

# MULTNOMAH COUNTY OREGON

OFFICE OF THE BOARD CLERK  
SUITE 1510, PORTLAND BUILDING  
1120 S.W. FIFTH AVENUE  
PORTLAND, OREGON 97204

<u>BOARD OF COUNTY COMMISSIONERS</u>		
GLADYS McCOY •	CHAIR •	248-3308
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GARY HANSEN •	DISTRICT 2 •	248-5219
TANYA COLLIER •	DISTRICT 3 •	248-5217
SHARRON KELLEY •	DISTRICT 4 •	248-5213
CLERK'S OFFICE •	248-3277 •	248-5222

## AGENDA

### MEETINGS OF THE MULTNOMAH COUNTY BOARD OF COMMISSIONERS

#### FOR THE WEEK OF

MARCH 29 - APRIL 2, 1993

Tuesday, March 30, 1993 - 9:30 AM - Board Briefings. . . . .Page 2  
 Tuesday, March 30, 1993 - 11:00 AM - Agenda Review . . . . .Page 2  
 Thursday, April 1, 1993 - 9:30 AM - Regular Meeting. . . . .Page 2  
 Friday, April 2, 1993 - 11:00 AM - Public Hearing. . . . .Page 4

Thursday Meetings of the Multnomah County Board of Commissioners are taped and can be seen at the following times:

Thursday, 10:00 PM, Channel 11 for East and West side subscribers  
 Thursday, 10:00 PM, Channel 49 for Columbia Cable (Vancouver) subscribers  
 Friday, 6:00 PM, Channel 22 for Paragon Cable (Multnomah East) subscribers  
 Saturday 12:00 PM, Channel 21 for East Portland and East County subscribers

INDIVIDUALS WITH DISABILITIES MAY CALL THE OFFICE OF THE BOARD CLERK AT 248-3277 OR 248-5222 OR MULTNOMAH COUNTY TDD PHONE 248-5040 FOR INFORMATION ON AVAILABLE SERVICES AND ACCESSIBILITY.

Tuesday, March 30, 1993 - 9:30 AM

Multnomah County Courthouse, Room 602

BOARD BRIEFINGS

- B-1 Fair Housing Advisory Task Force Report and Recommendations. Presented by Cecile Pitts and Janet Hawkins. 9:30 AM TIME CERTAIN, 30 MINUTES REQUESTED.
- B-2 Legislative Update. Presented by Fred Neal and Howard Klink. 10:00 AM TIME CERTAIN, 30 MINUTES REQUESTED.
- B-3 Final Report of the Multi-Jurisdictional Disparity Predicate (M/WBE) Feasibility Study. Presented by Lillie Walker and Chip Lazenby. 10:30 AM TIME CERTAIN, 30 MINUTES REQUESTED.
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Tuesday, March 30, 1993 - 11:00 AM

Multnomah County Courthouse, Room 602

AGENDA REVIEW

- B-4 Review of Agenda for Regular Meeting of April 1, 1993.
- 

Thursday, April 1, 1993 - 9:30 AM

Multnomah County Courthouse, Room 602

REGULAR MEETING

CONSENT CALENDAR

DEPARTMENT OF HEALTH

- C-1 Ratification of Intergovernmental Revenue Agreement, Contract #201523, Between Multnomah County and the State of Oregon Office of Medical Assistance Programs, Providing State Clients with Medical and Dental Services, for the Period April 1, 1993 through September 30, 1993

REGULAR AGENDA

NON-DEPARTMENTAL

MANAGEMENT SUPPORT SERVICES

- R-1 RESOLUTION in the Matter of Authorizing and Approving of the Issuance and Negotiated Sale of the Series 1993A Certificates of Participation, Approving and Authorizing a Lease-Purchase and Escrow Agreement, a Certificate Purchase Agreement and a Final and Preliminary Official Statement; Designating an Authorized Representative; Approving of an Advance Refunding Plan; and Repealing Resolution 92-242

NON-DEPARTMENTAL

MANAGEMENT SUPPORT SERVICES - continued

- R-2 RESOLUTION in the Matter of the Declaration of Official Intent to Reimburse Capital Expenditures with Proceeds of the Certificates of Participation, Series 1993A, Issued to Finance, in Part, the Northeast Health Clinic
- R-3 RESOLUTION in the Matter of Authorizing and Approving of the Issuance and Negotiated Sale of the Series 1993B Taxable Certificates of Participation; Approving and Authorizing a Lease-Purchase and Escrow Agreement, a Certificate Purchase Agreement and a Final and Preliminary Official Statement; and Designating an Authorized Representative

DEPARTMENT OF ENVIRONMENTAL SERVICES

- R-4 Ratification of Intergovernmental Agreement, Contract #301973, Between Multnomah County and the City of Portland, Providing Transfer of the Fiscal Administration of the Multnomah County Cable Fund to the City of Portland, for the Period April 1, 1993 through May 31, 1993

DEPARTMENT OF HEALTH

- R-5 First Reading of an ORDINANCE Establishing Emergency Medical Services (EMS) User Fees to be Paid by Licensees and Incorporating the Fees into MCC Chapter 5.10 (County Fees)

NON-DEPARTMENTAL

- R-6 RESOLUTION in the Matter of the Preservation and Maximization of Jail Beds and Other Corrections Related Activities in Multnomah County, Oregon (CONTINUED FROM MARCH 25, 1993)
- R-7 Second Reading and Possible Adoption of an ORDINANCE Designating the Citizens Steering Committee of the Citizens Convention as an Advisory Committee of Multnomah County
- R-8 PROCLAMATION in the Matter of Proclaiming APRIL 1993 as FAIR HOUSING MONTH
- R-9 RESOLUTION in the Matter of Affirming Mutual Agreements with the City of Fairview for Share of Property Tax Receipts
- R-10 RESOLUTION in the Matter of Affirming Mutual Agreements with the City of Wood Village for Share of Property Tax Receipts for Fiscal Year 1993-94
- R-11 In the Matter of RESOLUTION Supporting the Oregon Transportation Plan (OTP) Legislative Package
- R-12 RESOLUTION in the Matter of [Opposing] House Bill 3505 Proposing to Amend State Wildlife Policy and Goals

VACANT POSITION COMMITTEE RECOMMENDATIONS  
HIRING FREEZE BUDGET MODIFICATIONS

- R-13 Budget Modification DES #24 Proposing Reduction of One Cartographer Position in the Division of Assessment and Taxation Records Management Program
- R-14 Budget Modification DES #25 Proposing Reduction of One Office Assistant/Senior Position in the Division of Assessment and Taxation Records Management Program
- R-15 Budget Modification DES #26 Proposing Reduction of One Office Assistant/Senior Position in the Division of Assessment and Taxation Appraisal/Clerical Program
- R-16 Budget Modification NOND #28 Proposing Deletion of a Vacant Staff Assistant Position in Commissioner District 1 Division
- R-17 Budget Modification NOND #29 Proposing Deletion of a Vacant Fiscal Specialist II Position in Finance Division
- R-18 Budget Modification NOND #30 Proposing Deletion of a Vacant Fiscal Specialist I Position in Finance Division
- R-19 Budget Modification NOND #31 Proposing Reduction of One Half-Time OAII Position in Employee Services Division

PUBLIC COMMENT

- R-20 Opportunity for Public Comment on Non-Agenda Matters. Testimony Limited to Three Minutes Per Person.

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Friday, April 2, 1993 - 11:00 AM

Multnomah County Courthouse, Room 602

PUBLIC HEARING

- H-1 In Compliance with ORS 294.480 (4), the Tax Supervising & Conservation Commission Will Conduct a Public Hearing on the Multnomah County 1992-93 Supplemental Budget.

TANYA COLLIER  
Multnomah County Commissioner  
District 3.



1120 SW Fifth St., Suite 1500  
Portland, OR 97204  
(503) 248-5217

## MEMORANDUM

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TO: Board of County Commissioners  
Office of the Clerk of the Board

FROM: Tanya Collier

DATE: March 29, 1993

SUBJECT: Early departure from the BCC Morning meeting on March 30, 1993

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I will be leaving the morning BCC meeting at 10:45 a.m. I will be attending the Columbia-Pacific Building and Constructions Trade Council meeting which begins at 11:00 a.m.

1993 MAR 29 PM 12:06  
BOARD OF  
COUNTY COMMISSIONERS  
MULTNOMAH COUNTY  
OREGON

Meeting Date: March 30, 1993

Agenda No: B-1  
(Above space for Clerk's Office Use)

AGENDA PLACEMENT FORM  
(For Non-Budgetary Items)

Subject: Fair Housing Advisory Task Force Report & Recommendations Document

Board Briefing: March 30, 1993 Regular Meeting: \_\_\_\_\_

DEPARTMENT: Social Services DIVISION: Housing & Community Svcs.

PERSON(S) MAKING PRESENTATION: Cecile Pitts/Janet Hawkins

ACTION REQUESTED:

INFORMATIONAL ONLY     POLICY DIRECTION     APPROVAL

ESTIMATED TIME NEEDED ON AGENDA: 30 minutes  
~~20 minutes~~

CHECK IF YOU REQUIRE OFFICIAL WRITTEN NOTICE OF ACTION TAKEN: \_\_\_\_\_

BRIEF SUMMARY (Include statement of rationale for action requested, as well as personnel and fiscal/budgetary impacts, if applicable):

The Fair Housing Advisory Task Force Report & Recommendations document is an informational item to the Board of Commissioners. The document, prepared as a part of the Comprehensive Housing Affordability Strategy process, is designed to give policy guidance to the development of a county-wide program for fair housing.

There are no personnel or fiscal/budgetary impacts created by the document.

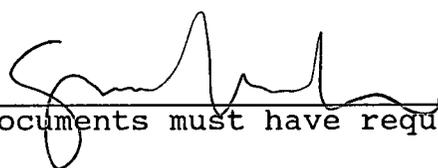
SIGNATURES:

ELECTED OFFICIAL: \_\_\_\_\_

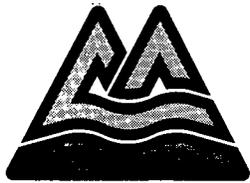
OR

DEPARTMENT MANAGER: \_\_\_\_\_

(All accompanying documents must have required signatures)



1993 MAR 22 PM 4: 27  
MULTNOMAH COUNTY  
OREGON  
BOARD OF COUNTY COMMISSIONERS



# MULTNOMAH COUNTY OREGON

DEPARTMENT OF SOCIAL SERVICES  
HOUSING AND COMMUNITY SERVICES DIVISION (503) 248-3339  
COMMUNITY DEVELOPMENT PROGRAM OFFICE (503) 248-5000  
2115 S.E. MORRISON  
PORTLAND, OREGON 97214  
FAX: (503) 248-3048

BOARD OF COUNTY COMMISSIONERS  
GLADYS McCOY • CHAIR OF THE BOARD  
PAULINE ANDERSON • DISTRICT 1 COMMISSIONER  
GARY HANSEN • DISTRICT 2 COMMISSIONER  
RICK BAUMAN • DISTRICT 3 COMMISSIONER  
SHARRON KELLEY • DISTRICT 4 COMMISSIONER

## MEMORANDUM

**TO:** Multnomah County Board of Commissioners

**FROM:** Cecile Pitts, Program Manager  
Community Development Program

**RE:** Fair Housing Advisory Task Force Report &  
Recommendations

**DATE:** March 22, 1993

Attached you will find a copy of the Fair Housing Advisory Task Force Report & Recommendations document.

The Task Force was organized to offer advice, input and guidance to the development of a county-wide fair housing program to be collaboratively planned and implemented by the three CHAS jurisdictions of Portland, Gresham and Multnomah County. One goal of the CHAS planning process has been to consolidate service with the intent to conserve resources and better serve program beneficiaries. It is our perception that the Fair Housing Advisory Task Force's recommendations will further that goal.

The Task Force Report & Recommendations document makes three major recommendations. First, establish an expanded civil rights enforcement project. Second, enhance and expand existing education and outreach services. Finally, conduct a county-wide audit study to determine the nature and extent of housing discrimination in Multnomah County.

j-722C

**Fair Housing Advisory Task Force:**

**REPORT & RECOMMENDATIONS**

**Presented To:**

**The Housing & Community Development Commission  
City of Portland  
City of Gresham  
Multnomah County**

**December, 1992**

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**GLOSSARY OF TERMS & ABBREVIATIONS**  
**Fair Housing Advisory Task Force**  
**Report & Recommendations Document**

Administrative or Judicial Complaint Resolution--A complainant can elect to have their discrimination complaint resolved through filing an administrative complaint with the U.S. Department of Housing and Urban Development, as well as with any equivalent state or local agency, or by filing a case in federal or state court. Administrative determinations are made by the agency. Judicial decisions are made by the courts.

BOLI--Bureau of Labor and Industries (State of Oregon).

CDBG--Community Development Block Grant (U.S. Department of Housing & Urban Development).

CHAS--Comprehensive Housing Affordability Strategy (U.S. Department of Housing & Urban Development).

Complainant/Respondent--The complainant files the civil rights complaint. The respondent is the person(s) named in the complaint.

FHAP--Fair Housing Assistance Program (U.S. Department of Housing & Urban Development).

FHIP--Fair Housing Initiatives Program (U.S. Department of Housing & Urban Development).

HUD--U.S. Department of Housing & Urban Development.

HCDC--Housing and Community Development Commission (Interjurisdictional agency formed by the City of Portland, City of Gresham, Multnomah County and Housing Authority of Portland).

Probable Cause--Reasonable grounds for presuming guilt or wrongdoing by someone named in a housing discrimination complaint.

Substantial Equivalency--U.S. Department of Housing and Urban Development's designation for state or local government civil rights programs in housing that have remedies and procedures equivalent to the federal Fair Housing Amendments Act.

Testing--A practice for detecting housing discrimination in a rental or real estate transactions. Two individuals with similar economic profiles, one being a member of a protected class while the other is a non-protected class person, inquire about the availability of the same housing that is for sale or rent. Different treatment of these "testers" indicates a discriminatory bias. Complaint-driven testing is used when an aggrieved person files a formal complaint. Audit testing is a methodology used for researching the status of discriminatory activities in a particular housing market.

**Fair Housing Advisory Task Force  
December, 1992**

**REPORT & RECOMMENDATIONS**

**I. EXECUTIVE SUMMARY:**

This Report & Recommendations document is organized into five sections: I. Executive Summary, II. Background, III. Nature of the Need, IV. Recommendations, and V. Conclusion.

The charge of the Fair Housing Advisory Task Force was three-fold. First, to examine the extent of housing discrimination problem. Second, to review current public and private fair housing services in Multnomah County. Third, to make recommendations for a county-wide program to be planned collaboratively and cooperatively funded by the three Comprehensive Housing Affordability Strategy (CHAS) planning jurisdictions--City of Portland, City of Gresham and Multnomah County.

**Housing Discrimination:**

The Task Force resolved that housing discrimination is extensive. This conclusion was based upon a number of factors. One measure was a national study done by the Urban Institute in housing markets similar to Portland. The study uncovered through "paired testing" an overwhelming incidence of discrimination toward racial and ethnic minorities. Although in Multnomah County, the reported number of discrimination complaints is not overly large, the Task Force concluded that discriminatory practices are more subtle and may go unreported. These subtle discriminatory practices highlight the need for outreach and education to people within the classes protected by civil rights laws.

Another factor was the racial and ethnic concentration, delineated in the 1990 Census information, in particular neighborhoods. These concentrations suggest limited housing choices for these groups. The Task Force determined that an audit study would establish whether choice or discrimination was the cause for concentrations.

**Public And Private Fair Housing Services:**

The Task Force identified the major service providers and the type of fair housing services offered. No examination was made as to how well providers conducted their programs. The Task Force saw a patchwork of programs that must be confusing for the consumer.

As to the services provided, the obvious gap was enforcement. The Task force concluded that a centralized service with enforcement was necessary to any county-wide strategy. This is in

agreement with the 1992 MHRC Task Force document and is reflected in the Report & Recommendations document.

### **Recommendations Toward A County-Wide Strategy:**

The three major recommendations contained in this Report & Recommendations are:

**(1) Develop a county-wide civil rights enforcement project, based upon the Metropolitan Human Relations Commission (MHRC) Task Force Report issued in February, 1992.** The MHRC model combines investigation, testing, legal representation, mediation and an administrative hearing process in one locally based program to enforce civil rights in housing. The goal is to develop a process that serves victims of discrimination swiftly and appropriately. The critical component is a testing program to make a quick determination of probable cause to believe that discrimination has occurred.

**(2) The City of Portland, City of Gresham and Multnomah County should create a comprehensive education and outreach program for housing consumers.** Seek ways to coordinate education and outreach for all three jurisdictions, as well as enhance current program services. Education and outreach activities can be made available to housing consumers, as well as housing providers, informing of them of their rights and responsibilities under civil rights law.

**(3) Develop a county-wide fair housing audit study, utilizing a paired housing tester methodology, to expand the current information on the incidence of housing discrimination in Multnomah County.** This recommendation addresses the need to gain more information on the problems associated with the under-reporting of civil rights claims in housing.

This Report & Recommendations document is the first step in a system development process. All three CDBG jurisdictions and the Housing and Community Development Commission (HCDC) will be asked to consider the recommendations and submit comments for incorporation into the final document. Next steps in program planning include: Development of specific project plans, budget needs and implementation proposals. These proposals will be developed in partnership with public and private agencies. The budget elements which are appropriate for public funding will be subject to an equitable division between the CDBG jurisdictions. The final step in this system development process, will be the presentation of specific project implementation plans and budgets to local government decision-makers.

## **II. BACKGROUND:**

The charge of the Fair Housing Advisory Task Force has been to examine the extent of housing discrimination in Multnomah County; review current public and private program services; and make recommendations for the development of comprehensive, county-wide program. In addition to a review of local programs and existing fair housing studies, research regarding other fair housing program service delivery systems in other Community Development Block Grant (CDBG) entitlement communities was conducted. Federal CDBG requirements regarding fair housing were also examined. A U.S. Department of Housing and Urban Development (HUD) memorandum on fair housing obligations is included as **Attachment #1**.

The Task Force has issued this Report & Recommendations document in order to frame the work plan for the coordination of the City of Portland, City of Gresham and Multnomah County fair housing activities for the remainder of the fiscal year--October, 1992-June 30, 1993. This Report & Recommendations will be submitted to the City of Portland's Bureau of Community Development, City of Gresham Community Development Program and Multnomah County Community Development Program. It will also be submitted to the Housing and Community Development Commission for use in Comprehensive Housing Assistance Strategy (CHAS) planning activities. Implementation of the action on the recommendations will be carried out, either jointly or individually, by local housing and community development agencies.

Fair Housing Advisory Task Force members were chosen to represent a diversity of interests and perspectives on the issue of fair housing. A roster of Task Force members is included as **Attachment #2** to this Report & Recommendations. The Task Force met seven times between July-November, 1992. Meeting minutes are included as **Attachment #3**.

### III. NATURE OF THE NEED

#### 1. Protected Class Housing Patterns In The Portland Metropolitan Area.

Dr. Carl Abbott, a professor at Portland State University's Center for Urban Studies, recently completed a report entitled "Ethnic Minorities in Portland: A 1990 Census Profile." In this report, Dr. Abbott notes that the Portland metropolitan area has the second lowest percentage of minority residents among metropolitan areas with populations of one million or more. (1) The following table, drawn from the Multnomah County CHAS, documents the numbers of racial and ethnic populations in the metropolitan area.(2)

**TABLE 1**

Jurisdiction	Hispanic (any race)	White	Black	Native American	Asian/ Pacific Islander	Other
Fairview	101	2,211	16	28	35	0
Gresham	2,284	62,084	720	601	1,793	33
Maywood Park	10	754	6	4	7	0
Portland	13,874	370,135	33,530	5,399	23,185	5,070
Troutdale	251	7,253	142	41	165	0
Wood Village	107	2,617	25	34	30	1
<b>Total</b>	<b>16,627</b>	<b>445,774</b>	<b>34,439</b>	<b>6,107</b>	<b>25,215</b>	<b>5,104</b>

Although the Portland metropolitan area has a relatively low number of ethnic and racial minorities living in the region, protected class populations continue to grow as a percentage of population within the City of Portland as illustrated by Table 2:

**TABLE 2**

Year	Hispanic (any race)	Black	Native American	Asian/ Pacific Islander	Other
1970	1.7%	5.6%	0.5%	1.3%	0.3%
1980	2.1%	7.6%	1.0%	2.9%	2.0%
1990	3.2%	7.7%	1.2%	5.3%	1.2%

(1) "Ethnic Minorities in Portland: A 1990 Census Profile," September 1991, Center for Urban Studies, School of Urban and Public Affairs, Portland State University.

(2) "Multnomah County Comprehensive Housing Affordability Strategy 1991-1996," City of Portland, City of Gresham and Multnomah County.

One of the important things **Table 2** illustrates is that while the population of African-Americans has remained relatively constant for the last 20 years, the percentage of Asian-Americans has grown significantly. (3) City of Portland annexation activity in mid-Multnomah County, an area with predominately white residents, accounts for the population of African-Americans remaining relatively constant to the overall population. However, even this area has experienced change due to the growing population of Asian-American immigrants who have migrated to the mid-County area.

The challenge facing Oregon's largest metropolitan area--Portland--comes from traditional racial and ethnic housing concentration patterns within the city. The maps in **Attachment #4** illustrate census tracts where the protected class populations contain at least twice the percentage of population that a particular group represents in the Multnomah County's population as a whole. The Multnomah County CHAS plan points to this concentration problem as an issue to be addressed:

"...African-Americans make up 6 percent of Multnomah County's population. Map 1 shows those tracts in which African-Americans make up at least 12 percent of the population within those tracts. Within tracts 33.01 and 34.01, African-Americans respectively make up 68 and 70 percent of the populations of these tracts. No other ethnic groups approach this level of concentration. This is also the only group which can be said to be proportionately concentrated within one area of the city." (4)

Asian-Americans tend toward concentration in the inner and southeast areas of Portland, while Hispanics have the largest numbers of population outside the City of Portland's boundaries. (See **Attachment #4**). This concentration issue is highlighted when viewed in the context of the general dispersal pattern of minority groups in Multnomah County presented as a percentage of population in **Table 3**: (5)

**TABLE 3**

Metropolitan Area	Hispanic (any race)	White	Black	Native American	Asian/ Pacific Islander
N/NE Portland	3.6	78.6	13.8	1.4	4.9
SE Portland	3.0	90.0	1.6	1.2	6.1
West Portland	2.4	92.6	1.9	0.8	4.0
Outer Multnomah County	3.2	94.2	1.1	0.9	2.5

(3) "Multnomah County Comprehensive Housing Affordability Strategy 1991-1996," City of Portland, City of Gresham and Multnomah County.

(4) Ibid.

(5) "Ethnic Minorities in Portland: A 1990 Census Profile," September 1991, Center for Urban Studies, School of Urban and Public Affairs, Portland State University.

