

ANNUAL REPORT

FY 2010-11

**Utilization of minority,
women, emerging small
businesses and the first
opportunity target area at
Metro**







DATE: October 18, 2011

TO: Tom Hughes, Council President
Shirley Craddick, Councilor
Carlotta Collette, Councilor
Carl Hosticka, Councilor
Rex Burkholder, Councilor
Kathryn Harrington, Councilor
Barbara Roberts, Councilor

SUBJECT: MWESB AND FOTA REPORT FOR FY 2010-11

The enclosed report represents Metro's utilization of minority, women, and emerging small businesses (MWESB) during the past fiscal year. The report shows the dollars spent with MWESB firms from July 1, 2010 through June 30, 2011. Metro Code 2.04 directs our office report this activity to the Metro Council annually.

Additionally, the contracts awarded to businesses in the first opportunity target area (FOTA) are identified. These are goods and services purchased by our venues operated by the Metropolitan Exposition Recreation Commission (MERC). Departmental achievements are identified, along with agency utilization history, MWESB successes, and an update on past recommendations.

Metro's MWESB program is one of outreach and opportunity. Through a variety of means, small businesses are given the opportunity to compete in our contracting process. This report summarizes our program activities and areas of focus for outreach. It also details the number and value of contracts awarded to minority business enterprises (MBE), women business enterprises (WBE), and emerging small businesses (ESB). During the past fiscal year 24 percent of available contracts were awarded to MWESB firms, representing 11 percent of the available dollars.

We welcome your suggestions and feedback on our MWESB program. Please feel free to contact either of us if you require additional information.

A handwritten signature in black ink that reads "Darin Matthews".

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Program overview

HISTORY

Metro Code 2.04.100 sets forth agency policy that encourages the use of minority, women and emerging small businesses (MWESB), by creating maximum opportunities for such businesses to compete for Metro contracts. The Metro Council has previously determined that historical patterns of exclusion have resulted in inequities for MWESBs and that full participation in our free enterprise system by these firms is essential. Greater economic opportunity for MWESB firms is needed, and promoting the use of MWESBs provides for a stronger local economy.

Our MWESB program is a result of the Metro Council's response to the Oregon Regional Consortium Disparity Study. Along with several other public agencies, Metro developed contracting programs to provide opportunities for MWESB contractors. These programs sought to level the playing field and also boost the local business economy.

The disparity study that Metro participated in was conducted in the mid 1990s. While the study is several years old, we believe that disparity studies recently released by other public agencies in the area support the continuance of MWESB programs.

METRO'S PROGRAM

Metro's MWESB program is administered by Procurement Services, a division within Finance and Regulatory Services, on behalf of the Chief Operating Officer. Policies are established through Metro Code Chapter 2.04.

Metro's contracting policies are race and gender neutral. All contractors are eligible to compete in our contracting processes, regardless of race or gender, as long as they are certified by the State of Oregon as a minority business enterprise (MBE), women business enterprise (WBE), or emerging small business (ESB). Metro does not certify contractors, but rather relies on these well-established state certifications.

Metro's MWESB program is one of outreach, education and opportunity. The program activities that promote the use of MWESB firms include:

- Focusing on outreach to local MWESB firms to ensure their participation.
- Providing technical assistance and resources on bidding, bonding, insurance, and other business practices.
- Structuring contract size appropriately to encourage the use of MWESB firms.
- Providing ongoing education to Metro staff on MWESB program rules.
- Ensuring MWESB plan centers receive Metro bids and requests for proposals and advertising in minority business publications.

Metro policies also establish the following requirements in the purchasing and contracting process to ensure opportunities are provided to MWESB firms.

Informal purchasing opportunities

Purchases and contracts up to \$50,000 are open to all bidders, but require that at least one MBE, one WBE, and one ESB be contacted and given the opportunity to bid.

Informal sheltered market

Construction related projects up to \$50,000 are competitively bid exclusively among qualified MWESB contractors. Competitive bidding requirements still apply, but it is within the sheltered market of MWESB firms. The contractors that participate in Metro's sheltered market are qualified, experienced, bonded and insured, just as contractors outside the sheltered market.

Good faith effort

On all construction projects more than \$100,000, prime bidders are required to demonstrate a good faith effort in inviting MWESB firms to bid on sub-contracts. The intent is to promote communication with local MWESB firms, so that they can compete for work within their area of expertise. As part of the bid submission, prime contractors are required to identify all MWESB subcontractors to be used, as well as the dollar amount of the contracts. Contractors wishing to replace an MWESB subcontractor during the project can only do so with Metro's written approval.

Advertising

On all formal procurements (more than \$100,000), Metro advertises in at least one minority business publication. These include *The Observer*, *The Skanner*, *El Hispanic*, and *The Asian Reporter*. This is in addition to public notices placed in the *Oregon Daily Journal of Commerce*.

