

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

| | | |
|----------------------------------|---|--------------------------|
| FOR THE PURPOSE OF APPROVING |) | RESOLUTION NO. 89-1167 |
| THE ONE PERCENT FOR RECYCLING |) | |
| PROGRAM PROJECT LIST, CRITERIA |) | Introduced by Rena Cusma |
| AND GUIDELINES AND REQUEST FOR |) | Executive Officer |
| PROPOSALS FOR THE 1989-90 FISCAL |) | |
| YEAR |) | |

WHEREAS, The Metropolitan Service District has established the One Percent For Recycling Program; and

WHEREAS, An Advisory Committee was created to develop project Criteria and Guidelines for the Program; and

WHEREAS, The Committee has developed the Operating Principles, Project List and Criteria and Guidelines; and

WHEREAS, The One Percent For Recycling Advisory Committee has prepared a Request for Proposals for the program for the Executive Officer's review and submittal to the Council Solid Waste Committee for review, concurrence and recommendation to the Metro Council to approve; and

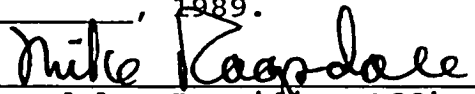
WHEREAS, The Council Solid Waste Committee has reviewed and concurs with the Executive Officer's recommendations to approve the One Percent For Recycling Advisory Committee recommendations for the Operating Principles, Project List, Criteria and Guidelines and Request for Proposals; now, therefore,

BE IT RESOLVED, That

1) The Metro Council approves the One Percent For Recycling Criteria and Guidelines and Request for Proposals for the 1989-90 fiscal year; and

2) Approves proceeding with soliciting proposals for the program from the public to implement innovative projects for reuse, recycling, and materials recovery from municipal solid waste generated in the Metropolitan region.

ADOPTED by the Council of the Metropolitan Service District
this 9th day of November, 1989.


Mike Ragsdale, Presiding Officer

SOLID WASTE COMMITTEE REPORT

RESOLUTION NO. 89-1167, FOR THE PURPOSE OF ADOPTING PROJECT LIST CRITERIA FOR ALLOCATING FUNDS FOR THE 1989-90 FY ONE PERCENT FOR RECYCLING PROGRAM

Date: November 1, 1989

Presented by: Councilor Gary Hansen

Committee Recommendation: The Solid Waste Committee voted 4 to 0 to recommend Council adoption of Resolution No. 89-1167. Voting: Councilors Hansen, Buchanan, DeJardin and Wyers. Absent: Ragsdale. This action taken October 31, 1989.

Committee Discussion/Issues: The ordinance creating the One Percent for Recycling Program specified that a project list and criteria for allocating funds between projects to be presented to the Council for approval on an annual basis.

It was noted that this year the program hopes to emphasize components of the waste stream for which no proposals were received or found to be responsive in the previous year. These components are used paint, used motor oil, scrap metal and building/salvage materials.

The Solid Waste Committee commented that the One Percent for Recycling Program was working well.

There were no issues raised by the Committee and the Committee voted unanimously to recommend Council adoption of Resolution No. 89-1167.

GH:RB:pa
A:\RB.120

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 89-1167 FOR THE PURPOSE OF APPROVING THE PROJECTS LIST AND CRITERIA FOR THE 1989-90 FISCAL YEAR FOR THE 1% FOR RECYCLING PROGRAM

Date: October 25, 1989

Presented by: Bob Martin
Judith Mandt

The One Percent For Recycling Program was established in July 1988 as a continuing element of the Metro Waste Reduction Program. Grants, loans or start-up money would be offered to the most outstanding proposals received, judged according to established criteria. The funds would be administered by the Executive Officer and disbursed in accordance with the Metro Code. Both public and private parties would be eligible.

The Ordinance creating 1% Well Spent! specified that a project list and criteria for allocating funds between projects be forwarded to the Council for approval on an annual basis. The Ordinance also created the One Percent for Recycling Committee, comprised of seven members with a Council member appointed by the Presiding Officer to act as chair and two representatives each from each of the three counties in the region. The present chair of the Committee is Councilor Judy Wyers.

The first funding cycle was allocated during the 1988-89 fiscal year. The Solid Waste Department set aside \$300,000 for the program. Following a Request for Proposals process by the Committee, acting on approved criteria and guidelines, 12 projects were selected for funding in July, 1989 for the first year. Ten waste reduction projects were selected to target yard debris, plastics, and curbside recycling and promotion/education proposals were also selected. Two projects in each area have since declined funding because the proposer's ability to carry out the proposals have significantly changed since the original submittal. These two proposals totaled \$48,500, which will be added to the 1989-90 reservoir of funds for new projects.

The 1% for Recycling Advisory Committee has reconvened for the 1989-90 funding cycle. The original criteria, guidelines and Request for Proposals have been reviewed, revised, and finalized then forwarded to the Executive Officer. This information is included for your review as Exhibit A to Resolution No. 89-1167.

Changes to the original document have not been substantial in nature. Rather, minor changes such as dates and a check off list, a budget form, reorganization, and clarifications in response to vendors questions have been made or added.

This year the program hopes to emphasize components of the waste stream for which no proposals were received or found to be responsive in the previous year. These components are used paint, used motor oil, scrap wood and building/salvage materials. Projects may be physical, educational or for research. Topics with potential for this program include, but are not limited to:

- mixed waste paper
- plastics
- office paper
- paint
- food waste
- household hazardous waste
- exempt small quantity hazardous waste operators
- apartment and multiple-family dwelling recycling
- salvageable materials for reuse
- waste exchange
- cellulosic conversion of waste to ethanol
- vermiculture
- pyrolysis
- used motor oil
- public promotion and education

This year the Committee has recommended that proposals for recycling tires not be eligible, since the State DEQ has a substantial reserve of funds available for innovative tire recycling projects that may only be used for that purpose.

For 1989-90, about \$450,000 (includes \$48,500 from previous year) is available for this program. The attached schedule shown as Exhibit B identifies the timeline anticipated. We will, again, provide 60 days for proposers to respond from initial date of issuance of the Request for Proposals, scheduled for November 13, 1989. The Committee will begin proposal review in Mid-January 1990, following the January 12 proposal submittal deadline, and has targeted mid-March as the date for final project selection and formulation of recommendations.

Executive Officer Recommendation

The Executive Officer recommends adoption of Resolution No. 89-1167.

EXHIBIT A

REQUEST FOR PROPOSALS

ONE PERCENT FOR RECYCLING PROGRAM
YEAR 2
1989-90

METROPOLITAN SERVICE DISTRICT

SOLID WASTE DEPARTMENT

2000 S.W. First Avenue, Room 310
Portland, Oregon 97201-5398

503/221-1646

October 1989

I. GENERAL PROPOSAL INFORMATION

A. Introduction

The Solid Waste Department of the Metropolitan Service District (Metro) is soliciting proposals for projects that will be funded by a program designated as One Percent For Recycling. One percent of the 1989-90 fiscal year budget of the Solid Waste Department has been designated to fund projects which foster implementation of innovative technology and methods that attain further reuse, recycling, and waste reduction in the Metro region, and that offer potential to educate, inform, and cultivate citizen participation in solutions to the region's solid waste disposal problems.

To establish this program, \$450,000 has been set aside to fund such proposals this year.

Background, Operating Principles, Criteria and Guidelines and other information that will assist in developing proposals is included in this Request for Proposals as Attachments. A list of factual material available to proposers on request to assist in proposal development is included in Attachment D.

Two program areas are designated for the 1% For Recycling Program:

1. Waste Reduction Programs; and
2. Promotion/Education Programs.

Proposals must apply to the Operating Principles, Criteria, and Guidelines that have been established for these two areas. If a program is designed to address both designated areas, the proposer may submit two separate proposals or may submit a combined proposal describing both project objectives. This provision of the Request for Proposal is intended to provide flexibility to proposers for stand alone projects in each area which may be implemented with or without dual funding for both proposals.

No set minimum formula for waste reduction on a daily, weekly, monthly, or annual basis has been established for this program. However, for item number 1, Waste Reduction Programs, proposers are advised that the emphasis of this program is on waste reduction. (Refer to Criteria for Waste Reduction Programs, Numbers 2 and 3 to develop program descriptions.) Proposals will be evaluated for approved funding based on these criteria. Criterion Number 3 is

intended to address the future potential of proposed projects. Proposers should indicate, if possible, the economic viability of the project over three and five year time periods.

The chronology of Criteria and Guidelines is not intended to imply or direct preference; all Criteria and Guidelines have equal value except that in the category of Guidelines, proposers are expected to meet only a minimum of three. Those proposals which meet more than three Guidelines will be given higher ratings in project evaluation by the committee. (Underlined material extracted from Attachment B of Attachments to the Request for Proposals; Attachment B deleted.)

B. Submission of Proposals

Proposals are due to the Metro offices by no later than 5:00 p.m. January 12, 1990. Proposals will not be considered if received after this time and date.

Ten copies of the proposal shall be furnished to Metro addressed to:

Judith Mandt
Assistant to the Solid Waste Director
2000 S.W. First Avenue
Portland, OR 97201-5398

Proposals must be reproducible on a standard copying machine. Proposals, if bound, must be bound in 3-ring loose binders for ease of copying. Please do not submit proposals in non-recyclable folders.

Proposals must include or comply with the following:

1. Completed Proposal Transmittal Sheet, signed by the proposer
2. A proposal abstract of 200 words or less
3. No more than 15 pages, including the abstract, project plan and budget/cost proposal sheet.
4. Be printed on recycled paper with 2-sided printing.

C. Project Schedule

Proposals must include a project implementation schedule from start date to estimated completion date. If applicable, the schedule should show milestones for

completion of various phases of the project. Funds are expected to be available for selected projects on or before March 30, 1990.

D. Coordination with Metro Public Affairs Department

- 1.** If a proposal is for a Promotion/Education Program, proposers are required to work directly with the Metro Public Affairs Department in developing methods for evaluation of project effectiveness, as specified in Criterion Number 3, page II-4 of Attachment A. Proposers must indicate if this is a new program. If the proposal is for a project that has been done in the past, the proposer must explain how it is different from previous or existing programs. Proposals must include information regarding where and when the project was tried and/or implemented, and an explanation of why this is not an existing program.
- 2.** Whether a waste reduction program or a promotion/education program is submitted, proposers will be required to include recognition of the 1% Well Spent! program contribution in promotional materials and signage. The Metro Public Affairs department will assist selected proposers with design aspects of this requirement, however, proposer's budget must include estimated dollar amounts for this component.