The final map in Attachment #4 illustrates the correspondence between census tracts of protected class persons with low-income census tracts. The correspondence between areas of racial concentration and low-income census tracts, which often have unsafe and substandard housing, belies the commonly argued point that protected class persons may "prefer to live in certain neighborhoods." True, some individuals or families may have a preference to live in concentrated housing with members of their own ethnic or racial group. But this argument begs the question of whether there are actual limits on housing choice reinforced by the barriers of red lining, blockbusting and other forms of housing discrimination. Yes, people may "choose." But, in actuality, are their choices limited by hidden, illegal barriers?

Limits on housing choice have been a reoccurring theme in Portland's history. Oregon Public Broadcasting produced a documentary in 1990 called "Local Color" which described the overt efforts of the Portland Board of Realtors in the 1940's and 1950's to restrict the housing of the African-American population to inner Northeast Portland.

Finally, a 1983 study of housing patterns in Portland, conducted by Bardsley and Haslacher, Inc. on the behalf of the Housing Integration Task Force, indicated that whites and African-Americans held disparate views on housing integration:

"...39% of the white residents expressed a preference for mainly (or all) white neighborhoods, 53% expressed a preference for integrated neighborhoods while 7% were "undecided." Of the Black respondents, 5% expressed a preference for mainly (or all) Black neighborhoods, 93% expressed a preference for integrated neighborhoods and 2% were undecided." (6)

Ninety-three percent (93%) indicates a strong preference for an integrated housing setting.

## **2. Fair Housing Complaint Activity.**

The most distinct indicator of a state-wide housing discrimination problem is the incidence of formal complaints made to local fair housing agencies and the U.S. Department of HUD. The State of Oregon's Civil Rights Division has lost its HUD designation as a "substantially equivalent" agency, so therefore it can only enforce the state laws on housing discrimination. Many discrimination complaints are handled by a network of non-profit agencies with active fair housing programs, including: the Fair Housing Council of Oregon, Multnomah County Legal Aid Service, Inc. and Oregon Legal Services, Inc. The Fair Housing Council operates a state-wide hotline for complaints and conducts testing services in support of complaints. The two Legal Aid programs offer legal advice and assistance to low and moderate income complainants. In addition, the City of Portland, Washington County Community Action Agency, Clackamas County Community Action Agency, and Human Solutions, Inc. all offer more limited information and referral services for persons with discrimination complaints.

The 1990 "State of Fair Housing" Report (7) developed by the U.S. Department of HUD lists reported state-wide complaints to the federal agency as:

1988	1989	1990
30	105	84

The State of Oregon's Civil Rights Division records for recent years report state-wide complaints as:

1989-90	1990-91	1991-92
39	29	29

Both the federal or state agency figures are recorded on a state-wide basis, but a rough estimate of the number of complaints from the Portland metropolitan area is approximately half.

During 1991, the Fair Housing Council of Oregon, working under a federal enforcement grant, reported 123 people in the Portland metropolitan area contacted them with bona fide allegations of housing discrimination. Despite the end of federal grant funding in 1991, the Fair Housing Council of Oregon continued to operate its state-wide fair housing "hotline" service from July, 1991 to June, 1992. The Council received 294 fair housing complaint calls from all areas of Oregon during that period.

Multnomah County Legal Aid Service, Inc. operates its program through Community Development Block Grant (CDBG) contracts with the City of Gresham and Multnomah County. Legal Aid conducts investigation and litigation activities in support of private suits, as well as referring cases to private attorneys. The program serves persons living outside the City of Portland's boundaries in either Gresham or east Multnomah County. The paralegal assigned to the project also assists complainants with referral information to the U.S. Department of HUD. In FY 1991-92, the agency provided assistance to 99 households with fair housing complaints. Legal Aid also negotiated a \$15,000 settlement in June, 1992 for an Hispanic couple who had been illegally evicted from their housing by a landlord.

In addition to the programs that offer formal complaint resolution services, two local programs offer information and referral to persons with housing problems or fair housing inquiries. The City of Portland's Fair Housing Office handled 300 fair housing inquiry calls in FY 1991-92. The Portland Housing Center received 2,600 general housing inquiries in its first year of operation. Over forty percent (40%) of these calls concerned landlord-tenant problems or questions regarding affordable rental housing. Approximately 50 callers were referred to fair housing enforcement agencies.

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(6) New Horizons Task Force "Priority Issue Committee Statement," New Horizons Task Force, 1986, produced under HUD Grant/Cooperative Agreement (HA-12604).

(7) "The State of Fair Housing," U.S. Department of Housing and Urban Development, 1990.

### **3. Housing Discrimination Patterns Documented in National Studies.**

The numbers of reported complaints are only one indicator of the seriousness of housing discrimination in our community. A national study conducted by the Urban Institute in 1991, in conjunction with Syracuse University, used a "paired test" system to determine the extent of the problem. In this type of test, two individuals with similar economic profiles, but with different racial or ethnic backgrounds inquire about the availability of the same housing that is for sale or rent. Their different treatment, by the providers of housing, is compared. The Urban Institute conducted 3,800 tests in 25 metropolitan areas.

The study defined "differential treatment" in three main areas of the typical housing transaction between consumer and provider: 1. Denying the availability of housing units; 2. Withholding information or assistance in completing the housing transaction; and 3. Steering minority and majority customers to different types of neighborhoods. These three categories of treatment were calculated together to form a "gross incidence of unfavorable treatment" index. (8) Under this calculation, the results of the study were alarming.

African-Americans face some form of discrimination 56 percent of the time in the rental housing market; 59 percent in home sales situations. Hispanics were discriminated against 50 percent in rental housing; 56 percent in home sales. Unfortunately, the Portland metropolitan area was not included in the Urban Institute study. However, it is probably fair to assume that the level of bias in Multnomah County's housing market mirrors that of the housing markets described in the national study. The Urban Institute study points to the fact that discriminatory practices have become much more subtle and the enforcement process must, in turn, become more sophisticated to resolve the problem.

### **4. Fair Housing Needs of Special Populations--Sexual Orientation, Age and Source of Income.**

Late in 1991, the City of Portland enacted civil rights protections in employment, housing and public accommodations for three new protected classes. Chapter 23.01 of the city code defines "sexual orientation" as actual or supposed male or female homosexuality, heterosexuality or bisexuality. There is a protection for "age," which is anticipated to serve mainly younger renters. Under Oregon law, there are legal restrictions on the capacity of people 18 years of age and younger to enter into contracts. Landlords had been reluctant to execute a landlord/tenant agreement with people in this age group. The new city ordinance address this issue. Finally, the "source of income" protection provides civil rights coverage for individuals or families whose income may come from government entitlements, court-ordered payments, or any other legal source of income. Participants in the Housing Authority of Portland's Section 8 program were intentionally excluded from the ordinance by the City Council.

(8) "Housing Discrimination Study," August, 1991, The Urban Institute, Washington, D.C., pg. iii.

Since the ordinance went into effect in April, 1992, complaint activity has been very low. The City of Portland contracted with the State's Civil Rights Division and the Fair Housing Council of Oregon to enforce the ordinance. The Civil Rights Division has so far handled no housing complaints. Lack of information is probably contributing to the low incidence of complaints, so the City of Portland and the Civil Rights Division have begun planning for a public information campaign to educate the community on the new ordinance.

## **IV. RECOMMENDATIONS:**

### **Recommendation #1--County-Wide Civil Rights Enforcement Program.**

The City of Portland, City of Gresham and Multnomah County should embark upon a program of enforcement of civil rights in housing. This fair housing enforcement program, which would follow the model outlined in the February, 1992 "Metropolitan Human Relations Commission (MHRC) Task Force Report," is described below:

#### **"MHRC TASK FORCE ENFORCEMENT COMMITTEE RECOMMENDATIONS**

There is a general misconception that human rights advocacy and civil rights enforcement are separate and distinct functions. In practice, they are inseparable.

Advocacy activities range from education and rallies, that may or may not be response driven, to a strategized, progressive enforcement response, that may or may not involve litigation. Enforcement is an integral part of the advocacy continuum. It is the piece that makes the general public and those with disregard for civil rights sit up and take notice. Whether conducting workshops on unlearning racism, seminars on fair housing or media events to publicize imposition of significant fines and punitive damages for violating civil rights, the ultimate objective is the same -- to bring about a positive change in cultural attitudes. And although pursuit of that goal may be a long road, enforcement hastens the route to several objectives of that goal: it earns public credibility for the agency charged with advocacy; it encourages victims to report and work with the agency toward that goal; and even when it does not change the values and attitudes of violators, it results in marked changes in behavior and practices.

There appears to be an underlying concern that delegating enforcement authority to the agency charged with advocating for human rights may somehow bias the enforcement procedure or lead to a perception of bias. Although staff and Commissioners may share common values regarding human rights, there is no inherent conflict in the agencies' ability to process a complaint, conduct an impartial staff investigation and make an objective determination that the evidence does or does not support the allegations. Quite similarly, judges are likely to hold common values based upon their knowledge and respect for the law, however, the public never considers that these values indicate a conflict of interest or alter the judges' ability to offer an objective and fair trial. By implementing a model such as the one the committee proposes on the attached flow chart the only formal decision made by MHRC staff would be whether or not there is sufficient evidence that probable cause exists.

MHRC is the appropriate agency to enforce the City's civil rights ordinance.

Placing enforcement authority with MHRC would provide direct City Council accountability for effectiveness, as well as send a strong message that the City is willing and able to address discrimination and hate. The value of a civil rights ordinance is a function of how well it serves victims of discrimination and the City has a vested interest in making its ordinance effective. Claimants need timely, specific relief (i.e. job reinstatement, housing availability) not an ordeal that rubs salt into the wound due to delay and uncertainty. The key is developing a process that can respond to this need and the enforcement committee believes that their proposed model would enable MHRC to respond quickly, accurately and cost efficiently, without the burden of backlog that BOLI operates under. The enforcement committee members agree that there is no point in pursuing enforcement unless it gets people what they need as quickly as possible. A few well publicized successful claims would greatly increase the credibility of MHRC and encourage residents to call for civil rights assistance and advocacy.

There are three basic components to enforcement models.

1. Means for the complaint to arrive - intake/screen.
2. Means for initial investigation to determine probable cause that violation occurred - investigation.
3. Means for the complaint to be mediated and/or heard - resolved.

The attached flow chart depicts the committee's proposal which is outlined below.

#### PROCEDURE

1. MHRC would provide intake and screening services.
2. Contracted testers would be dispatched within 24 hours, if appropriate - (testers can provide irrefutable proof, which can expedite investigation and save money at later stages).
3. Respondent notified of complaint after testers complete work. MHRC investigator conducts formal investigation to complement testing or when testing is not beneficial, i.e. discriminatory practices.
4. MHRC staff makes a determination whether or not probable cause exists. If there is no substantial evidence, the claim is dismissed. If there is substantial evidence, the claimant is referred to a pool of private attorneys, willing to represent claimants on contingent fee basis. Both sides receive the same file from MHRC and MHRC is no longer an active participant in the proceedings.
5. If the claimant chooses to pursue mediation rather than adjudicative advocacy, MHRC could contract for mediation services as suggested in the MHRC's proposal.

6. Claimants and respondents could choose to pursue either administrative or judicial tracks; however, a request by either party to take the judicial track would take precedence. Both tracks could coexist until a hearing begins in one.
7. Administratively routed cases would be heard by a City hearings officer (utilizing current staff or contracting).
8. Judicially routed cases would proceed to Federal or State Court. Appeals would be made to respective Courts of Appeals.

Angela Kane's MHRC enforcement proposal estimates that one new intake and one new investigation staff would be sufficient to process the anticipated number of complaints - currently, MHRC receives 400 calls per year, estimate of 50 to be referred to mediation and 10 to proceed to hearings. Costs for enforcement staff and mediation services, excluding hearings officer and testing services, are estimated at an additional \$85,700 per year. If MHRC develops procedures and remedies which meet State and Federal equivalency requirements, MHRC would be entitled to receive State and Federal monies for cases involving respectively protected classes.

The committee strongly recommends that MHRC utilize testers to make a quick determination of probable cause in appropriate complaints. The Fair Housing Council of Oregon has already contacted the city with a proposal to provide testing services.

In summary, the enforcement committee stresses that enforcement is an integral and critical part of advocacy and there is no conflict in delegating enforcement authority to the agency charged with "fostering mutual understanding and respect, and to protect the human rights of all economic, religious, ethnic, racial, national origin, disability, age, sex and sexual orientation groups in Multnomah County". MHRC is the best agency to enforce the city's civil rights ordinance, and development of a process that serves victims of discrimination swiftly and appropriately is imperative." (9)

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(9) MHRC Task Force Report, February, 1992, pgs. 11-13.

## **DISCUSSION:**

The Fair Housing Advisory Task Force recommends adoption of the enforcement process outlined in the February, 1992 MHRC document. In addition, the Fair Housing Advisory Task Force recommends that the Metropolitan Human Rights Commission be the designated carrier for program implementation.

The Enforcement Program Flow Chart accompanying the MHRC Enforcement Committee Report is included in this Report & Recommendations as **Attachment #5**.

The members of the Task Force agreed that an effective enforcement program for civil rights in housing is central to ensuring one of the most basic needs in our community--equal access to housing. Fair housing enforcement programs in the metropolitan area, which are funded through a variety of public and private sources, constitute a "patchwork" effort to enforce the civil rights laws. There is no one, single entry point for an individual complainant to receive a comprehensive array of services, eg. fair housing information, investigation of the complaint, testing in support of the complaint, and legal representation. Instead, a number of different agencies network to provide the type of enforcement process outlined in the MHRC Task Force Report. The 1991 City Club of Portland housing study characterized the local enforcement system as confusing for complainants: "The sheer number of locations where a person can report discrimination may be a problem...". (10)

Civil rights agencies operating in the metropolitan area include:

**U.S. Department of Housing and Urban Development (HUD)**--Persons with housing discrimination complaints covered under the federal law may submit their complaints directly to the HUD Region X Office in Seattle, Washington. HUD uses an administrative law process to resolve complaints. The agency has one investigator placed in Portland to handle complaints throughout all of Oregon. It often takes many months, and in some instances years, to resolve a complaint using HUD's administrative process.

**State of Oregon's Civil Rights Division**--The Civil Rights Division handles complaints made under the state's fair housing laws using an administrative process. The Civil Rights Division formerly held a HUD contract to enforce the federal fair housing law, but in recent months ended their contractual relationship with the federal agency. As with the U.S. Department of HUD, complaints filed with the Civil Rights Division are resolved using an administrative enforcement process. The Civil Rights Division also has a contract with the City of Portland to enforcement the City's civil rights ordinance.

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(10) City Club of Portland, "Study of Racial and Ethnic Relations in Portland--Report of the Housing Subcommittee," 1991, pg. 282.

**The Housing and Community Development Commission (HCDC)**--Created in 1991, the HCDC is a county-wide commission established to provide policy and resource coordination and the leadership necessary to resolve our community's affordable housing problem. In this capacity, the Commission develops a five-year Comprehensive Housing Affordability Strategy (CHAS) plan to coordinate the public and private funds available to carry out projects. Even though HCDC has no direct control of funds, nor any authority over provision of services, it is empowered to act as an advisory body to the three CDBG jurisdictions. The Multnomah County CHAS five-year plan contains extensive policies which ensure that publicly funded local housing programs administer their programs in compliance with the federal Fair Housing Amendments Act of 1988. Goal "C" of the CHAS is included as **Attachment #6** to this Report & Recommendations document.

**Fair Housing Council of Oregon**--The Fair Housing Council is a non-profit organization which provides testing services to individual complainants. The Fair Housing Council operates a hotline for victims of discrimination, conducts tests on bona fide complaints and refers complainants to attorneys willing to represent them in state and federal court. The Fair Housing Council receives both federal and City of Portland funds to conduct its testing program. The program serves people on a state-wide basis.

**Multnomah County Legal Aid Service**--Legal Aid has CDBG-funded contracts with the City of Gresham and Multnomah County to provide legal representation to low- and moderate-income persons with discrimination complaints. Because of CDBG funding restrictions, the program is limited to people living outside the City of Portland in either east Multnomah County or the City of Gresham.

**City of Portland Fair Housing Office**--The Bureau of Community Development funds a .5 FTE Fair Housing Officer position to offer information and referral to persons with housing discrimination complaints. The Fair Housing Office can assist complainants with filing formal discrimination complaints with appropriate agencies. Only people living within the City of Portland are served by the program.

Each of the above-referenced programs offer a particular type of enforcement service ranging from information and referral to legal assistance with complaint resolution. No single agency currently has the capacity to provide information and referral, legal assistance, complaint resolution, mediation and testing in one program.

### **Implementation Plan and Potential Funding Sources:**

The Task Force supports the concept of a locally based enforcement program, which incorporates investigation, testing, legal representation, mediation, and an administrative hearing process as a preferred model of service delivery. The MHRC proposed enforcement program

could potentially be funded with a combination of local and federal funds: Community Development Block Grant (CDBG); federal Fair Housing Assistance Program (FHAP); general budget funds from each of the three jurisdictions; and case settlement awards.

The use of Community Development Block Grant funds for enforcement activities is supported by a May 31, 1991 HUD memorandum on Affirmatively Furthering Fair Housing. (**Attachment #1**) The memorandum describes in detail the CDBG entitlement obligation to "affirmatively further fair housing" and gives as examples of fair housing activities "...fair housing counseling, fair housing complaint processing, and testing in support of an individual complainant." Currently a number of other communities throughout the nation are utilizing CDBG funds for enforcement activities. These governmental and non-profit agency fair housing programs include: the San Francisco Human Rights Commission (California), Marin Housing Center Fair Housing Program (California), Sacramento Commission on Human Rights (California), Denver Housing For All (Colorado), Atlanta Metro Fair Housing (Georgia), Urban League of Pittsburgh (Pennsylvania), Metro Milwaukee Fair Housing Council (Wisconsin) and the Fair Housing Council of San Diego (California).

In addition, the federal Fair Housing Assistance Program (FHAP) could provide a significant source of program funding for enforcement activities. The proposed enforcement program should be designed so that it can be submitted to the U.S. Department of HUD for a "substantially equivalent" certification. This would enable the program to compete for HUD's FHAP funds, meaning that a sizeable federal contract would cover some of the costs associated with conducting an enforcement program. However, the consensus of the Task Force was that filing an application with HUD should be secondary to the implementation of the enforcement program. The priority should be to put the program in place.

The proposed enforcement program also has the potential for a self-supporting stream of funding created by monetary settlements and attorney's fees awarded against defendants in housing discrimination cases.

Planning should take place during the next year to incorporate the MHRC Task Force recommended enforcement model into the newly reconstituted Metropolitan Human Rights Commission. During the next 18 months, City of Portland, City of Gresham, and Multnomah County staff will work to develop program structure, plan budgets and develop capacity for beginning program operations during FY 1994. For the current fiscal year, existing contractual programs will remain in place. The Fair Housing Advisory Task Force recommends that a decision on the enforcement program carrier should be completed by the Spring of 1993 in order to meet City of Portland, City of Gresham and Multnomah County funding cycles under the CHAS planning process for housing programs.

## **Recommendation #2--County-Wide Education and Outreach Program.**

The City of Portland, City of Gresham and Multnomah County should create a comprehensive education and outreach program for housing consumers designed to ensure that members of the protected classes are made aware of their civil rights under local, state and federal laws. Housing providers and people employed in the housing industry should receive training in their responsibilities under the fair housing law, as well.

A concerted governmental effort toward education and outreach will provide a number of tangible benefits to the community. First, providing information to housing professionals which will reduce or eliminate violations of fair housing caused by lack of awareness. Second, reaching people within the protected classes with information on civil rights in housing will increase the numbers of people filing official complaints. The provision of written information, public service announcements, targeted educational workshops can bring the message of fair housing to the people most impacted by the problem. Minority advocacy organizations, the Portland Housing Center, Head Start programs, and neighborhood associations are examples of community-based programs that can be contacted and enlisted as supporters in an educational effort. Networking with housing provider organizations like lending institutions, real estate organizations and property management associations should be conducted. Local print, television and radio media can highlight the educational efforts occurring in the community. Finally, fair housing complaint activity can serve an educational purpose, as well. The resolution of fair housing complaints is oftentimes newsworthy when settlements involve local housing providers or monetary awards.

### **Discussion:**

The U.S. Department of HUD defines fair housing "education" activities as production of educational and informational brochures and pamphlets; developing affirmative marketing materials for housing professionals; and providing educational seminars and working sessions for civic associations, community-based groups and interested persons. HUD defines "outreach" as creating public service announcements for local media; contacting special populations with information on civil rights in housing; organizing community responses to the problems of housing discrimination; and conducting forums for housing consumer and housing industry groups to come together to identify and resolve housing discrimination problems.

Information and referral (I & R) is as important in the education arena as it is to enforcement. I & R services can offer a range of education services to potential complainants short of providing legal advice on their complaint. Information can be provided to potential complainants so they are able to determine whether they wish to pursue a formal complaint. Referral to the appropriate enforcement agency can ensure that a complainant's case is handled expeditiously. A number of local non-profit agencies, including the Portland Housing Center, informally handle housing discrimination calls that may be referred to other agencies.

As with the enforcement area of civil rights law, education and outreach programs are being conducted by a number of local providers. All the enforcement agencies mentioned previously in this Report & Recommendations document conduct some education and outreach activity. In addition, two other organizations routinely conduct education programs:

**Multifamily Housing Council of Oregon**--The state's largest landlord and property manager association, Multifamily has an on-going program to educate members on landlord/tenant and fair housing laws. On a state-wide basis, over 6,000 people have received training since the inception of the program.

**Portland Community Housing Resource Board (CHRB)**--Established in 1979 as a community-based, non-profit advisory group to the Portland Board of Realtors, the Portland CHRB has conducted the Annual Oregon Fair Housing Conference for eight years. Current programs also include educational seminars for members of the housing industry and a scholarship program for minority persons wishing to enter the real estate industry.

### **Implementation Plan and Potential Funding Sources:**

Unlike the existing enforcement programs, there are no CDBG contracts in place which provide solely for education and outreach activities. Planning should take place during the next year to incorporate a comprehensive program of education and outreach into an intergovernmental program for all three jurisdictions. This educational program could be jointly housed in the Bureau of Community Development and Multnomah County's Community Development Program.

HUD Fair Housing Initiative Program (FHIP) funds could provide an initial infusion of grant funds to support the program. One local CDBG entitlement, Multnomah County, was successful in receiving FHIP funds in 1991-92 to conduct education and outreach activities. Multnomah County funded a number of subcontracts with non-profit agencies to conduct training workshops for housing consumers, produce educational materials and implement the Annual Oregon Fair Housing Conference. The Portland CHRB submitted a FHIP proposal under the last funding round which would provide for continued education and outreach activities in 1992-93. Multnomah County CDBG funds provided in-kind support to Multnomah County FHIP grant and the Portland CHRB proposal.

The perspective of the Fair Housing Advisory Task Force is that educational activities can be planned and conducted within the existing programmatic framework. However, an enhanced outreach program would incorporate contracting outreach activities, eg. distribution of brochures, recruiting protected class persons for workshops, etc., to community-based organizations. As with the enforcement recommendation, a decision on a comprehensive education and outreach approach should be completed by the Spring of 1993 in order to meet City of Portland, City of Gresham and Multnomah County funding cycles under the CHAS planning process for housing programs.