Outreach

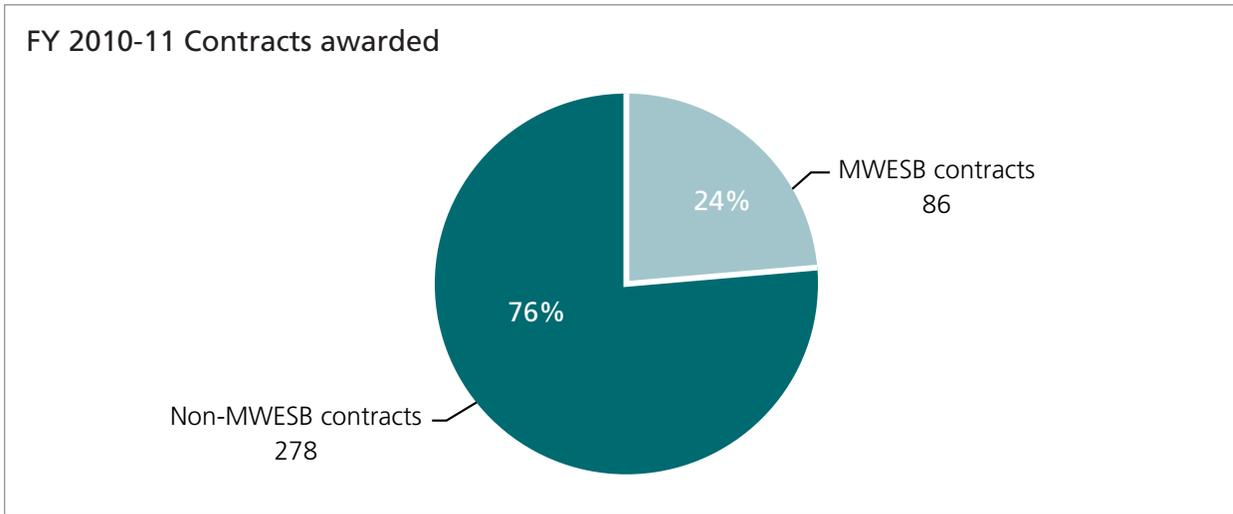
In order to increase opportunities for MWESB businesses, the Metro Code identifies outreach as one of the key activities of the program. Metro participates with a number of business groups and events that support the use of small businesses in the region. These include the Oregon Association of Minority Entrepreneurs, the National Association of Minority Contractors of Oregon, the African American Chamber of Commerce, the Business Diversity Institute, and the Hispanic Metropolitan Chamber. Metro staff participate in training and networking events in order to stay engaged with the MWESB contracting community.

Summary of results

NUMBER OF CONTRACTS AWARDED DURING FY 2010-11

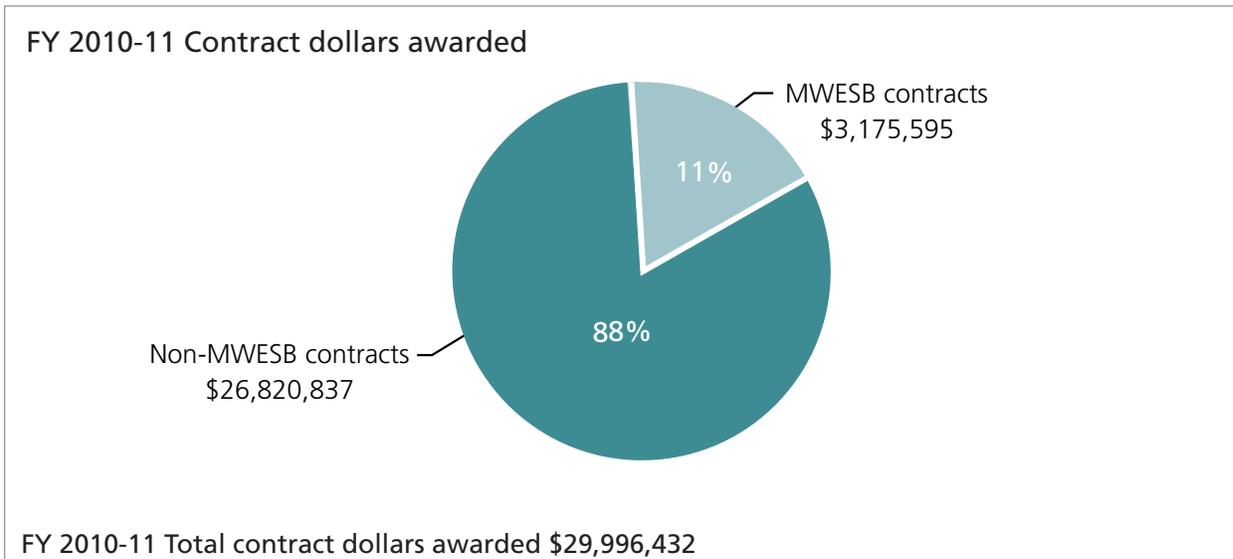
During FY 2010-11 a total of 364 eligible contracts was awarded through Metro's competitive procurement process. This did not include contracts such as intergovernmental agreements and grants. It also does not include contracts awarded by MERC venues, which are covered later in this report.

Of the contracts awarded, 86 went MWESB firms. This represented 24 percent of the total contracts available.



