

BEFORE THE METRO CONTRACT REVIEW BOARD

FOR THE PURPOSE OF AUTHORIZING AN)	RESOLUTION NO. 95-2084
EXEMPTION FROM COMPETITIVE BIDDING)	
AND ISSUANCE OF A REQUEST FOR PROPOSALS)	Introduced by Mike Burton,
FOR A HOME COMPOST BIN DISTRIBUTION)	Executive Officer
AND EDUCATION PROGRAM, AND)	
AUTHORIZING THE USE OF A MULTI-YEAR)	
CONTRACT)	

WHEREAS, Metro has budgeted \$80,000 to fund a home compost bin distribution and education program, where compost bins are offered at a discount price; and

WHEREAS, This compost bin project includes professional services but is predominantly for procurement of compost bins; and

WHEREAS, The Metro Code would require that this contract be subject to competitive bidding unless an exemption is obtained from the Metro Contract Review Board; and

WHEREAS, Metro Code Section 2.04.041(c) authorizes, where appropriate, the use of alternative contracting and purchasing practices that take account of market realities and modern innovative contracting and purchasing methods which are consistent with the public policy of encouraging competition; and

WHEREAS, The Board finds that it is unlikely that procurement of compost bins without competitive bidding will encourage favoritism in the awarding of public contracts or substantially diminish competition for public contracts because: (1) competitive proposals will be solicited; (2) a Request for Bids for a specified compost bin would limit the ability of a wide variety of firms to show that their products are superior in their convenience of use and in their ability to compost household and yard wastes; and (3) using a Request for Proposals process will allow Metro to review a wide variety of compost bin designs; and

WHEREAS, The Board also finds that the exemption will result in substantial cost savings to Metro because: (1) a greater number of companies will be able to compete for award of the contract; (2) cost will be a factor in the selection process; (3) if the pilot program is carried into subsequent budget years, obtaining a superior product at this time will lead to cost savings throughout the life of the program; and

WHEREAS, Metro Code Section 2.04.033(a)(1) requires Council approval of a multi-year contract, and this project may not be concluded by the end of this fiscal year; and

WHEREAS, The resolution was submitted to the Executive Officer for consideration and was forwarded to the Council for approval; now therefore,

BE IT RESOLVED,

1. That the Metro Contract Review Board hereby exempts the contract for the home compost bin distribution and education program from the competitive bidding requirements.
2. That the Council approves issuance of the Requests for Proposals for a Home Compost Bin Distribution Program attached to this Resolution as Exhibit A.
3. That the Council authorizes the use of a multi-year contract with the successful proposer.

ADOPTED by the Metro Contract Review Board this 2 day of Feb.,
1995.


J. Ruth McFarland, Presiding Officer

Exhibit A

**REQUEST FOR PROPOSALS
FOR HOME COMPOST BIN DISTRIBUTION PROGRAM
SPRING 1995**

(RFP #95R-2-SW)

FEBRUARY 1995

**Metro
Solid Waste Department
600 NE Grand Avenue
Portland, OR 97232-2736**

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**REQUEST FOR PROPOSALS
FOR A HOME COMPOST DISTRIBUTION PROGRAM**

(RFP #95R-2-SW)

I. INTRODUCTION

The Solid Waste Department of Metro, a metropolitan service district organized under the laws of the State of Oregon and the 1992 Metro Charter, located at 600 NE Grand Avenue, Portland, OR 97232-2736, is requesting proposals for a Home Compost Bin Program. Proposals and a sample compost bin will be due no later than 3:00 p.m., March 6, 1995 in Metro's business offices at the Solid Waste Department, 600 NE Grand Avenue, Portland, OR 97232-2736. Final candidates should be available for interviews approximately one week after proposal submittal. Details concerning the project and proposal are contained in this document.

II. BACKGROUND/HISTORY OF PROJECT

Metro is a regional government responsible for solid waste planning and disposal of waste in the tri-county (Multnomah, Washington and Clackamas) Portland metropolitan area. Through waste reduction programs, Metro strives to reduce the amount of waste disposed at its facilities. Home composting has been identified as a cost-effective way to reduce waste at its source.

According to Metro's 1994 *Waste Characterization Study*, yard debris comprises nine percent and food waste 30 percent of the residential waste disposed in the tri-county area. The 1991 *Regional Yard Debris Recycling Plan* directs Metro and local governments to promote source reduction of residential yard debris through regional home composting demonstration sites and by providing compost bins to homeowners. Metro's goal and that of the State of Oregon is to achieve a rate of 50% waste recovery by the year 2000.

Metro's activities in home composting are primarily focused on education and promotion. The agency operates five home compost demonstration sites and plans to build a sixth in 1995. These sites demonstrate various home composting systems. Workshops at the sites are offered in the spring and fall every year. In addition Metro provides the public and local governments with a variety of brochures and a video on how to compost at home. Providing compost bins at a discount is another part of the overall promotional strategy.