### **Recommendation #3--An Audit Testing Research Program Should Be Developed.**

The Fair Housing Advisory Task Force recommends that a county-wide audit testing program be developed to determine the level and scope of housing discrimination in the metropolitan area. This research study will involve systematically sending out matched pairs of testers to detect discriminatory housing practices against protected class persons. This study could be jointly sponsored by Multnomah County Community Development Program, Portland State University's School of Urban and Public Affairs and the Fair Housing Council of Oregon.

#### **Discussion:**

A major barrier to addressing the housing discrimination problem is that civil rights violations are often not reported to enforcement agencies. The City Club of Portland's "Study of Racial and Ethnic Relations in Portland" cataloged the available statistics on formal complaints and described a number of anecdotal accounts of housing discrimination issues in the metropolitan area, concluding with the notion that "... it is impossible to identify where and how such discrimination is occurring without more data collection." (11)

Recent national studies have done much to reveal the nature and extent of the problem. In 1991, the U.S. Department of HUD funded a housing discrimination study conducted by the Urban Institute in conjunction with Syracuse University. The study, which used audit tests in 25 metropolitan areas across the country, found that racial discrimination in housing occurs at far higher levels than the reported complaints indicate. As described earlier in this report, approximately half of the housing contacts made by Black and Hispanic testers in the study indicated evidence of differential treatment or discrimination. Unfortunately, the Portland metropolitan area was not included in the study. We, therefore, do not have a comprehensive picture of the impact of housing discrimination on our community. The 1991 City Club of Portland study suggested that this lack of information be rectified by financing the Fair Housing Council of Oregon to conduct audit tests. In other cities, this type of research study has been proven to increase the level of public awareness of housing discrimination. Another positive impact has been to reduce the pattern and practice of discriminatory acts when housing providers become aware that such a study is being conducted.

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(11) City Club of Portland, "Study of Racial and Ethnic Relations in Portland-- Report of the Housing Subcommittee," 1991, pg. 283.

## **Implementation Plan and Potential Funding Sources:**

Of the Task Force's three recommendations, the Fair Housing Audit Study is the most likely program to involve public-private partnerships. The Multnomah County Community Development Program will take the lead role in garnering public and private support for the study, including developing a financial plan to incorporate funding from private foundations, local corporations and government agencies. Portland State University will be involved in developing the methodology for the proposed study, while the Fair Housing Council of Oregon could participate by providing specialized training to the proposed study's testers. A framework for the audit study should be completed by the Spring of 1993 in order to meet City of Portland, City of Gresham and Multnomah County funding cycles under the CHAS planning process for housing programs.

## V. CONCLUSION:

The research conducted by the Task Force and recommendations are described in two tables entitled "Existing Fair Housing Programs in Multnomah County" and "Proposed Fair Housing Programs in Multnomah County." The "Existing Fair Housing Programs" table gives the name of the agency conducting the program, the title of the program, source of funds and nature of the services provided. "Proposed Fair Housing Programs" includes information from the first table and incorporates information on the Task Force recommendations, as well as budget figures. A "1993-94 Fair Housing Coordination Work Plan" concludes this report.

It was evident to the members of the Task Force that the proposed fair housing program will need to incorporate a number of funding sources, ie. CDBG, federal fair housing funds, local funds, foundation grants, litigation settlements, etc., to fully realize a comprehensive, county-wide program. This conclusion is borne out by the research conducted by the Task Force, where fair housing agencies in other cities indicated that their programs were funded through a number of different sources. However, the importance of CDBG support for the proposed fair housing program should not be overlooked.

It is the opinion of the Fair Housing Advisory Task Force that by implementing these recommendations, the City of Portland, City of Gresham and Multnomah County will comply with their CDBG obligation to "affirmatively further fair housing." Although the U.S. Department of HUD has yet to produce a handbook providing guidance on developing fair housing programs, a May, 1991 Memorandum to Entitlement Grantees indicates the agency's support of both enforcement and education/outreach to achieve fair housing in CDBG entitlement jurisdictions (**Attachment #1**).

Finally the Fair Housing Advisory Task Force believes that the development of effective fair housing enforcement and education/outreach projects must be supported by coordinated policy guidance. The Housing and Community Development Commission's capacity as a housing planning advisory group makes it the logical advisory body to advocate for the policies necessary to implement a comprehensive, county-wide fair housing program. This role would be consistent with the 1991 Comprehensive Housing Affordability Strategy, administered by the HCDC, which contains a strong statement of support for civil rights in housing.

**Existing Fair Housing Programs in Multnomah County  
October, 1992**

<b>Agency</b>	<b>Fair Housing Program</b>	<b>Source of Funds</b>	<b>Service Provided</b>
City of Portland	Fair Housing Office	<ul style="list-style-type: none"> <li>● City of Portland CDBG</li> </ul>	Information & Referral to Complainants
Portland Community Housing Resource Board (CHRB)	HUD "CHRB" Grant	<ul style="list-style-type: none"> <li>● Federal HUD CHRB Funds</li> <li>● Multnomah County CDBG In-Kind Contribution</li> </ul>	Education & Outreach Activities
Multnomah County Legal Aid Service	Fair Housing Enforcement Program	<ul style="list-style-type: none"> <li>● Multnomah County CDBG</li> <li>● City of Gresham CDBG</li> <li>● Agency Funds</li> </ul>	Legal Information & Representation for Complainants
Fair Housing Council of Oregon	Testing Program	<ul style="list-style-type: none"> <li>● Federal HUD FHIP Funds</li> <li>● City of Portland General Funds</li> </ul>	Testing Services in Support of Complainants
State of Oregon Civil Rights Division	Enforcement of City of Portland Civil Rights Ordinance and State Law	<ul style="list-style-type: none"> <li>● City of Portland General Funds</li> <li>● State General Funds</li> </ul>	Investigation & Resolution of Complaints

**Proposed Fair Housing Programs in Multnomah County  
October, 1992**

<b>Agency</b>	<b>Fair Housing Program</b>	<b>Source of Funds (Based on 12-Month Program Except As Noted)</b>	<b>Service Provided</b>
City of Portland	Fair Housing Office	● City of Portland CDBG \$26,124	Information & Referral to Complainants
Multnomah County	Housing Audit Study	▲ Multnomah County CDBG ▲ Foundation Funds \$25,000 (appx.)	Information on Housing Discrimination
Portland Community Housing Resource Board (CHRB)	HUD "CHRB" Grant	● Federal HUD CHRB Funds \$35,600 (1) ● Multnomah County CDBG In-Kind Contribution \$5,500	Education & Outreach Activities
Multnomah County Legal Aid Service	Fair Housing Enforcement Program	● Multnomah County CDBG \$11,200 ● City of Gresham CDBG \$5,000 ● Agency Funds/ In-Kind \$11,130	Legal Information & Representation for Complainants
Fair Housing Council of Oregon	Testing Program	● Federal HUD FHIP Funds \$75,000 (appx.) (2) ● City of Portland General Funds \$12,000 (3)(4)	Testing Services in Support of Complainants
State of Oregon Civil Rights Division	Enforcement of City of Portland Civil Rights Ordinance and State Law	● City of Portland General Funds \$35,000 (3)(4) ● State General Funds (2) \$48,000 (appx.)*	Investigation & Resolution of Complaints
To Be Determined	Enforcement of County-Wide Civil Rights Ordinance	▲ City of Portland/ Gresham/County General Funds ▲ City of Portland/ Gresham/County CDBG ▲ Legal Settlements \$85,700 (appx.) per MHRC Report Estimate	Investigation, Testing, Mediation & Resolution of Complaints

**FOOTNOTE KEY:**

● = Funded in FY 1992-93

▲ = Proposed for Funding

\* = Figure includes funds for handling employment, housing and public accommodations discrimination complaints. Ninety-six percent (96%) of cases involve employment discrimination. The overall budget figure for the State's Civil Rights Division is \$1,200,000.

(1) Contract for 18-month program.

(2) State-wide program.

(3) Covers only new City of Portland protected classes--Sexual Orientation & Source of Income.

(4) Contract for 15-month program.



**Attachment #1**



U. S. Department of Housing and U  
Washington, D.C. 204

May 31, 1991

MEMORANDUM FOR: All Entitlement Grantees

*Gordon H. Mansfield*  
FROM: Gordon H. Mansfield, Assistant Secretary for Fair Housing  
and Equal Opportunity, E

*Anna Kondratas*  
Anna Kondratas, Assistant Secretary for Community  
Planning and Development, C

SUBJECT: Affirmatively Furthering Fair Housing

Shortly after the enactment of the Fair Housing Amendments Act of 1988 our predecessors as Assistant Secretaries of Fair Housing and Equal Opportunity and Community Planning and Development sent each of you a joint memorandum encouraging your support of private fair housing organizations as one means of satisfying your obligation to affirmatively further fair housing. We are attaching a copy of that memorandum, dated October 11, 1988, to this communication because we fully subscribe to its message. Secretary Kemp has made fair housing one of his top six priorities at HUD.

Community Development Block Grant (CDBG) recipients, because they are cities, counties or states possessing all the political and legal powers of governmental units, are uniquely situated to affect housing rights and opportunities. In affirmatively furthering fair housing CDBG communities need to actively promote wider housing opportunities for all racial and ethnic groups while maintaining a nondiscriminatory environment in all aspects of the public and private housing market within their jurisdiction. Indeed, events since 1988 only serve to heighten the awareness which entitlement communities need to give to this important aspect of their Block Grant program administration. In November of 1990 Congress enacted the National Affordable Housing Act of 1990 (NAHA). Title I of that law includes a provision requiring all jurisdictions which expect to be "participating jurisdictions" (i.e. jurisdictions eligible to receive HOME block grant funding under Title II of NAHA) to complete a Comprehensive Housing Affordability Strategy, or CHAS. One of the CHAS requirements is a certification to affirmatively further fair housing. Moreover, the Department's recently published proposed rule for the HOME program, in describing the affirmative duty, cross references the standards set out in the current Community Development Block Grant entitlement regulations.

Thus, it is clear that satisfying the affirmative obligation will, in the future, be a necessity not only for the CDBG Program, but for NAHA funding as well. Since many current CDBG communities will also be "participating jurisdictions" under NAHA, we urge each of you to take a close look at your current efforts to affirmatively further fair housing. And, where private fair housing organizations are available as a resource in your communities, we enthusiastically endorse your support of, and cooperation with, such entities.

Attachment



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
WASHINGTON, D.C. 20410-2000

OFFICE OF THE ASSISTANT SECRETARY  
FOR FAIR HOUSING AND EQUAL OPPORTUNITY

OCT 11 1988

MEMORANDUM FOR: All Entitlement Grantees

FROM: Judith Y. Brachman, Assistant Secretary for Fair Housing  
and Equal Opportunity, E *Judith Y. Brachman*

Jack R. Stokvis, Assistant Secretary for Community Planning  
and Development, C *Jack R. Stokvis*

SUBJECT: Community Development Block Grant (CDBG) Entitlement Communities  
and their Duty to Affirmatively Further Fair Housing

The year 1988 has a special significance for those of us concerned  
with fair housing.

In April, we marked the 20th anniversary of the passage of one of the Nation's most important pieces of civil rights legislation—Title VIII of the Civil Rights Act of 1968. During this 20th year anniversary, the President signed into law on September 13, 1988, a piece of legislation that significantly strengthens Title VIII by providing stiffer penalties, establishing an administrative enforcement mechanism, and expanding the law's coverage to include the handicapped and families with children. The amended law, which becomes effective March 1989, signals a renewed commitment to achieving fair housing in this country.

Title VIII not only prohibits a wide range of discriminatory practices but also specifically requires the Secretary of HUD to administer all of the Department's housing and community development programs in a manner to affirmatively further fair housing. The Departmental mandate to affirmatively further fair housing is further bolstered by a similar requirement placed on CDBG Entitlement grantees through Section 104(b) (2) of Title I of the Housing and Community Development Act of 1974, as amended.

The Department, too, has acted to strengthen the affirmatively furthering fair housing provisions in the CDBG Program by issuing new CDBG regulations. Within these regulations, according to its preamble, there is: (1) a more accurate reflection of the conduct made unlawful under Title VIII; (2) an indication that the actions taken to affirmatively further fair housing required in the administration of programs must further the policies of Title VIII; and (3) an inclusion of activities to assure nondiscrimination in housing transactions.

In addition, the new CDBG regulations identify the various types of activities a grantee can undertake to affirmatively further fair housing and three possible CDBG funding sources. One of those fair housing activities is the "analysis of impediments to fair housing choice," as provided for by Section 570.904(c) (1) of the new CDBG regulations, and which can be funded under the planning cost category of 570.205(a) (4) (vii).

"Fair housing choice" means the ability of persons of similar income levels regardless of race, color, religion, sex or national origin to have available to them the same housing choices. "Impediments to such housing choices" are any actions, omissions, or decisions taken because of race, color, religion, sex or national origin which restrict housing choices or the availability of housing choices. (Handicap and familial status will be included as protected classes once the Fair Housing Amendments Act of 1988 becomes effective on March 12, 1989.)

It is important to note that the preamble to the new CDBG regulations indicates that the conduct of a fair housing analysis cannot be used as justification for delaying actions to affirmatively further fair housing. It also states that carrying out an analysis would not be considered to constitute a fair housing action in and of itself; actions must be undertaken to address the impediments to fair housing choice identified in the analysis.

The new CDBG regulations, at Section 570.904(c) (2), provide specific examples of activities designed to overcome the effects of conditions that limit fair housing choice as identified in the analysis. Depending upon the nature of the fair housing activity, it would be eligible for CDBG funding as either a public service, under Section 570.201(e), or as an administrative cost under Section 570.206(c). For example, fair housing counseling, fair housing complaint processing, and testing in support of an individual complainant can be funded as a public service. Activities eligible for funding as administrative costs include those designed to further the objectives of Title VIII by making persons aware of the range of housing opportunities available to them through fair housing enforcement, education, and outreach activities.

It is against this backdrop that we want to stress the importance of your role in furthering fair housing in your communities. We acknowledge and commend the many CDBG grantees who have affirmatively furthered fair housing through the funding of Community Housing Resource Boards (CHRBs), and other fair housing agencies, groups and organizations experienced in this endeavor. We specifically encourage those communities not already doing so to consider the provision of financial support for such nonprofit fair housing groups and organizations as a means of achieving this objective.

Nationally, private fair housing groups and organizations have proven to be effective partners in uncovering and addressing housing discrimination, and in designing programs of outreach and education which prevent such discrimination from arising. Because of their specialized expertise, these groups and organizations generally offer CDBG communities a cost effective approach to maximizing fair housing activities.

In short, where such organizations exist, it is unlikely that a CDBG community can find a better means of furthering fair housing, and we strongly encourage you to work with and support these groups. Moreover, in those CDBG communities where no such groups exist, providing financial and technical support in helping to create a fair housing organization will be viewed positively by this Department in its review of your community's efforts to satisfy its fair housing certifications.

The Department's position that grantees may take actions to affirmatively further fair housing through contracting with such agencies has been specifically identified as a method of addressing conditions limiting fair housing choice under Section 570.904(c) (2) (iii). Grantees should note, however, that HUD's review of grantees' performance in fulfilling their fair housing certifications will focus on the actions that are undertaken--whether taken by the grantee itself or by agencies with which the grantee contracts.

As mentioned earlier, fair housing activities can be funded under the public services, administrative cost and planning categories, as applicable. It should be noted that some activities that qualify as a public service may also be classified as an administrative cost. This is important because it can enable you to provide a higher level of funding for these efforts since there is a 15 percent limitation on public services and a 20 percent ceiling for administrative and planning expenses. However, please remember that to be eligible, public services must meet the national objectives of the program for low and moderate income benefit.

We can do much more to affirmatively further fair housing with your help. How you carry out your CDBG affirmative fair housing responsibilities can and does make a difference. We urge you to consider strengthening your fair housing program in the ways we have described. After all, fair housing is both a right and a responsibility.

**Attachment #2**

**FAIR HOUSING ADVISORY TASK FORCE**  
**SEPTEMBER, 1992**

LeRoy Patton, Chairperson  
Portland CHRB  
2423 NE 8th  
Portland, OR 97212  
280-5783

Donna Butler, Director  
Fair Housing Council of Oregon  
4421 SE 17th, #204  
Portland, OR 97202  
230-0239

Ed DeWald, First Vice President  
Bank of America  
P.O. Box 3066  
Portland, OR 97208  
222-7513

Michael Marcus  
District Court Judge  
1021 SW Fourth Avenue, Rm. 418  
Portland, OR 97204  
248-3250

Emily Cedarleaf, Exec. Director  
Multifamily Housing Council of Oregon  
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Salem, OR 97301  
378-1912

Peg Malloy, Director  
Portland Housing Center  
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Portland, OR 97232  
282-1397

Prof. Gerard Mildner  
Portland State University  
Dept. of Urban Studies & Planning  
P.O. Box 751  
Portland, OR 97207-0751  
(Representing PSU and  
Oregon Housing NOW!)

**Fair Housing Advisory Task Force**  
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Shirley Foster  
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326 SE Paropa Ct.  
Gresham, OR 97080  
667-7763

Teri Duffy, Staff Assistant  
Commissioner Gladys McCoy's Office  
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Portland, OR 97204  
248-3308

Hannah Callaghan, Attorney at Law  
Multnomah County Legal Aid Service, Inc.  
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Portland, OR 97204  
224-4086

Pete von Christierson, Housing/CDBG Planner  
Community Development Department  
City of Gresham  
1333 NW Eastman Parkway  
Gresham, OR 97030  
668-2643

Julie Sterling  
City Club of Portland  
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Portland, OR 97201  
223-4707

Barbara Madigan, Program Manager  
Bureau of Community Development  
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Portland, OR 97204  
823-2381

**Fair Housing Advisory Task Force**  
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Cecile Pitts, Program Director  
Community Development Program  
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Portland, OR 97214  
248-5000

**Staff:**

Linda Berger, Fair Housing Officer  
City of Portland  
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Janet Hawkins, Community Development Specialist  
Multnomah County Community Development Program  
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Portland, OR 97214  
248-3707

j-473C

**Attachment #3**

July 16, 1992  
Fair Housing Task Force  
Meeting Minutes

In Attendance: LeRoy Patton, Donna Butler, Peg Malloy, Shirley Foster, Teri Duffy, Hannah Callaghan, Cecile Pitts, Michael Marcus, Janet Hawkins and Linda Berger

Absent: Ed DeWald, Emily Cedarleaf, Prof. Gerard Mildner, Pete von Christierson, Julie Sterling, Barbara Madigan

The meeting began with introductions around the table followed by a briefing from Janet on packet materials and the framework for this study.

Cecile provided background to the group of why the Task Force was formed. Included in the CHAS document is a piece on Fair Housing which the Task Force should attempt to coordinate its study with. Cecile related that an intergovernmental agreement had been signed this day between the City of Portland, Multnomah County and the City of Gresham endowing Mult. Co. to form the task force.

Janet talked about the work of the Task Force. As staff, Janet will provide meeting agendas and other administrative tasks, and Linda will assist in the research data gathering. Janet suggested that next meeting she will provide a chartpack for recording ideas. Everyone should bring recommendations to the next meeting for discussion.

LeRoy briefed the group on the CHRB and its function as a Fair Housing Advocacy entity. He feels the CHRB should be a watchdog for enforcement compliance, and that City and County Block Grant dollars could be utilized more for Fair Housing education to realtors and the community at large.

Donna described the Fair Housing Council and how it came to be, including her history with Washington County Community Action Agency. She gave examples of program activities including landlord trainings. She explained the process of complaint intake, the testing program and described the various funding sources for the program.

Hannah explained that Legal Aid takes complaints, files lawsuits and investigates complaints of discrimination. Legal Aid has a limited capacity for educating the community.

Janet and Linda then gave their histories as Fair Housing advocates and their affiliations.

Michael Marcus shared a recent study completed by MHRC which covered some of the same subject matter that this Task Force will cover, i.e. enforcement. The MHRC study includes models of Fair

Housing Commissions around the country. He suggested that this group prioritize and not re-do work already done. He said creating credibility within the community requires quick, visible and effective enforcement mechanisms - and a regular production of high damage awards. Incentive is necessary for complainants to be filed for results.

In discussing service delivery, Donna said the cost is lower for non-profit organizations. She also suggested some advocacy ideas: for farmworker housing issues, send simple letters to local governments with Fair Housing information; reports which include Fair Housing issues like group homes; research the results of audit tests.

Cecile suggested researching how dollars are used by other jurisdictions for Fair Housing activities.

**NEXT MEETING: AUGUST 13TH, THURSDAY, 4:30-6:30PM  
PORTLAND BUILDING, 2ND FLOOR, ROOM C**

Please note: the August 6th meeting date was cancelled due to vacations. **September 24th, 4:30-6:30pm** was decided on as a last meeting date. It will take place in Portland City Hall, Room 321.

Meeting Minutes  
Fair Housing Advisory Task Force  
August 13, 1992

**In Attendance:** Karen Whittle (for Cecile Pitts), Multnomah County Community Development Program; Peg Malloy, Portland Housing Center; Ed DeWald, Bank of America; Michael Marcus, District Court Judge; Julie Sterling, City Club of Portland; Gerry Mildner, Portland State University/Oregon Housing NOW!; Emily Cedarleaf, Multifamily Housing Council of Oregon; Hannah Callaghan, Multnomah County Legal Aid Service; Teri Duffy, Multnomah County Chair's Office; and Barbara Madigan, City of Portland Bureaus of Community Development.

**Staff:** Linda Berger and Janet Hawkins.

**Absent:** LeRoy Patton, Portland CHRB; Donna Butler, Fair Housing Council of Oregon; Shirley Foster, Gresham Board of Realtors; and Pete von Christierson, City of Gresham Community Development Block Grant Program.

Minutes of the July 16, 1992 meeting were approved with Teri making the motion and Hannah seconding.

Janet went through the agenda and packet and gave a brief explanation of the City and County's positions on Fair Housing since 1986. She also gave a brief history of two U.S. Department of HUD programs, the Community Housing Resource Board (CHRB) and Fair Housing Initiatives Program (FHIP), as well as the new City of Portland Ordinance.

Julie posed a question on the exclusion of Section 8 recipients under City of Portland new Civil Rights Ordinance. Michael explained that holders of Section 8 certificates are not included under the "source of income" protection, so landlords may choose not to take Section 8 recipients. Emily added that landlords may file an exemption from participation in the Section 8 program with the City Attorney's office. Section 8 is essentially a voluntary program in regard to landlords providing housing to program participants.

Julie also asked about the history of the Fair Housing Council and Oregon Legal Services' (OLS) involvement. Janet explained that the first grant for testing was received in 89/90 by OLS via the Fair Housing Initiatives Program (FHIP). In that first year of funding the Council operated on a limited basis in Multnomah County and mainly conducted their work in areas served by OLS regional offices. OLS operates in areas not served by other three legal services programs--Lane County Legal Aid, Multnomah County Legal Aid and Marion-Polk Legal Aid.