CONTRACT DOLLARS AWARDED DURING FISCAL YEAR 2010-11

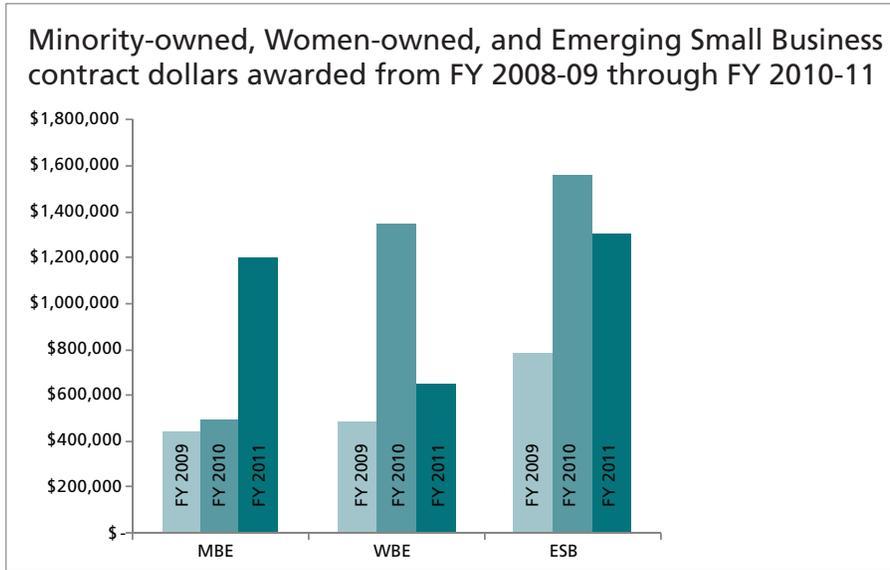
During the past fiscal year, Metro awarded a total of \$29,996,432. Firms that were MWESB certified earned a total of \$3,175,595 in contract awards. This represents a utilization of 11 percent.



Breakdown by MBE, WBE and ESB

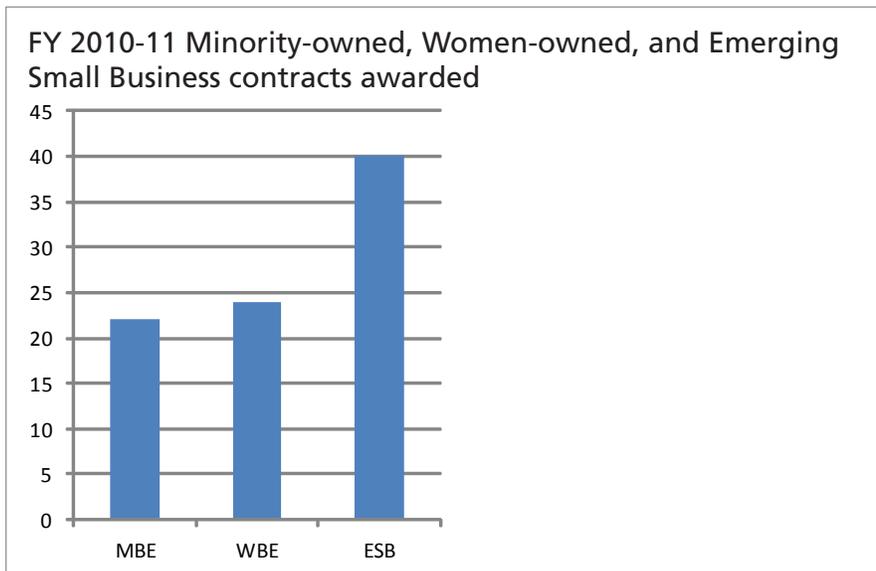
CONTRACT DOLLARS AWARDED BY MBE, WBE AND ESB

Metro awarded a total of \$3,175,595 in contracts to certified MWESB firms. The breakdown of contract dollars to MBE, WBE and ESB firms is identified below.



NUMBER OF CONTRACTS AWARDED BY MBE, WBE AND ESB

A total of 86 contracts was awarded to certified MWESB firms out of 364 contracts available. ESB firms received the most contracts (40), while MBE and WBE firms received 22 and 24, respectively.



The number and value of contracts awarded to each category (MBE, WBE, and ESB) continue to be an area of focus for Metro. While the agency is required to maintain a program that is race and gender neutral, we do strive for balance and equity in the small business community. Similar to past years, contractors certified as ESB have earned the highest number of contracts and the most contract dollars.

However, during the past fiscal year, Metro awarded a large share of its contract dollars to MBE firms, which represents an increase from past years.