E. Review by the 1% For Recycling Advisory Committee

The 1% For Recycling Advisory Committee will serve as the review body for proposals. The committee has developed an evaluation matrix that will be used to formulate a finalist list of prospective funding recipients. Finalists will be interviewed by the committee in February. Proposers will be asked to present an outline of the project that will be followed by a question and answer period. Interviews will take place at the Metro Offices.

F. Confidentiality During Proposal Review

In the interest of preserving objectivity during the proposal evaluation and selection process, the committee has determined that proposers may not, in the text of their proposal, make reference to their individual, corporate, business, or organizational identity. Proposals which do not comply with this

requirement will be rejected. Rather, proposers are REQUIRED to complete the Proposal Transmittal Sheet as an attachment to the proposal that is submitted. The Transmittal Sheet will be withheld until the initial review of the proposals has been completed by the committee. The identification of proposers will be made known to the committee following completion of the finalist list of prospective funding recipients.

G. Subconsultants; Disadvantaged Business Program

"A subconsultant is any person or firm proposed to work for the prime consultant on this project. Metro does not wish any subconsultant selection to be finalized prior to contract award. For any task or portion of a task to be undertaken by a subconsultant, the prime consultant shall not sign up a subconsultant on an exclusive basis.

In the event that any subconsultants are to be used in the performance of this agreement, the consultant agrees to make a good faith effort, as that term is defined in Metro's Disadvantaged Business Program (Section 2.04.160 of the Metro Code - Attachment C) to reach the goals of subcontracting 5 percent of the contract amount to Disadvantaged Businesses and 5 percent to Women Owned Businesses. The consultant shall contact Metro prior to negotiating any subcontract. Metro reserves the right, at all times during the period of this agreement, to monitor compliance with the terms of this paragraph and Metro's Disadvantaged Business Program."

H. Program Criteria

Proposers must meet all criteria for the affected program to be considered for funding.

I. Protection of Proposal Confidentiality

Information submitted in this application will be treated as confidential, as permitted in ORS 192.501 (2), if the information constitutes a trade secret as recognized by the Oregon Public Records Act and if so requested by the proposer.

If you wish the information to be treated as confidential, please indicate in the specified area of the Proposal Transmittal Sheet. Proposers are advised

that Metro reserves the right to interpret whether the information so provided meets the criteria of a trade secret as constituted by this Act.

- J. Proposals must be submitted typewritten in order to receive consideration, including a completed and signed Proposal Transmittal Sheet.

II. CONTENTS OF PROPOSAL

- A. Proposal should contain the following information:
1. Completed and signed Proposal Transmittal Sheet
 2. Project abstract (Maximum 200 words)
 3. Project Plan, including project schedule
 4. Project Budget (proposers are required to use Budget Form as provided)
- B. The committee reserves the option to negotiate reduced project funding with selected proposers. Proposers should provide the following information:
1. May the project be reduced in scale to a lesser amount of funds than requested?
YES _____ NO _____
 2. If yes, specify amount and manner in which project may be reduced, and describe elements of the project that may be eliminated and still permit the project to be implemented.
- C. Proposals must include a discussion of the geographic area(s) targeted for the Waste Reduction and/or Promotion/Education Program(s).
- D. Performance bonds will not be required for projects, however, proposals must contain a list of references of individuals and/or organizations who may be contacted by the committee for experience verification. If this is not possible because the newness of the project precludes proposer's performance record, references may be supplied which speak to proposer's performance in similar, applicable areas.

III. GENERAL PROPOSAL/CONTRACT CONDITIONS

- A. Limitation and Award. This RFP does not commit Metro to the award of a contract, nor to pay any costs incurred in the preparation and submission of proposals in anticipation of the contract. Metro reserves the right to accept or reject any or all proposals received as the result of this request, to negotiate with all qualified sources, or to cancel all or part of this RFP.
- B. Contract Type. Metro intends to award a personal services contract with the selected firm(s) for this project. A copy of the standard form contract which the successful proposers will be required to execute is included in the Attachment F.
- C. Billing Procedures. Proposers are informed that the billing procedures of the selected firm are subject to the review and prior approval of Metro before reimbursement of services can occur. A monthly billing, accompanied by a progress report, will be prepared by the contractor for review and approval.
- D. Validity Period and Authority. The proposal shall be considered valid for a period of at least ninety (90) days and shall contain a statement to that effect. The Proposal Transmittal Sheet shall contain the name, title, address, and telephone number of an individual or individuals with authority to bind the company contacted during the period in which Metro is evaluating the proposal.

PROPOSAL TRANSMITTAL SHEET

ONE PERCENT WELL SPENT !
(METRO'S 1% FOR RECYCLING PROGRAM)

Name of Individual/Firm:
Project Coordinator:
Address:
Telephone:

Describe business or organization:

Summary of Project:

Do you wish to have the information treated as confidential?

_____ Yes _____ No (check one)

List page(s) where confidential information appears

Amount of One Percent Well Spent! funds to be requested: \$

Proposer's Signature

Proposal Transmittal Sheet must be signed by an individual or individuals with authority to bind the company contacted during the period in which Metro is evaluating the proposal.

Due no later than 5:00 p.m., Friday, January 12, 1990.

ATTACHMENTS

| | |
|--------------|--|
| ATTACHMENT A | Program Description, Criteria and Guidelines |
| ATTACHMENT B | Metro Ordinance No 88-252 |
| ATTACHMENT C | Materials available to proposers on request |
| ATTACHMENT D | Metro Resolution establishing 1% For Recycling Program |
| ATTACHMENT E | Metro Standard Form Contract |
| ATTACHMENT F | Statement of Committee Charge |

REQUEST FOR PROPOSALS

ATTACHMENT A

I. PROGRAM DESCRIPTION

A. INTRODUCTION

The 1% for Recycling Program is intended to be an ongoing program which sets aside 1% of the Solid Waste Operating Fund annually to finance small scale pilot projects for innovative recycling technologies and methods that benefit the region by reducing waste that is now landfilled.

As such, the primary objective of the program is to reduce waste and turn materials that might otherwise be thrown away into resources that can be used. The benefits are cost reductions in garbage disposal, conserving landfill space, conservation and enhancement of resources, and preservation of the environment.

Funding for the 1% For Recycling Program is included as an operating cost of Metro's Solid Waste Department and is collected from rate payers throughout the region.

Private, for profit, not-for-profit, and public firms and organizations will be eligible to submit proposals and, if approved, receive funds for projects that propose new ideas or improvements to existing methods for reduction, reuse, recycling, or energy and material recovery. Selection of vendors will occur through a competitive process. An advisory committee will review proposals, develop a project list, and make recommendations for funding, based upon criteria and guidelines subject to the Executive Officer's and Metro Council's approval. Timing of implementation may occur under one of the options specified:

Option 1

Program duration is a maximum of one year from start date to implementation; the time period may be less depending on the proposal. Unexpended funds for programs may be carried over to the next fiscal year to complete projects which, unexpectedly develop to be of a longer duration than the specified period. For the first year of implementation it is expected that all funded projects will be carried over into the 1989-90 fiscal year.

Option 2

Program duration involves more than one year; vendors provide an implementation schedule not to exceed a specified number of months.

Vendors may reapply for funds from year to year.

B. PURPOSE OF THE 1% FOR RECYCLING PROGRAM

Metro is responsible for solid waste management for the region. These responsibilities include operation of solid waste disposal facilities, promotion and implementation of waste reduction and solid waste management planning.

It is the agency's responsibility to carry out the state hierarchy for waste management, which is embodied in the 1983 Recycling Opportunity Act passed by the State Legislature. Among other provisions, the Act directs the management of solid waste in Oregon according to the following hierarchy:

1. Reduce the amount of solid waste generated;
2. Reuse materials;
3. Recycle materials;
4. Recover energy from solid waste that cannot be reused or recycled; and
5. As a last resort, landfill materials that cannot be reused, recycled, or from which energy cannot be recovered.

This Act is reflective of a changing environment and Oregon's major objective for solid waste management, such as placing the highest priority in the hierarchy on waste reduction and recycling.

The 1% For Recycling Program is one of Metro's many responses to meet objectives in the State hierarchy. Unlike other development projects undertaken by Metro, this program will provide funding for technologies or methods that are not yet commercially viable, have undergone only bench-scale testing, and extend beyond the traditional areas of solid waste resource management.

This program is intended to encourage individuals, companies, and organizations who have creative ideas for waste reduction and recycling but who may be reluctant or are unable to initiate them due to costs, the experimental nature of the process, or lack of resources to actively participate in local solid waste management. The 1% For Recycling Program provides incentive to pursue innovative, tested and relatively untested methods to recapture waste resources, at a reduced risk to the proposer. Measured against the potential public benefit, the philosophy behind this program is that the risks are justifiable to achieve the research, testing, and implementation that might not otherwise occur without this assistance.

Consistent with Ordinance 88-250B, promotion and education programs are eligible for 1% funding. It is the policy of Metro to support a program of 1% For Recycling as an innovative program which offers the potential to educate, inform and cultivate participation in the solution to the region's solid waste problem.

C. BACKGROUND

The Metro Solid Waste Department budget includes a recommendation by the Executive Officer that 1% of the Solid Waste Operating Fund be set aside each fiscal year to provide funding for small scale projects for innovative recycling methods and technologies.

Approximately \$450,000 is available this year for the One Percent for Recycling Program.

On July 26, 1988, Metro unanimously adopted Ordinance No. 88-250A, setting this program into motion. An advisory committee comprised of seven members was established to solicit proposals and develop a project list for recommendation. The Metro Council member is the designated Chair of the Committee: the other members are comprised of two representatives from each of the three counties in the region.

II. PROGRAM DETAIL

A. ONE PERCENT FOR RECYCLING PROGRAM OPERATING PRINCIPLES

1. The 1% For Recycling program emphasizes implementation of Metro's adopted Waste Reduction Plan. Projects that are awarded grants or loans will receive funding based on their ability to demonstrate that an objective of the Waste Reduction Plan can be met.
2. The 1% for Recycling Funds are available for **development** projects. This means projects that are new and which offer a program that has not been tried before (innovative) are the target group for this funding. This may include projects that have been implemented in areas other than the Metropolitan Service District area.
3. The 1% for Recycling Funds are **not** intended to function as a replacement for capital that would normally be obtainable by companies or individuals via traditional private capital raising methods. Therefore, applicants may be required to demonstrate why funds are not otherwise available for this proposal.
4. This program is **not** intended to **augment** ongoing operations of existing for-profit and not-for-profit entities. Past capital expenditures by proposer for equipment, property, etc. are not eligible for reimbursement under this program. Projects that are eligible for funding, therefore, will be given consideration based on the technology or program proposed, for which there is potential for development or implementation, but which would not otherwise be undertaken by the proposer at this time.
5. Applications for projects with merit, that due to size or cost, do not fit the program's criteria, may receive further consideration through a separate means, such as the agency budget process.
6. Proposers will be eligible to re-apply for funding from year to year.