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Janet then went on to point out the document in the packet entitled Fair Housing Programs in other Communities. Teri asked whether or not HUD regulates a dollar amount to be dedicated to Fair Housing services. Janet explained that no dollar amount is recommended or required, that both Administrative and Public Service dollars from Community Development Block Grant (CDBG) funds can be utilized. Multnomah County uses both categories of funding.

A discussion on the nature and extent of Fair Housing problems took place at this point. Legal Aid, as reported by Hannah, served 99 low income clients last year; this year's count is higher. More familial status complaints than others but still a steady flow of racial cases. She has not seen many complaints stemming from the City's Ordinance. Most complaints are initiated by people seeking housing and many cases are mediated successfully.

Emily reported that Multifamily Housing Council refers 10-12 cases weekly to HUD after attempting conciliation. She said that cases referred to the Fair Housing Council for testing are often unsuccessful. She also reported that HUD has now placed an investigator in Portland and some cases are addressed within a few days.

Ed posed a question to Hannah of whether or not a partnership could be made to refer above-income clients to other attorneys since Legal Aid can only serve low-income. Hannah said there were some attorneys who would take cases on a contingency basis if it were a "good" case.

Emily then described her organization's "shopping" service within the Multifamily membership. She explained that when a complaint was voiced to her office she sends out a volunteer (or pair) to "shop" or "test" the alleged complaint. In some cases, the problem can be resolved in-house; other times they are referred to HUD as a formal complaint.

Janet told of the Fair Housing Council's panel of attorneys who are able to serve persons not eligible for Legal Aid's assistance because they are above federal poverty level income guidelines. These moderate-income complainants, who still may have a problem paying legal fees for representation, are served by attorneys willing to take the case on a contingent fee basis. The Fair Housing Council provided a large attorney training seminar in May, 1992 and has continuing attorney training program.

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Hannah pointed out that there are some problems with referrals to the Fair Housing Council for conducting tests, ie. not being able to arrange a test within one day, unskilled testers being recognized by landlords or property owners, etc. She said this contributes to a situation where a certain percentage of test results are not "positive." That is, they do not show evidence of the discrimination that the complainant has alleged. This may make the testing evidence unsuitable for use in court. She added that Portland's low vacancy rate contributes to the problem, an apartment may be rented before a test can be reasonably conducted. Michael suggested that community service persons, referred by the courts, may prove to be a resource for developing the pool of persons available to do testing.

Julie asked about statistics for numbers of complaints received locally. Janet explained that the Civil Rights Division of Bureau of Labor & Industries (BOLI) was the local enforcement agency. Because the agency lost its HUD designation as a "substantially equivalent" agency six months ago, it maintains no current numbers for federal complaints in Multnomah County. However, BOLI should have information on complaints filed under the state law. Janet said that all statistics for administrative complaints are recorded with HUD's Region X office. She also pointed out the document entitled The State of Fair Housing published by HUD which outlines regional statistics.

Julie then asked about the number of complaints received by HUD and the general outcome of investigations.

Emily explained the HUD process of substantial equivalency and the overload of complaints currently being received; the 100 day limit for resolving discrimination complaints is not realistic.

Janet said the City Club of Portland study recognized testing as being an important tool in alleviating housing discrimination. The Urban Institute study described numbers of discrimination complaints through audit testing and pointed out the percentage of discrimination in sales versus rentals.

Gerry then pointed out that there is really no basis of longitudinal comparison for the Urban Institute study because previous studies conducted by the U.S. Department of HUD used different methodology and audit criteria.

A general discussion about testing took place at this time, including the possibility of doing audit tests in Portland through foundation grants. A question was raised about the costs of providing a test. Janet responded that a volunteer tester

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receives a nominal payment, perhaps \$20/test, with some payment made for mileage reimbursement. Janet added that there are also administrative costs associated with the provision of the test.

FHIP guidelines do not allow for audit testing, only limited systemic testing. Michael advocated for a quick, visible enforcement process that will provide immediate relief to victims of discrimination. He said that this demonstration of an effective enforcement program is a deterrent to further acts of housing discrimination. Gerry said that both complaint-driven and audit testing programs should be developed. He explained that audit testing provides comprehensive information on the seriousness of the housing discrimination problem in a community.

By conducting an auditing study, the extent and nature of housing discrimination can be assessed in relation to other metropolitan communities across the nation. Gerry suggested that an auditing study could be done every two years to "check the temperature" of the local market. This two-year cycle of auditing would enable fair housing advocates and government decision-makers to assess whether public policies, ie. enforcement program funding, etc., are effective in resolving the problem.

Ed observed at this point that testing is critical and important to this group. He therefore proposed the idea of building up the current process of complaint-driven testing, adding an audit component later through private funding. He suggested that both could work hand-in-hand.

Barbara pointed out that the city has limited funding and that we need to be pragmatic in our thinking. Deal with what we have now; long range, a full blown study might be considered.

Ed also added that Oregon already has countless non-profit organizations requesting funding; the testing project has a sort of "negative" concept and probably would not attract a lot of funding.

Emily suggested the Small Claims Court process as another source of resolution for complaints. This method is proving to be successful in other states.

Another idea posed was that a local enforcement entity complete with a panel of attorneys and funded by HUD could satisfy the substantial equivalency issue.

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Linda explained the Research Matrix was compiled by contacting other Fair Housing programs around the country. In addition to the information collected, it was suggested that perhaps other data, like complaint/mediation results, staffing levels, size and population of areas served, might also be interesting as comparisons.

The meeting adjourned at 6:30.

**Meeting Minutes  
Fair Housing Advisory Task Force  
August 27, 1992**

**In Attendance:** Cecile Pitts, Multnomah County Community Development Program; Michael Marcus, District Court Judge; Julie Sterling, City Club of Portland; Gerry Mildner, Portland State University/Oregon Housing NOW!; Emily Cedarleaf, Multifamily Housing Council of Oregon; Hannah Callaghan, Multnomah County Legal Aid Service; Teri Duffy, Multnomah County Chair's Office; and Barbara Madigan, City of Portland Bureaus of Community Development.

**Staff:** Linda Berger and Janet Hawkins.

**Absent:** Peg Malloy, Portland Housing Center; Ed DeWald, Bank of America; LeRoy Patton, Portland CHRB; Donna Butler, Fair Housing Council of Oregon; Shirley Foster, Gresham Board of Realtors; and Pete von Christierson, City of Gresham Community Development Block Grant Program.

**1. Introductions.**

Introductions took place.

**2. Approval of Minutes--August 13th, 1992.**

Task Force members made a number of revisions to the minutes of the August 13, 1992 meeting. Staff said that would make corrections in the minutes and ask approval at the next Task Force meeting.

**3. MHRC Task Force Recommendations.**

Michael Marcus led the discussion on the Metropolitan Human Relations Commission (MHRC) Enforcement Committee recommendations. **(The MHRC Enforcement Committee recommendations are included as an attachment to these minutes.)** Under the proposal the newly reconstituted Metropolitan Human Rights commission (MHRC) would be the responsible agent for conducting the program. Mr. Marcus reviewed the Enforcement Flow Chart with the members of the Task Force, outlining the steps needed to resolve a civil rights complaint under the proposed system.

The Enforcement Flow chart describes a process that would use trained testers as a tool for investigative purposes. When a probable cause determination is reached MHRC staff will refer the case to a private attorney. The MHRC would work to develop a panel of attorneys trained in fair housing law and willing to accept cases upon request. The private attorney would represent the complainant in either HUD's administrative hearing process or through a litigation process. Mr. Marcus said the procedures are

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described in the Enforcement Committee recommendations. (See attached.)

Mr. Marcus explained that the this system may provide the City of Portland with a mechanism for becoming gaining HUD's substantial equivalency designation. Julie Sterling asked for clarification on substantial equivalency.

Janet Hawkins said that the U.S. Dept. of HUD contracts with different local or state government agencies to enforce the federal Fair Housing Amendments Act (FHAA). When the changes to the law were passed in 1988, state and local enforcement agencies still continued to enforce the federal law under contract with HUD. However, in order to continue to contract with HUD, the state or local government was required to pass a law with essentially the same provisions of the federal law, eg. "substantially equivalent." Oregon's Bureau of Labor and Industries was not successful in passing a state-wide law as comprehensive as the federal law. Six months ago they dropped their enforcement contract with HUD. Emily Cedarleaf said that to her knowledge only seven agencies in the country had passed a substantially equivalent law. Ms. Hawkins said the most recent designations were given to the City of Phoenix and State of Arizona.

Mr. Marcus said that he thought of substantial equivalency as a secondary consideration to setting up a local enforcement agency. He expressed concern that there be an effective local mechanism for resolving discrimination complaints.

Hannah Callaghan raised concerns about the plausibility of having volunteer attorneys handle all the complainants' cases. Ms. Callaghan said that a "positive" test, with results that will be usable in court, is not always the rule. She said many tests can end with ambiguous results which may make it difficult for a private attorney to take the case on a contingent fee basis. Ms. Hawkins said that an enforcement proposal may need to incorporate a component where the City Attorney's staff or County Counsel's staff serve as a "back-up" to the private attorney panel.

Teri Duffy expressed concerns about what entity would be the best provider for the enforcement program. She said when the City's Civil Rights Ordinance was passed the City Council held a perspective that the MHRC was not prepared to be the carrier. Ms. Duffy said the Fair Housing Advisory Task Force may wish to make a recommendation for the MHRC Enforcement Committee's enforcement process, but not designate a carrier for the program.

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Staff was directed to complete a first draft of recommendations for the Task Force incorporating information on the MHRC enforcement model, substantial equivalency, fair housing education and auditing programs.

It was decided to conduct the next meeting on September 17, 1992.

The meeting was adjourned at 6:00 pm.

**Meeting Minutes  
Fair Housing Advisory Task Force  
Thursday, September 17, 1992**

**In Attendance:** Peg Malloy, Portland Housing Center; Ed DeWald, Bank of America; Cecile Pitts, Multnomah County Community Development Program; Michael Marcus, District Court Judge; Julie Sterling, City Club of Portland; Gerry Mildner, Portland State University/Oregon Housing NOW!; Emily Cedarleaf, Multifamily Housing Council of Oregon; Hannah Callaghan, Multnomah County Legal Aid Service; Barbara Madigan, City of Portland Bureaus of Community Development; and Shirley Foster, Gresham Board of Realtors;.

**Absent:** Teri Duffy, Multnomah County Chair's Office, LeRoy Patton, Portland CHRB; Donna Butler, Fair Housing Council of Oregon; and Pete von Christierson, City of Gresham Community Development Block Grant Program.

**Guests:** Helen Cheek, Metropolitan Human Rights Commission; Diane Hess, Washington County Community Action Organization; and Tom Bryan, Portland State University.

**Staff:** Linda Berger and Janet Hawkins.

**1. Introductions.**

Introductions took place. Helen Cheek, Executive Director of the Metropolitan Human Rights Commission, was introduced. Diane Hess and Tom Bryan were introduced to the members of the Task Force.

**2. Approval of Minutes--August 13th and August 27, 1992.**

The Task Force members approved the minutes for the August 13, 1992 and August 27, 1992 meeting by consensus.

**3. Washington County Community Action Organization's History Project.**

Mr. Bryan and Ms. Hess made a presentation on the history of housing discrimination project that is being funded by the Oregon Commission for the Humanities. Mr. Bryan gave a brief background on the problem in Oregon and asked Task Force members for assistance with an oral history he is putting together for the project. Ms. Hess said that the first meeting for the project's planning group will take place on Wednesday, October 21, 1992. Ms. Hess said the project will consist of a written history on the issue of housing discrimination in Oregon and a photo display travelling exhibit.

**4. City of Phoenix/State of Arizona Civil Rights Laws.**

A discussion took place regarding the packet material provided on the "substantially equivalent" law and ordinance. Michael Marcus questioned the capacity of the Attorney General's Office in Arizona to responding quickly to claims of discrimination. Judge Marcus argued that the private attorney pool model discussed in Task Force meetings may bring quicker relief to complainants through a focus on seeking injunctive relief in a relatively short time.

Emily Cedarleaf said that the U.S. Dept. of HUD had "backed away from" demanding that substantial equivalence required a system for complaint resolution identical to the federal model. Julie Sterling asked how long HUD takes to resolve the discrimination cases it handles as an agency. Ms. Cedarleaf responded that HUD routinely exceeds the 100 day limit for investigations outlined under the federal law. She added that the Oregon's Civil Rights Division performed at the much the same level, with many cases taking over a year to resolve.

Task Force members agreed that they would like to have information on how successful the programs in Arizona have been to this point.

**5. Housing Authority of Portland (HAP) Section 8 Certificate Program.**

Julie Sterling raised concerns regarding the HAP's Section 8 program and questioned whether these concerns should be included in the Task Force Report & Recommendations. Ms. Sterling said that the issue involves the concentration of Section 8 Certificate program clients in Northeast Portland. She circulated a Certificate Utilization document to the members of the Task Force. (This document is included as an attachment to these minutes.)

Ms. Sterling explained that Section 8 Certificate holders who are minority persons tend toward concentration in certain neighborhoods. She pointed out that the non-minority certificate holders are more widely dispersed throughout the city. This pattern has the impact of keeping minority persons participating in the program segregated in certain neighborhoods. Ms. Sterling described this housing pattern as "defacto housing segregation."

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Emily Cedarleaf said another perspective on the concentration issue is the fact that the housing stock in Northeast Portland is the most cost feasible neighborhood for landlord participation in the Section 8 program. In other neighborhoods, the housing stock is more expensive so landlords must charge higher rents to make a profit from their investment. These higher rents are not allowable under the Section 8 program. Hannah Callaghan added that there do not seem to be many incentives for landlords to become involved with the Section 8 program. She explained that during last year's City of Portland Civil Rights Ordinance planning meetings, landlords expressed legitimate concerns on the efficiency of Section 8 program operations.

Julie Sterling said HAP is making some progress on resolving the program's problems, now that HAP has a staff committee meeting with landlords to rectify operations problems, but her concern with dispersal of low-income housing throughout the city remains. She said that a change in HAP policies or regulations to somehow mandate dispersal may have an impact on the problem. Cecile Pitts said that the Housing and Community Development Commission (HCDC) included information related to the Section 8 program in its Comprehensive Housing Affordability Strategy document. Ed DeWald suggested that the Task Force should recommend to HCDC that they undertake in the upcoming year to study the problem and make recommendations. Julie Sterling concluded the discussion by saying that resolution of the Section 8 concentration problem is important to ensuring diverse populations access to housing throughout the city. Task Force members agreed that the full discussion of the racial concentration problems within HAP's Section 8 program should be included in the minutes of the meeting.

**6. Review of Fair Housing Advisory Task Force Recommendations.**

Discussion took place regarding Draft #1 of the Report & Recommendations document. Janet Hawkins explained that the document was intended as a working draft and Task Force members were encouraged to make suggestions and changes.

Gerry Mildner suggested that Recommendation #1 for enforcement include the MHRC resolution process within the body of the document and not as an attachment. Task Force members agreed by consensus with Mr. Mildner's suggestion.

Barbara Madigan expressed a number of concerns regarding what she perceived to be the dependence of proposed program activities on Community Development Block Grant (CDBG) funds. Ms. Madigan

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suggested that CDBG funding should not be looked upon as the sole source of program funding for proposed activities. She suggested that other fiscal resources should be detailed in the Report & Recommendations. Ms. Madigan said that she would like to have budget information described for the existing and proposed programs. Ms. Hawkins said that she would put this in the next draft. Ms. Madigan said the document be framed in such a way that Task Force members could link proposed program activities to potential costs. She concluded by saying that Task Force members should be prepared to prioritize activities in preparation for the budget process within the City of Portland.

Ed DeWald suggested that program descriptions could follow the format utilized in the Albina Community Plan.

Helen Cheek asked that the discussion on whether the Metropolitan Human Rights Commission be the carrier for the enforcement program be held at the next meeting of the Task Force.

It was decided to conduct the next meeting on October 8, 1992.

The meeting was adjourned at 6:30 pm.

CERTIFICATE UTILIZATION (By %)

<u>ZIP CODE</u>	<u>FIELD</u>	<u>WHITE</u>	<u>BLACK</u>	<u>AMER. IND.</u>	<u>PAC. ISL.</u>
97009	0				
97019	1	100.0			
97024	2	100.0			
97030	78	93.6	5.1	1.3	0
97035	0				
97060	17	94.1	5.9	0	0
97080	29	100.0			
<i>Wilson</i> <i>Lincoln</i> 97201	29	82.8	10.3	3.4	3.4
97202	195	81.6	13.3	2.6	2.6
<u>97203</u>	254	<u>50.4</u>	<u>44.9</u>	1.6	3.5
<i>W</i> 97204	1	100.0			
97205	4	100.0			
97206	227	90.3	3.5	1.3	4.8
97207	0				
97208	1	100.0			
97209	132	91.6	3.0	3.0	2.3
<i>NW</i> 97210	39	100.0			
<i>Seaside</i> 97211	732	15.9	82.2	1.1	.7
<i>Tri</i> 97212	178	23.0	73.0	2.8	1.2
97213	198	47.9	6.6	1.0	44.4
97214	284	88.0	8.8	1.4	1.8
97215	71	88.7	8.5	0.0	2.8
97216	0				
<i>enton</i> <i>West St. 2</i> <i>Feed.</i> 97217	418	32.7	62.4	1.9	2.9
97218	89	48.3	47.2	1.1	3.4
<i>Mult Wilson</i> <u>97219</u>	23	<u>95.6</u>	<u>4.3</u>	0.0	0.0
97220	63	95.2	3.2	0.0	1.6
<i>SW</i> <u>97221</u>	10	<u>90.0</u>	<u>0.0</u>	0.0	10.0
97222	0				
<i>Inner N.</i> 97227	60	20.0	80.0	0.0	0.0
97229	0				
97230	112	88.4	7.1	.9	3.6
97231	1	100.0			
97232	77	80.5	15.6	2.6	1.3
97233	171	90.6	6.4	2.3	.6
97236	149	94.0	2.7	3.4	0.0
97239	2	100.0			
97266	89	89.9	9.0	1.1	0.0
97267	1	100.0			
97286	1	100.0			

**Meeting Minutes  
Fair Housing Advisory Task Force  
Thursday, October 8, 1992**

**In Attendance:** Peg Malloy, Portland Housing Center; Ed DeWald, Bank of America; Cecile Pitts, Multnomah County Community Development Program; Julie Sterling, City Club of Portland; Emily Cedarleaf, Multifamily Housing Council of Oregon; Hannah Callaghan, Multnomah County Legal Aid Service; Teri Duffy, Multnomah County Chair's Office; Julie Sterling, City Club of Portland; and Pete von Christierson, City of Gresham Community Development Block Grant Program.

**Absent:** Michael Marcus, District Court Judge; Gerry Mildner, Portland State University/Oregon Housing NOW!; LeRoy Patton, Portland CHRB; Donna Butler, Fair Housing Council of Oregon; Barbara Madigan, City of Portland Bureau of Community Development; and Shirley Foster, Gresham Board of Realtors.

**Guests:** No guests were present.

**Staff:** Linda Berger and Janet Hawkins.

**1. Introductions.**

Introductions took place. No guests were present.

**2. Approval of Minutes--September 17, 1992.**

The Task Force members approved the minutes for the September 17, 1992 meeting by consensus.

**3. U.S. Department of HUD Monitoring Handbook.**

Discussion took place regarding the information contained in HUD's FHEO/CDBG Monitoring Handbook. The handbook is intended to give guidance to jurisdictions with fair housing obligations under the CDBG program. Cecile Pitts said the portions of the handbook most pertinent to the work of the Task Force are contained on page 18. Ms. Pitts said the "safe harbor" provision of the document means that HUD does not make a presumption that the CDBG grantee has carried out its certification to further fair housing. Rather, each grantee must take specified proactive steps to comply with fair housing obligations. Ms. Pitts said that in her opinion this means change reflects a heightened degree of intensity in enforcing the fair housing mandates of the CDBG program.

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Julie Sterling commented on the definition of "fair housing choice" contained on page 15 of the handbook. Ms. Sterling said that the definition, which contains the phrase "similar income levels," does not truly promote diversity in housing, nor integrated neighborhoods. Ms. Sterling said it may perpetuate a system where "poor people have to live with other poor people." She concluded by saying this HUD "fair housing choice" policy contributes to an existing problem with defacto segregation in the Housing Authority of Portland's Section 8 program.

Pete von Christierson said that public housing should be managed in a way to assure that housing is provided in different areas of Multnomah County. Hannah Callaghan said she agreed with Ms. Sterling's assessment saying that there must be an unstated reason why the "income" language is included in fair housing regulations. Ms. Callaghan said that a family's source of income is often a reason in denial of housing.

**4. Review of Task Force Report.**

Discussion took place regarding the Draft #2 Proposed Fair Housing Programs in Multnomah County -- October, 1992 and the Draft Nature of the Need Statement. Cecile Pitts also presented language for the inclusion of the Housing and Community Development Commission (HCDC) responsibilities in the Task Force Report & Recommendations. This document is included as Attachment #1 these minutes.

Ed DeWald said that he definitely saw a role for the HCDC in monitoring the fair housing obligations contained in certifications for the Comprehensive Housing Affordability Strategy (CHAS) report. He said that the Task Force Report & Recommendations should be submitted to the HCDC to assist their first-year implementation strategies. Mr. DeWald added that the jurisdictions has an obligation to fair housing and that the community "should do it once and do it right." He concluded by saying that the Task Force has set forth priorities and should move ahead despite limited resources.

Cecile Pitts said one of the positive aspects of the Task Force Report & Recommendations is that it keeps activity stable in programs that are currently being funded. Mr. DeWald said that Task Force's recommendations for an enhanced enforcement program will likely trigger more complaints, creating an education function in itself.

Discussion took place regarding specific changes to the Draft #2 Proposed Fair Housing Programs in Multnomah County -- October, 1992 and the Draft Nature of the Need Statement. Peg Malloy

**Fair Housing Advisory Task Force  
Meeting Minutes--October 8, 1992  
Page #3**

suggested that a timeline chart be developed for specific activities under reach of the Task Force Recommendations. Task Force members agreed that this would be important as a management tool for accomplishing the recommendations.

Pete von Christierson asked for clarification on the goal of the Report & Recommendations, eg. whether it is designed to provide to political decision-makers, provide to staff, etc. Cecile Pitts responded that the Task Force Report & Recommendations is intended to be advisory to City of Portland, City of Gresham and Multnomah County staff as they work to develop a comprehensive, county-wide program. Ms. Pitts said the Report & Recommendations sets the stage for further analysis and study of the provision of fair housing services. She said that the Task Force effort is the first step in a program planning process that will eventually be presented to decision-makers in local government. The goal of the Task Force effort has been to seek community input on where to what to include in a program development effort. Pete von Christierson said that this description should be included as a preface to the Report & Recommendations document or contained in an Executive Summary.

Peg Malloy concluded the discussion of the Draft #2 Report & Recommendations by questioning whether the Metropolitan Human Rights Commission could actually handle the volume of calls outlined in their enforcement proposal. She said that 400 complaint calls per year may be beyond the capacity of the staffing level contained in the recommendations.

