

BEFORE THE COUNCIL OF THE  
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF ADOPTING ) RESOLUTION NO. 86-697  
DISADVANTAGED BUSINESS PROGRAM )  
GOALS FOR 1986-87 ) Introduced by the  
 ) Executive Officer

WHEREAS, The Metropolitan Service District (Metro) has implemented a Disadvantaged Business Program pursuant to U. S. Department of Transportation guidelines; and

WHEREAS, The Disadvantaged Business Program requires that disadvantaged and women-owned business goals for contract award participation shall be set annually; and

WHEREAS, An analysis of disadvantaged and women-owned business participation in contract awards for the past year has been completed; now, therefore,

BE IT RESOLVED,

That the Disadvantaged Business Program Goals attached as Exhibit A are adopted for the period from October 1, 1986, through September 30, 1987.

ADOPTED by the Council of the Metropolitan Service District this 23rd day of October, 1986.

  
Richard Waker, Presiding Officer

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10/14/86

STAFF REPORT

Agenda Item No. 7.2

Meeting Date Oct. 23, 1986

CONSIDERATION OF RESOLUTION NO.86-697 FOR THE  
PURPOSE OF ADOPTING DISADVANTAGED BUSINESS  
PROGRAM GOALS FOR FY 1986-87

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Date: October 14, 1986

Presented by: Edward K. Stuhr

FACTUAL BACKGROUND AND ANALYSIS

Metro has adopted a Disadvantaged Business Plan, and has structured its contracting procedures in accordance with that plan. The plan has been incorporated in the Metro Code as Sections 2.04.100 through 2.04.270. One requirement of the plan is that Metro shall adopt annual goals for percentage of contract awards to disadvantaged and women-owned businesses. Recommended goals for FY 1986-87 are attached as Exhibit A. The duration of the goals is concurrent with the federal fiscal year (October 1 to September 30). An analysis of last year's awards and development of the coming year's goals is attached as Exhibit B. The result of the analysis is a staff recommendation that the overall goals be increased. This recommendation reflects the fact that more contract awards will be in categories with higher DBE/WBE representation than last year. It should be emphasized that the goals are minimum targets. The intent of the program is to meet or exceed the goals through affirmative action techniques.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends adoption of Resolution No. 86-697.

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increase over last year's performance. The majority of labor and materials awards were for amounts less than \$10,000, and many were in the \$1,000 to \$5,000 range. Relatively few contracts in this size range provide subcontracting opportunities, but this difficulty was offset by the fact that DBE/WBE firms were selected as prime contractor in several cases.

In contrast to last year, Personal Services awards met the DBE goal and far exceeded the WBE goal when the waste reduction public education program was awarded to a woman-owned firm. Personal Services contracts have not had individual goals set for them; affirmative action efforts to make minority-owned businesses aware of opportunities have been increased. A slightly different approach will be taken next year: some individual contracts will have goals set in cases where subcontracting opportunities exist.

Procurement contract awards again included minimal DBE/WBE participation. Only purchase orders greater than \$500 are counted toward the goals. Under Metro contract rules, managers are required to accept the lowest responsive, responsible bid. A large portion of the awards for materials purchases involve specialty products for the Zoo, and only a few suppliers exist to meet these special needs. There has been considerable DBE/WBE interest in Metro purchasing needs in the past year, however, indicating that Metro is effectively making its needs known.

There were no DOT-Assisted contract awards, so no analysis of their goals is possible.

## 2. Contract Award Plans

The following table showing potential FY 1986-87 contract awards has been developed from various sources:

<u>Type</u>	<u>Anticipated Amount</u>
Construction	\$10,020,000
Labor & Materials	427,000
Personal Services	7,155,000
Procurement	810,000
DOT-Assisted	15,000
TOTAL	\$18,427,000

The 1980 Census determined that the population in the three counties served by Metro consisted of about 7.3 percent minorities. The State of Oregon listed 72,346 business establishments in 1984, with 31,092 in the tri-county area. There are currently about 750 businesses certified by the Oregon Department of Transportation as DBE's and/or WBE's.

Although the number of certified firms is small in relation to the total, it is growing, and the list includes many professional services firms as well as construction-related businesses.

Planned construction awards include the African Bush exhibit and Education/Graphics Center at the Zoo and the West Transfer and Recycling Center. The dollar amount of construction planned is more than twice that of last year. Subcontracting opportunities will be available during all phases of the projects.

Anticipated labor and materials awards amount to only a small fraction of last year's, with nothing on the scale of the landfill operation contract. Most of the awards budgeted are small, and there should be a number of opportunities for smaller DBE/WBE firms to win entire contracts. The only large award planned in the labor and materials category is for yard debris processing.

