, may establish and implement additional affirmative action techniques which are designed to facilitate participation of DBEs and WBEs in Metro contracting activities.

[2.04.140] Certification of Disadvantaged Business Eligibility

(a) To participate in the Program as a DBE or WBE, contractors, subcontractors and joint ventures must have been certified by an authorized certifying agency as described in subsection (b) of this section.

(b) Metro will not perform certification or recertification of businesses or consider challenges to socially and economically disadvantaged status. Rather Metro will rely upon the certification and recertification processes of ODOT and will utilize ODOT's certification list until December 31, 1987, and, thereafter, the Executive Department's list in determining whether a prospective contractor or subcontractor is certified as a DBE or WBE. A prospective contractor or subcontractor must be certified as a DBE or WBE by one of the above agencies, as applicable, and appear on the respective certification list of said agency, prior to the award of a contract to be considered by Metro to be an eligible DBE or WBE and be counted toward meeting goals. Metro will adhere to the Recertification Rulings resulting from 105(f) or state law, as applicable.

(c) Prospective contractors or subcontractors which have been denied certification by one of the above agencies may appeal such denial to the certifying agency pursuant to applicable law. However, such appeal shall not cause a delay in any contract award by Metro. Decertification procedures for USDOT-assisted contractor or potential contractors will comply with the requirements of Appendix A "Section by Section Analysis" of the July 21, 1983, Federal Register, vol. 45, No. 130, p. 45287, and will be administered by the agency which granted certification.

(d) Challenges to certification or to any presumption of social or economic disadvantage with regard to the USDOT-assisted portion of this Program, as provided for in 49 CRF 23.69, shall conform to and be processed under the procedures prescribed by each agency indicated in paragraph (b) of this section. That challenge procedure provides that:

"(1) Any third party may challenge the socially and economically disadvantaged status of any individual (except an individual who has a current 8(a) certification from the Small Business Administration) presumed to be socially and economically disadvantaged if that individual is an owner of a firm certified by or seeking certification from the certifying agency as a disadvantaged business. The challenge shall be made in writing to the recipient.

"(2) With its letter, the challenging party shall include all information available to it relevant to a determination of whether the challenged party is in fact socially and economically disadvantaged.

“(3) The recipient shall determine, on the basis of the information provided by the challenging party, whether there is reason to believe that the challenged party is in fact not socially and economically disadvantaged.

“(i) If the recipient determines that there is not reason to believe that the challenged party is not socially and economically disadvantaged, the recipient shall so inform the challenging party in writing. This terminates the proceeding.

“(ii) If the recipient determines that there is reason to believe that the challenged party is not socially and economically disadvantaged, the recipient shall begin a proceeding as provided in paragraphs (b), (4), (5) and (6) of this paragraph.

“(4) The recipient shall notify the challenged party in writing that his or her status as a socially and economically disadvantaged individual has been challenged. The notice shall identify the challenging party and summarize the grounds for the challenge. The notice shall also require the challenged party to provide to the recipient, within a reasonable time, information sufficient to permit the recipient to evaluate his or her status as a socially and economically disadvantaged individual.

“(5) The recipient shall evaluate the information available to it and make a proposed determination of the social and economic disadvantage of the challenged party. The recipient shall notify both parties of this proposed determination in writing, setting forth the reasons for its proposal. The recipient shall provide an opportunity to the parties for an informal hearing, at which they can respond to this proposed determination in writing and in person.

“(6) Following the informal hearing, the recipient shall make a final determination. The recipient shall inform the parties in writing of the final determination, setting forth the reasons for its decision.

“(7) In making the determinations called for in paragraphs (b) (3), (5) and (6) of this paragraph, the recipient shall use the standards set forth in Appendix C of this subpart.

“(8) During the pendency of a challenge under this section, the presumption that the challenged party is a socially and economically disadvantaged individual shall remain in effect.” 49 CRF 23.69. (Ordinance No. 83-165, Sec. 9; amended by Ordinance No. 84-181, Sec. 5)

[2.04.145] Annual Disadvantaged Business Goals

(a) The Metro Council shall, by resolution each June, establish annual DBE goals, and separate WBE goals, for the ensuing fiscal year. Such annual goals shall

be established separately for construction contracts, labor and materials contracts, personal service contracts, procurement contracts, and USDOT assisted contracts regardless of type.

(b) Annual goals will be established taking into consideration the following factors:

(1) projection of the number and types of contracts to be awarded by Metro;

(2) projection of the number, expertise and types of DBEs and WBEs likely to be available to compete for the contracts;

(3) past results of Metro's efforts under the Program; and

(4) for USDOT-assisted contract goals, existing goals of other local USDOT recipients and their experience in meeting these goals;

(5) for locally-funded contract goals, existing goals of other Portland metropolitan area contracting agencies, and their experience in meeting these goals.

(c) Annual goals for USDOT-assisted contracts must be approved by the United States Department of Transportation. 49CFR §23.45 (g)(3).

(d) Metro will publish notice that the USDOT-assisted contract goals are available for inspection when they are submitted to USDOT or other federal agencies. They will be made available for 30 days following publication of notice. Public comment will be accepted for 45 days following publication of the notice. (Ordinance No. 83-165, Sec. 10)

(e) Metro will publish notice regarding proposed locally-funded contract goals not later than ten (10) days prior to adoption of the goals.

[2.04.150] Contract Goals

(a) The annual goals established for construction contracts shall apply as individual contract goals for construction contracts over \$50,000 and shall be met pursuant to the following subsections.

(b) Contract goals for construction contracts over \$50,000 may be complied with by prime contractors only by subcontracting a percentage of the contract work, equal to or exceeding the contract goal, to one or more DBE or WBE subcontractors or by a showing of good faith efforts to comply pursuant to Section 2.04.160 of this chapter.

(c) The Liaison Officer may set a contract goal for any contract other than construction contracts over \$25,000. The setting of such contract goal shall be made

in writing prior to the solicitation of bids for such contract. Contract goals for contracts other than construction contracts over \$50,000 shall be set at the discretion of the Liaison Officer and shall not be tied, necessarily, to the annual goal for such contract type. Contract goals for such contracts may be complied with pursuant to Section 2.04.175 (a)(2) or Section 2.04.160 of this chapter. (Ordinance No. 83-165, Sec. 11)

(d) Even though no DBE/WBE goals are established at the time that bid/proposal documents are drafted, the Liaison Officer shall direct the inclusion of a clause in any RFP or bid documents for any contract described in this section which requires that the prime contractor, prior to entering into any subcontracts, make good faith efforts, as that term is defined in Section 2.04.160, to achieve DBE/WBE participation in the same goal amount as the current annual goal for that contract type.

[2.04.155] Contract Award Criteria

(a) To be eligible for award of contracts containing a DBE/WBE goal, prime contractors must either meet or exceed the specific goal for DBE and WBE participation, or prove that they have made good faith efforts to meet the goal prior to the time bids are opened or proposals are due. Bidders/Proposers are required to utilize the most current list of DBEs and WBEs certified by ODOT until December 31, 1987, and thereafter, by the Executive Department, in all of the bidders/proposers' good faith efforts solicitations. The address where certified lists may be obtained shall be included in all applicable bid/proposal documents.

(b) All invitations to bid or request for proposals on contracts for which goals have been established shall require all bidders/proposers to submit with their bids and proposals a statement indicating that they will comply with the contract goal or that they have made good faith efforts as defined in Section 2.04.160 to do so. To document the intent to meet the goals, all bidders and proposers shall complete and endorse a Disadvantaged Business Program Compliance form and include said form with bid or proposal documents. The form shall be provided by Metro with bid/proposal solicitations.

(c) Agreements between a bidder/proposer and a DBE/WBE in which the DBE/WBE promises not to provide subcontracting quotations to other bidders/proposers are prohibited.

(d) Apparent low bidders/proposers shall by the close of the next working day following bid opening, (or proposal submission date when no public opening is had), submit to Metro detailed DBE and WBE Utilization Forms listing names of DBEs and WBEs who will be utilized and the nature and dollar amount of their participation. This form will be binding upon the bidder/proposer. Within five working days of bid opening or proposal submission date, such bidders/proposers shall submit to Metro signed Letters of Agreement between the bidder/proposer and DBE/WBE subcontractors and suppliers to be utilized in performance of the

contract. A sample Letter of Agreement will be provided by Metro. The DBE and WBE Utilization Forms shall be provided by Metro with bid/proposal documents.

(e) An apparent low bidder/proposer who states in its bid/proposal that the DBE/WBE goals were not met but that good faith efforts were performed shall submit written evidence of such good faith efforts within two working days of bid opening or proposal submission in accordance with Section 2.04.160. Metro reserves the right to determine the sufficiency of such efforts.

(f) Except as provided in paragraph (g) of this section, apparent low bidders or apparent successful proposers who state in their bids/proposals that they will meet the goals or will show good faith efforts to meet the goals, but who fail to comply with paragraph (d) or (e) of this section, shall have their bids or proposals rejected and shall forfeit any required bid security or bid bond. In that event the next lowest bidder, or, for personal services contracts, the firm which scores second highest shall, within two days of notice of such ineligibility of the low bidder, submit evidence of goal compliance or good faith effort as provided above. This process shall be repeated until a bidder or proposer is determined to meet the provisions of this section or until Metro determines that the remaining bids are not acceptable because of amount of bid or otherwise.