7. Funds for this program will be available to proposers both on an outright grant basis or as a loan. Recommendation of a grant versus a loan will be determined by the Committee based on the size of the project and the financial profile of the proposer.

B. CRITERIA AND GUIDELINES FOR PROJECT FUNDING

Waste Stream Removal Programs

- * Litmus Test:
- Does proposal reduce waste?
 - Does proposal recover materials?
 - Does proposal reuse or recycle materials?

Criteria: Waste Stream Removal Programs must meet the following five criteria. Highest priority for funding will be given those proposals with the highest ratings.

1. Waste Reduction Plan: The degree to which the proposal contributes furthering waste reduction.
2. Reduction: Emphasis on waste reduction and resulting in the highest recovery rates and highest volumes removed from the waste stream; waste removal ratios that equal a low percentage of residue to be landfilled and that remove items not currently being removed via existing source separation programs. (See Table 1 for example.)
3. Cost/Benefit: Projects that are cost effective in removing the highest volumes of waste at the lowest cost; i.e., cost to process or remove a given number of tons from the waste stream, compared to percent of reduction which results. (See Table 1 for example.)
 - a. Demonstration of economic feasibility for developing a full-scale operation that will eventually be self-sustaining from revenues earned from sales of recovered materials and manufactured end products.
 - b. Proposer demonstrates ability to expand/continue operation independently upon successful results.

It is the policy of Metro to measure volume by tonnage. For the purposes of proposal evaluation, the committee will use two methods for determining highest volumes:

- i) actual tonnage
- ii) targeted products such as plastic; i.e., volumes

4. Risk: Demonstration of a reasonable level of risk is determined by demonstration of markets, environmental acceptance, simplicity of operation, and demonstration of vendor's ability to implement. Technical feasibility and effectiveness of technique will be a major factor in proposal consideration. Less complex, low risk proposals will receive higher ratings. However, a project which does not have certainty of success may be funded as a pilot project.
5. Area of Direct Benefit: Proposal must result in direct reduction of waste within the boundaries of the Metropolitan Service District and directly serve residents and/or businesses of the District.

Additional Criteria for Facilities must be met as follows:

1. Need: It must be demonstrated that there is a need for the facility.
2. Proximity: The geographic location of the facility may not place a vendor in direct competition with an established business engaged in a similar operation.

Promotion/Education Programs

Litmus Test: Does proposal target a unique, distinct audience?

Does proposal promote awareness of solid waste problems?

Does proposal promote alternatives to traditional solid waste disposal methods?

Criteria: Promotion/Education Programs must meet the following five criteria. Highest priority for funding will be given those proposals with the highest ratings.

1. Waste Reduction Plan: The proposal must not duplicate or conflict with existing waste reduction programs, including existing promotion/education programs.
2. Targeted Audience: The proposal must identify the intended audience(s) and list ways of reaching and educating that specific audience(s).
3. Program Results: The proposal must identify methods to evaluate and measure the effectiveness of the proposed program.*
4. Metro Program Philosophy: The program must be consistent with Metro's advertising, education, promotion and waste reduction policies.
5. Area of Direct Benefit: The proposal must directly benefit residents/and or businesses within the boundaries of the Metropolitan Service District (see attached map).

* The Metro Public Affairs Department must be consulted in developing this portion of the proposal.

GUIDELINES

The following are intended as guidelines that will assist the committee to select projects to fund. Projects must meet a minimum of three of the guidelines.

1. Experience: Programs will be given preference which evidence past experience in solid waste management and/or knowledge and experience in what is proposed.
2. Simplicity: If a proposal/technology is deemed to be too difficult and time consuming to site and implement, rating may be lower than proposal not subject to such conditions.
3. Scale: Projects which are smaller in scale will be given priority, as the purpose of this program is to encourage small scale projects.
4. Ability to Expand: Projects demonstrating the ability for expansion after proven success and acceptability will be given preference.
5. Manageability: The project can be completed in the time frame and with the resources allocated.
6. Feasibility: Reaching the targeted audience is a reasonable expectation within the scope of the project.
7. Residue: There is a low percentage of residue to be landfilled, and the by-product can be further processed.
8. Multi-Family: The project targets multi-family residential units for waste reduction projects.
9. Markets: Materials processed go to local and national markets; that is, not resulting in shipment of raw materials overseas.
10. Education: Project has good potential for gaining public's attention to result in further reduction and recycling.
11. Alternative Funding: Other funding sources have been sought.

PROJECTS NOT ELIGIBLE FOR
1% FOR RECYCLING PROGRAM

1. Programs currently receiving funding through other Metro Solid Waste Department functions.
2. Projects that result in stockpiling* of end product or residues.
3. Feasibility studies, unless they are part of a phased project and are accompanied by a plan for project implementation, and estimated costs of implementation.
4. Projects that are unduly competitive or clearly competitive with a facility or facilities already providing the same service or product.
5. Enforcement programs which are the responsibility of other governmental jurisdictions.
6. Neighborhood cleanup events.

* "Stockpiling means the accumulation of a product for which there is no ready means for immediate movement. This is differentiated from "inventory" which is material that will be recycled into a product for which there is a ready market or destination.

Table 1

EXAMPLE OF WASTE REMOVAL RATIOS

| | <u>PROJECT A</u> | <u>PROJECT B</u> |
|-------------------------|------------------------------|------------------------------|
| Volume Processed | 50,000 tons | 15,000 tons |
| Percent Waste Reduction | 25 percent (12,500 tons) | 50 percent (7,500 tons) |
| Amount to Landfill | 37,500 tons | 7,500 tons |
| Project Cost | \$150,000 <u>\$12/ton</u> | \$ 50,000 <u>6.67/ton</u> |

Project A processes 50,000 tons of waste and reduces the waste to be landfilled by 25 percent or 12,500 tons; 75 percent is to be landfilled.

Project B processes only 15,000 tons of waste with a 50 percent reduction; this means that 7,500 tons will be kept out of the landfill, however, 7,500 tons will be landfilled.

Project A removes more actual waste from entering the landfill, but not as effectively as Project B.

Project B is more cost effective than Project A, since the cost of reduction is \$6.66 per ton ($\$50,000 \div 7,500$ tons), compared with Project A cost of reduction at \$12 per ton ($\$150,000 \div 12,500$ tons).

Note: This is a simple example which does not calculate the cost of landfilling. However, costs to landfill are assumed to be proportionately the same for both Projects A and B. This is strictly a hypothetical example and is not intended to represent real costs. It is a simple illustration of the method that proposers may use to illustrate the expected cost effectiveness of the proposal.

ATTACHMENT B

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

| | | |
|-----------------------------------|---|---------------------------|
| FOR THE PURPOSE OF AMENDING METRO |) | ORDINANCE NO. 88-252 |
| CODE SECTION 2.04 RELATING TO THE |) | |
| DISADVANTAGED BUSINESS PROGRAM |) | Introduced by Rena Cusma, |
| |) | Executive Officer |

THE COUNCIL OF THE METROPOLITAN SERVICE DISTRICT HEREBY ORDAINS:

That the following sections of the Metropolitan Service District Disadvantaged Business Program, incorporated in Metro Code Sections 2.04.100 through 2.04.180, are amended to read as follows:

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

(a) 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.

(b) 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.

(c) 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.

(d) CONTRACTOR -- means the one who participates, through a contract or subcontract, in the Program and includes lessees.

(e) DEPARTMENT or "USDOT" -- means the United States Department of Transportation, including its operating elements.

(f) DISADVANTAGED BUSINESS ENTERPRISE 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.

For purposes of USDOT assisted contracts, the term Disadvantaged Business Enterprise shall be deemed to include Women-Owned Business Enterprises.

(g) EXECUTIVE DEPARTMENT -- means the State of Oregon's Executive Department.

(h) JOINT VENTURE -- is defined as an association of two or more businesses to carry out a single business enterprise for profit for which purpose they combine their property, capital, efforts, skills and knowledge. In a joint venture between a DBE/WBE and non-DBE/WBE, the DBE/WBE must be responsible for a clearly defined portion of the work to be performed and must share in the ownership, control, management responsibilities, risks and profits of the joint venture. 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.

(i) 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.

(j) 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.

(k) OREGON DEPARTMENT OF TRANSPORTATION OR "ODOT" -- means the State of Oregon's Department of Transportation.

(l) PERSONAL SERVICES CONTRACT -- means a contract for services of a personal or professional nature.

(m) 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.

(n) RECIPIENT -- means any entity, public or private, to whom USDOT financial assistance is extended, directly or through another recipient for any program.

(o) SMALL BUSINESS CONCERN -- means a small business as defined pursuant to section 3 of the Small Business Act and relevant regulations promulgated pursuant thereto.

(p) 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:

(1) "Black Americans," which includes persons having origins in any of the Black racial groups of Africa;

(2) "Hispanic Americans," which includes persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Portuguese-American, Spanish culture or origin, regardless of race;

(3) "Native Americans," which includes persons who are American Indians, Eskimos, Aleuts, or Native Hawaiians;

(4) "Asian-Pacific Americans," which includes persons whose origins are from Japan, China, Taiwan, Korea, Vietnam, Laos, Cambodia, the Philippines, Samoa, Guam, the U.S. Trust Territories of the Pacific, and the Northern Marianas; and

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

(q) 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.

(r) 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.

(s) 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.

For purpose of USDOT assisted contracts, the term Disadvantaged Business Enterprise shall be deemed to include Women-Owned Business Enterprises.

(Ordinance No. 165, Sec. 3; amended by Ordinance No. 84-181, Sec. 2; all previous Ordinances repealed by Ordinance No. 87-216, Sec. 1; amended by Ordinance No. 87-231, Sec. 1)

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 pertinent bid opening or proposal submission date 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 CFR 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 CFR 23.69.

(Ordinance No. 83-165, Sec. 9; amended by Ordinance No. 84-181, Sec. 5; all previous Ordinances repealed by Ordinance No. 87-216, Sec. 1; amended by Ordinance No. 87-231, Sec. 1)

2.04.145 Annual Disadvantaged Business Goals:

(a) The Metro Council shall, by resolution each June, establish annual DBE goals and for locally-funded contracts, separate WBE goals for the ensuing fiscal year. Such annual goals shall be established separately for construction contracts, labor and materials contracts, personal services 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. 49 CFR §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.