This is the second pilot project conducted by Metro to provide home composting bins at a discount to parts of the Metro area. A pilot project that distributed bins in parts of the City of Portland and Washington County was implemented in the spring and fall of 1994.

III. PURPOSE OF THE PROJECT

Metro's overall goal for the program is to expand home composting by offering home compost bins to area residents at a discounted price. The secondary goal of the project is

citizen interest in the program, evaluate customer satisfaction, and determine cost effectiveness of the program.

It is the intent of this RFP 1) to purchase the maximum number of home compost bins already available on the market that meet required specifications; and 2) to secure distribution services that effectively reach the largest number of residents in the selected areas.

IV. PROPOSED SCOPE OF WORK

The program that will be implemented as part of this Request for Proposal will target parts Clackamas County and East Multnomah County. This area will be offered an opportunity to purchase discounted compost bins is highlighted on the attached map. There are a total of approximately 95,000 detached dwellings in the area. In the 1994 pilot projects six percent of households contacted purchased bins.

Metro will design and distribute a promotional brochure to announce the program to residents in the targeted areas. Metro and local governments will also provide advertising of special distribution events in community newsletters and through other means, as appropriate. Metro will provide 50 percent of the bin cost as reimbursement to Contractor. The other 50 percent of bin cost will be paid directly to the Contractor by the participating consumers.

The Contractor will manufacture, store, and distribute the bins. They will collect customer payments, maintain sales records and provide information on how to use the bin. The specific tasks required as part of this contract are described below.

Specific Tasks

A1. Provide compost bins

It is the intent of this proposal to purchase from 2500 to 4500 home compost bins. Contractor shall provide a minimum of 2500 home compost bins. The exact number of bins will vary depending on the type of bin and the accompanying services provided in Items A.2 through A.6). The compost bins shall meet the following specifications:

Specifications for Compost Bin:

- a. **Size:** Not less than 11.5 cubic feet and not more than 25 cubic feet
- b. **Guarantee of replacement if defective:** minimum of 5 years
- c. **Recycled Content:** Bin must be made of plastic (does not include fastenings). Plastic must contain at least 50 percent recycled content. 30 percent of the recycled content must be from post-consumer waste. (*Post-consumer waste means a finished material which would normally be disposed of as solid waste, having completed its life cycle as a consumer item. Post-consumer waste does not include manufacturing waste. Oregon Revised Statutes Chapter 279*)

d. Design:

- Allows turning of the debris to promote maximum aerobic decomposition. (Describe in detail and provide photos or drawings. Provide a video if available.)
- Ability to compost common backyard debris like grass clippings, leaves, plant stalks, without additional shredding.
- Ability to compost appropriate kitchen scraps like fruit and vegetable peelings, coffee grounds and egg shells (no meat, grease, oil or dairy products).
- Ability to easily remove the finished compost from the bin.

e. Color: Black or green, or another color mutually agreed upon by Contractor and Metro

f. Metro logo: Visibly display the Metro logo through an imprint, screened image or waterproof decal (see example of logo in Appendix).

g. Assembly: Assembly must be accomplished easily and quickly by the homeowner with only simple, common household tools like a screwdriver or pliers. Simple instructions for assembly must be provided in English with each compost bin.

h. Lid: To shed rain in winter, retain moisture in summer, reduce odor, reduce access by flies and pests.

A2. Delivery and Storage

The Contractor shall be responsible for storage of the bins prior to sale and distribution. Storage must be secured until all bins are sold or the program is completed.

A3. Distribution of Bins

Contractor shall be responsible for distribution of compost bins. Proposers are asked to provide two types of distribution:

- The first will be at public distribution events with participating jurisdictions. Distribution can occur at an already planned event or a special compost distribution event.
- The second type of distribution would be offered directly to consumers either through mail order, retail stores, dealerships, direct delivery or another method proposed by contractor.

The participating jurisdictions for public distribution events are Clackamas County, City of Lake Oswego, City of Milwaukie and City of Gresham. Contractors should contact the recycling coordinators of these jurisdictions for more information on possible distribution events or locations. The names and phone numbers of these recycling coordinators are included in Attachment A.

The discount bins will be offered for approximately six weeks (estimated dates are from May 1 through June 30, 1995). The contract with selected Proposer can extend into the next fiscal year in order to complete the tasks outlined in this scope of work.

A.4 Brochure: Instructions on how to use the bin

Proposer shall supply a short brochure that covers how to assemble, how to use and where to locate the bin in a yard. A copy of this brochure or guidebook shall be included with each bin and/or provided to each customer purchasing a bin. A copy of the brochures or an outline of its content must be submitted as part of this proposal.

Metro will provide the following information and may ask the Contractor to enclose brochures with each bin or distribute at special events:

- "Compost at Home," a brochure that describes appropriate materials to put into the bin and a list of common problems and solutions (see Appendix).
- A list of Metro sponsored workshops on home composting and the location of Metro's compost demonstration sites (see Appendix).