(g) The Liaison Officer, at his or her discretion, may waive minor irregularities in a bidder's or proposer's compliance with the requirements of this section provided, however, that the bid or proposal substantially complies with public bidding requirements as required by applicable law. (Ordinance No. 83-165, Sec. 12)

[2.04.160] Determination of Good Faith Efforts

(a) Bidders or Proposers on USDOT-assisted contracts to which DBE/WBE goals apply must, to be eligible for contract award, comply with the applicable contract goal or show that good faith efforts have been made to comply with the goal. Good faith efforts should include at least the following standards established in the amendment to 49 CRF §23.45(h), Appendix A, dated Monday, April 27, 1981. A showing of good faith efforts must include written evidence of at least the following:

- (1) Attendance at any presolicitation or prebid meetings that were scheduled by Metro to inform disadvantaged and women business enterprises of contracting and subcontracting or material supply opportunities available on the project;
- (2) Advertisement in trade association, general circulation, minority and trade-oriented, women-focus publications, if any and through a minority-owned newspaper or minority-owned trade publication concerning the subcontracting or material supply opportunities at least 10 days before bids or proposals are due.

(3) Written notification to a reasonable number but no less than five (5) DBE/WBE firms that their interest in the contract is solicited. Such efforts should include the segmenting of work to be subcontracted to the extent consistent with the size and capability of DBE/WBE firms in order to provide reasonable subcontracting opportunities. Each bidder should send solicitation letters inviting quotes or proposals from DBE/WBE firms, segmenting portions of the work and specifically describing, as accurately as possible, the portions of the work for which quotes or proposals are solicited from DBE/WBE firms and encouraging inquiries for further details. Letters that are general and do not describe specifically the portions of work for which quotes or proposals are desired are discouraged, as such letters generally do not bring responses. It is expected that such letters will be sent in a timely manner so as to allow DBE/WBE sufficient opportunity to develop quotes or proposals for the work described.

(4) Evidence of follow-up to initial solicitations of interest, including the following:

A. the names, addresses, telephone numbers of all DBE/WBE contacted;

B. a description of the information provided to DBE/WBE firms regarding the plans and specifications for portions of the work to be performed; and

C. a statement of the reasons for non-utilization of DBE/WBE firms, if needed to meet the goal.

(5) Negotiation in good faith with DBE/WBE firms. The bidder shall not, without justifiable reason, reject as unsatisfactory bids prepared by any DBE/WBE firms;

(6) Where applicable, the bidder must provide advice and assistance to interested DBE/WBE firms in obtaining bonding, lines of credit or insurance required by Metro or the bidder;

(7) Overall, the bidder's efforts to obtain DBE/WBE participation must be reasonably expected to produce a level of participation sufficient to meet Metro's goals; and

(8) The bidder must use the services of minority community organizations, minority contractor groups, local, state and federal minority business assistance offices and other organizations identified by the Executive Department's Advocate of Minority and Women Business that provide assistance in the recruitment and placement of DBEs and WBEs.

(b) Bidders or proposers on locally-funded contracts to which DBE/WBE goals apply shall achieve the applicable contract goal or demonstrate that they have made good faith efforts to achieve the goals. Good faith efforts shall include written documentation of at least the following actions by bidders:

- (1) Attendance at any presolicitation or prebid meetings that were scheduled by Metro to inform DBEs and WBEs of contracting and subcontracting or material supply opportunities available on the project;

Documentation required: Signature of representative of bidder or proposer on prebid meeting attendance sheet.

- (2) Identifying and selecting specific economically feasible units of the project to be performed by DBEs or WBEs to increase the likelihood of participation by such enterprises;

Minimum documentation required: At least the documentation required under subsection (4) below.

- (3) Advertising in, at a minimum, a newspaper of general circulation, and trade association, minority and trade-oriented, women-focused publications, if any, concerning the subcontracting or material supply opportunities on the project at least ten (10) days before bids or proposals are due;

Documentation required: Copies of ads published.

- (4) Providing written notice soliciting sub-bids/proposals to not less than five (5) DBEs or WBEs for each subcontracting or material supply work item selected pursuant to (2) above not less than ten (10) days before bids/proposals are due.

If there are less than five certified DBEs/WBEs listed for that work or supply specialty then the solicitation must be mailed to at least the number of DBEs/WBEs listed for that specialty. The solicitation shall include a description of the work for which subcontract bids/proposals are requested and complete information on bid/proposal deadlines along with details regarding where project specifications may be reviewed.

Documentation required: Copies of solicitation letters sent to DBE/WBE along with a written statement from the bidder/proposer that all of the letters were sent by regular or certified mail not less than 10 days before bids/proposals were due.

- (5) Making, not later than five days before bids/proposals are due, follow-up phone calls to all DBEs/WBEs who have not responded to the solicitation

letters to determine if they would be submitting bids and/or to encourage them to do so.

Minimum documentation required: Log showing a) dates and times of follow-up calls along with names of individuals contacted and individuals placing the calls; and b) results attained from each DBE/WBE to whom a solicitation letter was sent (e.g., bid submitted, declined, no response). In instances where DBE/WBE bids were rejected, the dollar amount of the bid rejected from the DBE/WBE must be indicated along with the reason for rejection and the dollar amount of the bid which was accepted for that subcontract or material supply item.

-
- (6) Using the services of minority community organizations, minority contractor groups, local, state and federal minority business assistance offices and other organizations identified by the Executive Department's Advocate for Minority and Women Business that provide assistance in the recruitment and placement of DBEs and WBEs; where applicable, advising and assisting DBEs and WBEs in obtaining lines of credit or insurance required by Metro or the bidder/proposer; and, otherwise, making efforts to encourage participation by DBEs and WBEs which could reasonably be expected to produce a level of participation sufficient to meet the goals.

Minimum documentation required: Letter from bidder/proposer indicating all special efforts made to facilitate attainment of contract goals, the dates such actions were taken and results realized.

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- (7) Notwithstanding any other provision of this section, bidders and proposers on locally-funded contracts to which DBE/WBE goals apply need not accept the bid of a DBE or WBE on any particular subcontract or material supply item if the bidder/proposer demonstrates that none of the DBEs or WBEs submitting bids were the lowest responsible, responsive and qualified bidders/proposers on that particular subcontract item and that the subcontract item was awarded to the lowest responsible, responsive bidder/proposer.

Metro reserves the right to require additional written documentation of good faith efforts and bidders and proposers shall comply with all such requirements by Metro. It shall be a rebuttable presumption that a bidder or proposer has made a good faith effort to comply with the contract goals if the bidder has performed and submits written documentation of all of the above actions. It shall be a rebuttable presumption that the bidder has not made a good faith effort if the bidder has not performed or has not submitted documentation of all of the above actions.

[2.04.1656] Replacement of DBE or WBE Subcontractors

Prime contractors shall not replace a DBE/WBE subcontractor with another subcontractor, either before contract award or during contract performance, without prior Metro approval. Prime contractors who replace a DBE or WBE subcontractor shall replace such DBE/WBE subcontractor with another certified DBE/WBE subcontractor or make good faith efforts as described in the preceding section to do so. (Ordinance No. 83-165, Sec. 14; amended by Ordinance No. 86-197, Sec. 1)

[2.04.170] Records and Reports

(a) Metro shall develop and maintain a recordkeeping system to identify and assess DBE and WBE contract awards, prime contractors' progress in achieving goals and affirmative action efforts. Specifically, the following records will be maintained:

(1) Awards to DBEs and WBEs by number, percentage and dollar amount.

(2) A description of the types of contracts awarded.

(3) The extent to which goals were exceeded or not met and reasons therefor.

(b) All DBE and WBE records will be separately maintained. Required DBE and WBE information will be provided to federal agencies and administrators on request.

(c) The Liaison Officer shall prepare reports, at least semiannually, on DBE and WBE participation to include the following:

(1) the number of contracts awarded;

(2) categories of contracts awarded;

(3) dollar value of contracts awarded;

(4) percentage of the dollar value of all contracts awarded to DBE/WBE firms in the reporting period; and

(5) the extent to which goals have been met or exceeded.

(Ordinance No. 83-165, Sec. 15; amended by Ordinance No. 84-181, Sec. 7, and Ordinance No. 86-197, Sec. 1)

[2.04.175] Counting Disadvantaged Business Participation Toward Meeting Goals

(a) DBE/WBE participation shall be counted toward meeting the goals on each contract as follows:

(1) Subject to the limitations indicated in paragraphs (2) through (8) below, the total dollar value of a contract to be performed by DBEs or WBEs is counted toward the applicable goal for contract award purposes as well as annual goal compliance purposes.

(2) The total dollar value of a contract to a disadvantaged business owned and controlled by both disadvantaged males and non-disadvantaged females is counted toward the goals for disadvantaged businesses and women, respectively, in proportion to the percentage of ownership and control of each group in the business.

The total dollar value of a contract to a disadvantaged business owned and controlled by both disadvantaged males and non-disadvantaged females is counted toward either the disadvantaged business goal or the goal for women but not to both. Metro shall choose the goal which the contract value is applied.