(Ordinance No. 83-165, Sec. 10; amended by Ordinance No. 86-197, Sec. 1; all previous Ordinances repealed by Ordinance No. 87-216; amended by Ordinance No. 87-231, Sec. 1)

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.

(b) 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.

(c) Even though no DBE/WBE goals are established at the time that bid/proposal documents are drafted, the Liaison Officer may 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.

(d) Contract goals may be complied with pursuant to Section 2.04.160 and/or 2.04.175. The extent to which DBE/WBE participation will be counted toward contract goals is governed by the latter section.

(Ordinance No. 83-165, Sec. 11; repealed by Ordinance No. 87-216, Sec. 1, amended by Ordinance No. 87-231, Sec. 1)

2.04.160 Determination of Good Faith Efforts:

(a) Bidders or Proposers on USDOT-assisted contracts to which DBE 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 CFR §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 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 firms in order to provide reasonable subcontracting opportunities. Each bidder should send solicitation letters inviting quotes or proposals from DBE 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 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 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 contacted;
- B. a description of the information provided to DBE 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 firms, if needed to meet the goal.

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

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

(7) Overall, the bidder's efforts to obtain DBE 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 for 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 all 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.

(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.

(Ordinance No. 83-165, Sec. 13; amended by Ordinance No. 84-181, Sec. 6 and Ordinance No. 86-197, Sec. 1; all previous Ordinances repealed by Ordinance No. 87-216, Sec. 1; amended by Ordinance No. 87-231, 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 prime contract or subcontract 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 with a disadvantaged business owned and controlled by disadvantaged women is counted toward either the disadvantaged business goal or the goal for women, but not to both. Metro shall choose the goal to 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 expenditures for 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 60 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 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; all previous Ordinances repealed by Ordinance No. 87-216, Sec. 1; amended by Ordinance No. 87-231, Sec. 1)

ADOPTED by the Council of the Metropolitan Service District
this _____ day of _____, 198__.


Mike Ragsdale, Presiding Officer

ATTEST:


Clerk of the Council

YS/gl/9579C/545
05/23/88

ATTACHMENT C

MATERIALS AVAILABLE TO PROPOSERS ON REQUEST

Metro Solid Waste Reduction Program -
Work Plan; April 1986

No Charge

Metro Waste Stream Characterization Study -
December 1987

Executive Summary
Full Report

No Charge
\$10 Charge

Metro 1987 Recycling Study - September 1988

No Charge

Metro Fact Sheets

No Charge

Recyclables in Waste
Survey of Recycling Markets
Yard Debris Marketing and Development
Mass Composting Facilities
Achieving Waste Reduction in the
Portland Metro Region
Curbside Container Demonstration Project
System Measurement Study
Plastics Demonstration Project

Glossary of Solid Waste Terms

\$5 Charge

Glossary of Recycling Terms and Acronyms
November 1988 (Resource Recycling, Inc.)

\$5 Charge

The list of materials has been prepared to provide information to proposers on reports and studies available from Metro which may be of assistance in their proposal preparation. Copies of this information may be obtained at the Metro Solid Waste Department, 2000 S.W. First Avenue (third floor) Portland, OR 97201.

ATTACHMENT D

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

| | | |
|----------------------------------|---|---------------------------|
| AN ORDINANCE ADDING CHAPTER 5.04 |) | ORDINANCE NO. 88-250B |
| TO THE METRO CODE TO PROVIDE |) | |
| FOR A ONE PERCENT FOR RECYCLING |) | Introduced by Rena Cusma, |
| PROGRAM |) | Executive Officer |

WHEREAS, Encouragement of public participation to further the goals of recycling in the Metropolitan Service District is embodied in the Metro Solid Waste Management Plan; and

WHEREAS, Innovative ideas on the reuse, recycling or recovery of energy from municipal solid waste should be encouraged as a means by which Metro can serve the citizens of the metropolitan region; and

WHEREAS, Creation of a "One Percent for Recycling" fund to be administered as a grant/loan program through the use of Request for Proposals can be an effective program to further the above policies; now, therefore,

THE COUNCIL OF THE METROPOLITAN SERVICE DISTRICT HEREBY ORDAINS:

Section 1. The following chapter is added to the Code of the Metropolitan Service District:

CHAPTER 5.04

ONE PERCENT FOR RECYCLING PROGRAM

5.04.010 Policy and Purpose:

(a) It is the policy of the District to support a program of "One Percent for Recycling" as an innovative program which offers the potential to educate, inform and cultivate citizen participation in the solution to the region's solid waste problem.

(b) It is further policy of the District to support "One Percent for Recycling" as a means to foster implementation of innovative resource recovery technology and methods and that it is a means by which to attain further reuse, recycling and waste reduction in the region.

5.04.020 Funding: The Council shall create a separate account within the Solid Waste Operating Fund equal to 1 percent of each fiscal year's solid waste operating budget, to be set aside to fund small scale projects and proposals to further the policy expressed in this Chapter. Funds not expended in any one budget year shall be carried forward.

5.04.030 Approvals: Contracts brought forward under this program shall be approved in accordance with Chapter 2.04.

5.04.040 Recycling Advisory Committee: In order to implement the One Percent for Recycling Program the Executive Officer shall appoint a Recycling Advisory Committee consisting of five members, one member of which shall be a Metro Councilor, one member shall be an appropriate staff person within the Solid Waste Department, and three members shall be citizens with experience in or an interest in promoting recycling, waste reduction or reuse from the community. The appointments to the committee shall be subject to confirmation by the Council.

5.04.050 Administration: The administration of the program shall be subject to the approval of the Recycling Advisory Committee provided for above.


(a) On an annual basis a list of eligible projects shall be established by the Recycling Advisory Committee. The Projects List and criteria for allocating funds between projects shall be forwarded to the Council for approval by the Council.

(b) The Recycling Advisory Committee shall approve and publish criteria for selecting projects for funding through an RFP process. The Committee's recommendations and approvals shall be filed with the Council.

(c) The Committee shall annually report to the Council and the Executive Officer all projects approved and the amounts of funds expended on each project.

5.04.060 Staff Support: The Solid Waste Department shall provide administrative and staff support to the Recycling Advisory Committee and ensure that no funds shall be expended from the One Percent for Recycling budget amounts for any administrative or staff support purpose. It is the intent of the Council that the entire amount set aside each year be expended on contracts or grants promoting the purpose of this Chapter and that all overhead and staff support expenses necessary for implementing the program be borne by the Solid Waste Operating Fund separate from the One Percent amount.

ADOPTED by the Council of the Metropolitan Service District
this 14th day of July, 1988.


Mike Ragsdale, Presiding Officer

ATTEST:


Clerk of the Council

Contract No. _____

PERSONAL SERVICES AGREEMENT

THIS AGREEMENT dated this _____ day of _____ 19____, is between the METROPOLITAN SERVICE DISTRICT, a municipal corporation, hereinafter referred to as "METRO," whose address is 2000 S.W. First Avenue, Portland, OR 97201-5398, and _____, hereinafter referred to as "CONTRACTOR," whose address is _____, for the period of _____, 19____, through _____, 19____, and for any extensions thereafter pursuant to written agreement of both parties.

W I T N E S S E T H :

WHEREAS, This Agreement is exclusively for Personal Services;

NOW, THEREFORE, IT IS MUTUALLY AGREED AS FOLLOWS:

CONTRACTOR AGREES:

1. To perform the services and deliver to METRO the materials described in the Scope of Work attached hereto;
2. To provide all services and materials in a competent and professional manner in accordance with the Scope of Work;
3. To comply with all applicable provisions of ORS Chapters 187 and 279, and all other terms and conditions necessary to be inserted into public contracts in the state of Oregon, as if such provisions were a part of this Agreement;
4. To maintain records relating to the Scope of work on a generally recognized accounting basis and to make said records available to METRO at mutually convenient times;
5. To indemnify and hold METRO, its agents and employees harmless from any and all claims, demands, damages, actions, losses and expenses, including attorney's fees, arising out of or in any way connected with its performance of this Agreement, with any patent infringement arising out of the use of CONTRACTOR'S designs or other materials by METRO and for any claims or disputes involving subcontractors;
6. To comply with any other "Contract Provisions" attached hereto as so labeled; and

7. CONTRACTOR shall be an independent contractor for all purposes, shall be entitled to no compensation other than the compensation provided for in the Agreement. CONTRACTOR hereby certifies that it is the direct responsibility employer as provided in ORS 656.407 or a contributing employer as provided in ORS 656.411. In the event CONTRACTOR is to perform the services described in this Agreement without the assistance of others, CONTRACTOR hereby agrees to file a joint declaration with METRO to the effect that CONTRACTOR services are those of an independent contractor as provided under Chapter 864 Oregon Laws, 1979.

METRO AGREES:

1. To pay CONTRACTOR for services performed and materials delivered in the maximum sum of _____ AND _____/100THS (\$_____) DOLLARS and in the manner and at the time designated in the Scope of Work; and

2. To provide full information regarding its requirements for the Scope of Work.

BOTH PARTIES AGREE:

1. That METRO may terminate this Agreement upon giving CONTRACTOR five (5) days written notice without waiving any claims or remedies it may have against CONTRACTOR;

2. That, in the event of termination, METRO shall pay CONTRACTOR for services performed and materials delivered prior to the date of termination; but shall not be liable for indirect or consequential damages;

3. That, in the event of any litigation concerning this Agreement, the prevailing party shall be entitled to reasonable attorney's fees and court costs, including fees and costs on appeal to an appellate court;

4. That this Agreement is binding on each party, its successors, assigns, and legal representatives and may not, under any condition, be assigned or transferred by either party; and

5. That this Agreement may be amended only by the written agreement of both parties.

CONTRACTOR NAME

METROPOLITAN SERVICE DISTRICT

By: _____

By: _____

Date: _____

Date: _____

1% FOR RECYCLING ADVISORY COMMITTEE

STATEMENT OF COMMITTEE CHARGE

Ordinance No. 88-250B, establishing the 1% For Recycling Program, calls for the formation of an advisory committee to do the following:

1. Develop criteria and guidelines for project funding.
2. Prepare and advertise a Request for Proposals (RFP) for project funds.
3. Develop evaluation standards for proposal selection.
4. Review proposals and interview prospective proposers.
5. Compile a project list for recommendation to Metro Executive Officer for presentation to Council.
6. Evaluate performance of selected projects and prepare an annual report for distribution.