A.5. Sale of bins and record keeping

Contractor will be responsible for receiving 50 percent of the bin price directly from buyers. Checks will be made out to the Contractor and will be credited to Contractor to partially offset the costs of the compost bin. Contractor shall also keep track of sales, bins delivered by selected distribution methods, and a list of names, addresses and phone numbers of customers purchasing bins through the Metro program. This information shall be provided to Metro on a database at the completion of the project.

A.6. Reports

Contractor will provide an interim verbal report to Metro halfway between the date of execution of the contract and distribution of the bins. A final written report is due with the final invoice for payment to Metro upon project completion.

V. QUALIFICATIONS/EXPERIENCE

Proposers should have a compost bin that has already been designed and sold on the market. Experience conducting programs with other municipalities is desirable.

VI. PROJECT SCHEDULE

Metro expects to award this contract in April, 1995. Following preparation and distribution of a promotional brochure and advertising prepared by Metro and local governments, Contractor shall distribute bins over a six week period. The sales period can be extended if all bins have not been sold.

The estimated schedule for distribution is May 1 through June 30, 1995. The contractual agreement between Metro and Contractor will continue until project completion and submittal of the final report. The specific terms of the contract will be negotiated in the Personal Services Agreement.

VII. RESOURCES AVAILABLE

A maximum of \$80,000 has been budgeted by Metro to complete this project. These funds will be used to compensate Contractor for 50 percent of the cost of the compost bins. The bin price shall include all variable costs that relate to storage, distribution, overhead, etc. The remaining funds to cover the cost of the compost bin shall be received by the Contractor from the participating households paying 50 percent of the bin price.

VIII. PROJECT ADMINISTRATION

Metro's project manager and contact for this project is Leigh Zimmerman. Metro intends to award a contract to a single contractor and that contractor shall assume responsibility for any/all subcontractor work as well as the day-to-day direction and internal management of the project. Proposals shall identify a single person as project manager to work with Metro.

IX. PROPOSAL INSTRUCTIONS

A. Submission of Proposals

Six copies of the proposal shall be furnished to Metro, addressed to:

Leigh Zimmerman
Solid Waste Department
Metro
600 NE Grand Ave.
Portland, OR 97232-2736

B. Deadline

Proposals and a sample compost bin are due by 3:00 p.m, March 6, 1995. Proposals will not be considered if submitted after the deadline. Postmarks are not acceptable.

C. RFP as Basis for Proposals

This Request for Proposals represents the most definitive statement Metro will make concerning the information upon which proposals are to be based. Any verbal information which is not addressed in this RFP will not be considered by Metro in evaluating the proposal. All questions relating to this RFP should be addressed to Leigh Zimmerman at (503) 797-1671. Any questions, which in the opinion of Metro, warrant a written reply or RFP amendment will be furnished to all parties receiving this RFP. Metro will not respond to questions received after February 22, 1995

D. Information Release

All Proposers are hereby advised that Metro may solicit and secure background information based upon the information, including references, provided in response to this RFP. By submission of a proposal all proposers agree to such activity and release Metro from all claims arising from such activity.

E. Disadvantaged, Minority and Women-Owned Business Program

In the event that any subcontracts are to be utilized in the performance of this agreement, the Proposer's attention is directed to Metro Code provisions 2.04.100,200 & 300.

Copies of that document are available from the Procurement and Contracts Division of Regional Facilities, Metro, Metro Center, 600 NE Grand Avenue, Portland, OR 97232 or call (503) 797-1717.

X. PROPOSAL CONTENTS

The proposal should contain not more than eight two-sided pages of written material, including the transmittal letter and bin cost sheet. Biographies and pre-printed brochures may be included as attachments to the proposal. The proposal must be printed on recycled paper with post-consumer content. The proposal will describe the ability of the Proposer to perform the work requested, as outlined below:

A. Transmittal Letter

The transmittal letter should contain a brief summary of your organization and how/why it is best qualified to complete the tasks outlined in the RFP, and a statement that the proposal will remain in effect for ninety (90) days after receipt by Metro.

B. Approach/Proposed Work Plan

- Describe how the tasks outlined in the Scope of Work will be done within the time frame and budget. Present a timeline for accomplishing the tasks in the Scope of Work and a schedule showing the delivery date for each work product.
- Explain how the compost bin meets the requirements in IV.A.1 of the PROPOSED SCOPE OF WORK (see page 2 and 3).
- Identify the source, volume/weight and types of recycled plastic used in the manufacture of the compost bins. Complete and sign the Certificate of Recycled Content form included in this RFP as Attachment B.
- Provide designs, drawings and/or color photographs of your compost bin. Provide assembly instructions. A video describing assembly and use of the bin may be submitted.
- **Provide a sample compost bin with your proposal. This is required in order to conduct a field test bin for specifications and features designated in IV.A.1. If a bin is not received, your proposal will not be considered. If your company is not selected, your bin will be returned if you pre-pay freight.**
- Identify the name, title, address, and telephone number of an individual or individuals with authority to contractually bind the company during the period in which Metro is considering proposals.