DEPARTMENTAL HIGHLIGHTS

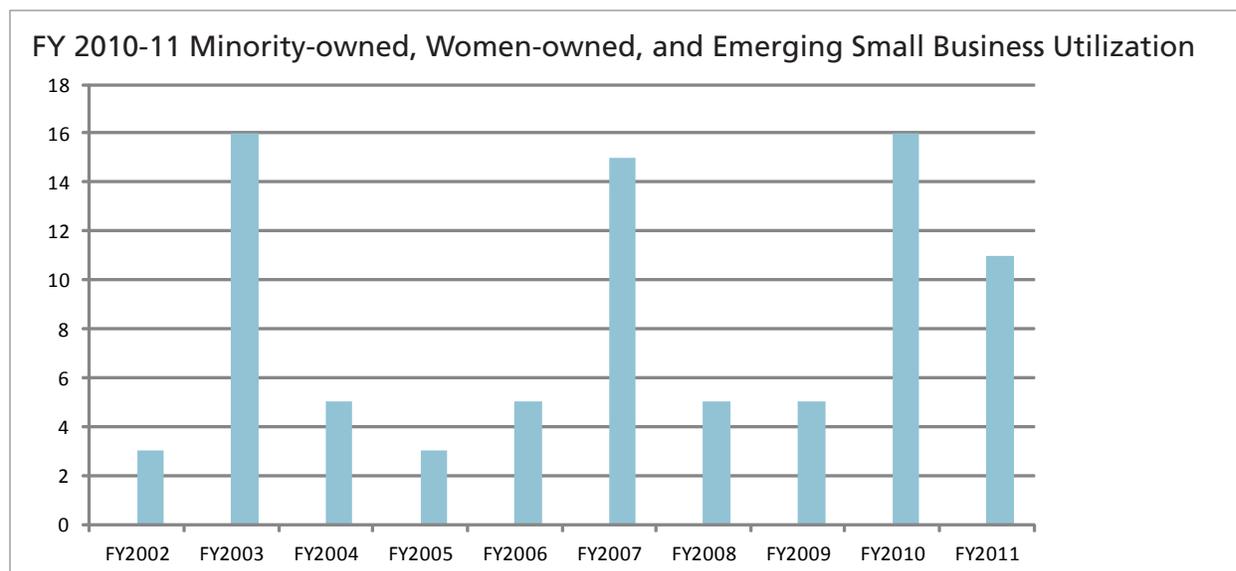
Metro achieved very positive utilization during the past year through the collective efforts of all programs and departments. Of particular note are the following results:

- **Communications** awarded nearly a quarter of a million dollars to MWESB firms. Much of the \$243,100 spend was a result of their flexible services contracts, which are multiple awards to several firms in a variety of professional service areas.
- Though **Human Resources** does not contract for a large amount of services, they were able to achieve a utilization rate of 24 percent. Their office worked closely with Procurement Services to seek out qualified MWESB firms in their RFP processes.
- The **Office of Metro Attorney** awarded \$100,000 worth of personal services contracts to MWESB firms. This was achieved despite the fact that very few legal firms are MWESB certified.
- **Parks and Environmental Services** continued its tradition of strong MWESB utilization in their contracts. With one of the largest departmental budgets, PES contract awards to MWESBs totaled \$857,965.
- The **Sustainability Center** achieved the agency's highest utilization rate at 50 percent. A significant part of this spend was the vegetation maintenance contracts that were awarded to several certified firms over multiple years, including many that were minority owned.
- While a large part of the **Information Services** spend goes to hardware and software firms that are not MWESB certified, the department made significant efforts to contract with a local woman-owned business for technology staffing services.
- Through diligent outreach and including the consideration of diversity in contract awards, **Planning and Development** achieved an MWESB utilization rate of 7 percent. Many of their contracts are federally funded and also created opportunities for disadvantaged business enterprises.

UTILIZATION HISTORY AT METRO

The following data represents the agency's MWESB utilization during the past decade. In some years Metro has done extremely well, while other years have not produced the desired results. Since our MWESB program does not include mandatory goals or set-asides, there are no actual penalties for not hitting our utilization targets. As mentioned earlier in this report, Metro's program is one of outreach, education and opportunity.

For the past two years, the agency's utilization has remained strong. We have achieved double digit utilization in consecutive years for the first time in agency history.



FOTA and MWESB participation at MERC venues

Background

The first opportunity target area (FOTA) was originally established in 1989. The program was intended to provide employment opportunities to economically disadvantaged residents within a defined geographic area proximate to the Oregon Convention Center.

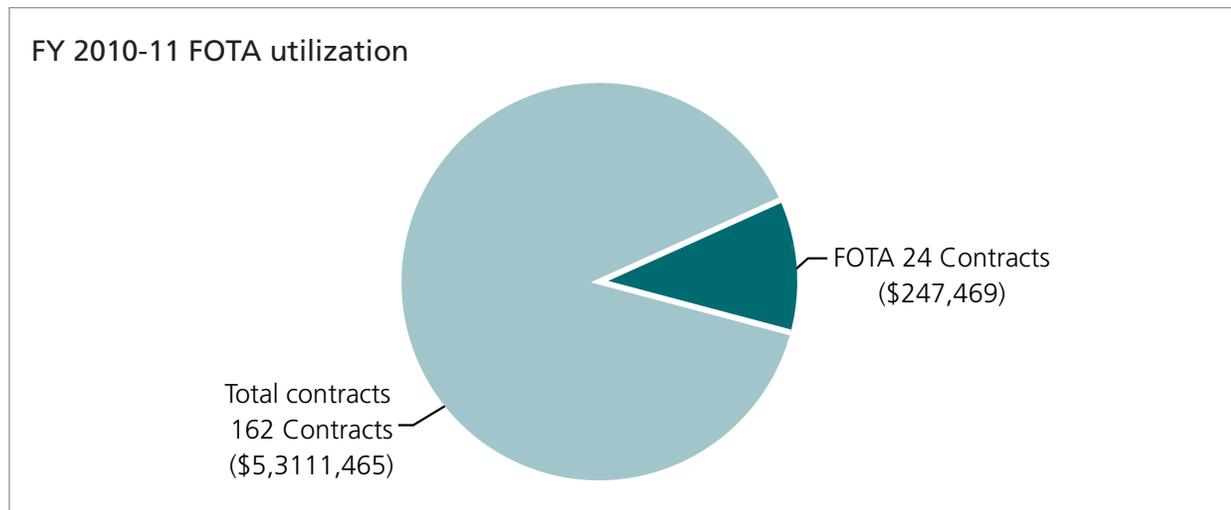
The MERC Commission later expanded the program to include the Portland Center for the Performing Arts and the Portland Expo Center. The FOTA program was also expanded to include contract opportunities, as well as employment.

