



**MWESB Procurement Program:**  
*Clarify goals, align activities and improve performance reporting*

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March 2014  
A Report by the Office of the Auditor

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## MEMORANDUM

March 26, 2014

To: Tom Hughes, Council President  
Shirley Craddick, Councilor, District 1  
Carlotta Collette, Councilor, District 2  
Craig Dirksen, Councilor, District 3  
Kathryn Harrington, Councilor, District 4  
Sam Chase, Councilor, District 5  
Bob Stacey, Councilor, District 6

From: Suzanne Flynn, Metro Auditor 

**Re: Audit of the MWESB Procurement Program**

This report covers our audit of the MWESB procurement program. Our objectives were to determine if the program was managed effectively to meet goals and objectives, followed policies and procedures and maintained reliable performance data to monitor the program. This audit was included in our FY2013-14 Audit Schedule.

Metro is among several governments in Oregon that have programs designed to increase access and participation of minority-owned, woman-owned, and emerging small businesses in the procurement process. Our examination found weaknesses in program design and implementation. Among the weaknesses we noted are:

- Unclear goals
- Activity areas not well developed
- Procedures not always clear or followed
- Need for better performance measures

We have discussed our findings and recommendations with Martha Bennett, COO; Scott Robinson, Deputy COO; Tim Collier, Director, Finance and Regulatory Services and the Procurement Manager. A formal follow-up to this audit will be scheduled within 2 years. We would like to acknowledge and thank all of the management and staff who assisted us in completing this audit.



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## Summary

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Several governments in Oregon have programs designed to increase access and participation of minority-owned, women-owned and emerging small businesses (MWESBs) in the procurement process. Metro began such a program in the early 1980's. Over time, the design and goals of this program have changed. The purpose of this audit was to determine if Metro's program was operating effectively. We examined the program design and implementation - goals, procedures and outcomes - and found weaknesses in each area.

As in any program, consistent and reliable information about activities and accomplishments is needed to evaluate performance. Metro's MWESB program reported outcomes in the annual budget and in an annual report. We reviewed these documents and found that reported measures were not consistent across budget years. The program had not developed guidelines to ensure accuracy and consistency of measures in the annual report. As a result, measures were calculated differently in some years and any comparisons made would not be reliable.

Without clear goals, the effectiveness of program efforts can be reduced. Goal statements found in Metro code, its external website and an employees' internal website differed and ranged from passive to active. For example, in some program descriptions, the goal was to encourage utilization of MWESBs while in others, it was to increase utilization. Activities taken in pursuit of these two goals would be different. We found employees and businesses had different expectations for the program most likely caused by the lack of goal clarity.

Further, some activities required by Metro code were not well developed. Some procedures were established, such as a Sheltered Market Program and advertising requirements, but other activities, such as outreach, reducing contract size and technical assistance, were not. This lack of definition may call into question Metro's commitment to the program. There are a number of potential model programs that Metro could learn from once goals are clarified.

We reviewed procurement files to determine how well existing MWESB procedures were followed and whether general procurement policies were followed. MWESB procurement policies were intended to ensure consistency and fairness. We saw several examples where we could not determine if procedures were followed. We also found weaknesses in general procurement procedures. Decentralization and lack of clarity about requirements for some processes were likely the cause.

Our recommendations address clarifying and strengthening goals for the program and improving management practices. Metro needs to align goals, improve the quality of performance measures and clearly communicate program requirements.





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## Background

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Minority-owned, Women-owned and Emerging Small Business (MWESB) programs are intended to promote contracting access and opportunities for small businesses. Several governments have MWESB programs, including the State of Oregon, City of Portland, Multnomah County and Metro. A version of this type of program has been in existence at Metro since at least the early 1980's.

The specifics of MWESB programs vary by government, but a requirement of all programs is that businesses get certified as minority-owned, woman-owned or emerging small businesses. The State of Oregon's economic development agency certifies firms. Certification is based on the industry type, ownership demographics and size of the business.

While there are three different certification types (minority, woman and emerging), the common criteria is that businesses must be small, based on the number of employees or amount of annual receipts. Firms from any state can become certified in Oregon, which provides them some assistance when competing for government contracts.

The specific policies and activities of MWESB programs are defined separately by each government. Some programs provide active support such as apprenticeships and technical assistance to certified firms (MWESBs). Other programs are less involved but dictate that certain contract types and values can only be bid on by MWESBs.