C. Staffing/Project Manager Designation and Experience

Identify staff assigned to the project. Include prime and sub-consultants and give relevant experience for each person with particular emphasis on the following:

- Role and responsibility for this project and an estimate of time commitment of the individuals(s). Include a resume of each individual in the appendix.
- Relevant experience in similar projects, especially those dealing with municipalities providing discount compost bins to homeowners.
- A contact person from similar projects conducted by Contractor. For each reference, include the contact name, his/her title, role on the project and telephone number.

D. Cost/Budget

Submit a project budget as part of your proposal. Please note that Metro has budgeted \$80,000 for this project. Metro's funds will cover 50 percent of the price of the bin. Contractor will recover the remaining 50 percent of the bin price from the sale of bins at a discount to those participating in the program. Metro and local governments will provide promotion and advertising for the bin program in order to reach a sufficient number of households to reasonably assure that all bins can be sold.

The Proposer should summarize all expected products and services to be delivered and provide a proposed budget for the overall proposal. Budget details should be provided for the following:

- Delineation of personnel by level, hourly rate, person-days assumed and total personnel costs.
- Delineation of material costs and other direct costs. These will include at a minimum shipping and storage costs, bin costs, distribution costs and costs to prepare and print instructional brochure or other advertising.
- Administrative support and overhead
- Income from Metro funds and sale of bins
- A payment schedule for each completed task in the Scope of Work
- Proposers must provide a minimum of 2500 compost bins. Identify how many bins you will provide and the cost per bin, including the variable costs of program implementation in the unit cost calculation. Complete the bin cost sheet to calculate a cost allocation on a per bin basis and to determine the number of bins that will be provided to Metro as part of this contract.

E. Exceptions and Comments

To facilitate evaluation of proposals, Metro wishes that all responding firms adhere to the format outlined within this RFP. Firms wishing to take exception to, or comment on, any specified criteria within this RFP are encouraged to document their concerns in this part of their proposal. Exceptions or comments should be succinct, thorough and organized.

XI. 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 a contract. Metro reserves the right to waive minor irregularities, accept or reject any or all proposals received as the result of this request, negotiate with all qualified sources, or to cancel all or part of this RFP.
- B. Billing Procedures:** Proposers are informed that the billing procedures of the selected firm are subject to review and prior approval of Metro before reimbursement of services can occur. Payment for manufacture/delivery of the bins will be paid following receipt of the bins and an invoice itemizing costs. Payment for all other Required Tasks will be following completion of the contract. Payment for Optional Tasks will be negotiated by Metro and Contractor.
- C. 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 shall contain the name, title, address, and telephone number of an individual or individuals with authority to bind any company contacted during the period in which Metro is evaluating the proposal.

XII. EVALUATION OF PROPOSALS

A. Evaluation Procedure

Proposals received that conform to the proposal instructions will be evaluated by a selection committee. The evaluation committee may consist of representatives from Metro, the Department of Environmental Quality (DEQ), local governments and home composting experts. The evaluation will take place using the evaluation criteria identified in the following section. The evaluation process will result in Metro developing a short list of the firms who, in its opinion, are most qualified. Interviews with these firms may be requested approximately one week after the Proposal submittal deadline.

The selection committee will consider both the written proposal and the performance of the compost bin in a field test in the evaluation.

B. Evaluation Criteria

This section provides a description of the criteria that will be used in the evaluation of the proposals submitted to accomplish the work defined in the RFP.

1. Project Work Plan/Approach (20%)

- a. Effectiveness of proposed approach in meeting project objectives.
- b. Specific tasks and method proposed to accomplish work plan elements.
- c. Resources committed to project.

2. Type of compost bin provided (35%)

- a. Adherence to design criteria described in the Scope of Work
- b. Delivered by deadline set forth in Scope of Work
- c. Performance of compost bin in a field test for the following parameters:
 - ease of use
 - durability
 - aesthetics

3. Project Staffing Experience (20%)

Experience successfully administering similar projects for the design, manufacture and distribution of a product.

4. Budget/Cost Proposal (25%)

- a. Projected cost/benefit of proposed work plan/approach, including number of bins provided, cost per bin, distribution and promotion services.
- b. Compliance with budget and schedule.

XIII. NOTICE TO ALL PROPOSERS -- STANDARD AGREEMENT

The personal services contract included herein is a standard agreement approved for use by Metro's General Counsel. As such, it is included for your review prior to submitting a proposal.

Any changes in the included standard agreement must be requested and resolved as part of the proposal process or as a condition attached to the proposal.