(3) Metro shall count toward its goals a portion of the total dollar value of a contract with an eligible joint venture equal to the percentage of the ownership and control of the disadvantaged or female business partner in the joint venture.

(4) Metro shall count toward its goals only expenditures to DBEs and WBEs that perform a commercially useful function in the work of a contract. A DBE or WBE is considered to perform a commercially useful function when it is responsible for execution of a distinct element of the work of a contract and carrying out its responsibilities by actually performing, managing and supervising the work involved. To determine whether a DBE or WBE is performing a commercially useful function, Metro shall evaluate the amount of work subcontracted, industry practices and other relevant factors.

(5) Consistent with normal industry practices, a DBE or WBE may enter into subcontracts. If a DBE or WBE contractor subcontracts a significantly greater portion of the work of the contract than would be expected on the basis of normal industry practices, the DBE or WBE shall be presumed not to be performing a commercially useful function. The DBE or WBE may present evidence to Metro to rebut this presumption. Metro's decision on the rebuttal of this presumption is subject to review by USDOT for USDOT-assisted contracts.

(6) A DBE or WBE which provides both labor and materials may count toward its disadvantaged business goals expenditure of materials and supplies obtained from other than DBE or WBE suppliers and manufacturers, provided that the DBE or WBE contractor assumes the actual and contractual responsibility for the provision of the materials and supplies.

(7) Metro shall count its entire expenditure to a DBE or WBE manufacturer (i.e., a supplier that produces goods from raw materials or substantially alters them before resale).

(8) Metro shall count against the goals 20 percent of its expenditures to DBE or WBE suppliers that are not manufacturers, provided that the DBE or WBE supplier performs a commercially useful function in the supply process.

(9) When USDOT funds are passed-through by Metro to other agencies, any contracts made with those funds and any DBE or WBE participation in those contracts shall only be counted toward Metro's goals. Likewise, any USDOT funds passed-through to Metro from other agencies and then used for contracting shall count only toward that agency's goals. Project managers responsible for administration of pass-through agreements shall include the following language in those agreements:

"(a) Policy. It is the policy of the Department of Transportation that minority business enterprises as defined in 49 CFR Part 23 shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with federal funds under this agreement. Consequently, the MBE requirements of 49 CFR Part 23 apply to this agreement.

"(b) MBE Obligation. The recipient or its contractor agrees to ensure that minority business enterprises as defined in 49 CFR Part 23 have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with federal funds provided under this agreement. In this regard, all recipients or contractors shall take all necessary and reasonable steps in accordance with 49 CFR Part 23 to ensure that minority business enterprises have the maximum opportunity to compete for and perform contracts. Recipients and their contractors shall not discriminate on the basis of race, color, national origin or sex in the award and performance of USDOT-assisted contracts."

(b) DBE or WBE participation shall be counted toward meeting annual goals as follows:

(1) Except as otherwise provided below, the total dollar value of any contract which is to be performed by a DBE or WBE is counted toward meeting annual goals.

(2) The provisions of paragraphs (a)(2) through (a)(8) of this section, pertaining to contract goals, shall apply equally to annual goals.

(Ordinance No. 83-165, Sec. 16; amended by Ordinance No. 84-181, Sec. 8; and Ordinance No. 86-197, Sec. 1)

[2.04.180] Compliance and Enforcement

(a) Metro shall reserve the right, at all times during the period of any contract, to monitor compliance with the terms of this chapter and the contract and with any representation made by a contractor prior to contract award pertaining to DBE and WBE participation in the contract.

(b) The Liaison Officer may require, at any stage of contract completion, documented proof from the contractor of actual DBE and WBE participation.
(Ordinance No. 83-165, Sec. 17)

[ADOPTED by the Council of the Metropolitan Service District this 12th day of November, 1987.]

2.0 GENERAL PURCHASING POLICY

The Commission shall comply with the rules and procedures contained in this policy, and any additional requirements of ORS Chapter 279, for any and all purchases, leases and sales of personal property, goods and/or services.

2.1 EXCEPTIONS TO PURCHASING PROCEDURES

The following classes of public contracts are exempt from the competitive bidding process:

A. **Sole Source (Non-Personal Service Contracts).** If there is only one qualified provider of the service required, the General Manager shall make written findings of the sole source nature of the purchase and shall report to the Commission at its next regularly-scheduled meeting of any contracts entered into pursuant to this section.

B. **Contracts estimated not to exceed \$25,000 for road, highway or parking lot maintenance provided that at least three (3) competitive quotes are obtained, if available, and a record of said quotes and efforts to obtain them are maintained.**

C. **Contracts for warranties in which the supplier of the goods or services covered by the warranty has designated a sole provider for the warranty service.**

D. **Contracts for computer hardware and software. Selection procedures for these contracts, however, must follow the RFP process outlined in Section 4.0, Purchasing of Personal Services.**

E. **Contracts under which the Commission is to provide a service only and incurs no financial obligation to another party.**

F. **Contracts for the lease or use of the Oregon Convention Center or other facilities operated by the Metropolitan Exposition-Recreation Commission.**

If approved by the Metro Council sitting as the Commission's Contract Review Board, the following classes of public contracts shall be exempt from the competitive bidding process commencing upon the effective date of the exempting ordinance:

A. **All contracts estimated to be less than \$31,000 provided that the selection process described in the appropriate sections of this purchasing policy are followed.**

B. Emergency purchases where immediate procurement is essential to prevent a delay in work or extra expense to the Commission, for circumstances that could not have been foreseen and avoided; where there is a threat of immediate damage to Commission property; or where there is an immediate danger to citizens or employees. (The General Manager will make findings that an emergency exists and report to the Commission at its next regularly-scheduled meeting.)

**C. Contracts for equipment repair or overhaul , but only when:
The service and/or parts required are unknown before the work begins and the cost cannot be determined without extensive preliminary dismantling or testing.**

3.0 INFORMAL PURCHASING PROCEDURES

Any purchase or lease of supplies, materials, equipment, labor, non-personal services or construction which costs no more than \$31,000 shall be made by following the informal purchasing procedures contained in this section.

Informal purchasing procedures are methods used to purchase goods and services (other than personal services) which do not require advertisement for bid, resolution or written contract.

3.1 PURCHASE REQUISITION/PURCHASE ORDER

A purchase requisition/purchase order is used to authorize vendors to provide goods/services and to encumber funds for contracts and service agreements. The majority of the Commission's transactions for materials, services and capital expenditures, for items costing \$31,000 or less, are obtained through the use of a purchase requisition/purchase order.

A purchase requisition/purchase order should be kept intact, that is, orders should not be divided to avoid formal purchasing procedures.

Purchases of \$2,500 to \$31,000 must be accompanied by documentation of three (3) written competitive quotes. At least one of the three quotes must be obtained from a certified DBE/WBE contractor. Purchases of \$0 to \$2,500 do not require more than one quote.

The following explains, step-by-step, the procedures to be used in obtaining goods and services (again, when the cost is \$31,000 or less and when a petty cash purchase should not be made). This procedure is also illustrated by flow chart at the end of this section.

3.1.1 PROCEDURE

Originator

(requesting department)

1. If the purchase is for more than \$2,500, obtains three quotes (one from a DBE/WBE). Makes written record. Prepares a PR/PO and sends it to his/her department head for approval.
2. **CONFIRMING PURCHASES**, for routine budgeted maintenance and supply material, on large orders of numerous items purchased from wholesalers, and when the originator has to call various vendor departments for availability and prices, the pre-numbered requisition number may be used as the Purchase Order Number. This avoids time-consuming call-backs to vendors.

- Department Head
- Budget Control/
General Manager
- Accounts Payable
- Accounts Payable
- Vendor
- Originator
(requesting department)
3. Reviews and approves the PR/PO and forwards (or delivers) to Budget Control (Asst. General Manager-Administration).
 4. Reviews to assure that funds are available, and were budgeted, to make purchase.
 - 7:5. If the purchase was not budgeted, or is unusual in nature, the General Manager must approve the PR/PO before it goes to Budget Control.
 - 5:6. If all is in order, the PR/PO is approved, and a purchase order number is assigned by the bookkeeper.
 - 6:7. A purchase order number is assigned by the bookkeeper.
- Distribution of Purchase Order:
- Original: is hand-delivered or mailed, if purchase is a confirmed order, by originator; otherwise it is mailed - by Accounts Payable.
 - Yellow and pink copy: to originator.
 - Blue copy: to Accounts Payable.
8. Sends original PO to the vendor, records PO number (in a log) and files the blue copy of the PO.
 9. Keeps a log of all POs as follows:
 - PO Number
 - Date issued
 - Originating Department (person)
 - Date order completed
 - Date payment processed
 10. Delivers item(s) to requesting department and submits an invoice, in triplicate, to Accounts Payable. A copy of the invoice is sent to the originating department if requested.
 11. Inspects the delivered item(s) to determine if the order is complete and correct for accuracy of contents (part number, style, description, etc.). Any changes are verified or rejected.
 12. If the order is complete, the receiving person signs and dates the pink copy of the PO to certify completion, and forwards it to Accounts Payable.

