

**Regional Transit Authority
Motion No. 29**

A motion of the Board of the Regional Transit Authority for the Pierce, King and Snohomish Counties region adopting policies to implement guiding principles for employment and contracting on consultant & professional services contracts and goods & services (purchasing) contracts; superseding policies adopted by Motion No. 26; and authorizing the Executive Director to proceed with policy implementation.

Background:

On November 1, 1996, the Board adopted Motion No. 17, Guiding Principles for Employment and Contracting (Guiding Principles), and authorized the Executive Director to proceed with developing policies and strategies to implement the Guiding Principles.

The Guiding Principles were designed to help fulfill the RTA's employment and contracting objectives. Objectives of the Guiding Principles are: maximum local contracting and employment; and a maximum Minority, Women and Disadvantaged Business Enterprise (M/W/DBE) commitment reflecting the region's diversity. The RTA recognized that there were many ways to meet the intent of the guiding principles, each with advantages and disadvantages. Before adopting a set of strategies to put the guiding principles in place, the RTA included an outreach effort to review those strategies with the public and to listen carefully to community concerns.

The Guiding Principles were originally proposed to address concerns regarding the involvement of racial minority groups and women on RTA contracts and in employment at the RTA. As the Guiding Principles were developed, the RTA recognized widely shared concerns regarding the local participation of businesses and employment of residents in the RTA region on the RTA project.

A decision timeline was established as a part of Motion No. 17, requiring the RTA to develop policies and strategies for consultant and professional services contracts, goods and services (purchasing) contracts, and RTA employment in the first part of this year. Strategies for construction contracts will be developed during the second part of the year.

With voter approval of Sound Move in November 1996, the RTA has started the task of implementing the services and facilities that make up the Ten-Year Regional Transit System Plan. On March 27, 1997, the RTA Board adopted Motion No. 26, to enact the first detailed policies and strategies to implement the Guiding Principles for architectural and engineering (A & E) consultant services. The policies under Motion No. 26 were

adopted to facilitate the procurement of A & E consultant services as quickly as possible. By adopting Motion No. 29, the policies contained in Motion No. 26 are extended and revised to include all other consultant and professional services contracts, and goods & services (purchasing) contracts.

The policies and strategies have been developed to address the objective of maximizing both M/W/DBE participation and workforce diversity. They also have been developed in recognition of widely shared interests regarding local participation and improving ways to do business with small business. These policies are designed to be updated, revised and refined to better meet the objectives of the Guiding Principles for Employment and Contracting, and will be implemented and interpreted consistent with applicable law.

The policies include suggestions and ideas gathered in various meetings with persons and firms interested in employment and contracting with the RTA. The RTA intends to adopt policies and strategies for construction contracting and employment by the end of the year. Those policies will also be developed in conjunction with outreach meetings as appropriate.

The RTA has entered into a contract for human resources consultant services, whose scope of work includes development of employment policies in furtherance of the guiding principles. The policies and strategies approved by this motion will serve to guide RTA staff in contracting and employment activities that may need to occur before such additional policies are in place.

The policies and strategies approved by this motion represent the RTA's best analysis to date. They are subject to change, improvement and refinement over time.

Motion:

It is hereby moved by the Board of the Regional Transit Authority that the attached policies to implement Guiding Principles for Employment and Contracting for consultant & professional services contracts and goods & services (purchasing) contracts are adopted. The policies adopted under Motion No. 26 are superseded by this action. The Executive Director is authorized to proceed with policy implementation.

Approved by the RTA Board on May 22nd, 1997.

Bob Drewel

Bob Drewel
Board Chair

ATTEST:

Marcia Walker

Marcia Walker
Board Administrator

POLICIES TO IMPLEMENT GUIDING PRINCIPLES FOR EMPLOYMENT AND CONTRACTING FOR CONSULTANT AND PROFESSIONAL SERVICES CONTRACTS AND ON GOODS AND SERVICES CONTRACTS

Introduction

The attached policies are in furtherance of the Guiding Principles for Employment and Contracting (Guiding Principles) adopted by the Central Puget Sound Regional Transit Authority (RTA) Board in Motion No. 17 on November 1, 1996. Objectives of the Guiding Principles include maximizing local contracting and employment; and a commitment to Minority, Women, and Disadvantaged Business Enterprise (M/W/DBE) policies and procedures that reflect the region's diversity.