Committee Members

Judy Wyers, Chair

Metro Councilor District 12

Bruce Louis

Multnomah County

Beverly Seibel

Washington County

Forrest Soth

Washington County

Margaret Templeton

Multnomah County

Carolyn Tomei

Clackamas County

Funding innovative
recycling projects

**PERTINENT DATES FOR
REQUEST FOR PROPOSALS
SECOND FUNDING CYCLE**

1989

Tuesday
October 17

Committee meeting, review RFP documents

Tuesday
October 31

Council Solid Waste Committee meeting

- Committee reappointments
- Eligible Project List and document review

Wednesday
November 8
4:00 p.m.

AGENDA:

1. Discussion of Council Solid Waste Committee comments (if any)
2. Tom Brewer, Sherwin-Williams Company

Thursday
November 9

Metro Council Meeting

- Committee reappointments
- Eligible Project List and document review

Friday
November 10

Mail RFP's to mailing listees

1990

Thursday
January 11

Proposal Due Date

Monday
January 15

Proposals mailed to Committee

January 15 on

Committee sets review schedule

February 15

Projects selected

March 1 - 15

Recommendations presented to Executive Officer for Presentation to the Metro Council

March 30

Funds available for select projects

BEGIN AGAIN

File

Certified A True Copy of the Original Thereof
[Signature]
Clerk of the Council

SOLID WASTE COMMITTEE REPORT

RESOLUTION NO. 89-1167, FOR THE PURPOSE OF ADOPTING PROJECT LIST CRITERIA FOR ALLOCATING FUNDS FOR THE 1989-90 FY ONE PERCENT FOR RECYCLING PROGRAM

Date: November 1, 1989

Presented by: Councilor Gary Hansen

Committee Recommendation: The Solid Waste Committee voted 4 to 0 to recommend Council adoption of Resolution No. 89-1167. Voting: Councilors Hansen, Buchanan, DeJardin and Wyers. Absent: Ragsdale. This action taken October 31, 1989.

Committee Discussion/Issues: The ordinance creating the One Percent for Recycling Program specified that a project list and criteria for allocating funds between projects to be presented to the Council for approval on an annual basis.

It was noted that this year the program hopes to emphasize components of the waste stream for which no proposals were received or found to be responsive in the previous year. These components are used paint, used motor oil, scrap metal and building/salvage materials.

The Solid Waste Committee commented that the One Percent for Recycling Program was working well.

There were no issues raised by the Committee and the Committee voted unanimously to recommend Council adoption of Resolution No. 89-1167.

GH:RB:pa
A:\RB.120

EXHIBIT A

REQUEST FOR PROPOSALS

ONE PERCENT FOR RECYCLING PROGRAM
YEAR 2
1989-90

METROPOLITAN SERVICE DISTRICT

SOLID WASTE DEPARTMENT

2000 S.W. First Avenue, Room 310
Portland, Oregon 97201-5398

503/221-1646

October 1989

I. GENERAL PROPOSAL INFORMATION

A. Introduction

The Solid Waste Department of the Metropolitan Service District (Metro) is soliciting proposals for projects that will be funded by a program designated as One Percent For Recycling. One percent of the 1989-90 fiscal year budget of the Solid Waste Department has been designated to fund projects which foster implementation of innovative technology and methods that attain further reuse, recycling, and waste reduction in the Metro region, and that offer potential to educate, inform, and cultivate citizen participation in solutions to the region's solid waste disposal problems.

To establish this program, \$450,000 has been set aside to fund such proposals this year.

Background, Operating Principles, Criteria and Guidelines and other information that will assist in developing proposals is included in this Request for Proposals as Attachments. A list of factual material available to proposers on request to assist in proposal development is included in Attachment D.

Two program areas are designated for the 1% For Recycling Program:

1. Waste Reduction Programs; and
2. Promotion/Education Programs.

Proposals must apply to the Operating Principles, Criteria, and Guidelines that have been established for these two areas. If a program is designed to address both designated areas, the proposer may submit two separate proposals or may submit a combined proposal describing both project objectives. This provision of the Request for Proposal is intended to provide flexibility to proposers for stand alone projects in each area which may be implemented with or without dual funding for both proposals. No set minimum formula for waste reduction on a daily, weekly, monthly, or annual basis has been established for this program. However, for item number 1, Waste Reduction Programs, proposers are advised that the emphasis of this program is on waste reduction. (Refer to Criteria for Waste Reduction Programs, Numbers 2 and 3 to develop program descriptions.) Proposals will be evaluated for approved funding based on these criteria. Criterion Number 3 is

intended to address the future potential of proposed projects. Proposers should indicate, if possible, the economic viability of the project over three and five year time periods.

The chronology of Criteria and Guidelines is not intended to imply or direct preference; all Criteria and Guidelines have equal value except that in the category of Guidelines, proposers are expected to meet only a minimum of three. Those proposals which meet more than three Guidelines will be given higher ratings in project evaluation by the committee. (Underlined material extracted from Attachment B of Attachments to the Request for Proposals; Attachment B deleted.)

B. Submission of Proposals

Proposals are due to the Metro offices by no later than 5:00 p.m. January 12, 1990. Proposals will not be considered if received after this time and date.

Ten copies of the proposal shall be furnished to Metro addressed to:

Judith Mandt
Assistant to the Solid Waste Director
2000 S.W. First Avenue
Portland, OR 97201-5398

Proposals must be reproducible on a standard copying machine. Proposals, if bound, must be bound in 3-ring loose binders for ease of copying. Please do not submit proposals in non-recyclable folders.

Proposals must include or comply with the following:

1. Completed Proposal Transmittal Sheet, signed by the proposer
2. A proposal abstract of 200 words or less
3. No more than 15 pages, including the abstract, project plan and budget/cost proposal sheet.
4. Be printed on recycled paper with 2-sided printing.

C. Project Schedule

Proposals must include a project implementation schedule from start date to estimated completion date. If applicable, the schedule should show milestones for

completion of various phases of the project. Funds are expected to be available for selected projects on or before March 30, 1990.

D. Coordination with Metro Public Affairs Department

1. If a proposal is for a Promotion/Education Program, proposers are required to work directly with the Metro Public Affairs Department in developing methods for evaluation of project effectiveness, as specified in Criterion Number 3, page II-4 of Attachment A. Proposers must indicate if this is a new program. If the proposal is for a project that has been done in the past, the proposer must explain how it is different from previous or existing programs. Proposals must include information regarding where and when the project was tried and/or implemented, and an explanation of why this is not an existing program.

2. Whether a waste reduction program or a promotion/education program is submitted, proposers will be required to include recognition of the 1% Well Spent! program contribution in promotional materials and signage. The Metro Public Affairs department will assist selected proposers with design aspects of this requirement, however, proposer's budget must include estimated dollar amounts for this component.

E. Review by the 1% For Recycling Advisory Committee

The 1% For Recycling Advisory Committee will serve as the review body for proposals. The committee has developed an evaluation matrix that will be used to formulate a finalist list of prospective funding recipients. Finalists will be interviewed by the committee in February. Proposers will be asked to present an outline of the project that will be followed by a question and answer period. Interviews will take place at the Metro Offices.

F. Confidentiality During Proposal Review

In the interest of preserving objectivity during the proposal evaluation and selection process, the committee has determined that proposers may not, in the text of their proposal, make reference to their individual, corporate, business, or organizational identity. Proposals which do not comply with this

requirement will be rejected. Rather, proposers are REQUIRED to complete the Proposal Transmittal Sheet as an attachment to the proposal that is submitted. The Transmittal Sheet will be withheld until the initial review of the proposals has been completed by the committee. The identification of proposers will be made known to the committee following completion of the finalist list of prospective funding recipients.

G. Subconsultants; Disadvantaged Business Program

"A subconsultant is any person or firm proposed to work for the prime consultant on this project. Metro does not wish any subconsultant selection to be finalized prior to contract award. For any task or portion of a task to be undertaken by a subconsultant, the prime consultant shall not sign up a subconsultant on an exclusive basis.

In the event that any subconsultants are to be used in the performance of this agreement, the consultant agrees to make a good faith effort, as that term is defined in Metro's Disadvantaged Business Program (Section 2.04.160 of the Metro Code - Attachment C) to reach the goals of subcontracting 5 percent of the contract amount to Disadvantaged Businesses and 5 percent to Women Owned Businesses. The consultant shall contact Metro prior to negotiating any subcontract. Metro reserves the right, at all times during the period of this agreement, to monitor compliance with the terms of this paragraph and Metro's Disadvantaged Business Program."

H. Program Criteria

Proposers must meet all criteria for the affected program to be considered for funding.

I. Protection of Proposal Confidentiality

Information submitted in this application will be treated as confidential, as permitted in ORS 192.501 (2), if the information constitutes a trade secret as recognized by the Oregon Public Records Act and if so requested by the proposer.

If you wish the information to be treated as confidential, please indicate in the specified area of the Proposal Transmittal Sheet. Proposers are advised

that Metro reserves the right to interpret whether the information so provided meets the criteria of a trade secret as constituted by this Act.

- J. Proposals must be submitted typewritten in order to receive consideration, including a completed and signed Proposal Transmittal Sheet.

II. CONTENTS OF PROPOSAL

- A. Proposal should contain the following information:

1. Completed and signed Proposal Transmittal Sheet
2. Project abstract (Maximum 200 words)
3. Project Plan, including project schedule
4. Project Budget (proposers are required to use Budget Form as provided)

- B. The committee reserves the option to negotiate reduced project funding with selected proposers. Proposers should provide the following information:

1. May the project be reduced in scale to a lesser amount of funds than requested?
YES _____ NO _____
2. If yes, specify amount and manner in which project may be reduced, and describe elements of the project that may be eliminated and still permit the project to be implemented.

- C. Proposals must include a discussion of the geographic area(s) targeted for the Waste Reduction and/or Promotion/Education Program(s).

- D. Performance bonds will not be required for projects, however, proposals must contain a list of references of individuals and/or organizations who may be contacted by the committee for experience verification. If this is not possible because the newness of the project precludes proposer's performance record, references may be supplied which speak to proposer's performance in similar, applicable areas.

III. GENERAL PROPOSAL/CONTRACT CONDITIONS

- A. Limitation and Award. This RFP does not commit Metro to the award of a contract, nor to pay any costs incurred in the preparation and submission of proposals in anticipation of the contract. Metro reserves the right to accept or reject any or all proposals received as the result of this request, to negotiate with all qualified sources, or to cancel all or part of this RFP.
- B. Contract Type. Metro intends to award a personal services contract with the selected firm(s) for this project. A copy of the standard form contract which the successful proposers will be required to execute is included in the Attachment F.
- C. Billing Procedures. Proposers are informed that the billing procedures of the selected firm are subject to the review and prior approval of Metro before reimbursement of services can occur. A monthly billing, accompanied by a progress report, will be prepared by the contractor for review and approval.
- D. Validity Period and Authority. The proposal shall be considered valid for a period of at least ninety (90) days and shall contain a statement to that effect. The Proposal Transmittal Sheet shall contain the name, title, address, and telephone number of an individual or individuals with authority to bind the company contacted during the period in which Metro is evaluating the proposal.