13. If the order is not complete, the receiving person does a partial receiving, on the pink copy of the PO:

a. Indicate item(s) received, and the date, in the "received" column. Sends a photocopy to Accounts Payable.

b. Upon completion of the order, again indicate, on the pink copy, date and item(s) received and forward the pink copy of the PO to Accounts Payable.

Accounts Payable

14. Matches vendor invoice with purchasing and receiving documents and reviews prices and extensions and processes for payment.

Controller/Designee

15. Reviews all documents and approves payment.

Accounts Payable

16. Forwards payment authorization to Metro for processing.

3.2 STANDING PURCHASE ORDER

A Standing Purchase Order is used for drawing on "specific time and/or dollar" purchase orders. They are to be used when large quantities of an item are needed on a continuing basis; i.e. paper products, toner, batteries, soap, etc.

To obtain a Standing Purchase Order the requesting department should use the Purchase Requisition/Purchase Order procedure under section 3.1.1.

3.3 PREPARATION OF THE PURCHASE REQUISITION/PURCHASE ORDER

The PR/PO is a four part form with distribution as follows:

- Original: Vendor
- Yellow Copy : Originator
- Pink copy: (Receiving copy) Originator
- Blue copy: Accounts Payable

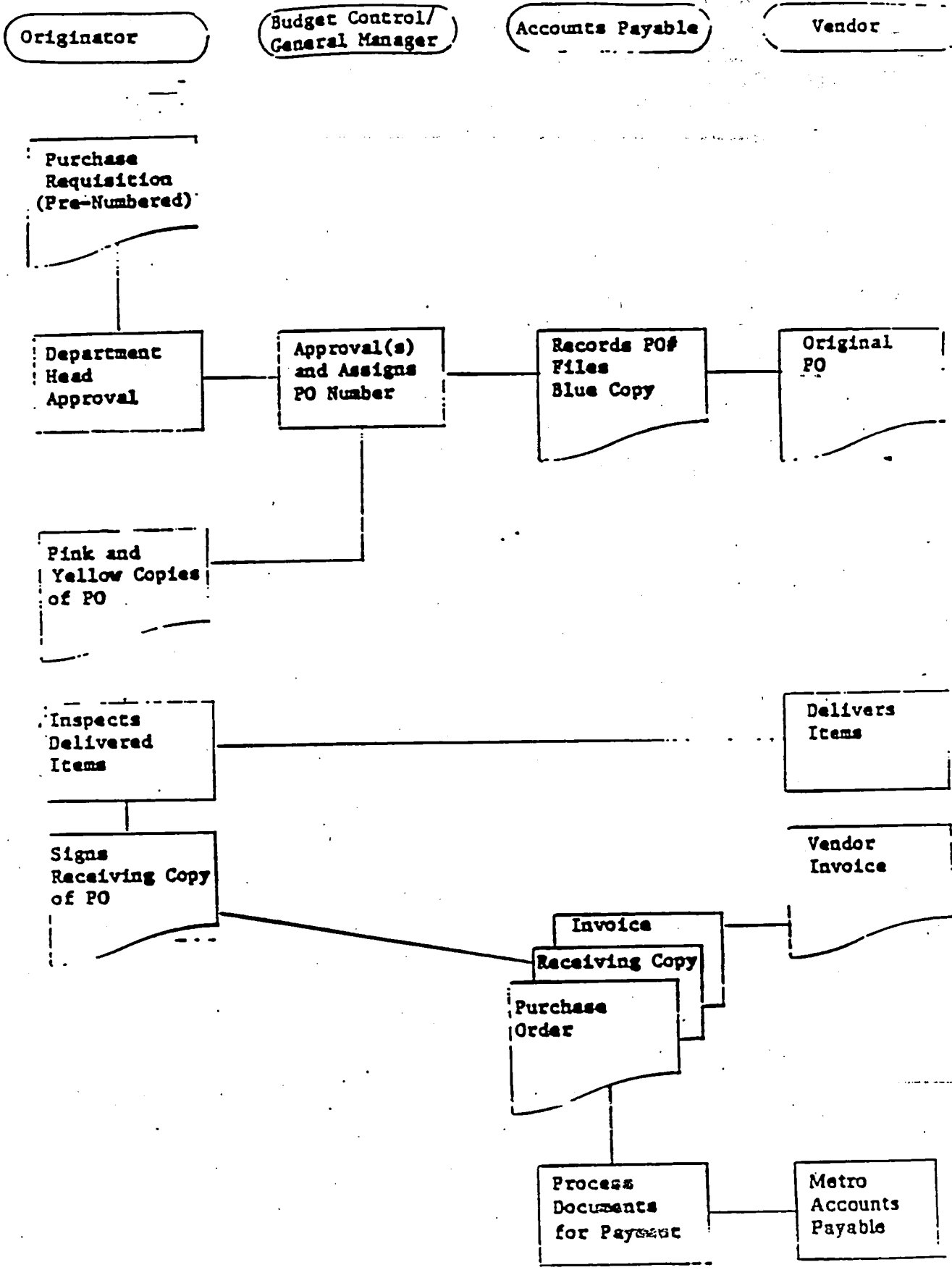
Prepared by: Any authorized person in a department.

The following items on the Purchase Requisition/Purchase Order should be completed:

- (0) Purchase Requisition Number - pre-numbered when form is ordered.
- (3) Vendor's name and address.
- (4) Shipped to name and address.
- (5) Requesting department's name.
- (6) Type of expense (operating supplies, uniforms, capital, etc.).
- (7) Required delivery date.

- (8) How to ship: via air, UPS, etc.
- (9) Terms: discounts if paid within a certain time limit.
- (10) Date of preparation.
- (11) F.O.B.—
- (12) If it's a confirming order: show person's name, phone number and date.
- (13) Quantity - the number of each item ordered.
- (14) Receiving information.
- (15) Description - size, color, grade, type, etc. and part number if applicable.
- (16) Unit - each, pair, gallon, etc.
- (17) Unit price.
- (18) Total price - number of items ordered times unit price.
- (19) Total - sum of all items ordered.
- (20) Signature of department head.
- (21) Signature of budget control.
- (22) Signature of General Manager - if required.
- (23) Purchase Order number is assigned after all approvals are obtained.

PURCHASE REQUISITION/PURCHASE ORDER PROCEDURE



PURCHASE/REQUISITION ORDER

- FOR: OREGON CONVENTION CENTER
 PORTLAND CENTER FOR THE PERFORMING ARTS
 MEMORIAL COLISEUM CIVIC STADIUM

Metropolitan
 Exposition-Recreation Commission
 Invoice Address: P.O. Box 2746
 Portland, Oregon 97208

PURCHASE ORDER NO. [23]

To [3]	Ship To [4]
Address	Address
City State Zip	City State Zip

For: [5] Type of expense: [6]	Date Required [7]	How Ship [8]	Terms [9]	Date [10]
F.O.B. Point [11]	Confirming To Phone No. [12]		Date Confirmed	

Quantity Ordered	Quantity Received	Description	Unit	Unit Price	Total Price
[13]	[14]	[15]	[16]	[17]	[18]
TOTAL					[19]

IMPORTANT:
 1. Invoice in triplicate.
 2. Our PURCHASE ORDER number must appear on all invoices, package, etc.
 Please notify us immediately if you are unable to complete order.

PURCHASE REQUISITION NO. 7701

APPROVALS:
 1. Department head: _____ [20]
 2. Budget Control: _____ [21]
 3. General Manager or designee: _____ [22]

VENDOR

4.0 MISCELLANEOUS EMPLOYEE EXPENSE PROCEDURES

These procedures govern the use of petty cash, travel authorization and advance and special expenses. All documentation submitted for employee reimbursement under this policy shall meet the minimum requirements set forth in the applicable sections of the Internal Revenue Code and related regulations.

4.1 PETTY CASH PROCEDURES: \$25.00 OR LESS

PURPOSE

This procedure establishes guidelines to permit disbursement in the form of cash and reimbursement of the petty cash fund. These procedures are essential to provide adequate internal controls and to comply with tax record requirements.

SCOPE

Petty cash is defined as a fund used for reimbursements for minor ordinary operating expenses, not to exceed \$25.00, that are too small to justify preparation of purchase orders and checks.

Allowable Expenses:

- Non-recurring minor items requiring prompt payment.
- Rapid reimbursement to employees who do not normally submit expense reports for out-of-pocket expenses.
- Other minor items falling within the prescribed framework which, in the best judgement of the General Manager or his designee, are more efficiently handled through petty cash.

Non-Allowable Expenses:

- Any item not considered an ordinary operating expense, i.e. contributions, flowers, speeding tickets, etc.
- Cashing personal checks. The petty cash fund is provided for Commission business and may be seriously depleted for personal convenience, requiring emergency impressing of the fund in order to cover normal operating expenses.

GENERAL

- Every petty cash disbursement should be supported by a receipt from the vendor. In some rare instances it may not be practical to obtain a receipt; in such cases, it shall be the responsibility of the Controller to determine the validity of the reimbursement.
- Petty cash funds and records must at all times be kept in a locked metal box. The petty cash custodian is the only employee who may have keys and access to the

box. In case of vacation or any other change of custodian, the custodian should balance the fund before turning it and the keys over to his/her replacement. The cash count should be checked and signed by the replacement and verified by a supervisor in writing.