According to Metro Code, the purpose of its MWESB program is:

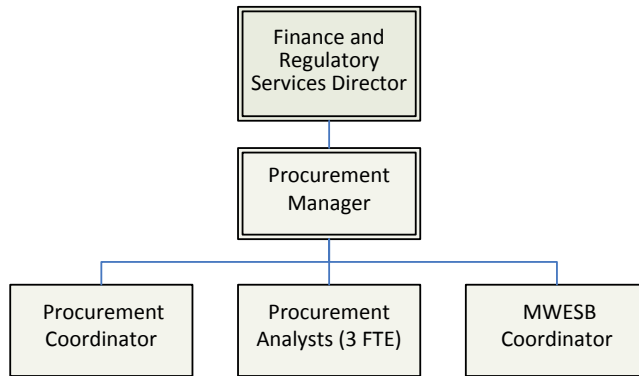
“...to encourage the utilization by Metro of emerging small businesses, minority and women owned businesses, to the greatest extent permitted by law, by creating for such businesses the maximum possible opportunity to compete for and participate in locally-funded Metro contracting activities.”

Metro's Procurement Officer has the authority to determine what activities (policies and procedures) will be used to implement the program. Currently, these activities are designed to ensure MWESBs are informed about contracting opportunities at Metro and that primary contractors make efforts to include MWESBs as subcontractors on larger projects. In addition, Metro implemented a Sheltered Market program. Public improvement construction contracts between \$5,000 and \$50,000 are supposed to be open only to MWESBs. If no qualified MWESBs respond to the contract opportunity, it is opened to any qualified business.

Metro's program is managed by Procurement Services, which is a division of the Financial and Regulatory Services Department. One limited duration full-time employee (FTE), the MWESB coordinator, is devoted to the program.

The rest of the division includes five employees; a procurement manager, a procurement coordinator and three procurement analysts. The MWESB coordinator's duties include conducting outreach and training for the program, and assisting project managers with MWESB requirements. The procurement coordinator and analysts assist in developing the process for selecting vendors for contracts above \$100,000 and review compliance with policies and procedures for smaller contracts after they are signed.

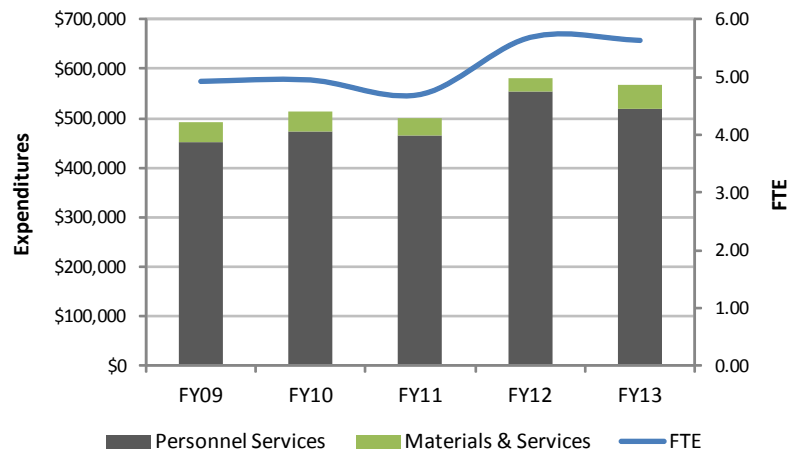
**Exhibit 1**  
Procurement Services  
organizational chart



Source: Metro Auditor's Office based on department organizational charts

Expenditures for all Procurement Services, including the MWESB program, were about \$566,000 in FY 2012-13. Over the last five years, almost all expenditures were for employees (personnel services), with a small amount (less than \$50,000 per year) for materials and services. Total expenditures increased by about 15% between FY 2008-09 and FY 2012-13. This was mostly the result of the addition of one new FTE in FY 2011-12.

**Exhibit 2**  
Expenditures and staffing for  
Procurement Services  
FY 2008-09 to FY 2012-13  
(adjusted for inflation)



Source: Metro Auditor's Office analysis

Expenditures were not coded to the MWESB program specifically, which made it difficult to know exactly how many resources were spent on the program over the last five years. In FY 2012-13, we estimated that expenditures for the program were between \$100,000 and \$150,000. This included spending on personnel services, and materials and services, such as training, sponsorships and administrative expenses.

During the audit, Metro was in the process of making changes to procurement processes. One of the changes was making greater use of the Oregon Procurement Information Network (ORPIN). ORPIN provides electronic notification about contract opportunities to all firms registered on its website. Using ORPIN is intended to increase the number of firms notified. This was done in response to a recommendation adopted by Metro Council in 2010.



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## Scope and methodology

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The purpose of this audit was to assess the strength of Metro's MWESB program. There were three objectives:

1. Determine if the MWESB program was managed sufficiently to meet goals and objectives.
2. Determine if procurement policies and procedures were being followed.
3. Determine if data and performance measures were reliable to monitor program performance.