Ms. Hawkins said that she would prepare Draft #3 with the recommended changes. It was decided to conduct the next meeting on October 29, 1992.

**The meeting was adjourned at 6:30 pm.**

**Meeting Minutes  
Fair Housing Advisory Task Force  
Thursday, October 29, 1992**

**In Attendance:** Ed DeWald, Bank of America; Cecile Pitts, Multnomah County Community Development Program; Julie Sterling, City Club of Portland; Gerry Mildner, Portland State University/Oregon Housing NOW!; Teri Duffy, Multnomah County Chair's Office; Julie Sterling, City Club of Portland; Barbara Madigan, City of Portland Bureau of Community Development; and Shirley Foster, Gresham Board of Realtor.

**Absent:** Emily Cedarleaf, Multifamily Housing Council of Oregon; Peg Malloy, Portland Housing Center; Michael Marcus, District Court Judge; Hannah Callaghan, Multnomah County Legal Aid Service; LeRoy Patton, Portland CHRB; Donna Butler, Fair Housing Council of Oregon; and Pete von Christierson, City of Gresham Community Development Block Grant Program.

**Guests:** No guests were present.

**Staff:** Linda Berger and Janet Hawkins.

**1. Introductions.**

Introductions took place.

**2. Approval of Minutes--October 8, 1992.**

It was noted that Julie Sterling was present at the October 8, 1992 meeting. The minutes incorrectly reported her as "absent." With this correction noted, the Task Force members approved the minutes for the October 8, 1992 meeting by consensus.

**3. Review of Draft Fair Housing Coordination Timeline.**

Discussion took place regarding the Fair Housing Coordination Timeline. Task Force members suggested that the timeline be modified to show a per month progression by actual month rather than an 18-month spread format. It was decided to include the Fair Housing Coordination Timeline as a part of the Report & Recommendations document.

**4. Review of Draft #3 Report & Recommendations.**

Discussion took place regarding the Metropolitan Human Rights Commission's (MHRC) current capacity to handle an enforcement program. Janet Hawkins said that the Task Force Report regarding the MHRC had been widely circulated last spring with the enforcement proposal included as part of the changes recommended

**Fair Housing Advisory Task Force  
Meeting Minutes--October 29, 1992  
Page #2**

for MHRC. Barbara Madigan said that the Metropolitan Human Rights Commission is currently engaged in a planning process under the direction of their new membership and new Executive Director. Ms. Madigan added that it could be realistic for MHRC to begin enforcement program activities in July, 1994. She concluded by saying the Fair Housing Task Force members should be aware that it will take some months for MHRC to plan and prepare for the program.

Discussion took place regarding specific changes to the Draft #4 of the Report & Recommendations document. Janet Hawkins said that it has been suggested that the Task Force may wish to re-order the recommendations as contained in the document, as well as prioritize the order of the recommendations. In other words, education and outreach activities could be listed first, enforcement second and the audit study third. Ms. Hawkins said that if this approach were adopted, the Task Force may wish to include information on the method it had used to adopt priority recommendations.

Teri Duffy said that the members of the Task Force had resisted moving toward a model that "compartmentalized" programs. Julie Sterling concurred with Ms. Duffy, saying that the recommendations should stay in the same order as included in the Report & Recommendations document. Ms. Sterling said the enforcement recommendation is an important consideration for program development, so it was decided to list it first. She concluded by saying that the Task Force members are satisfied with the current presentation of the recommendations without an explanation of prioritization or approach. The Task Force members agreed by consensus to keep the recommendations as listed.

Specific wording changes were added to Draft #5 of the Report & Recommendations.

The next meeting of the Task Force will take place on November 19, 1992.

The meeting was adjourned at 6:00 pm.



## MULTNOMAH COUNTY OREGON

DEPARTMENT OF SOCIAL SERVICES  
HOUSING AND COMMUNITY SERVICES DIVISION (503) 248-3339  
COMMUNITY DEVELOPMENT PROGRAM OFFICE (503) 248-5000  
2115 S.E. MORRISON  
PORTLAND, OREGON 97214  
FAX: (503) 248-3048

BOARD OF COUNTY COMMISSIONERS  
GLADYS McCOY • CHAIR OF THE BOARD  
PAULINE ANDERSON • DISTRICT 1 COMMISSIONER  
GARY HANSEN • DISTRICT 2 COMMISSIONER  
RICK BAUMAN • DISTRICT 3 COMMISSIONER  
SHARRON KELLEY • DISTRICT 4 COMMISSIONER

TO: Fair Housing Advisory Task Force  
FROM: Cecile Pitts, Multnomah County  
RE: Housing and Community Development Commission and the  
Fair Housing Advisory Task Force Report  
DATE: 10-8-92

During the last meeting of the Task Force I was asked to prepare some language regarding the role of the City County Housing and Community Development Commission and fair housing activities in the area. The following are some possible inserts to the Fair Housing Advisory Task Force Report regarding these matters. I am working with Draft #2 for this recommendations.

1. The Housing and Community Development Commission (HCDC) is a civil rights agency operating in the metropolitan area (see page #5 in the Draft). The insert might read as follows:

Created in 1991, the HCDC is a countywide commission established to provide policy and resource coordination and leadership necessary to resolve our community's affordable housing problems. In this capacity the commission develops the five-year Comprehensive Housing Affordability Strategy (CHAS) which coordinates the public and private funds available to carry out projects. The mandated contents of the CHAS includes certification of efforts to further fair housing. The Multnomah County five-year CHAS includes extensive policies for the enforcement and development of fair housing initiatives (see Goal "C").

2. The Advisory Task Force might also consider including the HCDC in the conclusion of the report. The following might be inserted in page #13:

The importance of coordinated policy support should also be recognized. The HCDC provides direction and leadership in the area of affordable housing development for our county. The 1991 CHAS is a strong statement of support for an effective fair housing program. The HCDC is a vehicle for establishing program wide policies to take the next steps of this support.

**Meeting Minutes  
Fair Housing Advisory Task Force  
Thursday, November 19, 1992**

**In Attendance:** Cecile Pitts, Multnomah County Community Development Program; Julie Sterling, City Club of Portland; Teri Duffy, Multnomah County Chair's Office; LeRoy Patton, Portland CHRB/Fair Housing Council of Oregon; Michael Marcus, District Court Judge; Barbara Madigan, City of Portland Bureau of Community Development; and Pete von Christierson, City of Gresham Community Development Block Grant Program.

**Absent:** Ed DeWald, Bank of America; Gerry Mildner, Portland State University/Oregon Housing NOW!; Emily Cedarleaf, Multifamily Housing Council of Oregon; Peg Malloy, Portland Housing Center; Hannah Callaghan, Multnomah County Legal Aid Service; Donna Butler, Fair Housing Council of Oregon; and Shirley Foster, Gresham Board of Realtors.

**Guests:** No guests were present.

**Staff:** Linda Berger and Janet Hawkins.

**1. Introductions.**

Introductions took place.

**2. Approval of Minutes--October 29, 1992.**

The Task Force members approved the minutes for the October 29, 1992 meeting by consensus.

**3. Review of Draft #5 Report & Recommendations.**

Discussion took place regarding changes to Draft #5 of the Report & Recommendations document. Janet Hawkins distributed a memorandum written by Peg Malloy that contained suggested changes to the Report & Recommendations Draft #5. Other specific wording changes were added to Draft #5 of the Report & Recommendations.

Linda Berger questioned whether a description of the protection based upon "age" in the City of Portland ordinance should be included in section "4. Fair Housing Needs of Special Populations--Sexual Orientation and Source of Income." Janet Hawkins said that she would check with the City Attorney's office to determine whether a protection based upon age extends to housing rights.

**Fair Housing Advisory Task Force**  
**November 19, 1992**  
**Page #2**

The Task Force decided it would not be necessary to meet again to approve the final draft of the Report & Recommendations. Janet Hawkins said that she would circulate the final draft to Task Force members for comment.

Cecile Pitts asked if Task Force members would be willing to make presentations on the document when it is presented to the three jurisdictions--City of Portland, City of Gresham and Multnomah County, as well as the Housing and Community Development Commission. Task Force members agreed that they would like to be involved in these presentations. Janet Hawkins said that she would send out a briefing memorandum on the presentations to Task Force members.

**The meeting was adjourned at 5:50 pm.**

j-624C

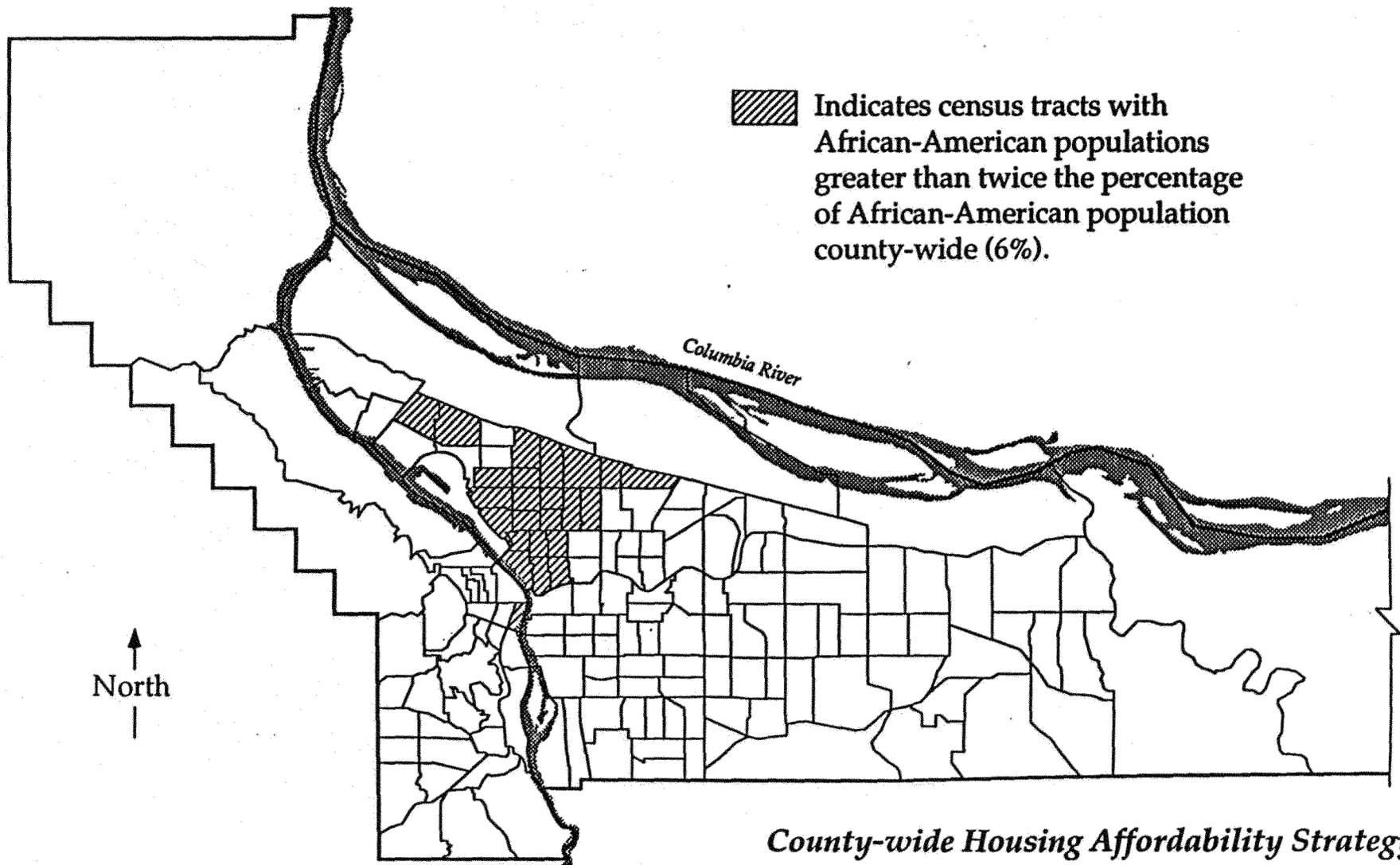
**Attachment #4**

# Multnomah County Census Tracts Key Map



# Areas of Ethnic/Low Income Concentration

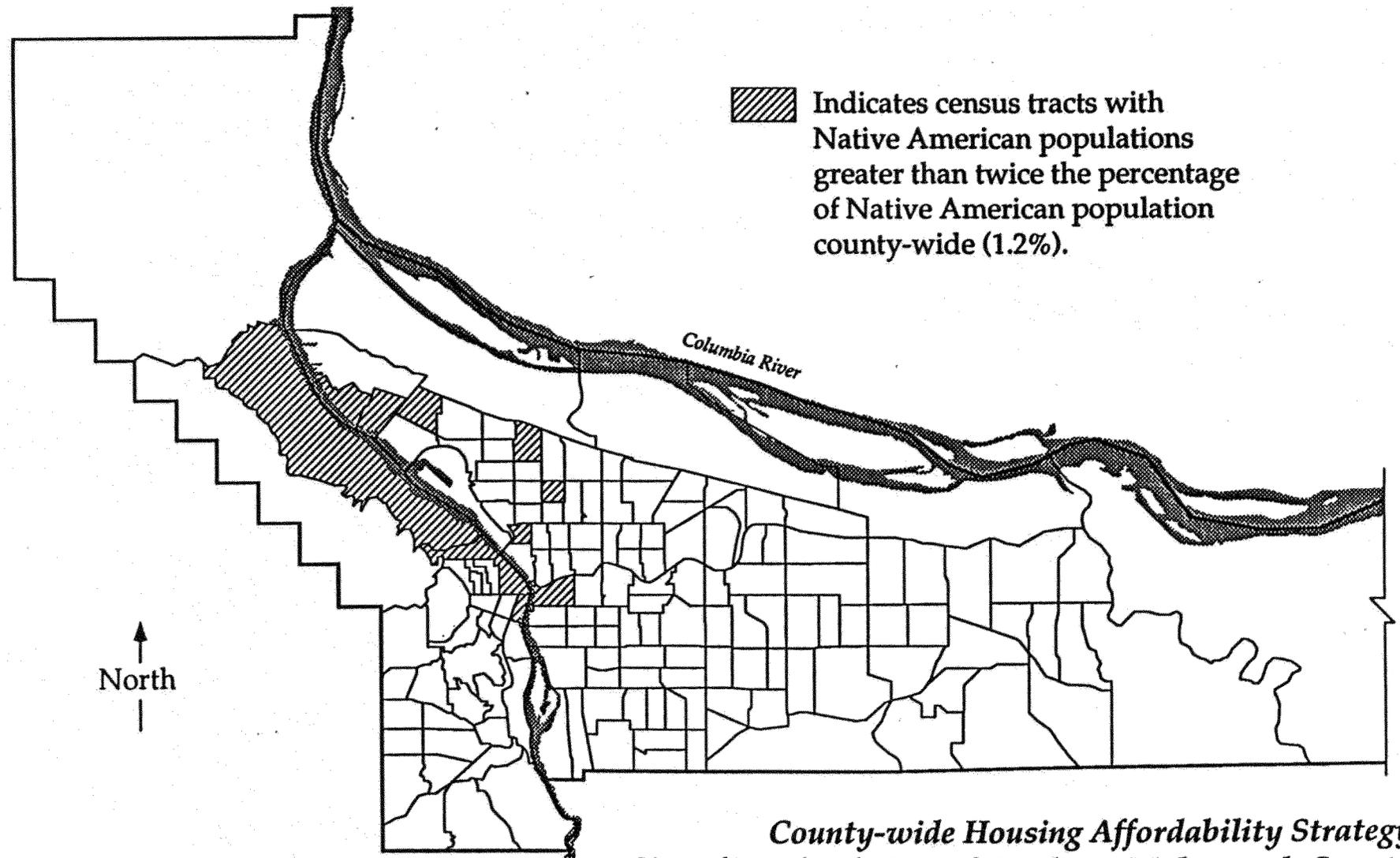
## Map 1 - African American



*County-wide Housing Affordability Strategy  
City of Portland, City of Gresham, Multnomah County*

# Areas of Ethnic/Low Income Concentration

## Map 2 -Native American, Eskimo or Aleut

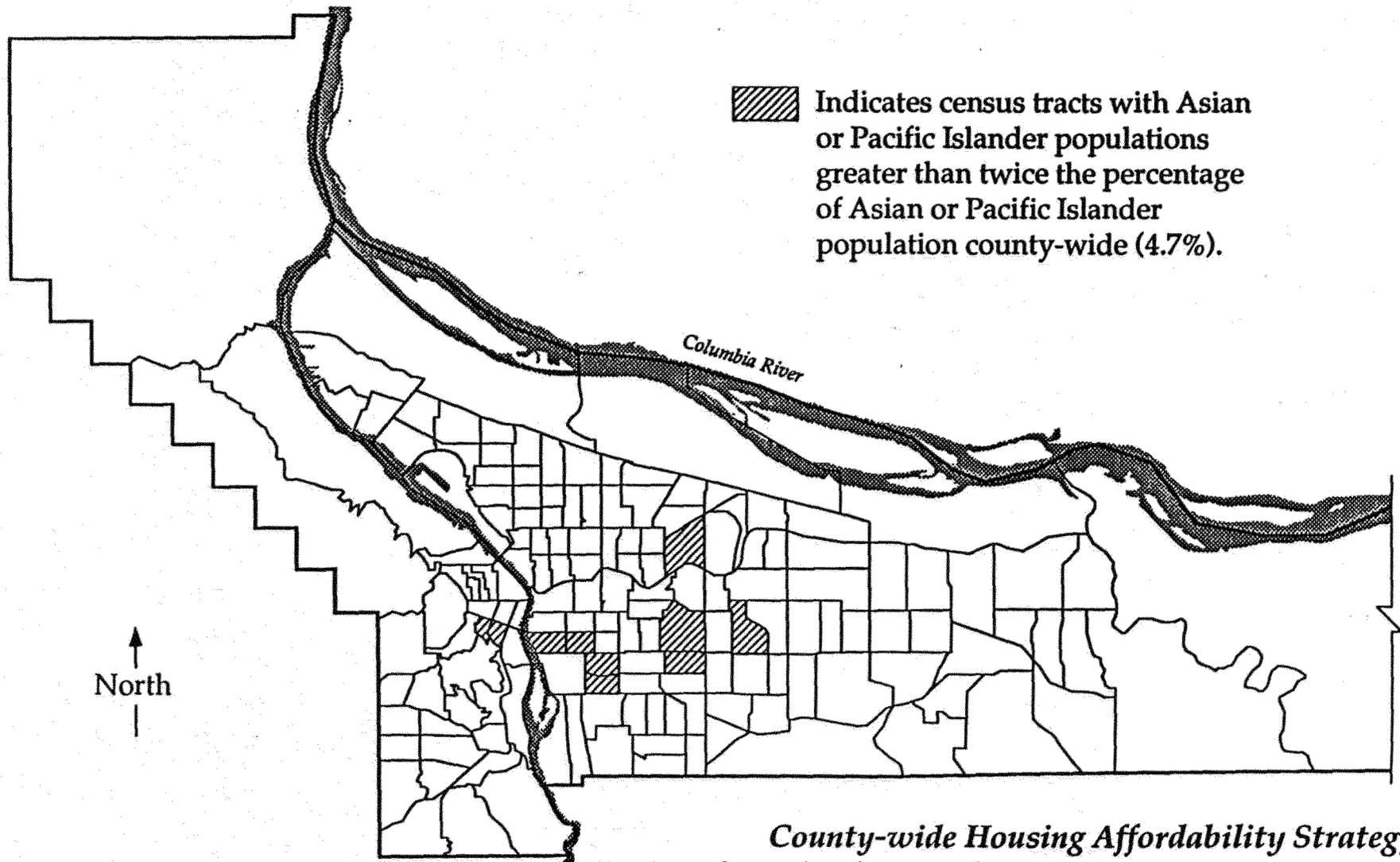


▨ Indicates census tracts with Native American populations greater than twice the percentage of Native American population county-wide (1.2%).

*County-wide Housing Affordability Strategy  
City of Portland, City of Gresham, Multnomah County*

# Areas of Ethnic/Low Income Concentration

## Map 3 - Asian or Pacific Islander

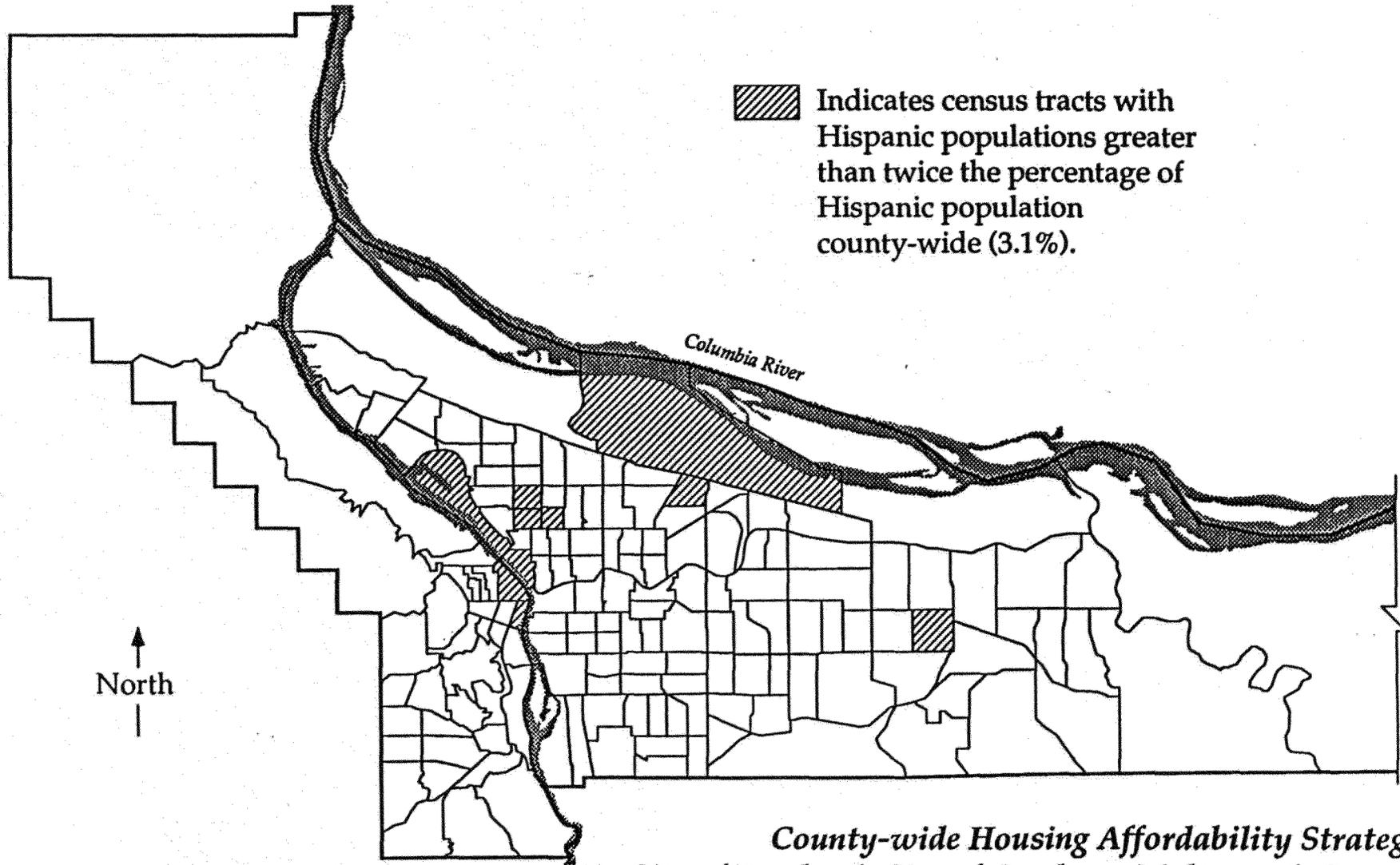


 Indicates census tracts with Asian or Pacific Islander populations greater than twice the percentage of Asian or Pacific Islander population county-wide (4.7%).