Program Requirements

Under MERC's current contracting rules, special FOTA requirements apply to public contracts between \$5,000 and \$100,000. At least one quote must be solicited from a certified MWESB contractor within the FOTA. Additional quotes are solicited from MWESB contractors outside the FOTA region.

FOTA Participation by the MERC Venues

During FY 2010-11, MERC awarded a total of 24 contracts to FOTA businesses. The total value of these contracts was \$247,469 and represented 5 percent of the agency's contract spend (\$5,311,465).



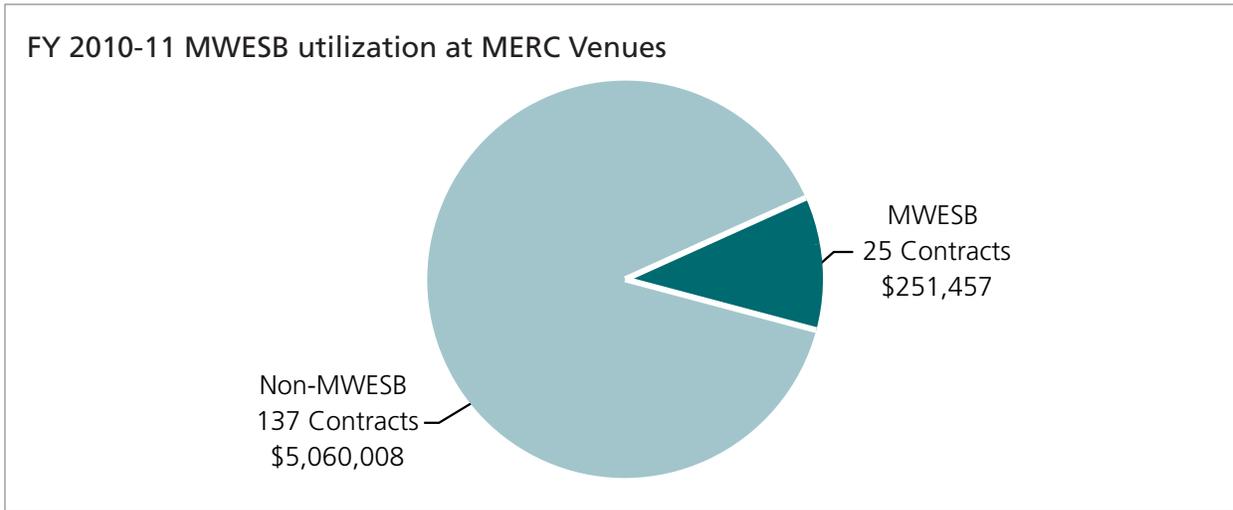
Out of the 162 total contracts, the 24 awarded to FOTA businesses represent a utilization rate of 15 percent of available contracts.

FOTA Contracts award history

Year	Number	Value
2010	24	\$247,469
2011	20	\$255,192

MWESB Participation by MERC Venues

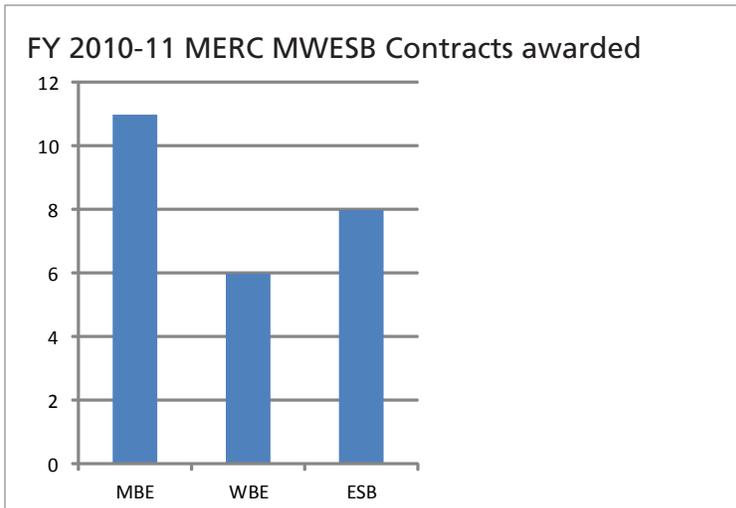
MERC awarded 25 contracts to MWESB certified businesses during FY 2010-11. The total contract value was \$251,457, which represents a utilization rate of 5 percent.