With voter approval of Sound Move in November 1996, the RTA has started the task of implementing the services and facilities that make up the Ten-Year Regional Transit System Plan. To begin the procurement of architectural and engineering (A & E) consultant services as quickly as possible, on March 27, 1997, the RTA Board adopted Motion No. 26. Included in Motion No. 26 were the first detailed policies and strategies to implement the Guiding Principles for A & E contracts. In adopting Motion No. 29, the policies contained in Motion No. 26 are extended and revised to include all other consultant and professional services contracts, and goods & services (purchasing) contracts.

The policies include suggestions and ideas gathered in various meetings with persons and firms interested in employment and contracting with the RTA. The RTA intends to adopt policies and strategies for construction contracting and RTA employment by the end of the year. Those policies will also be developed in conjunction with outreach meetings as appropriate.

The policies and strategies represent the RTA's best analysis to date. They are subject to change, improvement, and refinement over time.

Application and enforcement of all policies and strategies in furtherance of the RTA's Guiding Principles for Employment and Contracting are the shared responsibility of all staff of the RTA, whether employed directly or under contract. Consistent and committed implementation of these policies is expected from all RTA employees.

Guiding Principles for Employment and Contracting

The Guiding Principles emphasize four key objectives under consultant and professional services contracting and goods and services (purchasing) contracting as areas that the RTA will promote and encourage through its policies:

- Workforce diversity reflective of the region,
- Maximum use of local businesses,
- Maximum use of small businesses, and
- Maximum use of minority, women and disadvantaged businesses (M/W/DBEs).

The following policies have been developed to address the objective of maximizing both M/W/DBE participation and workforce diversity. They also have been developed in recognition of widely shared interests regarding local participation and improving ways to do business with small business. These policies are designed to be updated, revised and refined to better meet the objectives of the Guiding Principles for Employment and Contracting, and will be implemented and interpreted consistent with applicable law.

Policies to Implement Guiding Principles for Employment and Contracting

The following policies have been developed to address the objective of maximizing both M/W/DBE participation and workforce diversity. They also have been developed in recognition of widely shared interests regarding local participation and improving ways to do business with small business. These policies are designed to be updated, revised and refined to better meet the objectives of the Guiding Principles for Employment and Contracting, and will be implemented and interpreted consistent with applicable law.

Guiding Principle I: The RTA will promote and encourage a contract workforce that reflects the region's diversity for consultant and professional services contracts, and goods and services (purchasing) contracts.

Policy 1 (Guiding Principle I)

To the extent feasible and meaningful, the employment and involvement of people of color and women will be a factor in the RTA's selection process and award of consultant and professional services contracts, and in the bidding process and award of goods and services (purchasing) contracts. Periodic analysis of equal employment opportunity (EEO) goals will be conducted to assess additional approaches that proposers and bidders will be encouraged to use to meet EEO objectives. Such analyses will be conducted in accordance with applicable federal and state statutes, regulations and case law. The RTA will work with consultants, vendors and suppliers to increase the participation of minorities and women through supervisory, internship and trainee opportunities where appropriate.

Policy 2 (Guiding Principle I)

The RTA will evaluate EEO aspects of proposals by considering qualitative and quantitative factors. Such evaluation shall be a part of the total analysis used by evaluators, and shall be treated with sufficient emphasis to promote the participation of people of color and women.

Qualitative and Quantitative Evaluations will be conducted by the RTA to select the proposals that demonstrate substantive approaches for meeting the EEO objectives of the RTA, and will be applied in the following circumstances:

- Assessed at time of bid or proposal submittal, contract award or both.
- Assessed either as matters of bidder or proposer:
- Responsiveness to RFQ or RFP,
- Qualifications,
- Compliance for contract award,
- Benchmark for contract performance, or
- Combination of the above

Policy 3 (Guiding Principle I)

The RTA shall develop strategies and procedures to ensure actual performance in meeting if not exceeding EEO projections established at the beginning of the contract.

The EEO approach proposed in response to bid or proposal requirements shall be the benchmark in measuring contract performance, unless the RTA and the proposer negotiate revisions to the proposed approach.

The RTA may include performance incentives to encourage proposers to exceed objectives.

EEO participation elements shall be included in periodic progress reports submitted to the RTA.

EEO aspects of the contract performance shall be monitored and enforced in the same way as other contractual terms and conditions by staff assigned by the RTA to manage the contract.