*County-wide Housing Affordability Strategy  
City of Portland, City of Gresham, Multnomah County*

# Areas of Ethnic/Low Income Concentration

## Map 4 -Hispanic (of any race)

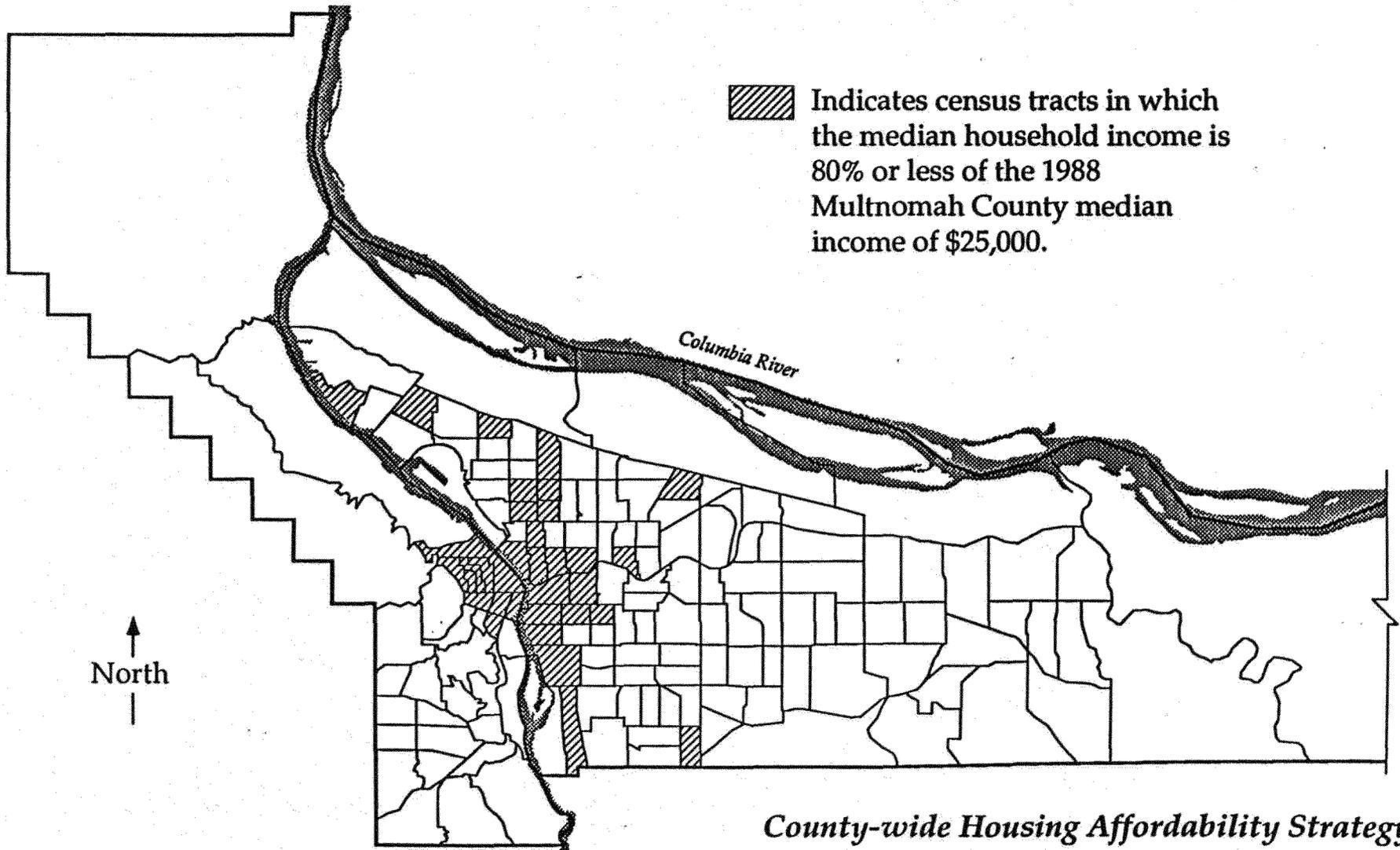


 Indicates census tracts with Hispanic populations greater than twice the percentage of Hispanic population county-wide (3.1%).

*County-wide Housing Affordability Strategy  
City of Portland, City of Gresham, Multnomah County*

# Areas of Ethnic/Low Income Concentration

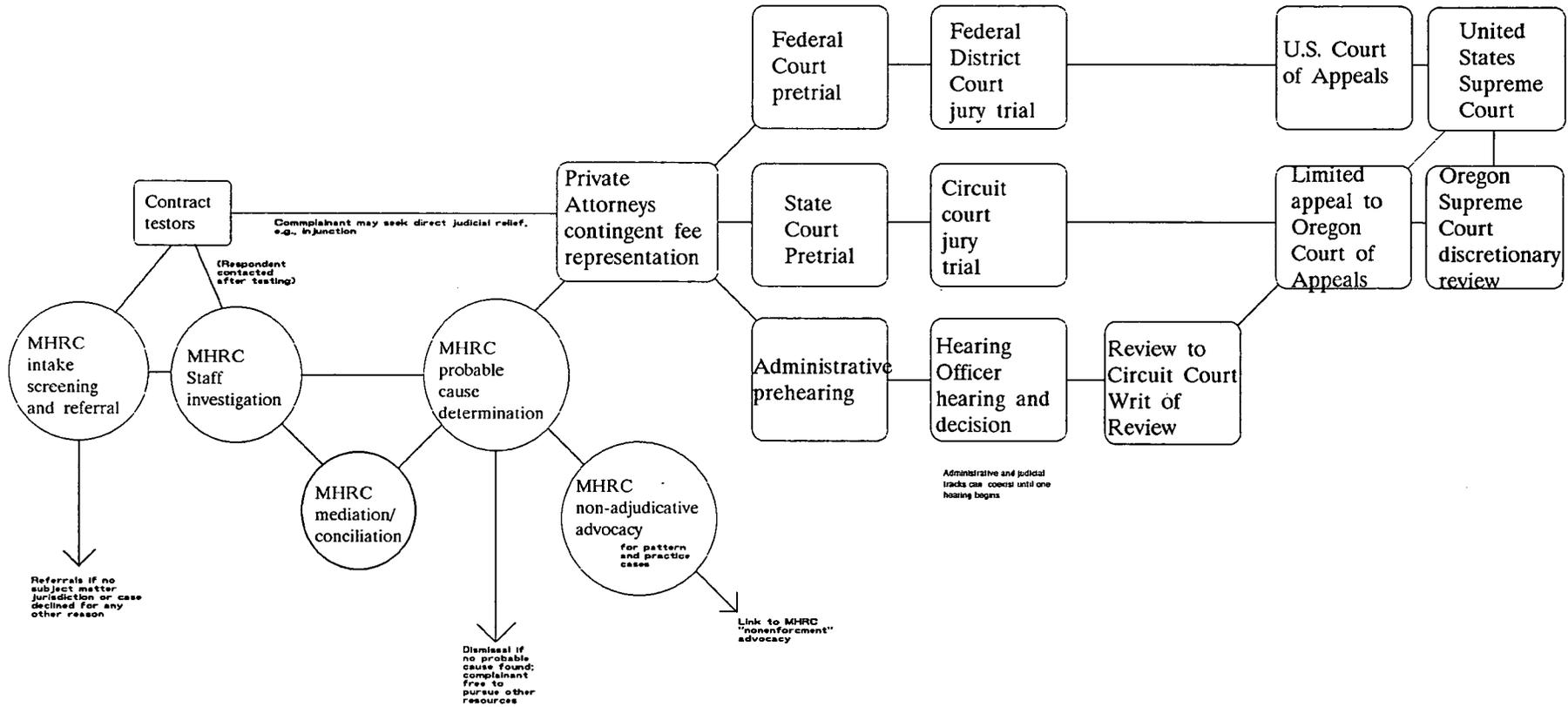
## Map 5 -Low Income Concentrations



*County-wide Housing Affordability Strategy  
City of Portland, City of Gresham, Multnomah County*

**Attachment #5**

# MHRC Enforcement Flow Chart



**Attachment #6**

## C. EQUAL OPPORTUNITY

**GOAL: ENSURE EQUAL ACCESS TO SERVICES FOR ALL INCOME GROUPS WITHIN THE FEDERALLY-RECOGNIZED PROTECTED CLASSES (RACE, COLOR, NATIONAL ORIGIN, RELIGION, SEX, FAMILY STATUS, DISABILITY), AND PEOPLE WITH SPECIAL NEEDS.**

### **C.1: ENFORCE COMPLIANCE WITH THE FEDERAL FAIR HOUSING AMENDMENTS ACT OF 1988**

**Lead Agency:** Cities of Portland, Gresham, Multnomah County

**Resource:** Current staffing, CDBG, Legal Aid, Fair Housing Initiatives Program (FHIP), Fair Housing Council of Oregon

**Population Served:** Countywide

**Five Year Result:** Fair Housing program in County is enhanced and stabilized.

**Documented Need:** All Subcommittees

#### **FIRST YEAR IMPLEMENTATION:**

- a. Conduct community education and outreach activities to property managers and rental property owners on their responsibilities under the Fair Housing Act.
- b. Conduct community education and outreach activities to people within the protected classes, as well as special populations, on the civil rights protections of the Fair Housing Act.
- c. Establish an enforcement program which can provide legal assistance to persons with housing discrimination complaints.
- d. Enforce City of Portland's civil rights ordinance.

### **C.2: ENSURE ZONING CODE COMPLIANCE WITH FAIR HOUSING ACT, ESPECIALLY THOSE PROVISIONS THAT LIMIT THE SITING, VARIETY, AND NUMBERS OF HOUSING UNITS OR BEDS AVAILABLE TO THOSE PROTECTED BY THE FAIR HOUSING ACT**

**Lead Agency:** Cities of Portland, Gresham, Multnomah County

**Resource:** Existing Staff, Legal Aid

**Population Served:** Countywide

**Five Year Results:** Full compliance with Fair Housing Act

**Documented Need:** Steering Committee and Legal Aid



Meeting Date: MARCH 30, 1993

Agenda No.: B-2

(Above space for Clerk's Office Use)

AGENDA PLACEMENT FORM  
(For Non-Budgetary Items)

SUBJECT: LEGISLATIVE UPDATE/BRIEFING

BOARD BRIEFING MARCH 30, 1993 REGULAR MEETING \_\_\_\_\_  
(date) (date)

DEPARTMENT NON-DEPARTMENTAL DIVISION CHAIR GLADYS McCOY

CONTACT FRED NEAL TELEPHONE 248-3308 OR 585-8355

PERSON(S) MAKING PRESENTATION FRED NEAL

ACTION REQUESTED:

INFORMATIONAL ONLY       POLICY DIRECTION       APPROVAL

ESTIMATED TIME NEEDED ON BOARD AGENDA: 30 MINUTES

CHECK IF YOU REQUIRE OFFICIAL WRITTEN NOTICE OF ACTION TAKEN: \_\_\_\_\_

BRIEF SUMMARY (include statement of rationale for action requested, as well as personnel and fiscal/budgetary impacts, if applicable):

WEEKLY UPDATE - 1993 OREGON LEGISLATIVE SESSION

(If space is inadequate, please use other side)

SIGNATURES:

ELECTED OFFICIAL *Gladys McCoy*

Or

DEPARTMENT MANAGER \_\_\_\_\_

(All accompanying documents must have required signatures)

BOARD OF  
MULTNOMAH COUNTY  
OREGON  
1993 MAR 24 AM 11:07  
CLERK OF BOARD OF  
MULTNOMAH COUNTY  
OREGON

*Board Briefing*  
*3-30-93*  
*B-2*  
*Handout #1*

3/29/93

MULTNOMAH COUNTY BILL LOG

Page 1

Bill #	Amend.	Pri.	Dept.	Subject	Date	Place	Time	Comm.	H	S	G
HB 2003		1	BCC	Family resource and service centers	3/29	137	13:30	C AND F			
HB 2003		1	DHS	Family resource and service centers	3/29	137	13:30	C AND F			
HB 2003		1	DSS	Family resource and service centers	3/29	137	13:30	C AND F			
HB 2004		1	BCC	Commission on Children and Families	3/29	137	13:30	C AND F			
HB 2004		1	DHS	Commission on Children and Families	3/29	137	13:30	C AND F			
HB 2004		1	DSS	Commission on Children and Families	3/29	137	13:30	C AND F			
HB 2005		1	DA	Child protective services transfer	3/29	137	13:30	C AND F			
HB 2005		1	DSS	Child protective services transfer	3/29	137	13:30	C AND F			
HB 2008		1	DHS	Healthy Start pilot program	4/14	137	13:30	C AND F			
HB 2008		1	DSS	Healthy Start pilot program	4/14	137	13:30	C AND F			
HB 2012		2	MSS	Labor negotiations as public meetings				COMMERCE			
HB 2056		2	LIB	State aid to libraries				GEN GOVT			
HB 2065	A-ENG	2	DES	School elections				EDUCATN		P	
HB 2122		2	DHS	Delegation of nursing care tasks				HUM DEV			
HB 2122		2	MSS	Delegation of nursing care tasks				HUM DEV			
HB 2123		1	DES	R.V. registration				GEN GOVT			
HB 2124		2	DES	Historic property special assessments	2/04			REVENUE			
HB 2141		2	DA	Juvenile custody by CSD	2/24			C AND F			
HB 2141		2	DSS	Juvenile custody by CSD	2/24			C AND F			
HB 2150		2	DSS	Type B Agencies	3/26	HRE	8:30	HUM DEV			
HB 2217		2	DES	LCDC Annexation bill				NAT RES			
HB 2219		1	MSS	State fee for sharing revenues				GEN GOVT			
HB 2225		2	DCC	Reduced parole				JUDIC			
HB 2232		2	DHS	Disclosure of HIV status	3/30	357	15:00	JUDIC			
HB 2234		1	DCC	Beer and wine tax; A&D				REVENUE			
HB 2234		1	MSS	Beer and wine tax; A&D				REVENUE			
HB 2236		1	DHS	Cigarette tax; Health and Social Services				REVENUE			
HB 2236		1	DSS	Cigarette tax; Health and Social Services				REVENUE			
HB 2236		1	MSS	Cigarette tax; Health and Social Services				REVENUE			
HB 2248		2	MSS	Actual notice for tort claims				JUDIC			
HB 2256		2	DHS	HIV post-conviction tests				JUDIC		P	
HB 2272		2	DES	Repeal of primary name rotation				ETHICS		P	
HB 2275	A-ENG	2	DES	Election procedures				ETHICS		P	
HB 2278		2	DES	Primary mail ballot				GEN GOVT			
HB 2289		2	DA	Guilty requirement for DUII diversion				JUDIC			
HB 2308		2	DSS	Elderly abuse peer review board	3/22	HRE	8:30	HUM DEV			
HB 2326		2	BCC	DHR mission statement	1/28			HUM DEV			
HB 2326		2	DHS	DHR mission statement	1/28			HUM DEV			
HB 2326		2	DSS	DHR mission statement	1/28			HUM DEV			
HB 2377		2	DSS	Video poker money for addictive behavior				COMMERCE			
HB 2381		2	DA	Asset forfeiture desunset	2/16			JUDIC			
HB 2381		2	MCSO	Asset forfeiture desunset	2/16			JUDIC			
HB 2381		2	MSS	Asset forfeiture desunset	2/16			JUDIC			
HB 2394		1	BCC	VAN VLIET SALES TAX				REVENUE			
HB 2408		2	DES	Partial takings	3/19	HRD	15:30	NAT. RES			
HB 2408		2	MSS	Partial takings	3/19	HRD	15:30	NAT. RES			
HB 2411	A-ENG	2	DHS	Law enforcement medical liability	3/12			WAYS		P	
HB 2411	A-ENG	2	MCSO	Law enforcement medical liability	3/12			WAYS		P	
HB 2411	A-ENG	2	MSS	Law enforcement medical liability	3/12			WAYS		P	
HB 2415		1	DES	Gas tax increase	2/16			REVENUE			
HB 2416		1	DES	Vehicle registration fees	2/16			REVENUE			
HB 2417		2	DES	Transportation				REVENUE			
HB 2419		1	DES	Vehicle emission fees	3/31	HRE	8:00	VEH EMIS			

Bill #	Amend.	Pri.	Dept.	Subject	Date	Place	Time	Comm.	H	A	G
HB 2420		2	DES	Transportation				REVENUE			
HB 2421		1	DES	Transportation access fees				GEN GOVT			
HB 2422		1	DES	Studded tire fee				GEN GOVT			
HB 2423		1	DES	Ethanol gas tax rate	3/24	8:00	HRA	REVENUE			
HB 2424		1	DES	Highway general obligation bonds	2/16			REVENUE			
HB 2425		2	DES	Long range transit \$ and lottery				APP A			
HB 2426		2	DES	Hogh speed rail \$				GEN GOVT			
HB 2427		1	DES	Battery and tire tax				GEN GOVT			
HB 2428		2	DES	Assessment of state agencies for transit	2/16			REVENUE			
HB 2429	A-ENG	2	DES	Transportation				APP A			
HB 2430		2	DES	Bicycle registration fee				GEN GOVT			
HB 2432		2	BCC	Gross receipts tax				REVENUE			
HB 2432		2	MSS	Gross receipts tax				REVENUE			
HB 2435		1	BCC	Delinquent taxes interest rate and A&T	1/28			REVENUE			
HB 2435		1	DES	Delinquent taxes interest rate and A&T	1/28			REVENUE			
HB 2443		2	DES	Personal property less than \$10,000	4/01	HRA	8:30	REVENUE			
HB 2463		1	BCC	Repeal of prisoner transport mandate				JUDIC			
HB 2463		1	MCSO	Repeal of prisoner transport mandate				JUDIC			
HB 2464		1	DA	Repeal of commitment counsel mandate				JUDIC			
HB 2464		1	DSS	Repeal of commitment counsel mandate				JUDIC			
HB 2464		1	MCC	Repeal of commitment counsel mandate				JUDIC			
HB 2465		1	BCC	Mandate \$				GEN GOVT			
HB 2469	A-ENG	2	MCSO	BPST open enrollment	3/25	357	9:00	GEN GOVT			
HB 2471		2	MCSO	Illegal drug cleanup fund	2/01			NAT RES			
HB 2471		2	MSS	Illegal drug cleanup fund	2/01			NAT RES			
HB 2472		2	DES	\$50,000 Davis-Bacon Lid				COMMERCE			
HB 2490		1	DES	AGC does public contracting				GEN GOVT			
HB 2490		1	MSS	AGC does public contracting				GEN GOVT			
HB 2491		2	DHS	Sharing client information	2/09			HUM DEV			
HB 2491		2	DSS	Sharing client information	2/09			HUM DEV			
HB 2495		2	DES	Use of state motor pool	2/15			LEG RULE			
HB 2500		1	MSS	HJR 10 sales tax				REVENUE			
HB 2501		1	BCC	Sales tax plan				REVENUE			
HB 2501		1	MSS	Sales tax plan				REVENUE			
HB 2503		2	DES	Primary election by mail				GEN GOVT			
HB 2504		2	DA	"Family court"	3/22	357	13:30	JUDIC			
HB 2504		2	DSS	"Family court"	3/22	357	13:30	JUDIC			
HB 2514	A-ENG	2	MCSO	Firearms				JUDIC			P
HB 2516		2	MSS	Retroactive spousal workers compensation				COMMERCE			
HB 2521		1	DSS	A&D allocations				REVENUE			
HB 2521		1	MSS	A&D allocations				REVENUE			
HB 2524		2	DA	Pot recriminalization				JUDIC			
HB 2524		2	DSS	Pot recriminalization				JUDIC			
HB 2524		2	MCSO	Pot recriminalization				JUDIC			
HB 2534		2	DES	Urban service boundaries and vote	3/30	357	8:30	GEN GOVT			
HB 2535		2	DHS	Volunteer dentist indemnity				JUDIC			
HB 2540		2	DA	Forfeiture money and O and M	2/09			JUDIC			
HB 2540		2	MCSO	Forfeiture money and O and M	2/09			JUDIC			
HB 2540		2	MSS	Forfeiture money and O and M	2/09			JUDIC			
HB 2546		2	MSS	Private and public pay				COMMERCE			
HB 2553		2	BCC	Quorum's 2x2				GEN GOVT			
HB 2553		1	MSS	Quorum's 2x2				GEN GOVT			
HB 2554		2	BCC	Actions in public meetings				GEN GOVT			
HB 2554		2	MSS	Actions in public meetings				GEN GOVT			