- Petty cash funds are subject to audit at any time by authorized personnel of the Accounting staff or the General Manager.

4.1.1 PROCEDURE

- Employee Makes purchase and obtains a receipt; then completes petty cash form, (sample form attached).
- Employee's Supervisor Approves petty cash voucher.
- Petty Cash Custodian Completes petty cash voucher, pays employee, and has employee sign voucher stating that money has been received. Initiates reimbursement of petty cash account at least once each accounting period.
- Controller/Designee Reviews petty cash vouchers and receipts and approves reimbursement request before fund is impressed.

4.2 TRAVEL AUTHORIZATION AND ADVANCE

PURPOSE

This procedure establishes guidelines for authorizing travel, requesting travel advances and obtaining reimbursement for BUDGETED expenses incurred for out-of-town travel/entertainment.

SCOPE

Out-of-town travel is defined as travel in relation to official Commission business which requires the employee to travel more than 55 miles from Portland. Travel expenses related to travel under 55 miles from Portland which are \$25.00 or less, would fall under local travel and would be reimbursed through petty cash or through weekly expense reports. Entertainment expenditures for out-of-town travel are covered under Allowable Expenses, item number 5 below.

I. Allowable Expenses:

1. Transportation - Travel should be by the most direct route available, and the mode of transportation should be the one which is most economical and consistent with the purpose of the trip. Air travel shall be by coach or economy class. First class should not be used unless it is the only means available. Air travel arrangements will be handled by Administration. If

the most appropriate mode of travel is by automobile, the traveler should request authorization from the Assistant General Manager-Administration. While the Commission retains insurance coverage for official business, **THIS IS NOT A SUBSTITUTE FOR PERSONAL INSURANCE**, since it only covers claims against the Commission, not against the traveler.

2. Lodging - Accommodations shall be within an adequate, but economic range. Receipts are required.
3. Meals - Reasonable range. Receipts are required.
4. Fees/Tuition - Covers authorized fees for conventions, conferences or meetings. Receipts are required.
5. Miscellaneous Expenses- Expenditures in this category are intended to include business related breakfasts, lunches, dinners or other entertainment directly related to the conduct of Commission business or solicitation of events for Commission facilities.
 - a. Employee must submit, in writing, a list of anticipated expenses including names of persons to be entertained, purpose of entertainment and anticipated results from expenditures.
 - b. Prior approval by the General Manager is required before expense will be advanced or reimbursed.
 - c. Employees are required to submit receipts documenting all special expenses.
 - d. Expenditures for alcoholic beverages or any expenditure that would reflect negatively on the Commission, gifts beyond the scope of approved promotional items bearing the facilities' logo and/or name, are not allowable.
6. Other - Include business related telephone charges, local transportation, baggage checks, tips and other items that have prior approval of the General Manager. Receipts are required.

II. Non-Allowable Expenses:

1. Personal - Expenses of a personal nature, which would have been incurred whether or not the traveler was on Commission business. This includes non-business entertainment, traffic violations, side trips and damage to the traveler's personal vehicle.
2. Shared Expenses - If accommodations are shared by an employee on official business and a person not authorized to travel, the Commission will pay the expenses equivalent to one person.

4.2.1 PROCEDURE

Instructions:

I. Travel Authorization and Advance - Form TA-1 (following this section):

1. Traveler Completes:

- A. Items:** 1 - Self-explanatory.
2 - Destination and a brief statement of the purpose of the trip.
3 - Self-explanatory.
- B. Items:** 1 - Enter method of travel and estimate cost in space provided.
2 - Multiply daily rate for lodging by days.
3 - Multiply daily rate for meals by days.
4 - List fees or tuition charged for a convention, conference or meeting.
5 & 6 - List business related expenses, i.e. telephone, taxi, trips, car rental and other items.
7 - Total of 1 through 6.

C. Form is signed by traveler and forwarded to General Manager for approval.

2. General Manager Completes:

C. General Manager must approve all employee out-of-town travel.

3. Accounting Completes:

D. Accounting use only.

II. Travel Expense Statement - Form TE-1 (following this section):

1. Traveler Completes - within 5 working days after return:

- A. Items:** 1 - Self-explanatory.
2 - Destination and a brief statement of the purpose of the trip.
3 - Self-explanatory.

B. Items: 1-6 - Any items that were prepaid will be filled in by Accounting.

- 1 - Enter method of travel and actual cost. Receipts required.
2 - Multiply daily rate of lodging by days. Receipts required.
3 - Enter actual cost of meals. Receipts required.
4 - Enter actual cost for fee/tuition. Receipts required.
5 & 6 - Enter and list actual costs of business related expenses, i.e. telephone, taxi, tips, car rental, and other items that had prior approval of the General Manager.
7 - Total of 1 through 6.
8 - Enter amount advanced prior to trip.
9 - Enter the difference between 7 and 8.

If balance is due to Commission, employee will attach a check to the travel statement. If money is due to the employee, a check is prepared for reimbursement to the employee.

C. Signed by traveler and forwarded to General Manager for approval.

2. General Manager Completes:

C. General Manager must approve all employee out-of-town travel.

3. Accounting Completes:

D. Accounting use only.

4.3 SPECIAL EXPENSES

PURPOSE

This procedure establishes guidelines for authorizing certain personnel to expend funds and receive reimbursement for BUDGETED expenses incurred in their daily work activities for conducting Commission business and soliciting new events or new sources of sales income for Commission facilities.

SCOPE

Selected employees, on a fairly routine basis, encounter expenditures of personal funds for parking, entertainment, or personal auto mileage in the conduct of their duties. This procedure is established to facilitate reimbursement and to provide adequate control over such expenditures.

I. Allowable Expenses:

1. Mileage - This is for reimbursement of mileage for use of personal vehicle for business purposes only. Such mileage may not reflect mileage to and from the employee's residence and primary work place and should not reflect mileage in excess of 55 miles from Portland; travel over 55 miles from Portland is covered under Section 4.2, Travel Authorization and Advance, of this procedure.
2. Parking - This is for reimbursement of parking fees, including meters, for parking vehicle in conduct of Commission business.
3. Entertainment - Expenditures are intended to include business-related meals, and other appropriate entertainment, for clients which are directly related to the solicitation of events, and for persons involved in the operation of Commission facilities.
4. Fees/Tuition - Covers authorized fees for conventions, conferences or meetings. Receipts are required.

II. Non-Allowable Expenses:

1. **Personal - Expenses of a personal nature, which would have been incurred whether or not the employee was on Commission business. This includes non-business entertainment, traffic or parking violations.**
2. **Other Expenses - Do not include expenses that would normally be handled through other procedures within this procedure, e.g., Petty Cash, Section 4.1, or Purchase Requisition/Purchase Order procedures, Section 3.1.**
3. **Improper Expenses - Includes expenditures for alcoholic beverages or any expenditure that would reflect negatively on the Commission, such as gifts beyond the scope of approved promotional items bearing the facilities' logo(s) and/or name(s).**

4.3.1 PROCEDURE

Prior to any employee expending personal funds for Special Expenses, he/she must:

- Submit in writing, a list of anticipated expenses including names of persons to be entertained, purpose of entertainment and anticipated results from expenditures.
- Receive prior approval of the General Manager for the anticipated expenses.

The written list of approved anticipated expenses must be filed with Accounting prior to expenses being incurred. This list will be attached to the Weekly Expense Form when employee is reimbursed for actual expenses.

Instructions:

Following this section is a copy of the weekly Expense Report form. It is basically self-explanatory; however, following is a summary of how it is to be filled out:

I. Employee completes within 3 working days following week of incurred expenses:

- Item (1) Employee prints his/her name.
- (2) Self-explanatory.
- (3) Self-explanatory.
- (4) Self-explanatory.
- (5) & (6) Odometer readings.
- (7) Personal mileage per trip, item (6) minus (5).
- (8) Mileage (7) @ \$.215 per mile.
- (9) Total of items in (8).
- (10) Self-explanatory.
- (11) Brief explanation of the purpose of the expenditures.
- (12) Self-explanatory: include receipts if possible.
- (13) Enter actual costs: include receipts.
- (14) Enter actual costs: include explanation on receipts.
- (15) Total items (12), (13), and (14).
- (16) Total of items in (12).

- (17) Total of items in (13).
- (18) Total of items in (14).
- (19) Total of items in (15), and a cross check of items (16), (17) and (18).
- (20) Item (9) carried down.
- (21) Items (19) and (20).
- (22) Self-explanatory.

II. General Manager or Controller completes:

Item (23) Approved prior to reimbursement to the employee.