Policy 4 (Guiding Principle I)

The RTA shall develop policies and strategies that promote and encourage the employment and involvement of persons with disabilities on consultant, professional services and goods & services (purchasing) contracts. Such policies may include an evaluation of a contractor's employment policies, workplace accessibility, and other relevant factors. The RTA will work with consultants, vendors, and suppliers to promote compliance with such policies.

Policy 5 (Guiding Principle I)

The RTA shall develop policies and strategies that promote and encourage the employment and involvement of local residents who live and work in the RTA region. Such policies shall be developed in a manner that enhances the goals for the employment and involvement of persons of color, women, and persons with disabilities.

Policy 6 (Guiding Principle I)

The RTA will work with community groups; state and local public entities; educational, vocational and other training entities; contractor, professional, trade and labor associations and organizations; and other interested parties throughout the region to develop and implement programs and approaches that further the Guiding Principle to promote and encourage a contract workforce that reflects the region's diversity.

Policy 7 (Guiding Principle I)

The RTA's EEO policies shall apply under all interlocal agreements, contracts and other agreements between the RTA and other governmental or quasi-governmental entities or public corporations, or in circumstances where a contractor shall act to procure goods and services on behalf of the RTA, unless other express provisions are agreed upon which result in alternative means for promoting the RTA's EEO policies.

Guiding Principle II: The RTA will promote and encourage the maximum use of local businesses for RTA consultant and professional services contracts, and goods and services (purchasing) contracts.

Policy 1 (Guiding Principle II)

The RTA shall develop opportunities for local businesses to participate in consultant and professional services contracts, and goods and services (purchasing) contracts with the Authority. Such opportunities will be developed in accordance with applicable federal and state statutes, regulations and case law. In developing such opportunities, the RTA will consider strategies which include, but are not limited to, the following:

- Evaluation criteria where the involvement of local firms is reasonably considered to be a positive factor in the ability to perform the scope of work.
- Establishing local business objectives that further define "local" in a manner relevant to the RTA, and that are reasonable and in the best interests of the RTA.

Policy 2 (Guiding Principle II)

In defining “local” for the establishment of local business objectives, the following might be considered as factors:

- Length of time firm has physically operated its business, a principal office, or branch office within the Puget Sound region;
- Location of firm’s initial and current operations within the RTA district if less than a determined number of years in business;
- Location of firm’s banking and business support services within the Puget Sound region, and length of time such services have been provided;
- Location and length of the residency of the firm’s key personnel within the Puget Sound region
- Location of clients within the Puget Sound region the firm has served over a reasonable period of time since the firm has been in business; and
- Other factors that reasonably establish the local character of the business.

Policy 3 (Guiding Principle II)

The RTA shall conduct a legal and procurement policy review to determine the extent to which strategies may be developed and implemented to maximize the use of local businesses on contracts with the RTA.

Policy 4 (Guiding Principle II)

The RTA shall develop policies and strategies that promote and encourage the involvement of businesses located in and historically serving people in the RTA region in a manner that enhances the RTA’s policies and strategies to maximize the involvement of small businesses and M/W/DBEs.

Policy 5 (Guiding Principle II)

The RTA will work with community groups; state and local public entities; educational, vocational and other training entities; contractor, professional, trade and labor associations and organizations; and other interested parties throughout the region to develop and implement programs and approaches that further the Guiding Principles to promote and encourage the maximum use of local businesses, small businesses and M/W/DBEs.

Guiding Principle III: The RTA will promote and encourage the maximum use of small businesses for RTA consultant and professional services contracts, and goods and services (purchasing) contracts.

Policy 1 (Guiding Principle III)

The RTA shall develop consultant and professional services contract opportunities, and goods and services (purchasing) contract opportunities for small businesses to participate as prime contractors with the RTA. Such opportunities will be developed in accordance with applicable federal and state statutes, regulations and case law. In developing these contract opportunities, the RTA will consider various approaches including, but not limited to, the following:

- “Unbundling” contracts, dividing them into smaller components that enable smaller businesses to propose or bid.
- Establishing a race and gender neutral small business program that will further define “small business” for purposes of RTA contracting, and setting small business contracting goals that complement M/W/DBE goals.