A total of 25 contracts went to MWESB certified firms out of 162 that were awarded during the year. This represents 15 percent of the available contracts.

Breakdown of MWESB Contracts

The contracts awarded to MWESB businesses were well balanced during fiscal year 2010-2011. A total of 11 went to MBE, six to WBE and eight to ESB firms. MERC significantly increased its MWESB contract awards from last year. The 25 contracts in 2010-2011 more than doubled the amount awarded in 2009-2010 (11 contracts).



Success Stories

Metro has continued to manage and expand a strong MWESB program and does so in accordance with state and local procurement regulations. Compared to other area agencies, Metro is smaller in both size and contract spend. However, we have worked diligently at maximizing the use of MWESB firms in our contracting processes. When opportunities have presented themselves, Metro staff has been quick to recognize them and include MWESB utilization as an important part of its contracting strategy. The following projects represent some successes of the agency during the past year.

Hoyt Street Café

Acting as general contractor, Metro achieves success

Metro and MERC chose to act as their own general contractor to remodel the vacant retail building at the Metro Regional Center. Rather than hire a general contractor to manage several building trades through subcontracts, Metro contracted directly with local contractors for each trade. Named the Hoyt Street Café, the project was undertaken to provide opportunities for disadvantaged members of the community seeking career training in food service. It also provides a quality restaurant for area businesses and agency staff.

The contracts were packaged in a way that was advantageous to small businesses. Plumbing, drywall, painting, electrical and other areas were sized as individual contracts, and competitive bids were sought from qualified MWESB contractors. The only non-MWESB contracts were for counters, design, and kitchen equipment.

Out of a total of 13 contracts for the café project, Metro awarded nine to MWESB contractors. The total amount of all MWESB contracts was \$74,399, which represented a utilization rate of 48 percent of the contract dollars available.

Veterinary Medical Center

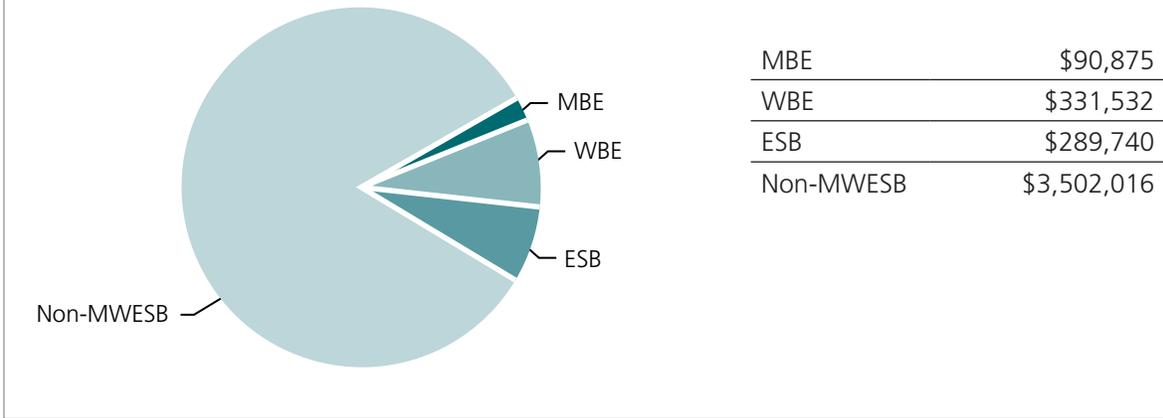
Subcontractor utilization of 17 percent exceeds agency goal

In June 2010 Metro received formal bids for the construction of the Veterinary Medical Clinic (VMC) at the Oregon Zoo. As part of the 2008 capital bond program, the VMC project was considered a key undertaking for the agency and keen attention was paid to the contractor selection. Based on a procurement method utilized by Tri-Met for light rail projects, the Oregon Zoo Bond team collaborated with the Office of Metro Attorney and Procurement Services to award this contract through a two-step bid process.

The first step involved a careful screening of qualified contractors based on their past performance, capabilities, project management techniques, and commitment to diversity. Contractors that passed the first step were invited to submit fixed price bids for the construction of VMC with award going to the lowest bidder. Skanska USA was the successful bidder and was awarded a \$7.3 million contract.

The bid request for VMC included an aspirational goal of 15 percent participation by MWESB subcontractors. While not a mandatory goal for prime contractors, the aspirational goal did make clear Metro's commitment to diversity in its contracts. Out of the \$4,214,163 available in subcontracts (i.e. work not performed directly by Skanska), 17 percent of the dollars went to contractors certified as a MBE, WBE or ESB.

FY 2010-11 VMC Subcontractor Utilization



The 17 percent utilization of MWESB subcontractors exceeded the aspirational goal set by Metro. The dollars in subcontracts awarded to MWESB firms on VMC were as follows:

Contractor Type	Subcontract Dollars	Utilization
MBE	\$90,875	2%
WBE	\$331,532	8%
ESB	\$289,740	7%

Turner School of Construction Management

Metro continues its support of small business by hosting 2011 school

During April 2011, Metro partnered with Turner Construction to host its annual School of Construction Management. Since 1969 Turner has been providing classes to small contractors on estimating, project management and subcontracting. For the fourth year a school has been provided in the Portland area. Metro provided training rooms at the Metro Regional Center over several weeks. Additionally, Metro staff participated in the kick-off celebration and graduation ceremony, and also helped with the instruction of the contracting and purchasing class.