PROPOSAL TRANSMITTAL SHEET

**ONE PERCENT WELL SPENT !
(METRO'S 1% FOR RECYCLING PROGRAM)**

Name of Individual/Firm:
Project Coordinator:
Address:
Telephone:

Describe business or organization:

Summary of Project:

Do you wish to have the information treated as confidential?

 Yes No (check one)

List page(s) where confidential information appears

Amount of One Percent Well Spent! funds to be requested: \$

Proposer's Signature

Proposal Transmittal Sheet must be signed by an individual or individuals with authority to bind the company contacted during the period in which Metro is evaluating the proposal.

Due no later than 5:00 p.m., Friday, January 12, 1990.

ATTACHMENTS

| | |
|---------------------|---|
| ATTACHMENT A | Program Description, Criteria and Guidelines |
| ATTACHMENT B | Metro Ordinance No 88-252 |
| ATTACHMENT C | Materials available to proposers on request |
| ATTACHMENT D | Metro Resolution establishing 1% For Recycling Program |
| ATTACHMENT E | Metro Standard Form Contract |
| ATTACHMENT F | Statement of Committee Charge |

REQUEST FOR PROPOSALS

ATTACHMENT A

I. PROGRAM DESCRIPTION

A. INTRODUCTION

The 1% for Recycling Program is intended to be an ongoing program which sets aside 1% of the Solid Waste Operating Fund annually to finance small scale pilot projects for innovative recycling technologies and methods that benefit the region by reducing waste that is now landfilled.

As such, the primary objective of the program is to reduce waste and turn materials that might otherwise be thrown away into resources that can be used. The benefits are cost reductions in garbage disposal, conserving landfill space, conservation and enhancement of resources, and preservation of the environment.

Funding for the 1% For Recycling Program is included as an operating cost of Metro's Solid Waste Department and is collected from rate payers throughout the region.

Private, for profit, not-for-profit, and public firms and organizations will be eligible to submit proposals and, if approved, receive funds for projects that propose new ideas or improvements to existing methods for reduction, reuse, recycling, or energy and material recovery. Selection of vendors will occur through a competitive process. An advisory committee will review proposals, develop a project list, and make recommendations for funding, based upon criteria and guidelines subject to the Executive Officer's and Metro Council's approval. Timing of implementation may occur under one of the options specified:

Option 1

Program duration is a maximum of one year from start date to implementation; the time period may be less depending on the proposal. Unexpended funds for programs may be carried over to the next fiscal year to complete projects which, unexpectedly develop to be of a longer duration than the specified period. For the first year of implementation it is expected that all funded projects will be carried over into the 1989-90 fiscal year.

Option 2

Program duration involves more than one year; vendors provide an implementation schedule not to exceed a specified number of months.

Vendors may reapply for funds from year to year.

B. PURPOSE OF THE 1% FOR RECYCLING PROGRAM

Metro is responsible for solid waste management for the region. These responsibilities include operation of solid waste disposal facilities, promotion and implementation of waste reduction and solid waste management planning.

It is the agency's responsibility to carry out the state hierarchy for waste management, which is embodied in the 1983 Recycling Opportunity Act passed by the State Legislature. Among other provisions, the Act directs the management of solid waste in Oregon according to the following hierarchy:

1. Reduce the amount of solid waste generated;
2. Reuse materials;
3. Recycle materials;
4. Recover energy from solid waste that cannot be reused or recycled; and
5. As a last resort, landfill materials that cannot be reused, recycled, or from which energy cannot be recovered.

This Act is reflective of a changing environment and Oregon's major objective for solid waste management, such as placing the highest priority in the hierarchy on waste reduction and recycling.

The 1% For Recycling Program is one of Metro's many responses to meet objectives in the State hierarchy. Unlike other development projects undertaken by Metro, this program will provide funding for technologies or methods that are not yet commercially viable, have undergone only bench-scale testing, and extend beyond the traditional areas of solid waste resource management.

This program is intended to encourage individuals, companies, and organizations who have creative ideas for waste reduction and recycling but who may be reluctant or are unable to initiate them due to costs, the experimental nature of the process, or lack of resources to actively participate in local solid waste management. The 1% For Recycling Program provides incentive to pursue innovative, tested and relatively untested methods to recapture waste resources, at a reduced risk to the proposer. Measured against the potential public benefit, the philosophy behind this program is that the risks are justifiable to achieve the research, testing, and implementation that might not otherwise occur without this assistance.

Consistent with Ordinance 88-250B, promotion and education programs are eligible for 1% funding. It is the policy of Metro to support a program of 1% For Recycling as an innovative program which offers the potential to educate, inform and cultivate participation in the solution to the region's solid waste problem.

C. BACKGROUND

The Metro Solid Waste Department budget includes a recommendation by the Executive Officer that 1% of the Solid Waste Operating Fund be set aside each fiscal year to provide funding for small scale projects for innovative recycling methods and technologies.

Approximately \$450,000 is available this year for the One Percent for Recycling Program.

On July 26, 1988, Metro unanimously adopted Ordinance No. 88-250A, setting this program into motion. An advisory committee comprised of seven members was established to solicit proposals and develop a project list for recommendation. The Metro Council member is the designated Chair of the Committee: the other members are comprised of two representatives from each of the three counties in the region.

II. PROGRAM DETAIL

A. ONE PERCENT FOR RECYCLING PROGRAM OPERATING PRINCIPLES

1. The 1% For Recycling program emphasizes implementation of Metro's adopted Waste Reduction Plan. Projects that are awarded grants or loans will receive funding based on their ability to demonstrate that an objective of the Waste Reduction Plan can be met.
2. The 1% for Recycling Funds are available for development projects. This means projects that are new and which offer a program that has not been tried before (innovative) are the target group for this funding. This may include projects that have been implemented in areas other than the Metropolitan Service District area.
3. The 1% for Recycling Funds are not intended to function as a replacement for capital that would normally be obtainable by companies or individuals via traditional private capital raising methods. Therefore, applicants may be required to demonstrate why funds are not otherwise available for this proposal.
4. This program is not intended to augment ongoing operations of existing for-profit and not-for-profit entities. Past capital expenditures by proposer for equipment, property, etc. are not eligible for reimbursement under this program. Projects that are eligible for funding, therefore, will be given consideration based on the technology or program proposed, for which there is potential for development or implementation, but which would not otherwise be undertaken by the proposer at this time.
5. Applications for projects with merit, that due to size or cost, do not fit the program's criteria, may receive further consideration through a separate means, such as the agency budget process.
6. Proposers will be eligible to re-apply for funding from year to year.

7. Funds for this program will be available to proposers both on an outright grant basis or as a loan. Recommendation of a grant versus a loan will be determined by the Committee based on the size of the project and the financial profile of the proposer.

B. CRITERIA AND GUIDELINES FOR PROJECT FUNDING

Waste Stream Removal Programs

- Litmus Test:
- Does proposal reduce waste?
 - Does proposal recover materials?
 - Does proposal reuse or recycle materials?

Criteria: Waste Stream Removal Programs must meet the following five criteria. Highest priority for funding will be given those proposals with the highest ratings.

1. Waste Reduction Plan: The degree to which the proposal contributes furthering waste reduction.
2. Reduction: Emphasis on waste reduction and resulting in the highest recovery rates and highest volumes removed from the waste stream; waste removal ratios that equal a low percentage of residue to be landfilled and that remove items not currently being removed via existing source separation programs. (See Table 1 for example.)
3. Cost/Benefit: Projects that are cost effective in removing the highest volumes of waste at the lowest cost; i.e., cost to process or remove a given number of tons from the waste stream, compared to percent of reduction which results. (See Table 1 for example.)
 - a. Demonstration of economic feasibility for developing a full-scale operation that will eventually be self-sustaining from revenues earned from sales of recovered materials and manufactured end products.
 - b. Proposer demonstrates ability to expand/continue operation independently upon successful results.

It is the policy of Metro to measure volume by tonnage. For the purposes of proposal evaluation, the committee will use two methods for determining highest volumes:

- i) actual tonnage
- ii) targeted products such as plastic; i.e., volumes

4. Risk: Demonstration of a reasonable level of risk is determined by demonstration of markets, environmental acceptance, simplicity of operation, and demonstration of vendor's ability to implement. Technical feasibility and effectiveness of technique will be a major factor in proposal consideration. Less complex, low risk proposals will receive higher ratings. However, a project which does not have certainty of success may be funded as a pilot project.
5. Area of Direct Benefit: Proposal must result in direct reduction of waste within the boundaries of the Metropolitan Service District and directly serve residents and/or businesses of the District.

Additional Criteria for Facilities must be met as follows:

1. Need: It must be demonstrated that there is a need for the facility.
2. Proximity: The geographic location of the facility may not place a vendor in direct competition with an established business engaged in a similar operation.

Promotion/Education Programs

Litmus Test: Does proposal target a unique, distinct audience?

Does proposal promote awareness of solid waste problems?

Does proposal promote alternatives to traditional solid waste disposal methods?

Criteria: Promotion/Education Programs must meet the following five criteria. Highest priority for funding will be given those proposals with the highest ratings.

1. Waste Reduction Plan: The proposal must not duplicate or conflict with existing waste reduction programs, including existing promotion/education programs.
2. Targeted Audience: The proposal must identify the intended audience(s) and list ways of reaching and educating that specific audience(s).
3. Program Results: The proposal must identify methods to evaluate and measure the effectiveness of the proposed program.*
4. Metro Program Philosophy: The program must be consistent with Metro's advertising, education, promotion and waste reduction policies.
5. Area of Direct Benefit: The proposal must directly benefit residents/and or businesses within the boundaries of the Metropolitan Service District (see attached map).

* The Metro Public Affairs Department must be consulted in developing this portion of the proposal.

GUIDELINES

The following are intended as guidelines that will assist the committee to select projects to fund. Projects must meet a minimum of three of the guidelines.

1. Experience: Programs will be given preference which evidence past experience in solid waste management and/or knowledge and experience in what is proposed.
2. Simplicity: If a proposal/technology is deemed to be too difficult and time consuming to site and implement, rating may be lower than proposal not subject to such conditions.
3. Scale: Projects which are smaller in scale will be given priority, as the purpose of this program is to encourage small scale projects.
4. Ability to Expand: Projects demonstrating the ability for expansion after proven success and acceptability will be given preference.
5. Manageability: The project can be completed in the time frame and with the resources allocated.
6. Feasibility: Reaching the targeted audience is a reasonable expectation within the scope of the project.
7. Residue: There is a low percentage of residue to be landfilled, and the by-product can be further processed.
8. Multi-Family: The project targets multi-family residential units for waste reduction projects.
9. Markets: Materials processed go to local and national markets; that is, not resulting in shipment of raw materials overseas.
10. Education: Project has good potential for gaining public's attention to result in further reduction and recycling.
11. Alternative Funding: Other funding sources have been sought.