- Developing procurement procedures, bid and proposal documents, contract documents and business practices that are “small business friendly” and that encourage small businesses to seek to do business with the RTA.
- In conjunction with developing contract opportunities for M/W/DBEs, regularly host and participate in contract opportunity meetings to provide information on goods and services that will be sought by the RTA, provide information on how to do business with the RTA, and provide opportunities for small business and M/W/DBE owners to meet with RTA staff seeking such goods and services. Such meetings may also be used to elicit ideas from small business owners about better ways to do business with small business, and methods in which unbundling may be accomplished in a cost effective manner. The meetings may also be used for firms to network with larger contractors and other small firms. The RTA may coordinate such meetings with other public agencies, large private businesses and organizations with a shared interest in doing business with small business.

Policy 2 (Guiding Principle III)

The RTA shall develop consultant and professional services contract, and goods and services (purchasing) contract procedures that will make it easier for small businesses to do business with the RTA and with larger RTA contractors. These procedures may include, but are not limited to, the following:

- Accelerated invoice review and payment of (small) contractors.
- Prompt payment of prime or subcontractors.
- Direct contact opportunities between subcontractors and the RTA.
- In conjunction with developing contract opportunities for M/W/DBEs, develop “second tier” contract approaches in which the prime contractor develops strategies and conducts procurement of small business contracting on behalf of the RTA as a part of the prime contractor’s scope of work.

Guiding Principle IV: The RTA will promote and encourage the maximum use of minority, women and disadvantaged businesses (M/W/DBEs) for RTA consultant and professional services contracts, and goods and services (purchasing) contracts.

Policy 1 (Guiding Principle IV)

The RTA shall set overall M/W/DBE numerical goals to measure the annual level of participation of M/W/DBE firms on RTA-awarded consultant and professional services contracts, and goods and services (purchasing) contracts. These numerical goals, reflecting the diversity of the regional contracting community, shall be set in accordance with applicable federal and state statutes, regulations and case law. The RTA may additionally set departmental and project goals to meet the objective of Guiding Principle IV of maximizing M/W/DBE participation

Federal DBE goal will continue to be established for contracts involving U. S. Department of Transportation funds. This goal shall be set in accordance with federal regulations.¹

RTA MBE and WBE goals will be established, initially using data from the most recent disparity study information available. Goals will be updated based on the disparity study currently being jointly conducted for the RTA and other entities. The RTA’s performance will be monitored

¹ RTA has a DBE Program with the U. S. DOT Federal Transit Administration. The present DBE Goal is 18%.

annually against such goals. The RTA's goals will be reviewed on a biennial basis, consistent with disparity study results and case law.²

Departmental and project goals may be set by the executive director to the extent that such goals further the Guiding Principles, or where such goals more appropriately reflect contracting activities.

Policy 2 (Guiding Principle IV)

The RTA shall use a case-by-case analysis to develop approaches and numerical goals for M/W/DBE participation on consultant and professional services contracts, and goods and services (purchasing) contracts. Such analysis will be made in accordance with applicable federal and state statutes, regulations and case law. The case-by-case approach will be used to appropriately maximize M/W/DBE participation for the particular contract considering the following factors:

- Availability of M/W/DBE firms to perform various aspects of the scope of work,
- Availability of M/W/DBE firms to perform as prime contractors,
- Whether the contract may be broken into smaller sizes,
- Whether the contract may reasonably involve subcontracting,
- Developmental opportunities that provide added skills for the M/W/DBE firms,
- Whether a percentage preference approach may be used on bids or proposals,
- Whether joint venture strategies may be encouraged, and
- Other innovative approaches may be used that reasonably provide opportunities for M/W/DBE participation.

Case-by-case analysis would include an assessment of the following approaches:

- Minimum contract goals or requirements (separate or single goals or requirements for MBE and WBE participation³).
- Percentage preference approach for bids or proposals.
- Flexible Goals and Objectives (e.g., Proposers develop M/W/DBE & EEO plans, "Market Approach" with no minimum percentages, Premium for Joint Ventures and "Lead Roles").
- "Developmental Opportunities" for M/W/DBEs who subcontract with larger firms to develop future capabilities.
- Goals established would include MBE and WBE participation in most cases with the following exceptions:
 1. Federal requirements supersede, or
 2. The availability for M/W/DBE firms makes goal-setting for separate or single MBE and WBE participation infeasible, and a combined goal is the only feasible manner to meet the RTA's objectives.
- Prime Contract Set-asides.
- Soliciting and encouraging proposals from M/W/DBEs.
- Specific racial or gender targets.
- Waivers.
- A combination of the above approaches.
- Other measures designed to meet the objective.