Bill #	Amend.	Pri.	Dept.	Subject	Date	Place	Time	Comm.	H	S	G
HB 2563		2	DA	Desunset of asset forfeiture	2/16			JUDIC			
HB 2563		2	MCSO	Desunset of asset forfeiture	2/16			JUDIC			
HB 2574		1	DCC	P.O. binding arbitration				COMMERCE			
HB 2574		1	MSS	P.O. binding arbitration				COMMERCE			
HB 2583		2	DES	Absentee ballots				GEN GOVT			
HB 2604		2	MSS	Public-private PERS study				COMMERCE			
HB 2611		2	MSS	Overtime calculation	3/18	357	8:30	GEN. GOV P			
HB 2622		2	DHS	Volunteers tort immunity				JUDIC			
HB 2622		2	MSS	Volunteers tort immunity				JUDIC			
HB 2630		2	DSS	Repeal of statutory population cap				JUDIC			
HB 2631		2	BCC	Co. video poker clarification				APP A			
HB 2631		2	MSS	Co. video poker clarification				APP A			
HB 2649		2	DSS	Housing dept. coordination of comm. action				APP A			
HB 2650		2	MSS	PERS payback				REVENUE			
HB 2673		2	DA	Reimbursement of certain support enforcement				JUDIC			
HB 2674	A-ENG	2	DES	County surveyors				LABOR		P	
HB 2683		2	DSS	LIEAP						P	P
HB 2687		2	LIB	Confidentiality of library loans				GEN GOVT			
HB 2708		2	MCSO	Uninsured vehicle impoundment				COMMERCE			
HB 2712		2	MCSO	Privacy and public records				JUDIC			
HB 2712		2	MSS	Privacy and public records				JUDIC			
HB 2717		2	BCC	Split PERS	3/26	HRD	8:30	COMMERCE			
HB 2717		2	MSS	Split PERS	3/26	HRD	8:30	COMMERCE			
HB 2736		2	MCSO	Blood test in lieu of breath test				JUDIC			
HB 2738		2	DES	Indigent burial responsibility				JUDIC			
HB 2738		2	DHS	Indigent burial responsibility				JUDIC			
HB 2758		1	DES	OIA secondary lands				NAT RES			
HB 2770		2	DES	Extinguishment of "liens and encumbrances"				REVENUE			
HB 2790		2	MSS	Competitive strategies review							
HB 2800		2	DES	Delinquent property taxes				REVENUE			
HB 2826		2	DES	Non-reimbursement by mortgagees	3/22	HRA	9:00	REVENUE			
HB 2844		2	MSS	Two tier PERS				COMMERCE			
HB 2860		2	MSS	"Conditions of employment"	3/15			COMMERCE			
HB 2861		1	DHS	OMA cigarette tax				REVENUE			
HB 2870		2	DSS	Emergency housing money				APP A			
HB 2872		1	BCC	6% A.V. cap				REVENUE			
HB 2872		1	MSS	6% A.V. cap				REVENUE			
HB 2875		1	DES	AOC public contracting bill				GEN GOVT			
HB 2882		2	MCSO	Fees for service				JUDIC			
HB 2882		2	MSS	Fees for service				JUDIC			
HB 2883		1	BCC	Real estate tax moratorium	3/30	HRA	8:00	REVENUE			
HB 2883		1	MSS	Real estate tax moratorium	3/30	HRA	8:00	REVENUE			
HB 2891		2	MCSO	Concealed weapons permits	3/31	357	13:00	JUDIC			
HB 2899		2	DES	Conservation easement and payment	3/19	HRD	15:30	NAT. RES			
HB 2906		2	MSS	Transferee pension election(s)				COMMERCE			
HB 2914		2	DES	Housing cost impact statements	3/24	50	8:30	COMMERCE			
HB 2914		2	DSS	Housing cost impact statements	3/24	50	8:30	COMMERCE			
HB 2914		2	MSS	Housing cost impact statements	3/24	50	8:30	COMMERCE			
HB 2920		1	BCC	Specific sales tax preemption	3/30	HRA	8:00	REVENUE			
HB 2920		1	MSS	Specific sales tax preemption	3/30	HRA	8:00	REVENUE			
HB 2922		2	DES	Community development tax exemptions				REVENUE			
HB 2922		2	DSS	Community development tax exemptions				REVENUE			
HB 2935		2	MSS	A.G. re taking	3/19	HRD	13:00	NAT. RES			
HB 2947		1	MSS	Taxing public transmission lines				REVENUE			

Bill #	Amend.	Pri.	Dept.	Subject	Date	Place	Time	Comm.	H	S	G
HB 2952		2	DHS	OR Health Authority	3/05			HUM DEV			
HB 2963		2	DSS	Managed care guidelines				COMMERCE			
HB 2965		2	DA	Sex offender notebooks				JUDIC			
HB 2965		2	MCSO	Sex offender notebooks				JUDIC			
HB 2966		2	MSS	PERS upgrade				COMMERCE			
HB 2981		2	MCSO	Firearm fines and forfeitures	3/31	357	13:00	JUDIC			
HB 2987		2	DA	Juvenile judge restrictions				JUDIC			
HB 2989		2	DA	DUII treatment upgrades				JUDIC			
HB 2989		2	DSS	DUII treatment upgrades				JUDIC			
HB 2994		2	DA	Changes in juvenile remands				JUDIC			
HB 2994		2	DSS	Changes in juvenile remands				JUDIC			
HB 3001		2	MSS	OTO tax equity program				REVENUE			
HB 3008		2	DA	Child abuse assessment centers money				C AND F			
HB 3008		2	DHS	Child abuse assessment centers money				C AND F			
HB 3018		2	DA	Uniform interstate family support act				JUDIC			
HB 3022		2	BCC	State real estate transfer tax				REVENUE			
HB 3022		2	DES	State real estate transfer tax				REVENUE			
HB 3023		2	DCC	P.O.'s w/guns	4/01	357	15:00	JUDIC			
HB 3033		2	DA	Juvenile court restrictions				JUDIC			
HB 3033		2	DSS	Juvenile court restrictions				JUDIC			
HB 3055		2	DES	Sale-leaseback, lease-leaseback transactions				GEN GOVT			
HB 3071		2	MCSO	Revision of firearm regulation	3/31	357	13:00	JUDIC			
HB 3078		1	BCC	Income tax surcharge for schools				REVENUE			
HB 3087		2	DES	"Takings" compensation	3/19	HRD	15:30	NAT. RES			
HB 3087		2	MSS	"Takings" compensation	3/19	HRD	15:30	NAT. RES			
HB 3096		2	DSS	Housing grants and loans				HUM DEV			
HB 3100		1	MSS	Preemption of hotel-motel tax	3/30	HRA	8:00	REVENUE			
HB 3115		2	MSS	Close of workers comp. claims				COMMERCE			
HB 3122		2	DSS	OR Housing Fund and RETT				COMMERCE			
HB 3122		2	MSS	OR Housing Fund and RETT				COMMERCE			
HB 3127		2	DES	Primary election dates				RULES			
HB 3128		2	DES	"Takings" compensation	3/19	HRD	13:00	NAT. RES			
HB 3128		2	MSS	"Takings" compensation	3/19	HRD	13:00	NAT. RES			
HB 3129		2	DHS	Volunteer dentists tort immunity				JUDIC			
HB 3129		2	MSS	Volunteer dentists tort immunity				JUDIC			
HB 3136		2	DES	Little Davis Bacon Repeal				COMMERCE			
HB 3136		2	MSS	Little Davis Bacon Repeal				COMMERCE			
HB 3137		2	DA	Child support study				JUDIC			
HB 3159		2	DSS	Schools, gangs, drugs I				EDUCATN			
HB 3160		2	DSS	Schools, gangs, drugs II				EDUCATN			
HB 3161		2	MCSO	Personal employee info exemption from public				JUDIC			
HB 3161		2	MSS	Personal employee info exemption from public				JUDIC			
HB 3169		2	DSS	Transfer tax for OR Housing Fund				COMMERCE			
HB 3173		1	DES	Statewide emission fee - T '93				NAT RES			
HB 3176		2	DA	Courthouse security fees				JUDIC			
HB 3176		2	DCC	Courthouse security fees				JUDIC			
HB 3176		2	DES	Courthouse security fees				JUDIC			
HB 3176		2	MCSO	Courthouse security fees				JUDIC			
HB 3192		2	DES	Tax refunds a la T.I.F.				REVENUE			
HB 3192		2	MSS	Tax refunds a la T.I.F.				REVENUE			
HB 3198		2	MSS	Abitrator take final offers				COMMERCE			
HB 3228		2	DHS	Uniform ambulance rates				GEN GOVT			
HB 3241		2	DHS	Medical practice guidelines				HUM DEV			
HB 3311		2	DHS	OR Health Care for All				HUM DEV			

Bill #	Amend.	Pri.	Dept.	Subject	Date	Place	Time	Comm.	H	S	G
HB 3317		2	MSS	Contracting discrimination				COMMERCE			
HB 3319		2	MCSO	Ballistic and push knives	4/06	357	15:00	JUDIC			
HB 3321		1	BCC	Dedication of hotel/motel taxes	3/31	357	15:00	JUDIC			
HB 3321		2	DA	DUII auto forfeiture	3/31	357	15:00	JUDIC			
HB 3321		2	MCSO	DUII auto forfeiture	3/31	357	15:00	JUDIC			
HB 3321		1	MSS	Dedication of hotel/motel taxes	3/31	357	15:00	JUDIC			
HB 3328		2	DES	Wetlands = fed. definition	3/24	HRD	13:30	NAT RES			
HB 3347		2	MCSO	Public vehicle I.D.				GEN GOVT			
HB 3351		2	DA	Moms on drugs				JUDIC			
HB 3351		2	DCC	Moms on drugs				JUDIC			
HB 3351		2	DSS	Moms on drugs				JUDIC			
HB 3372		2	DA	Expunction limitations				JUDIC			
HB 3372		2	DSS	Expunction limitations				JUDIC			
HB 3374		2	DES	Bldgs exempt from electrical code				COMMERCE			
HB 3384		2	MCSO	Disciplinary records exempt from disclosure				JUDIC			
HB 3384		2	MSS	Disciplinary records exempt from disclosure				JUDIC			
HB 3386		2	BCC	Lottery money for scholarships				COMMERCE			
HB 3399		2	DA	Social gaming enforcement				GEN GOVT			
HB 3399		2	MCSO	Social gaming enforcement				GEN GOVT			
HB 3400		2	MSS	"Don't slice the baby"				COMMERCE			
HB 3416		2	MSS	Workers comp. not drug abuse				COMMERCE			
HB 3420		1	DES	County utility franchise fees				GEN GOVT			
HB 3420		1	MSS	County utility franchise fees				GEN GOVT			
HB 3425		1	DSS	Juvenile indigent defense	3/24	357	15:00	JUDIC			
HB 3425		1	MSS	Juvenile indigent defense	3/24	357	15:00	JUDIC			
HB 3426		2	DA	Theft misdemeanors to violations	3/24	357	15:00	JUDIC			
HB 3426		2	DCC	Theft misdemeanors to violations	3/24	357	15:00	JUDIC			
HB 3426		2	MCSO	Theft misdemeanors to violations	3/24	357	15:00	JUDIC			
HB 3442		2	DES	Prop. valuation data to petitioner				REVENUE			
HB 3479		2	DSS	Video poker gambling addiction fund				COMMERCE			
HB 3481		2	MSS	Deferred compensation and life insurance				COMMERCE			
HB 3490		1	DES	Plat map aproval				GEN GOVT			
HB 3492		2	MSS	6% fee increase limit				GEN GOVT			
HB 3493		2	MSS	Fee increase slow down				GEN GOVT			
HB 3497		2	MCSO	Use of photo radar				GEN GOVT			
HB 3501		2	DES	Quiet title suits				NAT RES			
HB 3503		2	DES	Animal shelter farms, statistics				NAT RES			
HB 3504		2	DES	Euthanasia last				NAT RES			
HB 3519		2	MSS	In rem initiative challenges				JUDIC			
HB 3536		2	DHS	Hourly rate of medicaid reimbursement				HUM DEV			
HB 3540		2	DHS	Expansion of practive of N.P.s				HUM DEV			
HB 3563		2	DHS	T.B. rules				HUM DEV			
HB 3567		2	MCSO	DUII blood tests				JUDIC			
HB 3582		1	DHS	County role in OR Health Plan				HUM DEV			
HB 3583		2	DSS	Children's Fund/Soft Drink Tax				REVENUE			
HB 3583		2	MSS	Children's Fund/ Soft Drink Tax				REVENUE			
HB 3584		1	DSS	Community based mental health services				HUM DEV			
HB 3587		1	DSS	Mental Health/DD downsizing \$ dedication				HUM DEV			
HB 3601		2	MSS	Quiet title suits				JUDIC			
HB 3602		1	DES	Gorge planning \$				APP A			
HB 3602		1	MSS	Gorge planning \$				APP A			
HB 3613		2	DES	Tax exemption for non-profit business				REVENUE			
HB 3619		1	DES	Road damage fees				GEN GOVT			
HB 3624		1	MSS	Rights to service contracts				GEN GOVT			

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HB 3630		2	MSS	Competitiveness in public contracts				GEN GOVT			
HB 5007		2	DSS	CYSC \$				APP B			
HB 5009		1	DHS	DHR \$	3/18	HRF	13:30	APP B			
HB 5009		1	DSS	DHR \$	3/18	HRF	13:30	APP B			
HB 5013		2	BCC	Dispute resolution \$	3/11			APP B			
HB 5014		1	DA	Deputy DA \$		50	13:30	APP B			
HB 5014		1	MSS	Deputy DA \$		50	13:30	APP B			
HB 5018		1	DSS	Housing and Community Services \$	3/24	50	8:30	APP A			
HB 5024		2	MCSO	Marine Board \$				APP A			
HB 5047		2	DHS	OR health plan budget	3/08			APP B			
HJR 04		2	BCC	Van Vliet tax plan				REVENUE			
HJR 04		2	MSS	Van Vliet tax plan				REVENUE			
HJR 06		2	DHS	Charge for emergency services				REVENUE			
HJR 06		2	MCSO	Charge for emergency services				REVENUE			
HJR 06		2	MSS	Charge for emergency services				REVENUE			
HJR 07		1	DES	Emission fees for transit	3/31	HRE	8:00	VEH EMIS			
HJR 08		1	BCC	Funding of state mandates				GEN GOVT			
HJR 08		1	MSS	Funding of state mandates				GEN GOVT			
HJR 10		1	BCC	Sales tax plan				REVENUE			
HJR 10		2	MCC	Sales tax plan				REVENUE			
HJR 11		1	DES	AGC's lowest bidder constitutional amendment				GEN GOVT			
HJR 11		1	MSS	AGC's lowest bidder constitutional amendment				GEN GOVT			
HJR 15		2	BCC	Lottery money to education				COMMERCE			
HJR 28		1	BCC	School tax freeze				REVENUE			
HJR 40		2	BCC	Constitutional code of ethics				RULES			
HJR 45		1	MSS	Tax base plus new construction	3/26	HRA	8:00	REVENUE			
HJR 50		1	BCC	Beer and wine tax dedication				LEG RULE			
HJR 50		1	MSS	Beer and wine tax dedication				LEG RULE			
HJR 59		1	DSS	Beer and wine tax dedication	3/17	HRA	8:00	REVENUE		P	
HJR 60		1	BCC	2% A.V. cap				REVENUE			
HJR 60		1	DES	2% A.V. cap				REVENUE			
HJR 60		1	MSS	2% A.V. cap				REVENUE			
HJR 61		1	BCC	Lottery money for education too	3/09			REVENUE			
HJR 61		1	MSS	Lottery money for education too	3/09			REVENUE			
SB 0014	A-ENG	2	DES	BM 5 update	3/26	HRA	8:00	REVENUE		P	
SB 0020	A-ENG	1	LIB	Reimbursement to donor libraries				WAYS			
SB 0022	A-ENG	2	LIB	State money to local libraries	3/26	HOUSE	11:00	GEN GOVT	P	P	
SB 0025		1	DSS	Schools do early childhood development	3/16	343	15:00	EDUCATN			
SB 0026		1	DHS	Lead role of ESD's	3/30	343	15:00	EDUCATN			
SB 0027		1	DSS	Lead role of ESD's	3/18	343	15:00	EDUCATN			
SB 0045		1	DES	State motor pool				WAYS			
SB 0052		2	BCC	Tri-county road corporation				LABOR			
SB 0052		2	DES	Tri-county road corporation				LABOR			
SB 0054		2	BCC	Tri-county public purchasing cooperative				LABOR			
SB 0055		2	DES	Tri-county mental health corporation				LABOR			
SB 0056		2	BCC	ISD IGA				LABOR			
SB 0056		2	DES	ISD IGA				LABOR			
SB 0056		2	MSS	Tri-county public purchasing cooperative				LABOR			
SB 0057		2	DES	Personal property tax	3/02			REVENUE			
SB 0058	A-ENG	2	DES	A&T mail - certified or registered				TRADE			
SB 0088	A-ENG	2	DA	Environmental crimes	3/19	HRC	8:00	AGRICULT			
SB 0095		2	DHS	Licensing of ambulance servicews	3/15			GEN GOVT		P	
SB 0096		1	BCC	LCDC and gorge planning	4/05	HRC	8:00	AGRICULT			
SB 0096		1	DES	LCDC and gorge planning	4/05	HRC	8:00	AGRICULT			

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SB 0122		2	DES	Urban growth management	3/26	HRC	8:00	AGRICULT			
SB 0124		1	BCC	Regional strategies	3/02			TRADE			
SB 0125		2	DES	Community facilities development				TRADE			
SB 0125		2	MSS	Community facilities development	3/24	HRB	8:00	TRADE			
SB 0130		1	DES	Marginal lands	3/22	137	16:30	AGRICULT			
SB 0137		2	DCC	Terms of parole	4/14	HRC	17:30	JUDIC			
SB 0138		2	DCC	Probation violations	4/14	HRC	17:30	JUDIC			
SB 0138		2	MCSO	Probation violations	4/14	HRC	17:30	JUDIC			
SB 0139		1	DCC	CCA allocation formula	4/14	HRC	17:30	JUDIC			
SB 0139		2	MCSO	CCA allocation formula	4/14	HRC	17:30	JUDIC			
SB 0140		2	DA	Indexing theft crimes	4/14	HRC	17:30	JUDIC			
SB 0175		2	DES	Precinct Committee elections				ETHICS			
SB 0183		1	DES	Kiss the fair goodbye				TRADE			
SB 0239		2	DSS	Risk to non-profit providers	3/03			HUM RES			
SB 0239		2	MSS	Risk to non-profit providers	3/03			HUM RES			
SB 0244		2	DES	Recordations	2/12			JUDIC			
SB 0245		1	BCC	State Court Security	3/31	HRC	13:00	JUDIC			
SB 0245		1	DES	State Court Security	3/31	HRC	13:00	JUDIC			
SB 0245		1	MCSO	State Court Security	3/31	HRC	13:00	JUDIC			
SB 0249	A-ENG	2	DA	Local criminal justice advisory councils	3/26	SEN.	11:00	JUDIC			P
SB 0249	A-ENG	2	DCC	Local criminal justice advisory councils	3/26	SEN.	11:00	JUDIC			P
SB 0249	A-ENG	2	MCSO	Local criminal justice advisory councils	3/26	SEN.	11:00	JUDIC			P
SB 0257	A-ENG	2	BCC	Juvenile code revision	4/01	357	13:00	JUDIC			P
SB 0257	A-ENG	2	DA	Juvenile code revision	4/01	357	13:00	JUDIC			P
SB 0257	A-ENG	2	DSS	Juvenile code revision	4/01	357	13:00	JUDIC			P
SB 0260		2	DES	Fuel testing				AGRICULT			
SB 0267		2	DES	Voting district boundaries	3/04			ETHICS			
SB 0272		2	DES	Early payment discount for omitted property	3/17	HRA	8:00	REVENUE			P
SB 0273		2	DES	Valuation of industrial properties in dispute	3/29	HRA	13:00	REVENUE			
SB 0274		2	DES	Tax collector misc.							P P P
SB 0277	A-ENG	2	DES	"Intangible personal property"	3/26	HRA	8:00	REVENUE			P
SB 0287		2	DA	Protective proceedings	3/29	HRC	13:00	JUDIC			
SB 0287		2	DSS	Protective proceedings	3/29	HRC	13:00	JUDIC			
SB 0292		1	DES	Postal service voter registration update	2/25			ETHICS			
SB 0316		1	DES	Foreclosure costs recovery				LABOR			
SB 0332		2	DES	Public contractors health coverage				LABOR			
SB 0332		2	MSS	Public contractors health coverage				LABOR			
SB 0335		2	DSS	Compulsive gambling				TRADE			
SB 0352		2	DA	HIV and reckless endangerment				JUDIC			
SB 0353		2	DCC	Expanded early release	4/06	HRC	13:00	JUDIC			
SB 0354	A-ENG	2	DSS	ARC bill of rights	4/08	HRE	8:30	HUM DEV			P
SB 0357	A-ENG	2	DES	May urban renewal reform vote	3/30	HRA	8:00	REVENUE			P
SB 0357	A-ENG	2	MSS	May urban renewal reform vote	3/30	HRA	8:00	REVENUE			P
SB 0381		2	MSS	Release of medical info. and workers comp.							
SB 0385		2	MSS	Chiropractic care							
SB 0388		2	BCC	METRO fees de-sunset				LABOR			
SB 0392		2	DES	METRO land use planning	3/29	HRC	8:00	AGRICULT			
SB 0393		2	DA	10 yr. post- conviction relief	3/03			JUDIC			
SB 0399		2	DES	Vehicle emission fees				AGRICULT			
SB 0406		2	DA	State does support enforcement	2/19			JUDIC			
SB 0409	A-ENG	2	DES	Indigent burial fee	3/10			WAYS			
SB 0409	A-ENG	2	MSS	Indigent burial fee	3/10			WAYS			
SB 0425		2	DES	DEQ Metro area emission fee				AGRICULT			
SB 0434		1	MSS	PERS P&F expansion				LABOR			

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SB 0454		2	DHS	Sale of tobacco products to minors control	3/29	HRB	15:00	HUM RES			
SB 0463		2	MCSO	Probable cause for consent to search	4/07	HRC	13:00	JUDIC			
SB 0468		2	DCC	Alternate sentencing program	3/24	HRB	8:00	LABOR			
SB 0468		2	MCSO	Alternate sentencing program	3/24	HRB	8:00	LABOR			
SB 0474		2	DA	Ex parte emergency protective orders				JUDIC			
SB 0474		2	DSS	Ex parte emergency protective orders				JUDIC			
SB 0500		2	MSS	Public records revision	3/26	HRC	13:00	JUDIC			
SB 0504		2	DA	4 week limit on court appearance				JUDIC			
SB 0507		2	MSS	Benefits transfer with employees				LABOR			
SB 0509		2	MSS	Repayment of withdrawn PERS benefits				LABOR			
SB 0517		1	DCC	P&F for P.O.'s				LABOR			
SB 0517		1	MSS	P&F for P.O.'s				LABOR			
SB 0545		2	MCSO	Custody writ of assistance	4/06	HRC	13:00	JUDIC			
SB 0546		2	DES	RV rental space taxes	3/22	HRA	13:00	REVENUE			
SB 0546		2	MSS	RV rental space taxes	3/22	HRA	13:00	REVENUE			
SB 0577		2	DSS	Involuntary commitment transfer	4/15	HRC	15:00	HEALTH			
SB 0578		2	DSS	Emergency psychiatric care	4/15	HRC	15:00	HEALTH			
SB 0579		2	DSS	Civil commitment diversion	4/15	HRC	15:00	HEALTH			
SB 0580		2	DSS	Civil commitment procedures	4/15	HRC	15:00	HEALTH			
SB 0582		2	DA	Misdemeanors as infractions	4/09	HRC	13:00	JUDIC			
SB 0588		2	MSS	Little 1983 Act				JUDIC			
SB 0614		2	DES	LUBA standard of review				AGRICULT			
SB 0614		2	MSS	LUBA standard of review				AGRICULT			
SB 0623		2	MSS	Workers comp. + private cause of action				JUDIC			
SB 0625		2	DA	Courthouse Security Fund	3/31	HRC	13:00	JUDIC			
SB 0625		2	DES	Courthouse Security Fund	3/31	HRC	13:00	JUDIC			
SB 0625		2	MCSO	Courthouse Security Fund	3/31	HRC	13:00	JUDIC			
SB 0631		2	DSS	Local senior health programs	3/24	HRB	15:00	HUM RES			
SB 0669		2	MSS	PERS benefit increase				LABOR			
SB 0682		2	DSS	Youth employment and skills training	3/31	HRB	15:00	HUM RES			
SB 0684		2	DES	10% for pedestrians and bicyclists	3/31	HRC	15:00	TRANSP			
SB 0690		2	MSS	Longer term corporate indebtedness				BUSINESS			
SB 0692		2	MCSO	P.V. detention - State pays for jail				JUDIC			
SB 0709		1	DSS	P&F for civil departures and juvenile correc.				LABOR			
SB 0709		1	MCSO	P&F for civil departures and juvenile correc.				LABOR			
SB 0709		1	MSS	P&f for civil departures and juvenile correc.				LABOR			
SB 0715		2	DA	Sentencing guidelines and loss of 643	4/14	HRC	17:30	JUDIC			
SB 0715		1	DCC	Sentencing guidelines and loss of 643	4/14	HRC	17:30	JUDIC			
SB 0715		1	MCSO	Sentencing guidelines and loss of 643	4/14	HRC	17:30	JUDIC			
SB 0716		2	DA	Sentencing guidelines and 1245 bed deficit	4/14	HRC	17:30	JUDIC			
SB 0716		1	DCC	Sentencing guidelines and 1245 bed deficit	4/14	HRC	17:30	JUDIC			
SB 0716		1	MCSO	Sentencing guidelines and 1245 bed deficit	4/14	HRC	17:30	JUDIC			
SB 0717		2	DA	Response to 3070 bed deficit	4/14	HRC	17:30	JUDIC			
SB 0717		1	DCC	Response to 3070 bed deficit	4/14	HRC	17:30	JUDIC			
SB 0717		1	MCSO	Response to 3070 bed deficit	4/14	HRC	17:30	JUDIC			
SB 0720		2	DA	OCDLA does drugs				JUDIC			
SB 0720		2	MCSO	OCDLA does drugs				JUDIC			
SB 0721		2	DA	Bench probation required	4/09	HRC	13:00	JUDIC			
SB 0721		2	DCC	Bench probation required	4/09	HRC	13:00	JUDIC			
SB 0721		2	MCSO	Bench probation required	4/09	HRC	13:00	JUDIC			
SB 0732		2	DA	Violations procedure	4/09	HRC	13:00	JUDIC			
SB 0739		2	DA	Gang-related sentences				JUDIC			
SB 0739		2	DSS	Gang-related sentences				JUDIC			
SB 0744		2	DSS	Lottery Commission Gambling Treatment				HUM RES			