Consider the language carefully. Conditioned proposals may be considered non-responsive. Subsequent requests for modification may not only be rejected, but interpreted as a request to modify and withdraw the original proposal.

**COST SHEET
TO DETERMINE BIN PRICE AND QUANTITIES**

To determine price per bin and number of bins available, complete the following form. Please note that each item must be calculated on a per bin basis.

- 1. Wholesale bin price to Metro _____
- 2. Add shipping and storage costs _____
- 3. Add distribution costs _____
- 4. Add staffing costs _____
- 5. Add costs for instructional brochure/
and/or other promotional material _____
- 6. Add administrative overhead _____
- 7. Any other costs _____

TOTAL PRICE PER BIN _____

**MULTIPLY BIN COST IN LINE 8 ABOVE BY .50 AND DIVIDE BY \$80,000
(METRO FUNDS) = NUMBER OF BINS PROPOSED FOR PROGRAM.**

TOTAL NUMBER OF BINS = _____

ATTACHMENT A

**LIST OF LOCAL GOVERNMENT RECYCLING COORDINATORS
OF PARTICIPATING JURISDICTIONS**

**Rick Winterhalter
Clackamas County
902 Abernethy Road
Oregon City, OR 97045
503-650-3465**

**Lynda Kotta
City of Gresham
1333 NW Eastman Parkway
Gresham, OR 97030-3825
503-669-2405**

**Kathy Kiwala
City of Lake Oswego
PO Box 369
Lake Oswego, OR 97034
503-697-6573**

**JoAnn Herrigel
City of Milwaukie
10722 SE Main Street
Milwaukie, OR 97222
503-786-7508**

CERTIFICATE OF RECYCLED CONTENT

I, the undersigned duly authorized representative for the company and product listed below, hereby certify that to the best of my knowledge the product is a recycled product, with the percent recycled content, defined by Oregon Revised Statutes ORS 279.545(5), ORS 279.545(1) and ORS 279.545(6) and listed below.

ORS 279.545(5): " 'Recycled Product' means all materials, goods and supplies, not less than 50 percent of the total weight of which consists of secondary and post-consumer waste with not less than 10 percent of its total weight consisting of post-consumer waste. 'Recycled product' also includes any product that could have been disposed of as solid waste, having completed its life cycle as a consumer item, but otherwise is refurbished for reuse without substantial alteration of the product's form."

ORS 279.545(6): " 'Post Consumer Waste' means a finished material which would normally be disposed of as solid waste, having completed its life cycle as a consumer item. 'Post-consumer waste' does not include manufacturing waste."

ORS 279.545(6): " 'Secondary Waste Material' is defined as fragments of products or finished products of a manufacturing process which has converted a virgin resource into a commodity of real economic value, and includes post-consumer waste, but does not include excess virgin resources of the manufacturing process. For paper, 'secondary waste materials' does not include fibers recovered from waste water or trimmings of paper machine rolls, mill broke, wood slabs, chips, sawdust or other wood residue from a manufacturing process."

I certify that _____ (product name) is a recycled product as defined in the Oregon Revised Statutes (ORS 279.545).