Metropolitan
EXPOSITION-RECREATION COMMISSION
Travel Authorization and Advance

A. General

1. Name of Traveler _____
2. Destination/Purpose of Trip _____

3. Day of Departure _____ Time _____
 Day of Return _____ Time _____

B. Anticipated Expenses

1. Transportation: Air _____ Other _____
 Personal Car _____ miles @ _____
2. Lodging (Daily Rate \$ _____ x _____ days)
3. Meals (Daily Rate \$ _____ x _____ days)
4. Fees/Tuition _____

5. Special Expenses _____

6. Misc. Expenses _____

7. Total Anticipated Expenses

Prepaid by Commission	Paid by Traveler
\$	\$
\$	\$

C. Signature of Traveler _____ General Manager Approval _____

D. Advance

\$ _____ Date _____ Warrant # _____
 Budget Approval _____

Metropolitan
EXPOSITION-RECREATION COMMISSION

Travel Expense Statement

A. General

1. Name of Traveler _____ Date _____
2. Destination/Purpose of Trip _____

3. Day of Departure _____ Time _____
Day of Return _____ Time _____

B. Actual Expenses

1. Transportation (Mode of Travel _____) _____
2. Lodging (Daily Rate \$ _____ x _____ days) _____
3. Meals _____
4. Fees/Tuition _____

5. Special Expenses _____

6. Misc. Expenses _____

7. Total Actual Expense _____
8. Less: Cash Advance _____
9. Total Due From/To Commission _____

	Prepaid	By Traveler
1. Transportation	\$	\$
2. Lodging		
3. Meals		
4. Fees/Tuition		
5. Special Expenses		
6. Misc. Expenses		
7. Total Actual Expense	\$	\$
8. Less: Cash Advance		(
9. Total Due From/To Commission		\$

C. Signature of Traveler _____ General Manager Approval _____

D. Accounting Control _____

WEEKLY EXPENSE REPORT

EMPLOYEE (PRINT/TYPE) _____ (1) PERIOD FROM _____ (2) TO _____ (2)

A. TRAVEL

		M I L E A G E			
DATE	DESTINATION/CONTACT	START	STOP	TOTAL	AMOUNT
(3)	(4)	(5)	(6)	(7)	(8)
TOTAL					(9)

B. TOTAL EXPENSES

DATE	EXPLANATION	PARKING	ENTER-TAINMENT	OTHER	TOTAL
(10)	(11)	(12)	(13)	(14)	(15)
SUB-TOTAL		(16)	(17)	(18)	(19)
TRAVEL - PER ABOVE					(20)
TOTAL EXPENSES					(21)

EMPLOYEE SIGNATURE _____ (22)

APPROVED _____ (23)

5.0 PURCHASING OF PERSONAL SERVICES

This section establishes guidelines for use of professional, technical or expert services (i.e., personal services) requiring special knowledge or training in accordance with Metro Ordinance 87-225 X.01.040 (m).

The objective in contracting for personal services is to obtain the highest quality of work for the most reasonable price. The quality of the services may be more important than cost. The Commission reserves the right to reject any or all proposals.

5.1 SOLE SOURCE PERSONAL SERVICE CONTRACTS

If there is only one qualified provider of the service required, the initiating department need not solicit and document quotes or proposals, but must document in writing the sole source nature of the contract.

5.2 PERSONAL SERVICE CONTRACTS UNDER \$2,500

The originating department shall state in writing the need for the contract and the scope of work to be performed. Quotes are not required.

The contract may be approved by the Assistant General Manager-Administration, providing the following conditions are met:

1. A standard contract form is used.
2. Monies are available in the budget.
3. Any deviations in the contract are approved by the Asst. General Manager-Operations or Asst. General Manager-Administration, as appropriate.
4. The appropriate scope of work is contained in the contract.

5.3 PERSONAL SERVICES CONTRACTS BETWEEN \$2,501 and \$10,000

Quotes shall be solicited from at least three (3) potentially capable and qualified contractors. The solicitations may be done by phone, but must be documented in writing by the initiating department. At least one of the three (3) quotes must be obtained from a certified DBE or WBE contractor.

Quotes are not necessary if there is only one qualified provider of the service required.

The contract must be reviewed by the initiating department head and the Assistant General Manager-Administration after selection and prior to approval.

5.4 CONTRACTS FOR PERSONAL SERVICES OVER \$10,000: PROCEDURE

- | | |
|-----------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Originator
(originating department) | 1. Prepares a request for proposals, including a description of needed services, necessary qualifications; scope of work, statement of specific criteria used to evaluate proposal, closing time and date and other pertinent information, plus any special terms and conditions. Forwards document to Asst. G.M.-Operations or Asst. G.M.-Administration as appropriate for approval and/or revision. |
| Asst. G.M.-Operations/Admin. | 2. Reviews RFP package for accuracy, completeness, clarity. Forwards to Legal Counsel. |
| Legal Counsel | 3. Reviews RFP for legal compliance. Forwards to Budget Control. |
| Budget Control | 4. Asst. G.M.-Administration reviews to assure funds are available and budgeted. |
| RFP Advertisement | 5. Where appropriate, Asst.G.M.-Operations or Asst. G.M.-Administration prepares RFP advertisement and advertises the RFP. |
| Mailing of RFP
DBE/WBE Req. | 6. Asst.G.M.-Operations mails RFP to at least 3 potential proposers and to all known DBEs and WBEs in the business of providing the service required. |
| Originating Department/A.G.M.-O
Receipt, Evaluation & Negotitation | 7. Asst.G.M.-Operations or Asst. G.M.-Administration and originating department receive proposals and evaluate them. If necessary, negotiations occur. |
| Administrative Control | 8. The contract is reviewed by the Asst.G.M.-Administration. Legal counsel review is obtained. |
| Commission Approval | 9. The Asst.G.M.-Operations or Asst. G.M.-Administration presents the proposal process to the Commission. The Commission approves the award of the contract and adopts a resolution to award the proposal. |

Contract Award Notification

10. The Asst..G.M.-Operations notifies all proposers in writing of the contract award.

Contract Preparation

11. The Asst. G.M.-Operations or Asst. G.M.-Administration prepares contract and obtains necessary signatures and any required documents (insurance, etc.) The successful proposer must return signed contract and required documents within 15 days.

6.0 FORMAL PURCHASING

Any purchase or lease of supplies, material, equipment, labor, non-personal services and construction costing more than \$31,000 shall be made by following the formal purchasing procedures contained in this section.

Formal purchasing procedures are methods which require advertising for bid, Commission resolution, awarding the contract, and written contract. The staff is responsible for determining the exact specification for any proposed purchase requiring formal bids. The Commission then assesses the bids and selects the lowest responsible bidder.

Procedures utilized in advertising and awarding contracts which must be formally bid shall, at a minimum, comply with ORS Chapter 279 and the WBE/DBE requirements.

6.1 PROCEDURE

Originator
(requesting department)

1. Prepares or has prepared bid documents and compiles a list of potential bidders. Forwards document to Asst. General Manager-Operations for approval and/or revision.

Assistant G.M.-Operations

2. Reviews bid documents for accuracy, completeness, clarity. Forwards to Legal Counsel.

Legal Counsel

3. Reviews documents for legal compliance. Forwards to Budget Control.

Budget Control

4. Asst. G.M.-Administration reviews to assure funds are available and budgeted to make purchase.

Bid Advertisement

5. Asst. G.M.-Operations prepares bid advertisement and advertises for bids. Mails copies of bid documents to all known DBEs and WBEs in the business of providing the service or items required.

Initiating Department

6. Asst. G.M.-Operations and initiating department receive sealed bids. At the time and place designated in the request for bids,

the sealed bids are opened and reviewed by the requesting department and the Assistant G.M.-Operations.

Administrative Control

7. After selection and prior to approval, the contract is reviewed by the Asst.G.M.-Administration. Legal review is also obtained.

Commission Approval

8. The Asst. G.M.-Operations presents the results of bids opened to the Commission. The Commission approves the award of the contract and adopts a resolution to award the bid.

Bid Award Notification

9. The Asst. G.M.-Operations notifies all bidders in writing of the contract award.

Contract Preparation

10. The Asst. G.M.-Operations prepares contract and obtains necessary signatures and any required documents (insurance, performance bond, wage certification, etc). The successful bidder must return signed contract and required documents within 15 days.

6.2 WRITTEN CONTRACTS

The written contract will normally take the form of the standard purchase agreement. However, in instances where it is impossible to obtain or unreasonable to foresee, the need to obtain a written contract, such as an equipment repair where the service and/or parts required are unknown and the cost cannot be determined without extensive preliminary dismantling or testing, the contract may take the form of a proposal or invoice submitted by the supplier, the terms of which are agreed to by the appropriate staff person.

METROPOLITAN EXPOSITION-RECREATION COMMISSION

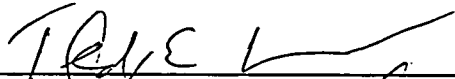
RESOLUTION NO. 12

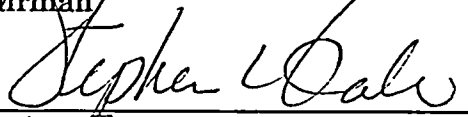
Approving the Metropolitan Exposition-Recreation Commission's Purchasing Policies.

THE METROPOLITAN EXPOSITION-RECREATION COMMISSION FINDS that in order to establish a basis for promoting mutual understanding among the Commission, its management, and providers of goods and services, which can lead to increased efficiency and productivity, and the accomplishment of the Commission's goals, the Commission should establish Comprehensive Purchasing Policies.

BE IT THEREFORE RESOLVED that the Metropolitan Exposition-Recreation Commission hereby establishes its Purchasing Policies, as set out in Exhibit A attached to this resolution, becoming effective as of November 22, 1988.