PROJECTS NOT ELIGIBLE FOR
1% FOR RECYCLING PROGRAM

1. Programs currently receiving funding through other Metro Solid Waste Department functions.
2. Projects that result in stockpiling* of end product or residues.
3. Feasibility studies, unless they are part of a phased project and are accompanied by a plan for project implementation, and estimated costs of implementation.
4. Projects that are unduly competitive or clearly competitive with a facility or facilities already providing the same service or product.
5. Enforcement programs which are the responsibility of other governmental jurisdictions.
6. Neighborhood cleanup events.

* "Stockpiling means the accumulation of a product for which there is no ready means for immediate movement. This is differentiated from "inventory" which is material that will be recycled into a product for which there is a ready market or destination.

Table 1

EXAMPLE OF WASTE REMOVAL RATIOS

| | <u>PROJECT A</u> | <u>PROJECT B</u> |
|-------------------------|------------------------------|------------------------------|
| Volume Processed | 50,000 tons | 15,000 tons |
| Percent Waste Reduction | 25 percent (12,500 tons) | 50 percent (7,500 tons) |
| Amount to Landfill | 37,500 tons | 7,500 tons |
| Project Cost | \$150,000 <u>\$12/ton</u> | \$ 50,000 <u>6.67/ton</u> |

Project A processes 50,000 tons of waste and reduces the waste to be landfilled by 25 percent or 12,500 tons; 75 percent is to be landfilled.

Project B processes only 15,000 tons of waste with a 50 percent reduction; this means that 7,500 tons will be kept out of the landfill, however, 7,500 tons will be landfilled.

Project A removes more actual waste from entering the landfill, but not as effectively as Project B.

Project B is more cost effective than Project A, since the cost of reduction is \$6.66 per ton ($\$50,000 \div 7,500$ tons), compared with Project A cost of reduction at \$12 per ton ($\$150,000 \div 12,500$ tons).

Note: This is a simple example which does not calculate the cost of landfilling. However, costs to landfill are assumed to be proportionately the same for both Projects A and B. This is strictly a hypothetical example and is not intended to represent real costs. It is a simple illustration of the method that proposers may use to illustrate the expected cost effectiveness of the proposal.

ATTACHMENT B

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

| | |
|-------------------------------------|---------------------------|
| FOR THE PURPOSE OF AMENDING METRO) | ORDINANCE NO. 88-252 |
| CODE SECTION 2.04 RELATING TO THE) | |
| DISADVANTAGED BUSINESS PROGRAM) | Introduced by Rena Cusma, |
|) | Executive Officer |

THE COUNCIL OF THE METROPOLITAN SERVICE DISTRICT HEREBY ORDAINS:

That the following sections of the Metropolitan Service District Disadvantaged Business Program, incorporated in Metro Code Sections 2.04.100 through 2.04.180, are amended to read as follows:

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

- (a) 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.
- (b) 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.
- (c) 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.
- (d) CONTRACTOR -- means the one who participates, through a contract or subcontract, in the Program and includes lessees.
- (e) DEPARTMENT or "USDOT" -- means the United States Department of Transportation, including its operating elements.
- (f) DISADVANTAGED BUSINESS ENTERPRISE 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.

For purposes of USDOT assisted contracts, the term Disadvantaged Business Enterprise shall be deemed to include Women-Owned Business Enterprises.

(g) EXECUTIVE DEPARTMENT -- means the State of Oregon's Executive Department.

(h) JOINT VENTURE -- is defined as an association of two or more businesses to carry out a single business enterprise for profit for which purpose they combine their property, capital, efforts, skills and knowledge. In a joint venture between a DBE/WBE and non-DBE/WBE, the DBE/WBE must be responsible for a clearly defined portion of the work to be performed and must share in the ownership, control, management responsibilities, risks and profits of the joint venture. 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.

(i) 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.

(j) 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.

(k) OREGON DEPARTMENT OF TRANSPORTATION OR "ODOT" -- means the State of Oregon's Department of Transportation.

(l) PERSONAL SERVICES CONTRACT -- means a contract for services of a personal or professional nature.

(m) 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.

(n) RECIPIENT -- means any entity, public or private, to whom USDOT financial assistance is extended, directly or through another recipient for any program.

(o) SMALL BUSINESS CONCERN -- means a small business as defined pursuant to section 3 of the Small Business Act and relevant regulations promulgated pursuant thereto.

(p) 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:

(1) "Black Americans," which includes persons having origins in any of the Black racial groups of Africa;

(2) "Hispanic Americans," which includes persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Portuguese-American, Spanish culture or origin, regardless of race;

(3) "Native Americans," which includes persons who are American Indians, Eskimos, Aleuts, or Native Hawaiians;

(4) "Asian-Pacific Americans," which includes persons whose origins are from Japan, China, Taiwan, Korea, Vietnam, Laos, Cambodia, the Philippines, Samoa, Guam, the U.S. Trust Territories of the Pacific, and the Northern Marianas; and

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

(q) 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.

(r) 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.

(s) 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.

For purpose of USDOT assisted contracts, the term Disadvantaged Business Enterprise shall be deemed to include Women-Owned Business Enterprises.

(Ordinance No. 165, Sec. 3; amended by Ordinance No. 84-181, Sec. 2; all previous Ordinances repealed by Ordinance No. 87-216, Sec. 1; amended by Ordinance No. 87-231, Sec. 1)

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 pertinent bid opening or proposal submission date 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 CFR 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 CFR 23.69.

(Ordinance No. 83-165, Sec. 9; amended by Ordinance No. 84-181, Sec. 5; all previous Ordinances repealed by Ordinance No. 87-216, Sec. 1; amended by Ordinance No. 87-231, Sec. 1)

2.04.145 Annual Disadvantaged Business Goals:

(a) The Metro Council shall, by resolution each June, establish annual DBE goals and for locally-funded contracts, separate WBE goals for the ensuing fiscal year. Such annual goals shall be established separately for construction contracts, labor and materials contracts, personal services 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. 49 CFR §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.

(Ordinance No. 83-165, Sec. 10; amended by Ordinance No. 86-197, Sec. 1; all previous Ordinances repealed by Ordinance No. 87-216; amended by Ordinance No. 87-231, Sec. 1)

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.

(b) 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.

(c) Even though no DBE/WBE goals are established at the time that bid/proposal documents are drafted, the Liaison Officer may 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.

(d) Contract goals may be complied with pursuant to Section 2.04.160 and/or 2.04.175. The extent to which DBE/WBE participation will be counted toward contract goals is governed by the latter section.

(Ordinance No. 83-165, Sec. 11; repealed by Ordinance No. 87-216, Sec. 1, amended by Ordinance No. 87-231, Sec. 1)

2.04.160 Determination of Good Faith Efforts:

(a) Bidders or Proposers on USDOT-assisted contracts to which DBE 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 CFR §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 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 firms in order to provide reasonable subcontracting opportunities. Each bidder should send solicitation letters inviting quotes or proposals from DBE 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 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 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 contacted;
- B. a description of the information provided to DBE 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 firms, if needed to meet the goal.

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

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

(7) Overall, the bidder's efforts to obtain DBE 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 for 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 all 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.

(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.

(Ordinance No. 83-165, Sec. 13; amended by Ordinance No. 84-181, Sec. 6 and Ordinance No. 86-197, Sec. 1; all previous Ordinances repealed by Ordinance No. 87-216, Sec. 1; amended by Ordinance No. 87-231, 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 prime contract or subcontract 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 with a disadvantaged business owned and controlled by disadvantaged women is counted toward either the disadvantaged business goal or the goal for women, but not to both. Metro shall choose the goal to 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 expenditures for 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 60 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 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; all previous Ordinances repealed by Ordinance No. 87-216, Sec. 1; amended by Ordinance No. 87-231, Sec. 1)

ADOPTED by the Council of the Metropolitan Service District
this _____ day of _____, 198__.


Mike Ragsdale, Presiding Officer

ATTEST:


Clerk of the Council

YS/gl/9579C/545
05/23/88

ATTACHMENT C

MATERIALS AVAILABLE TO PROPOSERS ON REQUEST

Metro Solid Waste Reduction Program -
Work Plan; April 1986

No Charge

Metro Waste Stream Characterization Study -
December 1987

Executive Summary
Full Report

No Charge
\$10 Charge

Metro 1987 Recycling Study - September 1988

No Charge

Metro Fact Sheets

No Charge

Recyclables in Waste
Survey of Recycling Markets
Yard Debris Marketing and Development
Mass Composting Facilities
Achieving Waste Reduction in the
Portland Metro Region
Curbside Container Demonstration Project
System Measurement Study
Plastics Demonstration Project

Glossary of Solid Waste Terms

\$5 Charge

Glossary of Recycling Terms and Acronyms
November 1988 (Resource Recycling, Inc.)

\$5 Charge

The list of materials has been prepared to provide information to proposers on reports and studies available from Metro which may be of assistance in their proposal preparation. Copies of this information may be obtained at the Metro Solid Waste Department, 2000 S.W. First Avenue (third floor) Portland, OR 97201.

ATTACHMENT D

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

| | | |
|----------------------------------|---|---------------------------|
| AN ORDINANCE ADDING CHAPTER 5.04 |) | ORDINANCE NO. 88-250B |
| TO THE METRO CODE TO PROVIDE |) | |
| FOR A ONE PERCENT FOR RECYCLING |) | Introduced by Rena Cusma, |
| PROGRAM |) | Executive Officer |

WHEREAS, Encouragement of public participation to further the goals of recycling in the Metropolitan Service District is embodied in the Metro Solid Waste Management Plan; and

WHEREAS, Innovative ideas on the reuse, recycling or recovery of energy from municipal solid waste should be encouraged as a means by which Metro can serve the citizens of the metropolitan region; and

WHEREAS, Creation of a "One Percent for Recycling" fund to be administered as a grant/loan program through the use of Request for Proposals can be an effective program to further the above policies; now, therefore,

THE COUNCIL OF THE METROPOLITAN SERVICE DISTRICT HEREBY ORDAINS:

Section 1. The following chapter is added to the Code of the Metropolitan Service District:

CHAPTER 5.04

ONE PERCENT FOR RECYCLING PROGRAM

5.04.010 Policy and Purpose:

(a) It is the policy of the District to support a program of "One Percent for Recycling" as an innovative program which offers the potential to educate, inform and cultivate citizen participation in the solution to the region's solid waste problem.