To accomplish our objectives, we reviewed Metro's MWESB program and procurement services generally. We did not include the Disadvantaged Business Enterprise program because that program is specific to transportation projects receiving federal funds.

To gain a better understanding of program requirements, we reviewed state law, Metro code, policies and procedures, and planning documents. The Metropolitan Exposition and Recreation Commission (MERC), which is part of Metro, has a separate accounting system, procurement policies and file management procedures. We considered these differences in the course of our audit, but reported our findings for the organization as a whole. We also researched the history of Metro's program, information about MWESB programs in other jurisdictions, best practices in procurement and various practices for increasing supplier diversity.

We conducted interviews with Metro management and staff, as well as experts from outside Metro. Because this program impacted minority-owned, woman-owned, and emerging small businesses, we also interviewed representatives of each to better understand their experiences working with Metro.

We reviewed budget documents and MWESB annual reports. We collected data from Metro's and MERC's accounting systems and used it to select a judgmental sample of contracts to ensure Metro followed its policies and procedures. We did not test for requirements specific to MERC's First Opportunity Target Area program because at the time of our audit, Metro was in the process of contracting with a consultant to assess that program. We also obtained the data sets used in the two most recent MWESB annual reports and assessed the adequacy of the methodology behind their development.

This audit was included in the FY 2013-14 audit schedule. We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.



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## Results

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### Improved information needed to understand program performance

Metro needs consistent and reliable information to determine whether it is reaching its MWESB goals. The program reported outcomes and activities to Metro Council and the public in the annual budget and an annual MWESB report. We found weaknesses in the information contained in each of these documents.

The budget from the two most recent fiscal years contained performance measures for the percentage of contracts and percentage of contract dollars awarded to MWESBs. Metro reported different numbers for the same fiscal year in two different budget documents. Further, the measures in the budget did not match those in the MWESB annual report. We attempted to determine the reason for these discrepancies, but management and staff were unable to identify how the measures were calculated.

**Exhibit 3**  
Performance measure discrepancies reported for FY 2011-12

Source	Percent of contracts awarded to MWESBs	Percent of contract dollars awarded to MWESBs
Budget	24%	11%
Annual Report	13%	5%

Source: Metro Auditor's Office analysis

We were unable to verify the accuracy of some of the information in the most recent annual report. Over the past four years, the report was completed by four different analysts and we found no clear or consistent guidance on how to create it. In addition, there was no process in place to catch potential errors or inaccuracies.

As a result, the MWESB utilization data was not comparable between years. One report we reviewed combined information for departments, whereas this information was reported separately in other years. In the most recent report, procurement began including data for contracts under \$5,000 which was not previously included. The report also included an 11-year trend line that could be misinterpreted because it did not disclose changes in the way measures were calculated over time. While improvements should be made over time, these changes should be acknowledged and caution used in evaluating performance against prior year results.

Relying on information in accounting systems could also lead to inaccuracies. We found examples of errors reporting MWESB status. Some vendors were listed as MWESBs when they were not, and others were listed as non-MWESB when they were. The way contracts were coded in the accounting system could lead to inaccuracies. To determine if a contract should be included in the calculation of MWESB use, information about the contract type and method of solicitation was needed. We concluded that

available information was not always reliable. As a result, MWESB use could be over- or under-reported.

Consequently, analysts have to be familiar enough with the vendors and contracts to filter through and manually change the data to avoid inaccuracies. If better controls were in place to ensure reliable data was entered at the initiation of a contract, time could be saved and accuracy improved during the reporting process. Without better controls, other processes, such as comparison to a state database to ensure accuracy, may decrease efficiency and increase workload.

Even if the measures in the annual report were calculated consistently and reported accurately, they still could lead to misinterpretation of the program's performance. The measures were based on the amount awarded for each contract. Basing performance measures on the awarded contract amount has the potential to over- or under-state performance. It may over-state performance because Metro does not always pay out the full amount of a contract. Conversely, Metro does not track the amount of contract awards or expenditures to subcontractors, which could lead to under-reporting.

The way MWESB use was reported for one project in the most recent annual report illustrated how different conclusions could be made. The report stated that a demolition project at the zoo achieved a 77% MWESB use rate. That work was one component of a much larger construction project. Although the demolition work may be a good example of primary contractors working with MWESBs as subcontractors, we found that the 77% rate was not intended to be reported as a performance measure. The language used to describe the demolition work to an oversight committee stated "...this work...is only a small part of the much larger...project, the MWESB rate will be reported and reflected as a percentage of the larger project, which may impact the overall MWESB participation rate." Had that information been included in the annual report, it might have led to a different conclusion.