This past year 35 contractors graduated from the Turner School of Construction Management. Many of these contractors submit prime and sub bids on Metro projects and have been successful in securing contracts with other public and private organizations in the region.

Status Report on Council Recommendations

During 2010 the Metro Council formally adopted a series of recommendation to improve the agency's contracting practices. The following is a status report on the implementation of these recommendations.

MWESB goal in all formal bids

Formal procurements at Metro now list an aspirational goal of 15 percent utilization of MWESB subcontractors. The agency has historically required a good faith effort of its prime contractors, but has hesitated to list a specific number in its solicitations. After review of other area agency practices, and in consultation with the Office of the Metro Attorney, Metro deemed it appropriate to identify a numeric goal in its bids. This was consistent with feedback provided by the National Association of Minority Contractors of Oregon (NAMCO). While not legally binding, it does send the message to potential bidders of the importance of diversity in Metro contracts. This practice has been used during the past year on both Metro and MERC projects.

Reporting requirements for prime contractors

During the past year Metro stepped up its reporting expectations for prime contractors on formal construction contracts (more than \$100,000). By modifying a MWESB utilization reporting form from the City of Portland, Metro was able to better track small contractor utilization at all levels (first tier, second tier, material supplier, etc.). This reporting tool was used successfully during the Veterinary Medical Center construction project at the Oregon Zoo.

Package construction projects to fit within sheltered market program

Metro procurement staff actively worked with agency project managers to package and size contracts to fit within our sheltered market program (\$5,000 to \$50,000). This resulted in a total of 15 contracts in the program, which is nearly doubles what Metro experienced in each of the last three fiscal years. Examples of this include the roofing contracts at our park facilities, which resulted in three contracts to a minority business enterprise (MBE), and the Hoyt Street Café, which produced nine contracts to MWESB contractors.

Diversity as an evaluation criteria in all RFPs

All agency requests for proposals (RFP) over the formal procurement threshold include diversity as part of the selection criteria. The category is titled "Diversity in Employment and Contracting" and is broken down into three areas: diversity of firm ownership, diversity in the workplace, and diversity in working with MWESB subcontractors. Proposing firms do not have to hold an MWESB certification (although some do), but they do have to demonstrate a commitment to diversity. The point allotment for this area has ranged between 10 percent and 20 percent. Recent discussions with the Commission have prompted MERC venues to adopt a policy setting the minimum percentage at 20.

MWESB training throughout the agency

The training provided to the agency from FRS has increased, including the MWESB program. On three occasions this past year, agency staff was trained on the requirements of the program and its importance. Since the support and cooperation of agency project managers is key to the success of the MWESB program, we believe this training frequency needs to be maintained.

Coordinate MWESB and FOTA programs

The MWESB and FOTA programs have been more closely aligned during the past year. For example, in MERC procurements there are both an MWESB goal and a FOTA goal included in the solicitation. The lighting upgrade and digital signage projects are examples of where both were used. The procurement analyst, who formerly administered the FOTA procurement program for MERC, is now an FRS staff member. The administration of both programs by the same person helps bring consistency and alignment.

A forum for project managers to network with MWESBs

Agency project managers have worked closely with FRS procurement staff during the past fiscal year, which has allowed both to more closely network with MWESB contractors. Project managers have attended local minority business forums along with procurement staff, and the agency has also hosted meetings for MWESB contractors. Local roofing contractors were brought together in February 2011 in order to meet agency contracting staff and also a national roofing systems supplier. Additionally, MERC and Metro are hosting the first ever contractor forum at the Expo Center in November of this year. In order to better communicate and network with local MWESB contractors, the agency should continue hosting these forums.