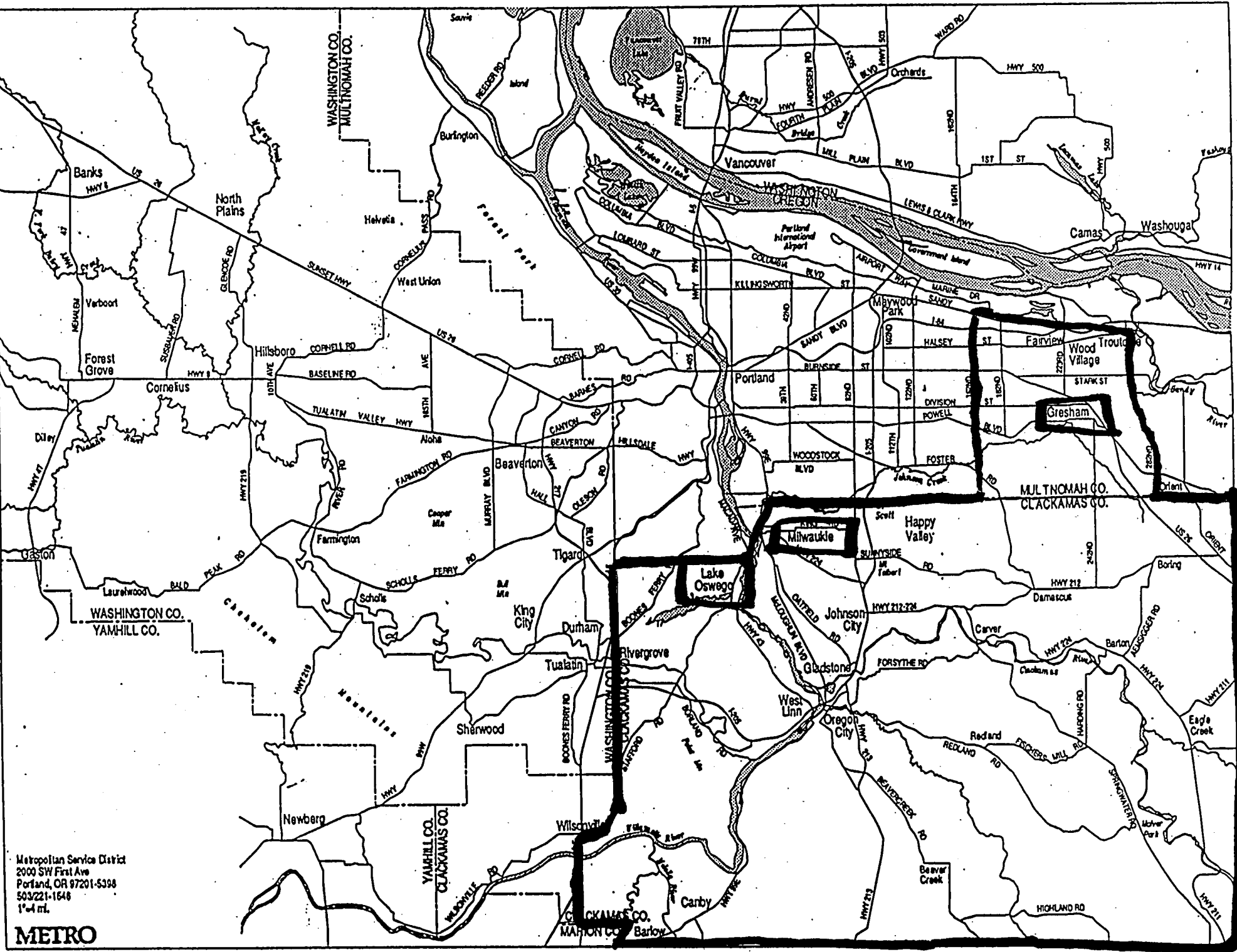
I certify that the product contains _____ percent total recycled content (secondary waste) with _____ percent post-consumer waste as defined in the Oregon Revised Statutes.

Signature: _____ Title: _____
(sign in ink)

Company: _____ Date: _____

Neither Metro nor any Metro employee makes any warranty, expressed or implied, or assumes any legal liability or responsibility for the products listed herein; nor does this certificate constitute an endorsement by Metro of any product or process, manufacturer, company, trade name or trademark.

Printed on recycled content paper with 30% post-consumer waste.



Metropolitan Service District
 2000 SW First Ave
 Portland, OR 97201-5398
 503/221-1648
 1"=4 mi.

METRO

GENERAL AREA FOR HOME COMPOST BIN PROGRAM

PERSONAL SERVICES AGREEMENT

THIS AGREEMENT is between Metro, a metropolitan service district organized under the laws of the State of Oregon and the 1992 Metro Charter, located at 600 NE Grand Avenue, Portland, Oregon 97232, and _____, referred to herein as "Contractor," located at _____.

In exchange for the promises and other consideration set forth below, the parties agree as follows:

1. Duration. This personal services agreement shall be effective on the last signature date below and shall remain in effect until and including _____, unless terminated or extended as provided in this Agreement.
2. Scope of Work. Contractor shall provide all services and materials specified in the attached "Exhibit A -- Scope of Work," which is incorporated into this Agreement by reference. All services and materials shall be provided by Contractor in accordance with the Scope of Work, in a competent and professional manner. To the extent that the Scope of Work contains additional contract provisions or waives any provision in the body of this Agreement, the Scope of Work shall control.
3. Payment. Metro shall pay Contractor for services performed and materials delivered in the amount(s), manner and at the time(s) specified in the Scope of Work for a maximum sum not to exceed _____ Dollars (\$_____).
4. Insurance.
 - a. Contractor shall purchase and maintain at the Contractor's expense, the following types of insurance, covering the Contractor, its employees, and agents:
 - (1) Broad form comprehensive general liability insurance covering bodily injury and property damage, with automatic coverage for premises, operations, and product liability. The policy must be endorsed with contractual liability coverage; and
 - (2) Automobile bodily injury and property damage liability insurance.
 - b. Insurance coverage shall be a minimum of \$500,000 per occurrence. If coverage is written with an annual aggregate limit, the aggregate limit shall not be less than \$1,000,000.
 - c. Metro, its elected officials, departments, employees, and agents shall be named as ADDITIONAL INSUREDS. Notice of any material change or policy cancellation shall be provided to Metro 30 days prior to the change or cancellation.
 - d. Contractor, its subcontractors, if any, and all employers working under this Agreement that are subject employers under the Oregon Workers' Compensation Law shall comply

with ORS 656.017, which requires them to provide Workers' Compensation coverage for all their subject workers. Contractor shall provide Metro with certification of Workers' Compensation insurance including employer's liability. If Contractor has no employees and will perform the work without the assistance of others, a certificate to that effect may be attached, as Exhibit B, in lieu of the certificate showing current Workers' Compensation.

e. If required by the Scope of Work, Contractor shall maintain for the duration of this Agreement professional liability insurance covering personal injury and property damage arising from errors, omissions, or malpractice. Coverage shall be in the minimum amount of \$500,000. Contractor shall provide to Metro a certificate of this insurance, and 30 days' advance notice of material change or cancellation.