Passed by the Commission on November 22, 1988.


Chairman


Secretary/Treasurer

APPROVED AS TO FORM:


Metro General Counsel

COMMITTEE REPORT

AGENDA ITEM: 7.5

MEETING DATE: December 22, 1988

CONSIDERATION OF ORDINANCE NO. 88-279, AMENDING CHAPTER 2.04 OF THE METRO CODE RELATING TO METROPOLITAN EXPOSITION-RECREATION COMMISSION CONTRACT PROCEDURES

Date: December 14, 1988

Presented by: Councilor David Knowles
Chair, Convention Center
Committee

COMMITTEE RECOMMENDATION: Councilors present -- Kelley, Van Bergen, Waker and myself -- voted unanimously to recommend Council adoption of Ordinance No. 88-279. Councilor Cooper was absent.

COMMITTEE DISCUSSION & ISSUES: Council staff noted adoption of Ordinance No. 88-279 would amend the Metro Code purchasing provisions to incorporate the Metro ER Commission's adopted purchasing policies. Staff reviewed the attached December 7 report, highlighting the review process to date:

- o the Committee's informal review August 3 of the Commission's purchasing policies and draft of Ordinance No. 88-279;
- o the five issues raised by Councilor Van Bergen in his review (see page 2 of the attachment) and the resulting policy revisions made jointly by Metro ER Commission and Council staff; and
- o the Commission's formal adoption of the purchasing policies by Resolution No. 15, November 22, 1989.

It was noted the Metro ER Commission's policies do not describe contract extension and amendment provisions because they are outlined on each contract. Total contract amendments or extensions cannot exceed 10 percent of the base contract amount without Commission review and approval. It was noted the Commission's \$31,000 limit for formal bid exemptions is the same as the City ERC's policies, but most limits -- Metro's included -- are generally not scientifically determined.

a:\cc1213

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

An Ordinance amending Chapter 2.04 of the Metro Code relating to contract procedures by specifying the Council's role with regard to contracts of the Metropolitan Exposition-Recreation Commission and by exempting certain classes of Commission contracts from competitive bidding.

Ordinance No. 88-279

Introduced by

WHEREAS, The Council of the Metropolitan Service District established by Ordinance No. 87-225 a Metropolitan Exposition-Recreation Commission (hereinafter the "Commission") to operate regional convention, trade and spectator facilities; and

WHEREAS, This Ordinance clarifies the role of the Council as the Contract Review Board for the Commission; and

WHEREAS, This Ordinance exempts the three classes of contracts listed in Exhibit A, attached hereto and by this reference incorporated herein, from the competitive bid process and these exemptions require that the findings detailed in ORS 279.015 (2) be adopted by the Council; and

WHEREAS, The required findings are 1) that it is unlikely that the exemptions will encourage favoritism in the awarding of public contracts or substantially diminish competition; and 2) that the exemption will result in substantial cost savings; and

WHEREAS, The Council, sitting as the Contract Review Board of the Commission, makes the above-described findings based upon the factors listed for each exemption class in Exhibit A; now, therefore,

THE COUNCIL OF THE METROPOLITAN SERVICE DISTRICT HEREBY ORDAINS:

Section 1. Section 2.04.035 is amended to read as follows:

"2.04.035 Metropolitan Exposition-Recreation Commission:

"The Metropolitan Exposition-Recreation Commission shall have authority to enter into contracts pursuant to Metro Code Section 6.01.04(j); provided, however, that prior to the adoption of contracting rules by the Commission such purchases shall be made pursuant to the procedures and policies set forth in this

chapter; and provided further that the Metropolitan Service District Contract Review Board created pursuant to Section 2.04.020 of this Code shall be the local Contract Review Board for the Commission for the purpose of granting exemptions from competitive bidding or other requirements of public contract law. [For this purpose] The Metropolitan Exposition-Recreation Commission may without the prior approval of the Executive Office enter into contracts in any amount. No contract may be approved or executed for any amount in excess of the amount authorized in the budget.” The Metropolitan Exposition-Recreation Commission shall file copies of all contracts and amendments thereto with the Department of Finance & Administration. [The Metropolitan Service District Contract Review Board created pursuant to Section 2.04.020 of this Code shall be the local Contract Review Board for the Metropolitan Exposition-Recreation Commission.]

THE COUNCIL OF THE METROPOLITAN SERVICE DISTRICT, SITTING AS THE CONTRACT REVIEW BOARD FOR THE METROPOLITAN EXPOSITION-RECREATION COMMISSION, HEREBY ORDAINS:

Section 2. Section 2.04.041(b) is amended to read as follows:

“(b) Board Rule: The following classes of public contracts are exempt from the competitive bidding process based on the findings by the Contract Review Board that the exemption will not encourage favoritism or substantially diminishing competition for public contracts and that such exemptions will result in substantial cost savings:

“(1) Purchase and sale of Zoo animals.

“(2) Purchase and sale of Zoo gift shop retail inventory and resale items.

“(3) All contracts estimated to be less than \$15,000 provided that the selection process described in the appropriate Code sections is followed.

“(4) Contracts estimated not to exceed \$25,000 for road, highway or parking lot maintenance provided that at least three (3) competitive quotes are obtained, if available, and a record of said quotes and efforts to obtain them are maintained.

“(5) Emergency contracts when the Executive Officer makes written findings that an emergency exists and that the emergency consists of circumstances that could not have been reasonably foreseen and requires prompt execution of a contract to remedy that condition. An emergency contract must be awarded within sixty (60) days of the declaration of the emergency unless the Board grants an extension.

“(6) Purchase of food items pursuant to Section 2.04.090.

"(7) Contracts for warranties in which the supplier of the goods or services covered by the warranty has designated a sole provider for the warranty service.

"(8) Contracts for computer hardware and software. Selection procedures for these contracts, however, must follow the RFP process outlined in Section 2.04.050, "Personal Services Contracts."

"(9) Contracts under which Metro is to provide a service only and incurs no financial obligation to another party.

"(10) Contracts for the lease or use of the Oregon Convention Center or other facilities operated by the Metropolitan Exposition-Recreation Commission.

"(11) For purchases by the Metropolitan Exposition-Recreation Commission, all contracts estimated to be less than \$31,000 provided that any rules adopted by the Commission which provide for substitute selection procedures are followed.

"(12) For purchases by the Metropolitan Exposition-Recreation Commission, emergency contracts when the General Manager makes written findings that 1) immediate procurement is essential to prevent a delay in work or extra expense to the Commission in circumstances which could not have been foreseen and avoided; 2) there is a threat of immediate damage to Commission property; or 3) there is an immediate danger to citizens or employees. The General Manager shall report to the Commission at its next regularly-scheduled meeting of any contracts entered into pursuant to this section.

"(13) For purchases by the Metropolitan Exposition-Recreation Commission, contracts for equipment repair or overhaul but only when the service and/or parts required are unknown before the work begins and the cost cannot be determined without extensive preliminary dismantling or testing."

ADOPTED by the Concil of the Metropolitan Service District this _____ day of _____, 1988.

Mike Ragsdale, Presiding Officer

ATTEST:

Clerk of the Council

6/23/88

EXHIBIT A

**NEW CLASSES OF EXEMPTIONS AND FINDINGS REQUIRED
BY ORS 279.015(2)**

1. Establishment of \$31,000 Limit for Formal Purchasing

FINDING: Does not limit competition.

- A. Encourages increasing competitive involvement by local, small business by eliminating the mystery, complexity and time-consuming nature of Commission procurement practices.**

Formal bid specifications can be extremely lengthy and complicated causing many contractors who might be qualified to perform the work not to bid in a timely manner, or at all.

- B. Small businesses, particularly women-owned and disadvantaged, have greater difficulty in securing the necessary bonds to meet the bid requirements. (All purchases which are bid must be accompanied by bid security and all public improvements require performance bonds.)**

- C. Purchases between \$2,500 and \$31,000 will be subject to three (3) quotes, one of which must be DBE/WBE.**

FINDING: Cost Savings.

- A. Cuts the costs incurred in specification preparation, Commission action, contract administration, advertising, printing and clerical costs and staff time.**

Cost estimates in the Purchasing Division, City of Portland are that formal purchases cost approximately \$318, while an informal purchase costs approximately \$25. Additional costs can range from \$241 to \$872 per contract for the specification preparation, contract administration, clerical costs, staff time, etc.

Formalized bid specifications require reference to all applicable portions of federal, state and municipal laws, codes or regulations in relation to the designated project. This referencing requires in itself a great deal of coordination and staff time. This process generally requires many drafts of such information through its process of scrutiny and correction.

- B. Eliminates costly delays in obtaining needed supplies and services due to formalized processing and handling procedures.

The formalized bid process may require up to an additional 45 days to complete.

- C. Cuts the cost of purchasing process by eliminating the excess paperwork requirements for the purchase of routine, non-controversial goods and services, e.g., paper products, janitorial products, office supplies, purchased labor, and unique building materiel.