Engage Metro legal counsel to maximize use of MWESBs

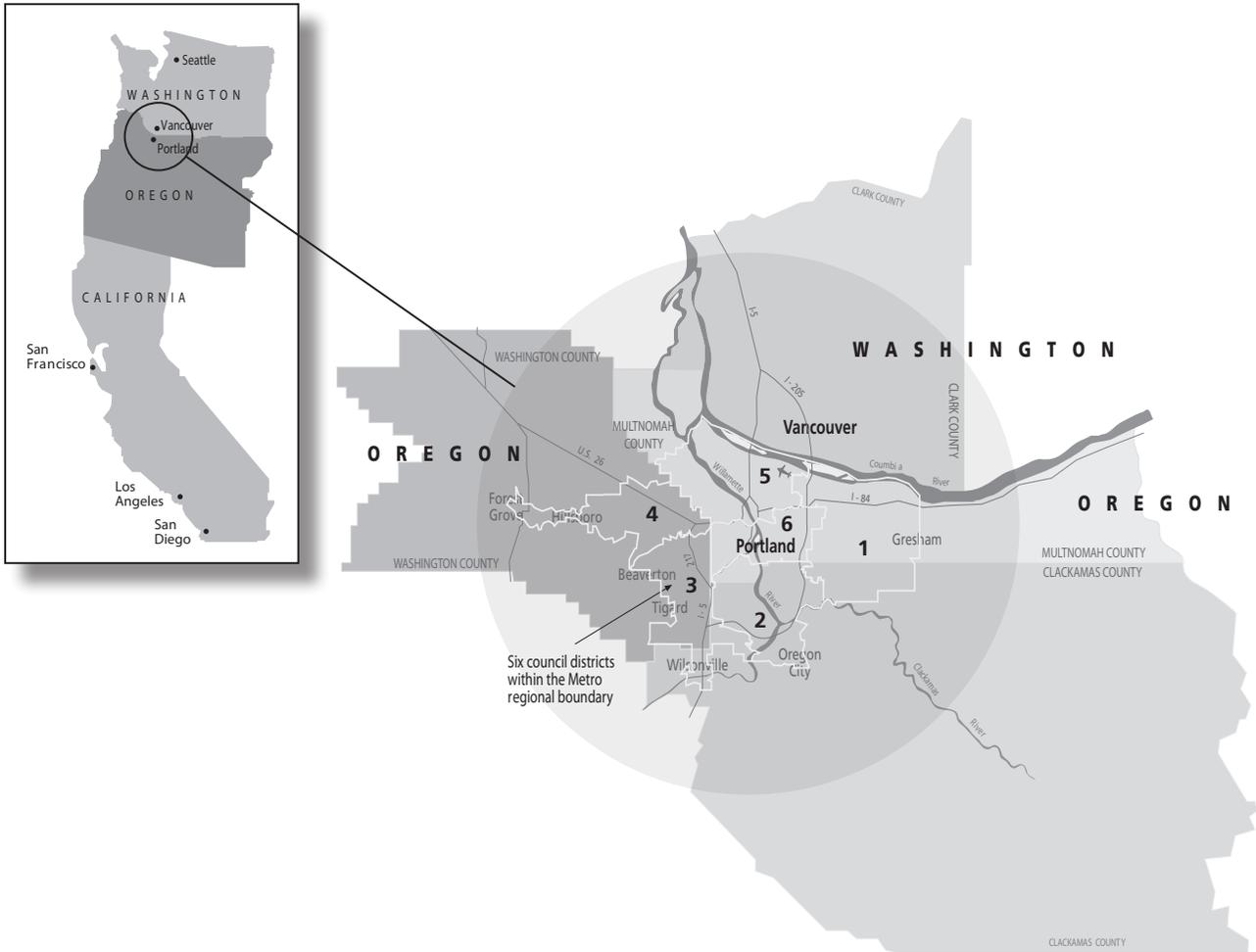
The Office of the Metro Attorney (OMA) has been instrumental in the agency's achievements with its MWESB program. OMA has worked closely with procurement staff to update and improve Metro's MWESB contracting rules during the past year, and has continually supported the program through training and the reviewing of procurement language. OMA has served as a key member of the regional MWESB legal summit, which meets quarterly with other area agencies to review best practices and strive for consistency in our respective programs.

Notify MWESB contractors electronically

Currently, a list of known MWESB firms is notified via email of opportunities in their area of expertise. The list is generated from the State of Oregon's MWESB web site, which includes complete contact information and areas of expertise for each contractor. On large projects, Metro is utilizing third party firms to electronically distribute RFP and bid information to firms, including MWESB prime and subcontractors. An internal assessment reveals that a custom, internal system may not be in Metro's best interest, but utilizing an existing system may be worthwhile. For example, the City of Portland successfully uses an outside system provider for its MWESB notifications. A key consideration for Metro should be a system's impact on MWESB firms, including any costs or fees.

Employee compensation as part of selection criteria

All Metro RFPs for more than \$100,000 now include employee compensation as part of the selection criteria. Under the category of sustainable business practices, proposers must submit information for Metro's consideration, including wages, healthcare benefits, pensions, profit sharing and cost of living increases. Initially, the information provided was limited, but more and more firms are now responding with complete information in this area and are subsequently evaluated. This section normally accounts for between 10 percent and 15 percent of the award criteria.



**Metro
Marking a great place**

Clean air and clean water do not stop at city limits or county lines. Neither does the need for jobs, a thriving economy and good transportation choices for people and businesses in our region. Voters have asked Metro to help with the challenges that cross those lines and affect the 25 cities and three counties in the Portland metropolitan area.

A regional approach simply makes sense when it comes to protecting open space, caring for parks, planning for the best use of land, managing garbage disposal and increasing recycling. Metro oversees world-class facilities such as the Oregon Zoo, which contributes to conservation and education, and the Oregon Convention Center, which benefits the region’s economy.

Your Metro representatives

- Council President Tom Hughes
- District 1– Shirley Craddick
- District 2– Carlotta Collette
- District 3– Carl Hosticka
- District 4– Kathryn Harrington
- District 5– Rex Burkholder
- District 6– Barbara Roberts
- Auditor– Suzanne Flynn

Metro’s web site:
www.oregonmetro.gov