5. Indemnification. Contractor shall indemnify and hold Metro, its agents, employees and elected officials 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, or with any patent infringement or copyright claims arising out of the use of Contractor's designs or other materials by Metro and for any claims or disputes involving subcontractors.

6. Maintenance of Records. Contractor shall maintain all of its records relating to the Scope of Work on a generally recognized accounting basis and allow Metro the opportunity to inspect and/or copy such records at a convenient place during normal business hours. All required records shall be maintained by Contractor for three years after Metro makes final payment and all other pending matters are closed.

7. Ownership of Documents. All documents of any nature including, but not limited to, reports, drawings, works of art and photographs, produced by Contractor pursuant to this Agreement are the property of Metro, and it is agreed by the parties that such documents are works made for hire. Contractor hereby conveys, transfers, and grants to Metro all rights of reproduction and the copyright to all such documents.

8. Project Information. Contractor shall share all project information and fully cooperate with Metro, informing Metro of all aspects of the project including actual or potential problems or defects. Contractor shall abstain from releasing any information or project news without the prior and specific written approval of Metro.

9. Independent Contractor Status. Contractor shall be an independent contractor for all purposes and shall be entitled only to the compensation provided for in this Agreement. Under no circumstances shall Contractor be considered an employee of Metro. Contractor shall provide all tools or equipment necessary to carry out this Agreement, and shall exercise complete control in achieving the results specified in the Scope of Work. Contractor is solely responsible for its performance under this Agreement and the quality of its work; for obtaining and maintaining all licenses and certifications necessary to carry out this Agreement; for payment of any fees, taxes, royalties, or other expenses necessary to complete the work except as otherwise specified in the Scope of Work; and for meeting all other requirements of law in carrying out this Agreement. Contractor shall identify and certify tax status and identification number through execution of IRS form W-9 prior to submitting any request for payment to Metro.

10. Right to Withhold Payments. Metro shall have the right to withhold from payments due to Contractor such sums as necessary, in Metro's sole opinion, to protect Metro against any loss, damage, or claim which may result from Contractor's performance or failure to perform under this Agreement or the failure of Contractor to make proper payment to any suppliers or subcontractors.

11. State and Federal Law Constraints. Both parties shall comply with the public contracting provisions of ORS chapter 279, and the recycling provisions of ORS 279.545 - 279.650, to the extent those provisions apply to this Agreement. All such provisions required to be included in this Agreement are incorporated herein by reference. Contractor shall comply with all applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations including those of the Americans with Disabilities Act.

12. Situs. The situs of this Agreement is Portland, Oregon. Any litigation over this agreement shall be governed by the laws of the state of Oregon and shall be conducted in the circuit court of the state of Oregon, for Multnomah County, or, if jurisdiction is proper, in the U.S. District Court for the District of Oregon.

13. Assignment. This Agreement is binding on each party, its successors, assigns, and legal representatives and may not, under any circumstance, be assigned or transferred by either party.

14. Termination. This Agreement may be terminated by mutual consent of the parties. In addition, Metro may terminate this Agreement by giving Contractor five days prior written notice of intent to terminate, without waiving any claims or remedies it may have against Contractor. Termination shall not excuse payment for expenses properly incurred prior to notice of termination, but neither party shall be liable for indirect or consequential damages arising from termination under this section.

15. No Waiver of Claims. The failure to enforce any provision of this Agreement shall not constitute a waiver by Metro of that or any other provision.

16. Modification. Notwithstanding any and all prior agreements or practices, this Agreement constitutes the entire Agreement between the parties, and may only be modified in a writing signed by both parties.

Signature

Print name and title

Date

METRO

Signature

Print name and title

Date

Exhibit A

Scope of Work

1. **Statement of Work.**

SEE RFP

2. **Payment and Billing.**

Contractor shall provide the above services at the hourly rate of \$___ for a maximum price not to exceed ___ THOUSAND, ___ HUNDRED AND ___ DOLLARS (\$___,00). In the event Metro wishes for Contractor to provide services beyond those which can be accomplished for the maximum price, Contractor shall provide such services pursuant to amendment at the rate of \$___ per hour.

The maximum price includes all fees, costs and expenses of whatever nature. Contractor's billing statements will include an itemized statement of work done and expenses incurred during the billing period, will not be submitted more frequently than once a month, and will be sent to Metro, Attention Solid Waste Department. Metro will pay Contractor within 30 days of receipt of an approved billing statement.