Planned personal services awards show a substantial increase, from less than \$1 million last year to more than \$7 million this year. A variety of large projects are under way or in the planning stages. The Solid Waste Department's waste reduction/resource recovery program and the Convention Center planning and development will involve substantial awards with potential goals for subcontracting. All areas of Metro plan smaller research/analytical/design projects.

Procurement awards are expected to remain at about the same level and to be of similar composition as last year. It is to be hoped that maturing DBE/WBE supplier firms will be able to bid successfully for the products Metro requires to operate.

The Transportation Department anticipates small potential for contracting out its projects, and there are consequently few opportunities for DBE/WBE's to do federally-funded work.

### 3. Goal Adjustment

This part of the analysis is composed of two steps. The first is to determine whether there is sufficient evidence that the goals for each contract category are unrealistically high or low. The nature of this evidence could be an observed change in the mix of population or business establishment data, or a persistent inability to reach a particular category's goal. Available data do not provide compelling evidence of this nature. The recommendation therefore is that the categorical goals not be changed.

The second step is to determine what the overall District goals should be. The method of their determination is to multiply the planned dollar amount in each category by its percentage goal, sum the results, and compare the sum with the total

planned contracting dollars. In other words, calculate the weighted average percent for both goals. When this calculation is made, it is clear that the larger construction awards planned, with their larger DBE/WBE opportunities, are evidence that the overall goals should be increased. The overall goals which emerge from the above calculation are:

<u>DBE</u>		<u>WBE</u>	
<u>Current</u>	<u>Recommended</u>	<u>Current</u>	<u>Recommended</u>
5.6%	6.8%	2.8%	3.0%

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EXHIBIT A

DISADVANTAGED BUSINESS PROGRAM GOALS

October 1, 1986 - September 30, 1987

	<u>DBE</u>	<u>WBE</u>
Construction	10.0%	3.0%
Labor & Materials	5.0	2.75
Personal Services	5.0	10.0
Procurement	1.0	2.75
DOT-assisted	<u>10.0</u>	<u>4.0</u>
Overall	7.5%	5.7%

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EXHIBIT B

ANALYSIS OF FY 1985-86 DBE/WBE GOAL COMPLIANCE AND  
DEVELOPMENT OF FY 1986-87 GOALS

Development of goals for the coming year requires three primary steps:

1. Comparison of last year's goals with actual awards. Where possible, reasons for the results are postulated based on the data and any other available information.
2. Contract award plans for the coming year are developed from the Metro budget and from interviews with operating departments. DBE/WBE opportunities are also identified, taking into consideration such factors as the geographical area from which contractors are solicited, percentage of minority population in Metro's service area and the number of DBE/WBE firms available in the specialties for which awards are anticipated.
3. Goals for the coming year may be adjusted, depending on the results from the preceding steps.

These steps are detailed as follows:

1. Comparison of Goals and Actual Awards

The data for the 12 months ending June 30, 1986, are as follows:

<u>Type</u>	<u>Number</u>	<u>Amount</u>	<u>DBE Goal</u>	<u>DBE Actual</u>	<u>WBE Goal</u>	<u>WBE Actual</u>
Construction	9	\$ 920,675	10.0%	12.16%	3.0%	2.03%
Labor & Materials	90	13,816,378	5.0	9.90	2.75	4.61
Personal Services	68	1,312,686	3.0	3.09	3.0	43.45
Procurement	538	811,811	1.0	0	2.75	0.17
DOT-Assisted	0	0	10.0	0	4.0	0
<b>TOTAL</b>	<b>705</b>	<b>\$16,861,550</b>	<b>5.6%</b>	<b>9.02%</b>	<b>2.8%</b>	<b>7.28%</b>

Construction contracts were awarded for Metro Center remodeling, Zoo exhibit construction and remodeling of the Clackamas Transfer & Recycling Center. DBE goals were exceeded while WBE awards fell short. Now that the Metro Code requires good faith efforts to attract WBE's, the goal is more likely to be met this year.

The Labor & Materials category of awards was dominated by a single large contract, the operation of St. Johns Landfill. Even without this contract, however, the remaining labor and materials awards exceeded DBE goals. This is a substantial

7.2 Consideration of Resolution No. 86-697, for the Purpose of  
Adopting Disadvantaged Business Program Goals for FY 1986-87

Ed Stuhr, Grants/Contracts Specialist, presented staff's report as outlined in the agenda materials. He pointed out Metro's Disadvantaged Business Enterprise (DBE) program required an ongoing effort to recruit Disadvantaged Business Enterprises (DBE's) and Women-owned Business Enterprises (WBE's) even if the established goals for participation were met. Mr. Stuhr said the goals had been increased over the previous year because staff anticipated increased construction activity.

Main Motion: Councilor Kirkpatrick moved the Resolution be adopted and Councilor DeJardin seconded the motion.