(b) It is further policy of the District to support "One Percent for Recycling" as a means to foster implementation of innovative resource recovery technology and methods and that it is a means by which to attain further reuse, recycling and waste reduction in the region.

5.04.020 Funding: The Council shall create a separate account within the Solid Waste Operating Fund equal to 1 percent of each fiscal year's solid waste operating budget, to be set aside to fund small scale projects and proposals to further the policy expressed in this Chapter. Funds not expended in any one budget year shall be carried forward.

5.04.030 Approvals: Contracts brought forward under this program shall be approved in accordance with Chapter 2.04.

5.04.040 Recycling Advisory Committee: In order to implement the One Percent for Recycling Program the Executive Officer shall appoint a Recycling Advisory Committee consisting of five members, one member of which shall be a Metro Councilor, one member shall be an appropriate staff person within the Solid Waste Department, and three members shall be citizens with experience in or an interest in promoting recycling, waste reduction or reuse from the community. The appointments to the committee shall be subject to confirmation by the Council.

5.04.050 Administration: The administration of the program shall be subject to the approval of the Recycling Advisory Committee provided for above.

(a) On an annual basis a list of eligible projects shall be established by the Recycling Advisory Committee. The Projects List and criteria for allocating funds between projects shall be forwarded to the Council for approval by the Council.

(b) The Recycling Advisory Committee shall approve and publish criteria for selecting projects for funding through an RFP process. The Committee's recommendations and approvals shall be filed with the Council.

(c) The Committee shall annually report to the Council and the Executive Officer all projects approved and the amounts of funds expended on each project.

5.04.060 Staff Support: The Solid Waste Department shall provide administrative and staff support to the Recycling Advisory Committee and ensure that no funds shall be expended from the One Percent for Recycling budget amounts for any administrative or staff support purpose. It is the intent of the Council that the entire amount set aside each year be expended on contracts or grants promoting the purpose of this Chapter and that all overhead and staff support expenses necessary for implementing the program be borne by the Solid Waste Operating Fund separate from the One Percent amount.

ADOPTED by the Council of the Metropolitan Service District
this 14th day of July, 1988.


Mike Ragsdale, Presiding Officer

ATTEST:


Clerk of the Council

Contract No. _____

PERSONAL SERVICES AGREEMENT

THIS AGREEMENT dated this _____ day of _____ 19____, is between the METROPOLITAN SERVICE DISTRICT, a municipal corporation, hereinafter referred to as "METRO," whose address is 2000 S.W. First Avenue, Portland, OR 97201-5398, and _____, hereinafter referred to as "CONTRACTOR," whose address is _____, for the period of _____, 19____, through _____, 19____, and for any extensions thereafter pursuant to written agreement of both parties.

W I T N E S S E T H :

WHEREAS, This Agreement is exclusively for Personal Services;

NOW, THEREFORE, IT IS MUTUALLY AGREED AS FOLLOWS:

CONTRACTOR AGREES:

1. To perform the services and deliver to METRO the materials described in the Scope of Work attached hereto;
2. To provide all services and materials in a competent and professional manner in accordance with the Scope of Work;
3. To comply with all applicable provisions of ORS Chapters 187 and 279, and all other terms and conditions necessary to be inserted into public contracts in the state of Oregon, as if such provisions were a part of this Agreement;
4. To maintain records relating to the Scope of work on a generally recognized accounting basis and to make said records available to METRO at mutually convenient times;
5. To indemnify and hold METRO, its agents and employees harmless from any and all claims, demands, damages, actions, losses and expenses, including attorney's fees, arising out of or in any way connected with its performance of this Agreement, with any patent infringement arising out of the use of CONTRACTOR'S designs or other materials by METRO and for any claims or disputes involving subcontractors;
6. To comply with any other "Contract Provisions" attached hereto as so labeled; and

7. CONTRACTOR shall be an independent contractor for all purposes, shall be entitled to no compensation other than the compensation provided for in the Agreement. CONTRACTOR hereby certifies that it is the direct responsibility employer as provided in ORS 656.407 or a contributing employer as provided in ORS 656.411. In the event CONTRACTOR is to perform the services described in this Agreement without the assistance of others, CONTRACTOR hereby agrees to file a joint declaration with METRO to the effect that CONTRACTOR services are those of an independent contractor as provided under Chapter 864 Oregon Laws, 1979.

METRO AGREES:

1. To pay CONTRACTOR for services performed and materials delivered in the maximum sum of _____ AND _____/100THS (\$_____) DOLLARS and in the manner and at the time designated in the Scope of Work; and

2. To provide full information regarding its requirements for the Scope of Work.

BOTH PARTIES AGREE:

1. That METRO may terminate this Agreement upon giving CONTRACTOR five (5) days written notice without waiving any claims or remedies it may have against CONTRACTOR;

2. That, in the event of termination, METRO shall pay CONTRACTOR for services performed and materials delivered prior to the date of termination; but shall not be liable for indirect or consequential damages;

3. That, in the event of any litigation concerning this Agreement, the prevailing party shall be entitled to reasonable attorney's fees and court costs, including fees and costs on appeal to an appellate court;

4. That this Agreement is binding on each party, its successors, assigns, and legal representatives and may not, under any condition, be assigned or transferred by either party; and

5. That this Agreement may be amended only by the written agreement of both parties.

CONTRACTOR NAME

METROPOLITAN SERVICE DISTRICT

By: _____

By: _____

Date: _____

Date: _____

ATTACHMENT F :

1% FOR RECYCLING ADVISORY COMMITTEE

STATEMENT OF COMMITTEE CHARGE

Ordinance No. 88-250B, establishing the 1% For Recycling Program, calls for the formation of an advisory committee to do the following:

1. Develop criteria and guidelines for project funding.
2. Prepare and advertise a Request for Proposals (RFP) for project funds.
3. Develop evaluation standards for proposal selection.
4. Review proposals and interview prospective proposers.
5. Compile a project list for recommendation to Metro Executive Officer for presentation to Council.
6. Evaluate performance of selected projects and prepare an annual report for distribution.

Committee Members

Judy Wyers, Chair

Metro Councilor District 12

Bruce Louis

Multnomah County

Beverly Seibel

Washington County

Forrest Soth

Washington County

Margaret Templeton

Multnomah County

Carolyn Tomei

Clackamas County

Funding innovative
recycling projects

PERTINENT DATES FOR
REQUEST FOR PROPOSALS
SECOND FUNDING CYCLE

1989

Tuesday
October 17

Committee meeting, review RFP documents

Tuesday
October 31

Council Solid Waste Committee meeting

- Committee reappointments
- Eligible Project List and document review

Wednesday
November 8
4:00 p.m.

AGENDA:

1. Discussion of Council Solid Waste Committee comments (if any)
2. Tom Brewer, Sherwin-Williams Company

Thursday
November 9

Metro Council Meeting

- Committee reappointments
- Eligible Project List and document review

Friday
November 10

Mail RFP's to mailing listees

1990

Thursday
January 11

Proposal Due Date

Monday
January 15

Proposals mailed to Committee

January 15 on

Committee sets review schedule

February 15

Projects selected

March 1 - 15

Recommendations presented to Executive Officer for Presentation to the Metro Council

March 30

Funds available for select projects

BEGIN AGAIN

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 89-1167 FOR THE PURPOSE OF APPROVING THE PROJECTS LIST AND CRITERIA FOR THE 1989-90 FISCAL YEAR FOR THE 1% FOR RECYCLING PROGRAM

Date: October 25, 1989

Presented by: Bob Martin
Judith Mandt

The One Percent For Recycling Program was established in July 1988 as a continuing element of the Metro Waste Reduction Program. Grants, loans or start-up money would be offered to the most outstanding proposals received, judged according to established criteria. The funds would be administered by the Executive Officer and disbursed in accordance with the Metro Code. Both public and private parties would be eligible.

The Ordinance creating 1% Well Spent! specified that a project list and criteria for allocating funds between projects be forwarded to the Council for approval on an annual basis. The Ordinance also created the One Percent for Recycling Committee, comprised of seven members with a Council member appointed by the Presiding Officer to act as chair and two representatives each from each of the three counties in the region. The present chair of the Committee is Councilor Judy Wyers.

The first funding cycle was allocated during the 1988-89 fiscal year. The Solid Waste Department set aside \$300,000 for the program. Following a Request for Proposals process by the Committee, acting on approved criteria and guidelines, 12 projects were selected for funding in July, 1989 for the first year. Ten waste reduction projects were selected to target yard debris, plastics, and curbside recycling and promotion/education proposals were also selected. Two projects in each area have since declined funding because the proposer's ability to carry out the proposals have significantly changed since the original submittal. These two proposals totaled \$48,500, which will be added to the 1989-90 reservoir of funds for new projects.

The 1% for Recycling Advisory Committee has reconvened for the 1989-90 funding cycle. The original criteria, guidelines and Request for Proposals have been reviewed, revised, and finalized then forwarded to the Executive Officer. This information is included for your review as Exhibit A to Resolution No. 89-1167.

Changes to the original document have not been substantial in nature. Rather, minor changes such as dates and a check off list, a budget form, reorganization, and clarifications in response to vendors questions have been made or added.

This year the program hopes to emphasize components of the waste stream for which no proposals were received or found to be responsive in the previous year. These components are used paint, used motor oil, scrap wood and building/salvage materials. Projects may be physical, educational or for research. Topics with potential for this program include, but are not limited to:

- mixed waste paper
- plastics
- office paper
- paint
- food waste
- household hazardous waste
- exempt small quantity hazardous waste operators
- apartment and multiple-family dwelling recycling
- salvageable materials for reuse
- waste exchange
- cellulosic conversion of waste to ethanol
- vermiculture
- pyrolysis
- used motor oil
- public promotion and education

This year the Committee has recommended that proposals for recycling tires not be eligible, since the State DEQ has a substantial reserve of funds available for innovative tire recycling projects that may only be used for that purpose.

For 1989-90, about \$450,000 (includes \$48,500 from previous year) is available for this program. The attached schedule shown as Exhibit B identifies the timeline anticipated. We will, again, provide 60 days for proposers to respond from initial date of issuance of the Request for Proposals, scheduled for November 13, 1989. The Committee will begin proposal review in Mid-January 1990, following the January 12 proposal submittal deadline, and has targeted mid-March as the date for final project selection and formulation of recommendations.

Executive Officer Recommendation

The Executive Officer recommends adoption of Resolution No. 89-1167.