- D. Harold Vaughn, former purchasing agent for the City of Portland, believes that over the 10-year history the single most important factor which saved money in the purchasing area was raising the \$2,500 formal bid limit to \$20,000 and tying the limit to the consumer Price Index for the Portland Metropolitan Area as determined by the U.S. Department of Labor, Bureau of Labor Statistics. By providing for the inflation factor, it has allowed the formal purchasing limit to increase over the years from \$20,000 to its current level of \$30,694.

- E. Quotes will be lower without the formal bid process because the vendor doesn't have to deal with bonds, which ties up their cash flow. There is also less paperwork and time involved in the process.

2. Emergency Purchases

FINDING: Does not limit competition.

- A. The very nature of emergency purchases precludes competition. The goods and services must be obtained immediately and no time is available in which to allow competition.

FINDING: Cost Savings

- A. Without prompt attention, many emergency situations result in aggravated, costly problems.
- B. The convention, trade and spectator business may require many unusual or unforeseen, event-related lessee requirements which must be provided as quickly as possible.

3. Equipment Repair or Overhaul

FINDING: Does not limit competition.

A. It is impossible to write specifications in these situations because we have been unable to identify the problem. Unless the equipment is simply replaced, competition is irrelevant.

FINDING: Cost Savings

A. Dismantling/repair is more cost effective than the purchase of new equipment.



METRO

2000 S. W. First Avenue
Portland, OR 97201-5398
503/221-1646

Memorandum

Date: December 27, 1988

To: Rena Cusma, Executive Officer

From: Marie Nelson, Clerk of the Council

Regarding: ^{gpwb for} TRANSMITTAL OF ORDINANCE NOS. 88-276, 88-278 and 88-279
FOR CONSIDERATION OF VETO

Attached for your consideration are true copies of Ordinance Nos. 88-276, 88-278 and 88-279 adopted by the Council on December 22, 1988.

If you wish to veto these ordinances, I must receive a signed and dated written veto message from you no later than 5:00 p.m., Friday, December 30, 1988. The veto message, if submitted, will become part of the permanent record. If no veto message is received by the time stated above, these ordinances will be considered finally adopted.

I, Unette Horley, received this memo and true copies of Ordinance Nos. 88-276, 88-278 and 88-279 from the Council Clerk on December 27, 1988.

Dated: December 27, 1988

amn/gpwb
ord



METRO

2000 S.W. First Avenue
Portland, OR 97201-5398
503/221-1646

January 5, 1989

Mr. John Kauffman, County Clerk
Clackamas County
8th and Main
Oregon City, OR 97045

Dear Mr. Kauffman:

Enclosed are true copies of the following ordinances adopted by the Metro Council. Please file these ordinances in the Metro file maintained by your county.

- * 88-261, For the Purpose of Amending Chapter 3.01 of the Metropolitan Service District Code to Clarify Standards and Procedures for Identifying Protected Agricultural Land
- * Ordinance No. 88-263, An Ordinance Amending Ordinance No. 88-247 Revising the FY 1988-89 Budget and Appropriations Schedule for the Purpose of Additional Staffing and Capital Purchases in the Transportation Department
- * Ordinance No. 88-266, For the Purpose of Adopting the Regional Solid Waste Management Plan and Rescinding Prior Solid Waste Plan Provisions
- * Ordinance No. 88-268, An Ordinance Adopting a Final Order and Amending the Metro Urban Growth Boundary for Contested Case No. 87-3: Blazer Homes, Inc.
- * Ordinance No. 88-270, An Ordinance Amending Ordinance No. 88-247 Revising the FY 1988-89 Budget and Appropriations Schedule to Provide Funding for Legislative Expenditures and Increased National Association of Regional Council Dues
- * Ordinance No. 88-272, An Ordinance Amending Ordinance No. 88-247 Revising the FY 1988-89 Budget and Appropriations Schedule to Provide Funding for Increase in Oregon Laborer's Trust Health Care Premiums

Metro Council

Richard Waker
Presiding Officer
District 2

Jim Gardner
Deputy Presiding
Officer
District 3

Mike Ragsdale
District 1

Corky Kirkpatrick
District 4

Tom DeJardin
District 5

George Van Bergen
District 6

Sharron Kelley
District 7

Mike Bonner
District 8

Tanya Collier
District 9

Larry Cooper
District 10

David Knowles
District 11

Gary Hansen
District 12

Executive Officer
Rena Cusma

John Kauffman
January 5, 1989
Page 2

- * Ordinance No. 88-273, For the Purpose of Amending Ordinance No. 88-266B (Relating to the Adoption of the Solid Waste Management Plan) By Establishing Enhancement Fees for Solid Waste Facilities and Adding Land Use Goal Findings
- * Ordinance No. 88-274, An Ordinance Amending Ordinance No. 88-247 Revising the FY 1988-89 Budget and Appropriations Schedule to Provide Funding for an Analysis for a Publicly Owned Metro East Transfer & Recycling Center
- * Ordinance No. 88-276, For the Purpose of Adding Section 5.01.085 to the Metro Code Relating to Franchise Agreements
- * Ordinance No. 88-277, An Ordinance Amending Ordinance No. 88-247 Revising the FY 1988-89 Budget and Appropriations Schedule to Reorganize Metro's Word Processing Function
- * Ordinance No. 88-278, For the Purpose of Amending Metro Code Chapter 5.02 Relating to Solid Waste Rates
- * Ordinance No. 88-279, An Ordinance Amending Chapter 2.04 of the Metro Code Relating to Metropolitan Exposition-Recreation Commission Contract Procedures

Sincerely,



A. Marie Nelson
Clerk of the Council

AMN:gpwb

enclosure



METRO

2000 S.W. First Avenue
Portland, OR 97201-5398
503/221-1646

January 5, 1989

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

Dear Jane,

Enclosed are true copies of the following ordinances adopted by the Metro Council. Please file these ordinances in the Metro file maintained by your county.

- * 88-261, For the Purpose of Amending Chapter 3.01 of the Metropolitan Service District Code to Clarify Standards and Procedures for Identifying Protected Agricultural Land
- * Ordinance No. 88-263, An Ordinance Amending Ordinance No. 88-247 Revising the FY 1988-89 Budget and Appropriations Schedule for the Purpose of Additional Staffing and Capital Purchases in the Transportation Department
- * Ordinance No. 88-266, For the Purpose of Adopting the Regional Solid Waste Management Plan and Rescinding Prior Solid Waste Plan Provisions
- * Ordinance No. 88-268, An Ordinance Adopting a Final Order and Amending the Metro Urban Growth Boundary for Contested Case No. 87-3: Blazer Homes, Inc.
- * Ordinance No. 88-270, An Ordinance Amending Ordinance No. 88-247 Revising the FY 1988-89 Budget and Appropriations Schedule to Provide Funding for Legislative Expenditures and Increased National Association of Regional Council Dues
- * Ordinance No. 88-272, An Ordinance Amending Ordinance No. 88-247 Revising the FY 1988-89 Budget and Appropriations Schedule to Provide Funding for Increase in Oregon Laborer's Trust Health Care Premiums

Metro Council

Richard Waker
Presiding Officer
District 2

Jim Gardner
Deputy Presiding
Officer
District 3

Mike Ragsdale
District 1

Corky Kirkpatrick
District 4

Tom DeJardin
District 5

George Van Bergen
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Sharon Kelley
District 7

Mike Bonner
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Tanya Collier
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Larry Cooper
District 10

David Knowles
District 11

Gary Hansen
District 12

Executive Officer
Rena Cusma

Jane McGarvin
January 5, 1989
Page 2

- * Ordinance No. 88-273, For the Purpose of Amending Ordinance No. 88-266B (Relating to the Adoption of the Solid Waste Management Plan) By Establishing Enhancement Fees for Solid Waste Facilities and Adding Land Use Goal Findings
- * Ordinance No. 88-274, An Ordinance Amending Ordinance No. 88-247 Revising the FY 1988-89 Budget and Appropriations Schedule to Provide Funding for an Analysis for a Publicly Owned Metro East Transfer & Recycling Center
- * Ordinance No. 88-276, For the Purpose of Adding Section 5.01.085 to the Metro Code Relating to Franchise Agreements
- * Ordinance No. 88-277, An Ordinance Amending Ordinance No. 88-247 Revising the FY 1988-89 Budget and Appropriations Schedule to Reorganize Metro's Word Processing Function
- * Ordinance No. 88-278, For the Purpose of Amending Metro Code Chapter 5.02 Relating to Solid Waste Rates
- * Ordinance No. 88-279, An Ordinance Amending Chapter 2.04 of the Metro Code Relating to Metropolitan Exposition-Recreation Commission Contract Procedures

Sincerely,



A. Marie Nelson
Clerk of the Council

AMN:gpwb

enclosure



METRO

2000 S.W. First Avenue
Portland, OR 97201-5398
503/221-1646

January 5, 1989

Mr. Charles D. Cameron
County Administrator
Washington County Courthouse
150 N. First Avenue
Hillsboro, OR 97123

Dear Mr. Cameron:

Enclosed are true copies of the following ordinances adopted by the Metro Council. Please file these ordinances in the Metro file maintained by your county.

- * Ordinance No. 88-261, For the Purpose of Amending Chapter 3.01 of the Metropolitan Service District Code to Clarify Standards and Procedures for Identifying Protected Agricultural Land
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Sincerely,



A. Marie Nelson
Clerk of the Council

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