Further, we reviewed expenditure reports for the project and found that the MWESB contractor had subcontracted out some of the work to non-MWESBs. If those expenditures were included in the calculation, the amount actually received by the MWESB contractor would have been reduced. And, this would have reduced the MWESB use rate.

In addition to the limitations we found in performance measure data, there were also weaknesses in the description of program activities. The FY 2012-13 annual report included information about activities that happened outside of the fiscal year covered by the report. This may provide an inaccurate picture of the program's activities and their effectiveness. For example, success stories in the most recent report included the use of the Oregon Procurement Information Network (ORPIN) and building relationships by hosting certain monthly meetings, even though these activities happened in FY 2013-14.



It was also difficult to determine the outcomes of outreach and internal training efforts because we received inconsistent information about both during the audit. During interviews, outreach and internal training were frequently referenced as lacking. The most recent annual report linked outreach to success and increased utilization, yet also identified the need to change outreach methods to increase utilization. The report also stated there was a need to ensure employees understand how to use the program, but later seemed to have contradictory information stating that program requirements were known but sometimes circumvented. Lack of a clear message could make it more difficult to use the information in the report to make changes to the program. For example, if there was a lack of understanding of program requirements, additional training may be needed. Alternatively, if circumvention of policies was the challenge, a system to improve accountability may be needed.

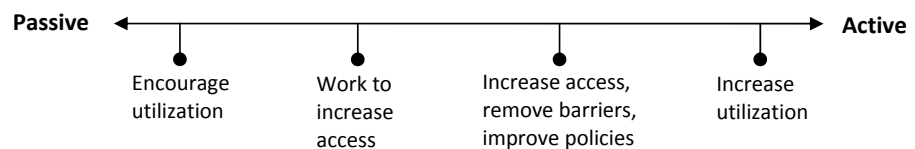
Management acknowledged the importance of consistent analysis and stated Metro was in the beginning phases of developing new ways to collect, assess, and report information and performance measures. Examples included increasing the frequency of reporting, developing a method to use consistent datasets, and putting a process in place to report actual expenditures.

**Unclear program goals created inconsistent expectations**

Metro Code contained a relatively passive overarching goal, “...**encourage** the utilization of...emerging small business, minority and women-owned business...” but later stated that the purpose of the program’s activities was intended to be more active “...**increase** utilization...” While many activities could be considered as “encouraging,” increasing utilization implies that there was an established baseline of utilization and a desire to make it larger.

Other descriptions of the program have similar differences. Metro’s public website contains a list of three active goals “...**increase** access, **remove** barriers to participation and **improve** contracting policies.” But a more passive goal is presented on Metro’s internal website that states that the goal is to “...**work to increase** access to contracts for MWESB firms...”

**Exhibit 4**  
Active versus passive goals



Source: Metro Auditor’s Office analysis

Differences in the language used to describe goals were sometimes subtle, but had a large impact on setting expectations for the program among Metro employees and program participants. Some people we talked to believed Metro was not doing enough to increase utilization of MWESBs. Specifically, they referenced low utilization of minority- and woman-owned businesses. Others viewed the program as causing additional work that did not have a large impact. Differing opinions were present both within Metro and among program participants.

Unclear goals and inconsistent expectations were likely caused in part by the history of the MWESB program at Metro. The program began as an attempt to reduce historical patterns of discrimination against minority and woman contractors. The initial impetus for the program was federal requirements to increase the use of disadvantaged businesses when using federal transportation funds. That program was expanded to include all contracts regardless of funding source. Until the late 1990s, Metro’s program specifically called for increasing utilization of minority- and woman-owned businesses.

Several court cases put limitations on these types of programs. They required that government programs be based on a documented disparity and “narrowly tailored” to justify targeting specific demographic groups. Metro participated in a disparity study with a consortium of other governments in the mid-1990s. The results of the study were mixed. Some statistically valid disparities were identified for some demographic groups. Disparities varied depending on the measure used and contract type.

**Exhibit 5**  
Disparity study results

Contract type	Measure	Disparity identified
Construction*	Number of contracts	Asian American, Causasian female and minority male
Construction*	Dollar amount	No statistical disparity identified
Architecture and Engineering^	Number of contracts	African American, Hispanic American, Causasian female, minority business enterprise, woman business enterprise, and woman minority business enterprise
Architecture and Engineering^	Dollar amount	African American, Caucasian female, woman business enterprise, and woman minority business enterprise

\* Analysis based only on Metro data (less than \$500,000).

^ Analysis based on data from all participating governments, including Metro (less than \$500,000).

Source: Oregon Regional Consortium Disparity Study, Volume 4, Metro (May 1996)

Metro added an “emerging small business” designation to the program in 1997. This broadened the program’s focus to include all certified small businesses regardless of race or gender. The ordinance approving the change stated that “no statistical disparity in terms of dollar amounts of contracts...” was found in the disparity study. While the statement was technically accurate, it appears

to understate some of the details in the study that could have been used for a more targeted MWESB program.

Recently, Metro created other plans related to diversity and equity that have the potential to further confuse expectations for the MWESB program. In 2010, Metro Council adopted equity as one of the six-desired outcomes of the agency's mission. In 2012, Metro created a Diversity Action Plan that includes procurement as one of its core areas. The plan calls for increasing the utilization of MWESBs to 15%-18% of all contract spending.

While equity and diversity appear to support each other, Metro highlighted differences between the two terms in its program materials. The differences mirror the different expectations for the MWESB program. Equity is discussed in the context of addressing historical inequities, which appears to correspond with the original intent of the MWESB program to target minority- and woman-owned businesses.

Diversity is discussed in the context of openness to differences in attitudes, perceptions and behaviors, which seems to hint at a possible goal of increasing the number or breadth of contractors providing goods and services to Metro. The description of the MWESB program in Metro Code contains references to both goals, but the program's current activities and performance measures were not set up to address either of those goals directly.

**Better define program activities to increase effectiveness**

Undefined program activities may call into question Metro's commitment to the program and limit its effectiveness. Metro Code outlined several MWESB program activities and directed procedures be developed. Procedures for some of the activities were established, such as the Sheltered Market program and advertising requirements during contract solicitation. Procedures for other activities such as outreach, reducing contract size, and technical assistance were not. Undefined procedures led to confusion about what actions to take.

For example, some believed the purpose of outreach was to inform MWESBs about specific contract opportunities. Others believed outreach was necessary for building long-term relationships and establishing trust among MWESBs. The procedures intended to maximize opportunities for MWESB subcontractors also led to differing expectations. Project managers and procurement employees were aware of requirements but did not know if or how they were expected to track use of subcontractors.

It was difficult for employees to know how much effort to make. For example, one project manager made an effort to break a larger project up into smaller contracts to increase the likelihood that smaller businesses bid. In doing this, the manager served as the general contractor to coordinate the efforts

of several contractors. All project managers may not have the skill or time to commit to increasing MWESB utilization in this way.

During the audit, the program was coordinated by a position that was scheduled to end in June 2014. Staffing the program with a non-permanent employee may send the wrong message about Metro's commitment to the program. While management recognized the absence of procedures for some program activities and the need for a strategic plan, without permanent staffing it was unclear if that could be done in the near future.

There are a number of potential model programs Metro could follow once it determines the goals for its program. Below is a table of possible goals, associated activities and performance measures. This is not intended to be prescriptive but to show how activities, performance measures and model programs might vary depending on the goal.

**Exhibit 6**  
Possible goals and associated activities, performance measures and model programs

Possible Goal	Possible Activities	Possible Performance Measures	Potential Model Programs
<b>Equity</b>  <i>Purpose: Address current and historical inequities</i>	<ul style="list-style-type: none"> <li>Analysis of potential inequities among demographic groups</li> <li>Obtain information about barriers faced by those groups</li> <li>Develop policies and procedures to address identified barriers</li> <li>Measure impact of revised policies and procedures</li> </ul>	<ul style="list-style-type: none"> <li>Percentage of contract dollars received by MWESBs</li> <li>Percentage of contracts awarded to MWESBs</li> </ul>	<ul style="list-style-type: none"> <li>Portland Development Commission's Business and Workforce Equity Programs</li> <li>Multnomah County's Social Equity and Sustainable Purchasing Policy</li> </ul>
<b>Diversity</b>  <i>Purpose: Increase the number and breadth of contractors</i>	<ul style="list-style-type: none"> <li>Outreach to minority, woman and emerging small businesses</li> <li>Develop policies and procedures to encourage utilization of new contractors</li> </ul>	<ul style="list-style-type: none"> <li>Number of firms submitting bids/proposals</li> <li>Percentage of contracts awarded to new contractors</li> <li>Percentage of contract dollars received by new contractors</li> </ul>	<ul style="list-style-type: none"> <li>City of Portland's Minority Evaluator Program</li> <li>City of Portland's Workforce Training and Hiring Program</li> </ul>
<b>Small business development</b>  <i>Purpose: Assist small businesses to grow</i>	<ul style="list-style-type: none"> <li>Create curriculum for technical assistance and mentorship programs</li> <li>Recruit businesses to participate in programs</li> <li>Assess impact of curriculum on business growth</li> </ul>	<ul style="list-style-type: none"> <li>Employment and/or revenue growth of participating businesses</li> <li>Number of businesses completing program</li> </ul>	<ul style="list-style-type: none"> <li>City of Portland's Prime Contractor Development Program</li> <li>Multnomah County's Micro Lending Program</li> </ul>

Source: Metro Auditor's Office analysis

## **MWESB policies not always followed**

MWESB procurement policies were in place to ensure consistency and fairness throughout the contracting process. They were intended to:

- notify small businesses of contract opportunities at Metro;
- limit competition for certain contract types and dollar values to small businesses; and
- encourage primary contractors to work with small businesses on larger contracts.

During our review, we found examples of contracts that did not follow MWESB policies. We also reviewed general procurement practices, discussed in the next section, and found that those were not always being followed. These two weaknesses increased the risk of challenges to contract awards and reduced transparency and confidence in the fairness of Metro's procurements.

Staff must notify MWESBs about contract opportunities. If the appropriate number of qualified MWESBs was not found, documentation of the attempt should have been on file. In several instances we could not determine whether the appropriate number of MWESB firms had been contacted about an opportunity because the supporting documentation was not in the contract files. Of those that were available, some indicated the appropriate number of MWESB firms was not contacted.

For the most part, contract opportunities greater than \$100,000 must be advertised in one minority-oriented publication and be advertised for at least 14 days before bids or proposals are due. We did not always find evidence of advertisement. In one instance, an opportunity was published in a minority-oriented publication after the pre-proposal meeting took place. In addition, there was not always evidence in the contract files to determine if smaller contracts were open for at least 14 days.

Metro may discourage competition by not providing businesses adequate time to complete their bids or proposals. Providing consistent notification is also important to create trust in the fairness of the procurement process. Mistrust of Metro was expressed in some of our interviews.

Metro policies require small construction contract opportunities to be offered first to MWESBs. For large construction contracts, efforts were required to include MWESBs as subcontractors. These requirements were intended to maximize opportunities for and increase business with MWESBs. We found during our review that there was variation in how construction related contracts were bid. The definitions of the various construction related contract types (public, public improvement, public works, and construction agreement) were not specific enough to ensure consistent application of policies. We attempted to clarify and found there was confusion and disagreement about which contracts should be subject to those requirements. This made it difficult to conclude whether policies were appropriately applied.

For example, the policy for small construction contracts states that all “public improvement construction opportunities” between \$5,000 and \$50,000 are bid only to MWESBs. Lack of specific definitions left room for interpretation. This led to some projects for the same type of work being bid only to MWESBs and some being bid to all responsive bidders.

For large construction contracts (above \$100,000), the primary contractor must make an effort to include MWESB subcontractors. To satisfy this requirement, the contractor must fill out a form to document its efforts to notify and get bids from MWESBs that could serve as subcontractors. Documentation for these efforts was not always included in the contract files we reviewed, although in some cases it was difficult to know if the contract was subject to those requirements.

In addition, even when these efforts were required, there was no process to track whether these firms were actually using MWESBs once the project started. This information was supposed to be tracked using subcontractor utilization reports. However, the responsibility and purpose of tracking this information was not clear among Metro employees. This has been recognized in the past as important information to capture. It was recommended in a 2010 review of the program by a committee of Metro employees.

## **General procurement practices need improvement**

Many of the challenges in the MWESB program were symptoms of weaknesses in overall procurement management at Metro. For policies and procedures to be effective, they must be clearly defined and consistently applied. Roles and responsibilities for each step of the process must be assigned and clearly communicated. There needs to be a system to detect and prevent noncompliance to ensure accountability. Finally, policies and procedures should be periodically reviewed to make sure they are as efficient as possible as changes in technology, governance and staffing occur over time.

Procurement processes were decentralized at Metro, which reduced the authority of Procurement Services. For contracts under \$100,000, departments managed the procurement process with some interaction with Procurement Services. For contracts above \$100,000, Procurement Services was more involved with developing the solicitation process and selecting the contractor. The lack of authority for Procurement Services did not align with best practices, which call for centralized management of the procurement function.

Decentralized procurement practices created tension among employees in Procurement Services and project managers. Some employees believed they did not get good customer services when they sought assistance from Procurement Services. Project managers were confused about what they were supposed to do when employees in Procurement Services or the Office of the Metro Attorney

provided inconsistent guidance. Employees in Procurement Services believed that some project managers were circumventing policies and procedures by asking the same question to different employees in Procurement Services or the Office of the Metro Attorney to get the answer they wanted to hear.

There was evidence to support the frustrations we heard during interviews. While we found that some weaknesses were the result of poor customer service and/or lack of compliance, unclear policies and procedures were the root cause of much of the frustration. Policies were not specific enough to prevent inconsistencies. Procedures were not fully implemented to ensure requirements were met.

We found inconsistent explanations of policies in the guidance document created by Procurement Services. For example, Procurement Services' guidelines state that one minority-owned, one woman-owned and one-emerging small business must provide a bid or quote for contracts between \$5,001 and \$100,000. However, Metro Code does not require that a bid or quote is received from each business type, only that at least one of each is notified of contract opportunities between \$5,001 and \$50,000. Inconsistencies like this may be the reason we found confusion about procedures.

We also identified inconsistencies in contract file management. Adequate documentation should be kept in the official contract file to provide transparency in procurement processes. Staff was not always certain where contract files were located and there were differences in the way departments maintained files. There was also evidence that the paper contract files at times contained information not included in the electronic files. Similarly, the electronic files sometimes included information that was not in the paper files. Areas of inconsistent documentation included correspondence about a challenge to a contract award, evaluation criteria and change orders.

Bid and proposal evaluation information is supposed to be kept in the master contract file to document how the contractor was selected. We were not always able to find evaluation documents in contract files. We found at times it was not clear whether the highest scored firm was awarded the contract. Either the information in the contract file was lacking or the scoring process was unclear. For one contract, one evaluator did not use numbers in their evaluation. Another did not fill out the evaluation sheets. For a different contract, scoring for all criteria did not seem to be included in the final evaluation summary. To increase transparency of procurement processes, there should be one file of record for each contract and it should include all the information necessary to document how the contract was awarded.





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## Recommendations

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1. In order to strengthen the MWESB Program and the procurement function, Metro should:
  - a) More clearly define the goals for the MWESB program.
  - b) Strengthen Procurement Services ability to review and ensure compliance with policies and procedures for all contract types and values.
2. To improve management of the MWESB program and procurement generally, the department should:
  - a) Align program activities with goals.
  - b) Strengthen performance measurement by developing and implementing:
    - performance measures that more accurately assess expected program performance.
    - a methodology for calculating performance measures and to ensure consistency over time.
    - a process to check and ensure data accuracy.
  - c) Improve consistency by ensuring that procedures are in agreement and clearly communicate program requirements.



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## Management response

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## Metro | Memo

Date: March 18, 2013  
To: Suzanne Flynn, Metro Auditor  
From: Martha Bennett, Chief Operating Officer *MB*  
Scott Robinson, Deputy Chief Operating Officer *SR*  
Tim Collier, Finance and Regulatory Services Director *TC*  
Gabriele Schuster, Procurement Manager *GS*  
Subject: Management Response to MWESB Audit

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Thank you for the opportunity to respond to your recent audit of Metro's Minority, Women and Emerging Small Business (MWESB) Program. We appreciate the time and effort expended by you and your staff. Your report captures much of the complexity of this program and makes useful findings and recommendations that can help us to continue to improve the program. Maintaining an effective MWESB program is an important goal of the Metro Council in particular and the agency as a whole. In general, the report calls for Metro to undertake measurable steps to better define the program, refine our reporting tools and improve overall policies and procedures to manage the program in an effective manner. We completely agree with the general direction provided.

Management would like to note that the auditor's report omitted a process improvement effort under way entitled the Procurement Enhancement Project (PEP). This project has been ongoing since May 2013 with implementation and training beginning in April 2014. This project was launched to put into place consistent processes as called for in the findings of this report. We believe that this will be a substantial improvement in bringing consistency to the procurement process at Metro and address a number of the recommendations cited by the report.

A more detailed statement regarding management's response to the individual recommendations made by the Auditor's Office in the report's *Results* and *Recommendations* sections, as well as summaries of activities currently underway relative to the audit findings, are provided below.

### Results

1. Improved information would increase understanding of program performance

#### Response:

We agree with the finding that Metro needs consistent and reliable information to determine if we are reaching our MWESB goals. We are striving to develop more consistent measures across the agency. We will look to best practices to help us develop the overall goals and publish them to better measure results.

We also agree that adding an amount spent category for reporting would be valuable. With our multiple ERP's developing a consistent format will take some time, but it is on our project list.

There is also a reference to increased training. We concur in the need to provide additional training, not only in the MWESB program but the procurement process as a whole. We are looking to meet these needs in coming months with the roll out of the Procurement Enhancement Project and the continuing training program both in person and through the agency's Learning Management System.

We do however disagree with the characterization in the report of the Tiger Plaza demolition. This was a sub project in the context of the overall larger Elephant Lands project, and we have seen this as an example for our project manager's emphasizing how larger projects can be configured into smaller contracts to help foster MWESB participation. This is particularly true in the context of highly specialized construction projects like the Elephant Lands project which is utilizing a Construction Management General Contractor approach (CMGC).

2. Unclear program goals created inconsistent expectations

Response:

We agree, the MWESB program needs to set better benchmarks and report those results to show the impact of the program. We believe the 15-18 percent participation rate that was set in the Diversity Action Plan is a good starting point. As mentioned above we will work on better data reporting tools and clearer definitions to more accurately depict success or areas that need improvement. As both the Diversity and Equity programs are relatively new we are all working on developing a consistent message and talking points. Procurement will work with those programs to better develop a consistent message, assist in establishing well defined goals, develop appropriate activities to meet them, and the tools to assess our results.

3. Better define program activities to increase effectiveness

Response:

We thank you for recognizing that we have developed program activities such as the Sheltered Market Program and our advertising requirements. We agree that other activities are lacking as much structure as these two programs. With regards to outreach, this is a goal across the agency and the Diversity, Equity and MWESB programs. These programs are all relatively new and still developing procedures and overarching goals, which will also include procurement in general and the MWESB program specifically.

Metro currently has a contract with the Metropolitan Contractor Improvement Partnership (MCIP) to help provide assistance and workshops for MWESB firms for technical assistance. This program will start in spring 2014.

We also believe that you are correct in that not all of our project managers have the skill set or time to be able to act as general contractors when breaking up contracts to be able to be bid in the Sheltered Market. However, we will continue to assist those that do have the skill set and availability to do these type of contracts, to help enhance the MWESB program where we can.

Our overarching goal is to make the MWESB program not only a seamless part of the procurement department, but also the agency as a whole with the Metro procurement manager having overall responsibility for the program.

4. MWESB policies not always followed

Results:

We agree that our current systems make it difficult to track some of our MWESB requirements. With the implementation of ORPIN in the last year, data on both contractors that bid on projects and type will become better available. As an example, one of our first sheltered market bids for the Oregon Zoo was placed on ORPIN had eight firms attend a walk through and place bids, when typically we had seen around four firms in the past.

With the implementation of ORPIN we will be able to determine the number of MWESB firms contacted, those who downloaded the solicitation and who actually bid. We then will be able to report and show those results in electronic files.

Management's intention is also to review current contracts with the MWESB subcontract provision to determine how we can better manage the information and ensure that contract requirements are being adhered to.

#### 5. General Procurement practices need improvement

Response:

Management agrees that we need to improve the overall procurement practices, which is why we embarked on the Procurement Enhancement Project (PEP) mentioned at the start of this response. The goal of PEP is to give clearer guidance to staff and to improve the overall procurement process. The PEP deliverables will be clarification of agency procurement procedures, consistent processes across the agency and to develop standard templates and forms for users. Training for the updated processes and procedures will begin in April /May 2014. We will continue to strive to improve and clarify language as we receive feedback during the implementation of the updated program.

#### **Recommendations**

Recommendation 1: More clearly define the goals of the MWESB program

Response:

Management recognizes that the goals of the current MWESB program are vague and need to be strengthened. We will work with the Diversity and Equity programs to better define the goals of the program and produce a set of goal statements.

Recommendation 2: Strengthen Procurement Services ability to review and ensure compliance with policies and procedures for all contract types and values.

Response:

Management recognizes that our current decentralized procurement system adds challenges to the process. With the implementation of PEP we believe this will add some clarity to the process. We will continue to evaluate the centralization of procurement services across the agency.

Recommendation 3: Align program activities with goals

Response:

Management agrees that goals and activities should be better aligned. With the implementation of the response in Recommendation 1 above and the activities required to achieve those goals we believe we will meet this recommendation.

Recommendation 4: Strengthen performance measurement by developing and implementing:

- Performance measures that more accurately assess expected program performance
- A methodology for calculating performance measures and to ensure consistency over time
- A process to check and ensure data accuracy

Response:

Management agrees that our current measurement systems are inadequate. We will work to develop clearer measurement targets and the appropriate data sets to ensure that we are

consistent across years. These targets and data collection tools will have a feedback loop built in to ensure data accuracy.

**Recommendation 5: Improve consistency by ensuring that procedures are in agreement and clearly communicate program requirements.**

**Response:**

Management agrees that consistency needs to be built into the process. We believe the implementation of the PEP, that this will add clarity to current processes. We also, believe that continued review of the system will ensure that we always strive to improve processes.

Again, we thank you and your staff for the time and thoroughness of this audit. We believe this will help us improve the MWESB program and our over procurement process.







**METRO**

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