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STAFF REPORT

CONSIDERATION OF RESOLUTION NO. 95-2084, FOR THE PURPOSE OF AUTHORIZING AN EXEMPTION FROM COMPETITIVE BIDDING AND ISSUANCE OF A REQUEST FOR PROPOSALS FOR A DISTRIBUTION AND PROMOTION PROGRAM FOR HOME COMPOSTING BINS, AND AUTHORIZING THE USE OF A MULTI-YEAR CONTRACT.

Date: February 2, 1995

Presented by:
Executive Officer Mike Burton
and Leigh Zimmerman

PROPOSED ACTION

Approve Resolution No. 95-2084 to authorize the use of a Request for Proposals to procure home compost bins, sell at a discount, develop a distribution/promotion program, and enter into a multi-year contract. The RFP is attached as Exhibit A.

BACKGROUND

The FY 94-95 Waste Reduction Division budget allocates \$80,000 for a compost bin distribution program in the spring of 1995. It is estimated that approximately 3200 bins at \$50 a piece could be purchased with these funds. Metro would pay \$25 a bin; consumers the other \$25. Based on last year's program, the average wholesale price offered government purchasers for bins meeting Metro's specifications is \$40 to \$50 a bin. This includes the costs of distribution and administration.

The purpose of the program is to expand home composting by offering compost bins at a discounted price to interested residents in the region. The goal of the compost bin program is to increase the number of households composting at home in order to reduce the amount of yard debris/food waste disposed or put out for curbside recycling. Studies by Metro and experiences in other areas indicate that providing home compost bins is a low cost approach to reducing waste at the source before it enters the waste or recycling system. It is estimated that approximately 450 pounds of waste a year per household can be diverted from landfilling or curbside recycling through home composting.

This is the second year of the compost bin program. In the summer and fall of 1994, Pac-West Distributors provided 900 Toro Yard Cycler bins to targeted neighborhoods in Portland and Washington County. Bins were available at several Toro dealerships, at special events and through mail order for a six week period in early summer and fall. This was a very successful program. All the bins were sold with a minimum amount of promotion. An average of six percent of the 14,000 households contacted bought a bin. It was a joint project with local governments. The City of Portland and Washington County identified neighborhoods, helped develop a promotional strategy and shared promotion costs.

The spring 1995 program will be similar to that offered last year. Discounted bins will be offered to residents of Gresham/East Multnomah County and Clackamas County. The number of bins offered and the area served will be greater than in 1994. A minimum of 2500 bins will be requested. Up to 4500 could possibly be proposed. Based on last year's pilot project, Metro and local governments have elected to place less emphasis on targeted neighborhoods, to use more newspaper advertising rather than producing a direct mailer, and to distribute bins at special events, such as neighborhood clean-

ups, as well as through dealerships or mail order. Metro and local governments will advertise and provide home composting training. The selected contractor will manage bin distribution.

JUSTIFICATION FOR USING REQUEST FOR PROPOSAL RATHER THAN REQUEST FOR BID

Because more than fifty percent of the project costs are for a product, the Metro Code requires the use of a Request for Bids rather than Proposals. Because there are a number of non-cost factors that should be considered in this project, an exemption from competitive bidding and the use of a Request for Proposal is requested. The justification for this request is summarized below.

1. The use of an RFP process to procure the bins and supplemental services will provide flexibility and allow Metro and local governments to select the contractor offering the greatest additional service as well as a bin that meets specifications. Metro and local governments do not have adequate resources to distribute bins, manage orders and keep records. Therefore, the service component is a key feature of the project.
2. Design of the bin is also critical to a successful program. The least cost bin may not be the most effective or popular bin. Experience from other cities and Metro's research indicate that the appearance of a bin and the ease of use are features that increase the number of households that will compost. Since participants will be asked to share in the cost of the bin, public acceptance of the design is very important. An RFP will give Metro greater flexibility to consider aesthetic and design features than would a competitive bidding process.
3. Using a Request for Proposal rather than a Request for Bid to procure compost bins should not sacrifice cost savings because of the interest by contractors to enter the Portland market. There is strong competition between bin manufacturers and many have offered distribution and promotion services to other municipalities. The proposal evaluation process will allow Metro to select the best combination of cost and services to most wisely invest the limited dollars available for this program.

Although the bin program will begin as soon as a contract is executed this spring, distribution and evaluation may not be completed until early in FY 95-96. Therefore, Resolution No. 95-2084 authorizes a multi-year contract with the selected vendor.

BUDGET IMPACT

The FY 94-95 Solid Waste budget has appropriated \$80,000 for this home compost bin program. This will cover 50 percent of the bin price offered to Metro. The remaining 50 percent will be paid directly to the contractor by residents who buy the bin.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends adoption of Resolution No. 95-2084.