² A previous disparity study sponsored by local government entities in King and Pierce Counties was conducted in 1990. The RTA is a sponsoring jurisdiction of a current study, to be completed by the end of 1997.

³ "Separate" goals MBE and WBE participation is defined as a goal for MBE and WBE participation. "Single" goal for MBE and WBE participation is defined as a goal for either with no corresponding goal for the other.

Case-by-Case M/W/DBE Analysis will be conducted to determine the appropriate approach to be applied to specific contracts. In the past, M/W/DBE programs have focused almost entirely on subcontracting approaches using rigid and fixed numbers regardless of the nature of the contract. This rigid, "one size fits all" approach has resulted in significant dissatisfaction by all interested parties. The case-by-case approach allows for tailoring the contract for the most feasible and practicable approaches to meet M/W/DBE participation objectives, including instances that allow for reserve contracting to M/W/DBE firms or for waiver of goals.

Policy 3 (Guiding Principle IV)

Approaches and numerical goals to maximize M/W/DBE participation shall be consistent with practices and procedures to ensure that such business participation is legitimately performed by firms owned and controlled by minorities and women, not by firms that act as 'fronts', 'shams' or 'pass-throughs'. Such participation shall consist of the performance of distinct and meaningful work.

Policy 4 (Guiding Principle IV)

The RTA will develop strategies that enable potential M/W/DBE subcontractor firms the opportunity to market to a wide array of prime contractors. Such strategies may include, but are not limited to, the following:

- Prohibiting exclusive team requirements that are controlled by prime contractors as a condition for M/W/DBE firms to be considered for team placement.
- Provisions in which not all members of the team are required to be identified at the time of the initial proposal, but selected by prime proposers at a later date after discussion with and examination by the RTA.
- Developing "second tier" contract approaches in which the prime contractor develops strategies and conducts procurement of small business contracting on behalf of the RTA as a part of the prime contractor's scope of work.

Policy 5 (Guiding Principle IV)

In conjunction with developing contract opportunities for small businesses, the RTA shall regularly host and participate in contract opportunity meetings to provide information on goods and services that will be sought by the RTA, provide information on how to do business with the RTA, and provide opportunities for small business and M/W/DBE owners to meet with RTA staff seeking such goods and services. Such meetings may also be used to elicit ideas from small business and M/W/DBE owners about better ways to do business with small business, and methods in which policies to maximize M/W/DBE participation may be accomplished. The meetings may also be used for firms to network with larger contractors and other small firms. The RTA may coordinate such meetings with other public agencies, large private businesses and organizations with a shared interest in doing business with M/W/DBEs and small business.

Policy 6 (Guiding Principle IV)

The RTA will evaluate M/W/DBE aspects of proposals by considering qualitative and quantitative factors. Such evaluation shall be a part of the total analysis used by evaluators, and shall be treated with sufficient emphasis to promote and encourage significant and meaningful M/W/DBE participation.

Qualitative and Quantitative Evaluations will be conducted by the RTA to select the proposals that demonstrate substantive approaches for meeting the M/W/DBE objectives of the RTA, and will be applied in the following circumstances:

- Assessed at time of bid or proposal submittal, contract award or both.
- Assessed either as matters of bidder or proposer:
- Responsiveness to RFQ or RFP,
- Qualifications,
- Compliance for contract award,
- Benchmark for contract performance, or
- Combination of the above

Policy 7 (Guiding Principle IV)

The RTA shall develop strategies and procedures to ensure actual performance in meeting if not exceeding M/W/DBE projections established at the beginning of the contract.

The M/W/DBE approach proposed in response to RFQ/P requirements shall be the benchmark in measuring contract performance, unless the RTA and the proposer negotiate revisions to the proposed approach.

The RTA may include performance incentives to encourage proposers to exceed objectives.

M/W/DBE participation elements shall be included in periodic progress reports submitted to the RTA.

M/W/DBE aspects of the contract performance shall be monitored and enforced in the same way as other contractual terms and conditions by staff assigned by the RTA to manage the contract.

Policy 8 (Guiding Principle IV)

The RTA's M/W/DBE policies shall apply under all interlocal agreements, contracts and other agreements between the RTA and other governmental or quasi-governmental entities or public corporations, or in circumstances where a contractor shall act to procure goods and services on behalf of the RTA, unless other express provisions are agreed upon which promote the RTA's M/W/DBE policies.