Presiding Officer Waker asked if anyone from the public wished to testify on the Resolution. There was no testimony at that time. The Presiding Officer did, however, read a letter from Thomas Wright, Co-Chair, Association of Professional Businesses (APB), 1410 N.W. Johnson, Portland, Oregon 97209. Mr. Wright wrote that the APB's concerns with Metro's proposed DBE goals for FY 1986-87 were: 1) there was no clear delineation for professional minority business in Metro's categories as outlined in Exhibit A of the Resolution; 2) the DBE goal was too low; and 3) professional minority businesses had been under-utilized in the recent past.

Mr. Stuhr addressed Mr. Wright's concerns. 1) The term "personal services" had been used to delineate professional services contracts. That term, he said, had been used in the Oregon Revised Statutes and was defined as any contract not subject to the competitive bid process, such as engineering or architectural firms. 2) Staff had used its best judgment to establish DBE goals on the basis of DBE participation Metro's projects would likely attract. The Council could, in its discretion, alter those goals. 3) The past four years of Metro's DBE Program bore out a history of good participation. Mr. Wright and the APB had been sent copies of all requests for proposals Metro had generated in the past year.

Councilor Hansen suggested staff change the definition of "personal services contracts" to read "personal/professional services contracts." He thought it important to work with Disadvantaged Business Enterprises and as a result, be more successful in reaching DBE program goals. Eleanore Baxendale, General Counsel, said she would examine the state law to see if such a name change would pose problems.

Responding to Councilor Collier's question, Mr. Stuhr said he had calculated the likelihood of whether goals would be met by determin-



ing the number of DBE's in ratio to all companies available to provide specific services. Past success in meeting DBE program goals was also a factor in determining future goals.

Gail Hinson of Jade Consultants, a WBE engineering firm, thought Metro's goals should be higher. If goals were low, staff would have less incentive to improve DBE participation, she said.

Councilor Kafoury suggested staff add a glossary of terms to its contract procedures that would define "personal service contracts" as contracts for personal and professional services. She agreed with Ms. Hensen that Metro's goals should be increased to a larger percentage over the previous year's goals. Metro, she said, needed to challenge itself and work harder in that area.

Councilor Collier agreed with Councilor Kafoury and said it was important to send a positive message to the community.

Councilor Kelley explained although she agreed with the concept presented by Councilor Kafoury, she was concerned about the specialty nature of Metro's contracts and questioned whether higher goals could be met.

Presiding Officer Waker said he thought Metro's objective was to give all businesses an equal opportunity to participate. He did not agree that establishing quotas would accomplish that objective.

Motion to Amend: Councilor Frewing moved to amend Exhibit A of the Resolution by changing the Personal Services DBE goal to 5 percent and the Personal Services WBE goal to 10 percent. Councilor Kafoury seconded the motion.

Mr. Stuhr explained that if the Resolution were amended, staff would probably continue with the same plan currently in place. That plan called for ongoing recruitment of DBE participation regardless of whether goals were met.

Councilor DeJardin said he would not support the amendment because staff had developed goals they thought could be achieved.

Vote on the Motion to Amend: A vote on the motion resulted in:

Ayes: Councilors Collier, Frewing, Hansen, Kafoury, Kelley and Ragsdale

Nays: Councilors Cooper, DeJardin, Kirkpatrick, Van Bergen and Waker

Absent: Councilor Gardner

The motion to amend the Resolution carried.

Vote on the Main Motion: The vote resulted in:

Ayes: Collier, Cooper, DeJardin, Frewing, Hansen, Kafoury,  
Kelley, Kirkpatrick, Ragsdale, Van Bergen and Waker

Absent: Councilor Gardner

The motion carried and Resolution No. 86-697 was adopted as amended.

7.3 Consideration of Resolution No. 86-693, for the Purpose of  
Appointing Citizens to Metro's Budget Committee

Ray Barker, Councilor Assistant, presented staff's report. There was no discussion on the Resolution.

Motion: Councilor DeJardin moved to adopt the Resolution and Councilor Kelley seconded the motion.

Vote: A vote on the motion resulted in:

Ayes: Collier, Cooper, DeJardin, Frewing, Hansen, Kafoury,  
Kelley, Kirkpatrick, Ragsdale, Van Bergen and Waker

Absent: Councilor Gardner

The motion carried and Resolution No. 86-693 was adopted. Michael Burns, Becky Charles, Linda Girard, Ron Hohnstein, David Little, John Michelet and Olodapo Sobomehim were appointed to the FY 1987-88 Budget Committee.

Appointment of Councilor Collier as Alternate to Council Management Committee

Presiding Officer Waker announced that due to the resignation of Bob Oleson, former Councilor of District 1, he wished to appoint Councilor Collier as an alternate member of the Council Management Committee.

Motion: Councilor Kelley moved, seconded by Councilor Hansen, to confirm the Presiding Officer's appointment.

Vote: A vote on the motion resulted in: