

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF ADOPTING AN)
INTERIM CONTRACT SERVICES)
DIVISION REPORT ON MBE/WBE/DBE)
UTILIZATION AND AUTHORIZING THE)
EXECUTIVE OFFICER TO EXECUTE A)
CONSULTANT SERVICES CONTRACT)
FOR METRO-WIDE SERVICE)
IMPROVEMENTS)

RESOLUTION NO. 94-2005

Introduced by Rena Cusma,
Executive Officer

WHEREAS, the Contract Services Division of General Services provides critical competitive bidding, procurement, and contract assistance including Metro-wide administration and coordination of the Minority, Women-Owned and Disadvantaged Business Enterprise programs; and

WHEREAS, the Contract Services Division has to-date implemented numerous procedural changes to streamline and expedite the procurement and contracting process, but a number of issues, questions and concerns documented in the Metro Council's 1993 performance audit by the consulting firm of Talbot, Korvola and Warwick remain unresolved; and

WHEREAS, Section 2.04.105; 205, & 305 (d) of the Metro Code commits all Metro departments, contractors and employees to increase, to the greatest extent permitted by law, participation by MBEs, WBEs and DBEs in all purchases of goods and services; and

WHEREAS, the Contract Services Division as part of its annual report to the Metro Council is anxious to pursue further effectiveness and efficiency measures to improve the procurement and contracting process and dissatisfied with the first year results of the established MBE/WBE/DBE programs; and

WHEREAS, the Contract Services Division solicits resolution of the broader procurement and contracting issues and a planned, proactive, and results-oriented program for

MBE/WBE/DBE utilization; now, therefore,

BE IT RESOLVED,

That the Metro Council hereby supports the Contract Services Division's request to further proceed with the formulation of specific recommendations for improvement of the procurement/ contracting process and a proactive MBE/WBE/DBE program; adopts the Division report and proposed interim program goals; authorizes the Executive Officer to execute a personal services contract for a consultant to assist in the development of a pragmatic Metro-wide action plan to contain operational costs, optimize Division services, and ensure MBE/WBE/DBE involvement and utilization.

ADOPTED by the Metro Council this 25th day of August, 1994


Ed Washington, Deputy Presiding Officer

STAFF REPORT

CONSIDERATION OF RESOLUTION NO. 94-2005 ADOPTING AN INTERIM REPORT ON MBE/WBE/DBE UTILIZATION, AND AUTHORIZING THE EXECUTIVE TO RELEASE A REQUEST FOR PROPOSALS AND EXECUTE A PERSONAL SERVICES CONTRACT TO RECOMMEND FURTHER IMPROVEMENTS IN COMPETITIVE BIDDING, PROCUREMENT AND CONTRACTING SERVICES; AND

ORDINANCE NO. 94-560 FOR THE PURPOSE OF AMENDING THE FY 1994-95 BUDGET BY TRANSFERRING \$30,000 FROM THE SUPPORT SERVICES FUND CONTINGENCY TO PROFESSIONAL SERVICES WITHIN THE GENERAL SERVICES DEPARTMENT TO FUND RESOLUTION NO. 94-2005

Date: June 30, 1994

Presented by: Douglas E. Butler

Background

The Contract Services Division of the General Services Department is responsible for providing competitive bidding, procurement and contracting assistance, document review and Metro-wide contract coordination. In addition, the Metro Council has, by Code, made that Division responsible for the promotion, implementation, and administration of Metro's special programs for MBE, WBE, DBE and QRF outreach and utilization. Also, as part of this year's budget reductions, the Division inherited labor compliance monitoring and the licensing of contractors.

In March, 1993, Talbot, Korvola and Warwick completed the last performance audit of the Division which identified a number of issues, questions and concerns. That was not the first such study of this Division but what is significant is that it avoided broad policy issues such as centralization or decentralization of the process, and focused instead upon a specific action plan to be formulated and implemented.

Since that time, the Division has implemented a number of those recommendations and improved overall operating efficiencies. Much work remains to be done, however. With the press of day-to-day activities and the on-going need for contracting services, the prospects for completing other improvements will take substantially longer than originally expected or desirable.

Along with that progressive challenge for the Division's improvement, the Metro Council, in January, 1993, instituted a new program to specifically encourage MBE, WBE, DBE, and QRF involvement and utilization. The program was designed to comply with current court decisions and was therefore "process" and "good faith" oriented but it clearly expected definitive action and positive, measurable results.

The actual results, our rate of progress, and the prospects for the future are too slow and too limited. Although, in general, we comply with the current letter of the law and with grant

requirements, there are some specific instances (e.g., required advertising and goals adoption) where we have not. This is simply not good enough. These programs need more attention than they've received to date given the normal workload. They need more emphasis and resources. We have recognized the need for improvements in effectiveness and efficiency as the work load rises, but we need to actively prepare for the future as Metro's business relationships grow in number, size and complexity.

Proposal

We propose that the Council consider changes to the Metro Code and corresponding organizational and procedural adjustments to Metro's overall competitive bidding, procurement and contracting system in order minimize costs and maximize results. We need to make some changes that will not let "business as usual" pre-empt improvement efforts and that will stimulate a positive momentum. We might need to follow the old "80/20" rule and focus upon a limited list (the 20%) of immediate steps which could have a broad (the 80%) impact to "jump-start" the program. Specifically, we propose to:

1. **File the annual report attached as Exhibit A and establish the proposed program goals included therein.** The attached annual report was prepared in response to the requirements of Section 2.04 of the Metro Code. The report has a number of shortcomings as currently drafted. Specifically, there is:
 - No substantiation for the proposed goals which documents compliance with the methodology required by Metro Code sections 2.04.145, 245, and 345 (b)(1-4).
 - No comparison by which to judge the efficacy of Metro's "good faith" approach since it does not contrast current results with previous years when a goal based program mandated utilization or with the current programs of other governments.
 - No in depth discussion of the relevance and effectiveness of the action steps taken in implementation of the Metro program.

The staff person responsible for this program is currently on extended, indefinite medical leave and therefore not available to do further work on this report. Other Division staff could be diverted from their normal duties to expend further time making a variety of corrections, revisions, and modifications to make the report conform to specific Metro Code requirements, expose the logic of the calculation process and provide a meaningful context for interpretation of the program data. We do not believe, however, that this would be a wise use of limited staff resources.

We are not convinced that our current program is having optimal impact and producing the results that it could or should deliver. But, instead of looking back and speculating on what might have been, we would prefer, with the assistance of a consultant, to formulate a new plan with specific action steps designed for more meaningful results. We therefore, propose that the Metro Council accept the attached report and adopt the program goals included therein as an interim measure of proforma compliance.

2. **Hire a consultant to develop a Metro-wide action plan to pragmatically contain operating costs but optimize our competitive bidding, procurement and contracting delivery system and pursue truly effective MBE/WBE/DBE and QRF utilization measures.** The adopted Budget for the General Services Department does not provide funds for this purpose and a transfer from the Support Services Fund Contingency is requested to fund this effort. With your approval, we will proceed immediately with a competitive, RFP consultant selection process. A proposed mailing list marked Exhibit B and a preliminary draft of that RFP format including a detailed scope of work marked Exhibit C are attached for your review. The Division seeks Council approval to proceed with this project in substantial compliance with those draft documents.

3. **Present a report to the Executive Officer and Council in December of this year which clearly reflects the appropriate analysis, logical recommendations and definite action plan(s) for improvement.** If approved, this plan would be incorporated into the Department's proposed budget for Fiscal Year 1995-96 and appropriate legislation could be introduced for immediate implementation in January or February.

Recommendation

The Executive Officer recommends approval of Ordinance No. 94-560 and Resolution No. 94-2005.

FINANCE COMMITTEE REPORT

RESOLUTION NO. 94-2005, ADOPTING AN INTERIM CONTRACT SERVICES DIVISION REPORT ON MBE/WBE/DBE UTILIZATION, AND AUTHORIZING THE EXECUTIVE OFFICER TO EXECUTE A CONSULTANT SERVICES CONTRACT FOR METRO-WIDE SERVICE IMPROVEMENTS

Date: August 15, 1994

Presented by: Councilor Hansen

COMMITTEE RECOMMENDATION: At its August 10, 1994 meeting the Finance Committee voted 4-0 to recommend Council adoption of Resolution No. 94-2005. Voting in favor were Councilors Monroe, Gardner, McGain, and Washington. Councilors Buchanan, Devlin, Kvistad, and Van Bergen were absent.

COMMITTEE DISCUSSION/ISSUES: Procurement Officer Rich Wiley presented the staff report. He said there are two purposes of the resolution. The first is to continue with the process of implementing the recommendations of the 1992 performance audit of Metro's contracting process. The second is to improve Metro's Minority- and Women-owned business (MBE/WBE) contracting performance. He summarized the responsibilities of the Contract Services Division, noting that there are only two people active in the Division; the third staff member, who is assigned the MBE/WBE program, is out on medical leave for an indefinite period. The result is that help is needed to develop an improved MBE/WBE program.

Councilor Kvistad questioned the need for an outside consultant at a cost of \$30,000 to do the work. Mr. Wiley said much of the actual work could be done in-house, but a consultant is being requested to provide additional expertise and to help produce a workable program through discussions with both the MBE/WBE community and the broader business community. Councilor Kvistad suggested scaling down the proposal to provide for facilitation services only, but not spend the amount of money being requested. General Services Director Doug Butler responded by saying that Metro can improve the MBE/WBE program, but it is a complicated program with changing legal constraints that needs more attention than can be paid to it now with an understaffed division; the only practicable alternative now to hiring a consultant would be to defer work on the program. He added that the issue is not just doing more business with minority- and women-owned businesses, but that it involves considerable foresight in anticipating contracts that MBE's and WBE's could bid on and providing greater opportunity for those firms to compete. Councilor Kvistad said part of the problem is that the agency is expanding its use of outside contractors, which both increases the Contract Services Division's work load and creates an atmosphere that relies more heavily on consultants agency-wide.

Councilor Hansen said consultants are retained for their experience and expertise that is not available on staff. She

said the purpose of addressing the MBE/WBE issue is to do business in a new way, in consultation with citizens' groups, which is hard to do with staff who are used to doing business in a certain way. She also noted that staff is responding to requests from members of the Council to address the problem of MBE and WBE contracting at Metro, and if they are going to get that work done with reduced staff resources they need outside help.

Councilor Washington spoke in support of the resolution, saying Metro does not have a very good record in contracting with MBE and WBE firms. He said the issue had been faced in the past, but with limited success, and he wants to see better results.