Bill #	Amend.	Pri.	Dept.	Subject	Date	Place	Time	Comm.	H	S	G
SB 0755		1	BCC	T&E lottery money	3/25	HRB	8:00	TRADE			
SB 0757		2	DHS	Basic health care plan revamp	4/08	HRC	15:00	HEALTH			
SB 0757		2	DHS	Basic health care plan revamp	4/08	HRC	15:00	HEALTH			
SB 0759		2	DHS	Health care guidelines	4/08	HRC	15:00	HEALTH			
SB 0762		1	DES	County gas tax prohibition				TRANSP			
SB 0766		2	DHS	Universal health care	4/06	HRC	15:00	HEALTH			
SB 0771		2	DSS	"Mental Health Professional"				HUM RES			
SB 0775		2	DSS	Mental health disclosure				HUM RES			
SB 0784		2	MCSO	Commerical motor vehicle finetuning				TRANSP			
SB 0797		2	MSS	"Advisory Committee"				LABOR			
SB 0801		2	DHS	OMAP Health Plan finetuning				HEALTH			
SB 0810		2	DA	Repeal of DUII diversion				JUDIC			
SB 0810		2	DCC	Repeal of DUII diversion				JUDIC			
SB 0810		2	MCSO	Repeal of DUII diversion				JUDIC			
SB 0814		2	DES	Seniors work off property taxes				REVENUE			
SB 0814		2	DSS	Seniors work off property taxes				REVENUE			
SB 0829		2	DES	Partial taking compensation				AGRIC			
SB 0829		2	MSS	Partial taking compensation				AGRIC			
SB 0833		2	DA	"Stalking"/Cease				JUDIC			
SB 0833		2	MCSO	"Stalking"/Cease				JUDIC			
SB 0836		2	DES	"First bites free"				AGRIC			
SB 0854		2	MSS	Expedited collective bargaining				LABOR			
SB 0859		2	DSS	Client preference for mental health services	4/15	HRC	15:00	HEALTH			
SB 0862		2	DES	County business hours				LABOR			
SB 0862		2	MSS	County business hours				LABOR			
SB 0864		2	DHS	County maternity care planning				HEALTH			
SB 0879		2	MCSO	Drivers license security				TRANSP			
SB 0898		1	DHS	State Interagency Coordinating Council							
SB 0898		1	DSS	State Interagency Coordinating Council							
SB 0904		2	DA	Gender-based crimes							
SB 0912		2	DA	AOI'S environmental crimes	3/19			AGRIC			
SB 0920		2	DA	Juvenile criminal gang activity				JUDIC			
SB 0920		2	DSS	Juvenile criminal gang activity				JUDIC			
SB 0925		2	DHS	Tri-county immunization registry				HEALTH			
SB 0959		1	BCC	Cap on hotel-motel tax				REVENUE			
SB 0959		1	MSS	Cap on hotel-motel tax				REVENUE			
SB 0976		2	DA	Child support arrears				JUDIC			
SB 0979		1	DES	Central voter registration				ETHICS			
SB 0979		1	MSS	Central voter registration				ETHICS			
SB 0984		2	DHS	Custody of incapacitated persons				HEALTH			
SB 1001		2	MCSO	Police protection districts				JUDIC			
SB 1017		2	BCC	Local veto of liquor licenses							
SB 1017		2	MCSO	Local veto of liquor licenses							
SB 1018		2	DA	Victim impact treatment				JUDIC			
SB 1019		2	DCC	De-sunset ignition interlock				TRANSP			
SB 1024		2	DSS	Lottery mony for DD vocational				TRADE			
SB 1033		2	DA	Alternatives to incarceration							
SB 1033		2	DCC	Alternatives to incarceration							
SB 1033		2	MCSO	Alternatives to incarceration							
SB 1042		2	DSS	Office of Children's Ombudsman				HUM RES			
SB 1043		2	DA	Sentencing guidelines fine-tuning	4/19	HRC	13:00	JUDIC			
SB 1043		2	DCC	Sentencing guidelines fine-tuning	4/19	HRC	13:00	JUDIC			
SB 1043		2	MCSO	Sentencing guidelines fine-tuning	4/19	HRC	13:00	JUDIC			
SB 1044		2	DA	Criminal Justice Council duties	4/19	HRC	13:00	JUDIC			

Bill #	Amend.	Pri.	Dept.	Subject	Date	Place	Time	Comm.	H	S	G
SB 1044		2	DCC	Criminal Justice Council duties	4/19	HRC	13:00	JUDIC			
SB 1044		2	MCSO	Criminal Justice Council duties	4/19	HRC	13:00	JUDIC			
SB 1047		2	DA	Tele-appearances				JUDIC			
SB 1047		2	DCC	Tele-appearances				JUDIC			
SB 1047		2	MCSO	Tele-appearances				JUDIC			
SB 1050		2	DA	Drug diversion/expunction							
SB 1050		2	DA	Drug diversion/expunction							
SB 1050		2	MCSO	Drug diversion/expunction							
SB 1072		2	DES	Voters pamphlet form and style							
SB 1079		2	DES	Fee for water appropriations				WATER			
SB 5505		1	DCC	Department of Corrections budget				WAYS			
SJR 02		1	DES	Gas tax for ICE TEA	3/17	HRC	15:00	TRANSP			
SJR 04	A-ENG	2	DES	Vacancies in public office				GEN GOVT		P	
SJR 05		1	MSS	Dwyer tax plan				REVENUE			
SJR 06		1	MSS	Dwyer tax plan				REVENUE			
SJR 10	B-ENG	2	MSS	Urban renewal reform						P	P
SJR 10	B-ENG	2	MSS	Urban renewal						P	P
SJR 14		1	BCC	Funding of mandates and AOI				LABOR			
SJR 18		1	MSS	Senate sales tax #1				REVENUE			
SJR 23		1	BCC	OSBA sales tax				REVENUE			
SJR 23		1	MSS	OSBA sales tax				REVENUE			
SJR 40		2	DES	Drainage and diking outside BM 5							

DATE SUBMITTED \_\_\_\_\_

(For Clerk's Use) MAR 30 1993  
Meeting Date \_\_\_\_\_  
Agenda No. B-3

**REQUEST FOR PLACEMENT ON THE AGENDA**

Subject:

Exemption

Informal Only \* \_\_\_\_\_  
(Date)

Formal Only \_\_\_\_\_  
(Date)

DEPARTMENT MSS/Purchasing

DIVISION Purchasing

CONTACT Lillie Walker

TELEPHONE 248-5111

\*NAME(s) OF PERSON MAKING PRESENTATION TO BOARD Lillie Walker/Chip Lazenby

**BRIEF SUMMARY** Should include other alternatives explored, if applicable, and clear statement of rationale for the action requested.

Briefing to the Board of County Commissioners on the results of the Multi-jurisdiction M/WBE Feasibility Study.

**ACTION REQUESTED:**

   INFORMATION ONLY       PRELIMINARY APPROVAL       POLICY DIRECTION      X   APPROVAL

INDICATE THE ESTIMATED TIME NEEDED ON AGENDA   30 minutes  

**IMPACT:**

   PERSONNEL

   FISCAL/BUDGETARY

   GENERAL FUND

OTHER \_\_\_\_\_

BOARD OF  
COUNTY COMMISSIONERS  
1993 MAR 22 PM 4:27  
MULTNOMAH COUNTY  
OREGON

**SIGNATURES:**

DEPARTMENT HEAD, ELECTED OFFICIAL, or COUNTY COMMISSIONER: \_\_\_\_\_

BUDGET/PERSONNEL \_\_\_\_\_

COUNTY COUNSEL (Ordinances, Resolutions, Agreements, Contracts) \_\_\_\_\_

OTHER Lillie D. Walker  
(Purchasing, Facilities Management, etc.)

**NOTE:** If requesting unanimous consent, state situation requiring emergency action on back.



# MULTNOMAH COUNTY OREGON

GLADYS MCCOY  
COUNTY CHAIR

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& CENTRAL STORES

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PORTLAND, OREGON 97202

## MEMORANDUM

**TO:** Board of County Commissioners  
Gladys McCoy, Chair  
Tanya Collier  
Gary Hansen  
Sharron Kelley  
Dan Saltzman

**FROM:** *Lillie Walker*  
Lillie Walker, Director  
Purchasing, Contracts, & Central Stores

**DATE:** March 22, 1993

**RE:** M/WBE FEASIBILITY STUDY REPORT

## BACKGROUND

L.D. Mattson and Associated General Contractors (AGC) filed suit against Multnomah County based upon the 14th Amendment Judge Redden, U.S. 9th District Court, ruled in favor of Mattson and struck down the County's M/WBE program. Shortly after this decision, the U.S. Supreme Court, in Richmond vs. J.A. Croson, struck down traditional M/WBE programs.

## MULTI-JURISDICTION COMMITTEE

After these opinions, Multnomah County invited all major governmental jurisdictions in the Tri-County area and the State, to assess what potential impact these decisions would have on M/WBEs in our area. It was decided that a RFP would be developed and issued to conduct a M/WBE Study. Four responses were received but all omitted critical areas that we felt were necessary upon which to base a revised M/WBE program. We also found that the \$20,000 committed was not sufficient to fund a study of the type necessary.

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Because other governmental agencies were reporting declines in the participation of MBE and WBE firms (Commission on Black Affairs Hearing (April, 1992), meetings of Public Purchasing representatives (November, 1991), these agencies were asked to help fund a full-blown study. Although most of the agencies wanted to participate, it was difficult to determine the cost of a study and what the pro-rata share for each agency would be. In order to get better information, the majority of the jurisdictions felt that a feasibility study would provide information to determine whether a Disparity/Predicate Study should be undertaken.

Urban Mass Transit Funds were available nationally for such studies and Tri-Met applied and received \$25,000. Multnomah County provided twenty percent matching funds. The committee then concentrated on development of an RFP for the Feasibility Study.

The critical question to be answered as a result of the Feasibility Study is whether a Disparity/Predicate Study is to be conducted. (See Feasibility Study for definition of Disparity Study).

#### REQUIREMENTS FOR FEASIBILITY STUDY

An RFP for the Feasibility Study was developed to identify hard information about the following:

1. Required components of a Post-Crosen Disparity/Predicate Study.
2. Geographical area to be considered in such a study.
3. Industry/commodity/service area focus as an alternative.
4. Cost estimate information for such a study -- both total and per agency.
5. Pre and post Crosen programs, i.e., Emerging Small Business (ESB) others and their effect on MBE and WBE contracting efforts.
6. Executive Summary information including conclusions and recommendations.

#### RATIONALE FOR SELECTION OF ABOVE AREAS

Required Components of a Post-Crosen Disparity/Predicate Study - With regard to the required components of a Disparity/Predicate Study, the consultant relied heavily on a memorandum from the Oregon Attorney General's Office. The memo set forth four ways to narrowly tailor a remedial program, defined "compelling State interest" and discussed data requirements and sufficiency of evidence required to support findings of discrimination based on race and/or gender.

Additionally, consultants contacted San Francisco, King County, Washington and Denver, Colorado to learn about their studies. This anecdotal information is helpful to give insight as to what type of information various Federal Courts are considering sufficient to establish a race based program.

Geographical Area to be Considered - Geographical areas were considered because information from outside the governmental jurisdiction boundaries cannot be used to establish a "compelling" State interest for a program within a given jurisdiction. However, larger entities such as the State of Oregon or METRO can use data from jurisdictions within their boundaries.

Industry/Commodity/Service Area Focus - When jurisdictions collect information about the business climate (i.e., whether discrimination or its effects are present) they are to specify the industry or commodity in question. This will help to insure that any remedy developed is narrowly tailored. Also, availability data must be developed in a way that genuinely ties a firm to an industry or commodity area. The construction industry is a likely area for focus in the greater Tri-County area.

Cost-estimate Information for Study - Information regarding the cost of a Disparity/Predicate study is important to determine the amount each jurisdiction would need to pay either singularly or as a region. The consultants estimate that the cost for a single jurisdiction would be \$400,000 to \$600,000. It should be noted that the Brimmer-Marshall (multi-jurisdictional study for the Fulton County area (including Atlanta, Georgia) cost \$572,000. Also, New York City completed a study in 1992 of discrimination and M/WBE availability at a cost of approximately \$300,000. This suggests some variability in costs.

Post-Crosen Program and Effect on MBE and WBE Contracting Efforts - Post Crosen programs were difficult to fully evaluate because hard data was either lacking or not forthcoming from participating agencies. Several of the agencies simply do not have participation information available. The information that was available indicated low levels of participation for MBE and WBE firms. There appears, however, to be higher levels of participation in federally mandated programs as compared to non-mandated programs.

Post Crosen ESB programs are few. There is a formal program at the Oregon Department of Transportation (ODOT) which shows a good level of participation by MBE and WBE firms. Statistical data, however, shows that most of the contracts under the program have been awarded to firms owned by white males.

#### FEASIBILITY STUDY SUMMARY, CONCLUSIONS AND RECOMMENDATIONS

The Summary reports a major decrease in goal and preference programs since the Crosen decision. Seventy-nine percent of the jurisdictions reported making changes in policies, practices, rules and ordinances for non-mandated programs since the Crosen decision.

Consultants identified the following as reasons for conducting a study:

- Government must be a gatekeeper for equal opportunity and advocate for non-discrimination in society in general and in markets where public dollars are spent in particular.
- Mandated programs show higher levels of M/WBE participation.
- Information is needed to either establish or decline to establish race and/or gender based preference programs. "Not knowing if a smoking gun exists" with a concurrent decrease in M/WBE activity in the construction area is raising suspicions in the community.
- There is a need to show concern for the decrease. Even if a goals program is not warranted, the study will cause better data tracking.

Reasons for not doing a study:

- High cost for participating jurisdictions to do study and implement a program that is complex.
- Possible cost of legal action to defend or implement a program.
- Lack of readily available data.
- The study may not be conclusive enough to justify a MBE or WBE participation program.

CONCLUSION:

A Disparity/Predicate Study presents both a challenge and an opportunity. Collaboration by governmental jurisdictions to collect data and share information about availability and ways to increase efforts to contract with MBE and WBE firms will have a positive effect. Leadership by elected officials may attract the interest and cooperation of the private sector. This would mean more business opportunities without the constraints imposed on public entities by Croson. Further exploration of how a study may be conducted should be continued if jurisdictions are to maintain credibility and demonstrate that they have not become a "passive participant" through use of taxpayer dollars in racial exclusion which exists within a given industry in their jurisdiction.

c. H. C. Miggins  
Department Directors



# MULTNOMAH COUNTY OREGON

*Board Briefing  
3-30-93  
B-3  
Handout #1*

GLADYS MCCOY  
COUNTY CHAIR

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PORTLAND, OREGON 97202

## MEMORANDUM

TO: BOARD OF COUNTY COMMISSIONERS  
Gladys McCoy, Chair  
Tanya Collier  
Gary Hansen  
Sharron Kelley  
Dan Saltzman

FROM: *Lillie Walker* Lillie Walker, Director  
Purchasing, Contracts & Central Stores

DATE: March 30, 1993

RE: COMMENTS ON THE STUDY

The consultants, Sara Glasgow Cogan & Associates, performed the M/WBE Feasibility Study in accordance to the request-for-proposal (RFP) response. The Feasibility Study results were weakened due to:

1. Poor tracking of M/WBE contract participation by public jurisdictions, both before and after Croson;
2. Lack of a survey to determine M/WBE availability; and
3. Inability to determine how many MBE and WBE firms have submitted subcontract bids that may have been low bid which were rejected or not used by prime contractors.

Despite these weaknesses, available statistical data shows that there have been a dramatic decrease in MBE and WBE participation since *Mattson v. Multnomah County* and *Croson v. Richmond*. In addition to this indicator, jurisdictions that set MBE or DBE goals pursuant to federal mandates achieve the goal, voluntary affirmative contracting programs general receive documentation of "good faith efforts" without meeting the M/WBE participation goals. This data provides a strong indication that MBE and WBE firms are still available but under-utilized.

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The consultants provided cost figures for Disparity/Predicate Studies, however, I believe that these figures are somewhat high. Based upon increased competition by consultants nationwide to do these studies, prices are decreasing. Other options to decrease the cost of a Disparity study are:

1. Separate the legal review and have this done by the legal counsel's from the various jurisdictions;
2. Use the State of Oregon's M/WBE Directory as a base for M/WBE availability data and subsidize this listing with each jurisdiction's Vendor Registration information or place advertisement requesting that MBE and WBE firms who are not currently listed in the State's M/WBE Directory to contact the jurisdiction where they are located.
3. Use anecdotal testimony provided by MBEs and WBEs as provided to the State of Oregon Joint Trade and Economic Development Committee in 1987, and the Oregon Commission on Black Affairs Hearing held on May 6, 1992. Additional hearings could be held in the various jurisdictions with legal counsel present to obtain affidavits from persons who testify.

It may also be possible to obtain assistance from Portland State University's Government Relations program. It is my understanding that some funding was received to do projects when two or more jurisdictions are participating. I have contacted Debbi Murdoch at Portland State University and expect to hear from her on the criteria for undertaking such projects.

Race and gender neutral efforts that are being explored are:

1. The Port of Portland has been exploring surety bonding for MBE firms.
2. The City of Portland is currently exploring local bank participation to underwrite loans for small and M/WBE firms using contract receivables as a loan guarantee to help to "mainstream" these firms for future loans without assistance.

I have been contacted by both jurisdictions within the past week to discuss these efforts and possibly recommend participation.

Another method to track "private discrimination" is to develop or participate with other jurisdictions in a contractor compliance program to ensure that contractors who do business with governmental entities are equal opportunity employers. Employee records would be tracked by ethnicity as well as subcontracts that have been let by prime contractors.

Lastly, my feeling is that the feasibility study results, while inconclusive, does give some indication that "passive discrimination" does exist in our area. I am recommending that we continue to explore the above race and gender neutral efforts to increase M/WBE participation in the County's contracting program, however, there is still a need to aggressively pursue methods to get a Disparity/Predicate study done using whatever creative methods that are available.

c. H. C. Miggins  
H. H. Lazenby, Jr.



SARA GLASGOW COGAN & ASSOCIATES

**MULTI-JURISDICTIONAL DISPARITY/PREDICATE  
FEASIBILITY STUDY**

*Final Report*

**Submitted December 4, 1992**

**600 S.W. 10th Ave. - Suite 423A • Portland, Oregon 97205 • 503-222-9803 • Fax 503-227-7224**

## PROJECT RESEARCH TEAM

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Project Manager

Gale Castillo

Assistant Project Manager

Brian Stipak, Ph.D.

Statistical Data Analysis Consultant

Susan Immer

Research Assistant

Susan Swanson

Administrative Assistant

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# MULTI-JURISDICTIONAL DISPARITY/PREDICATE FEASIBILITY STUDY

## EXECUTIVE SUMMARY

Sara Glasgow Cogan and Associates was contracted to conduct a multi-jurisdictional study that would assist in determining the feasibility of conducting a comprehensive disparity study of minority business enterprises (MBEs) and Women Business Enterprises (WBEs). The jurisdictions that participated in this study included:

- City of Portland
- Clackamas County
- Housing Authority of Portland
- METRO
- METRO E-R Commission
- Multnomah County
- Port of Portland
- Portland Community College
- Portland Public Schools
- Oregon, Department of General Services
- Oregon, Department of Transportation
- Oregon, State System of Higher Education
- Tri-Met
- Washington County

The study examined the following six areas:

1. Required Components of a Post-Croson Disparity/Predicate Study
2. Geographical Area To Be Considered In a Post-Croson Disparity/Predicate Study
3. Industry/Commodity/Service Area Focus
4. Cost Estimates for Conducting a Disparity/Predicate Study
5. Post-Croson Programs and their Impact on MBE and WBE Contracting Efforts
6. Summary Information, Findings, and Recommendations

1. **Required Components of a Post-Croson Disparity/Predicate Study**
  - a. Based on the legal summary prepared by the State of Oregon Attorney General's Office, the following are key post-Croson requirements:
    - Demonstration of "compelling interest" based on statistical evidence of disparity in comparison to availability\* of qualified women and minority businesses, as well as on discrimination and anecdotal support evidence.
    - Development of a "narrowly-tailored program" limited to a geographic jurisdiction, industry, and ethnic groups.
    - Establishment of race-neutral programs including the development of flexible programs and monitoring strategies.See Section I and the Appendix for further discussion.
  - b. Information from two key Ninth Circuit Court cases was summarized.
    1. *Associated General Contractors of California Inc. (AGCC) v. the Coalition for Economic Equity, City and County of San Francisco, December 6, 1991.*
    2. *Coral Construction Company v. King County (Coral), August 8, 1991.*
  - c. Information from the following reports was summarized:
    1. National League of Cities. *Minority Business Programs and Disparity Studies*. Washington, D.C. c1991.
    2. Brimmer and Marshall. *Public Policy and Promotion of Minority Economic Development: City of Atlanta and Fulton County, Georgia, Part I*. June 29, 1990.
  - d. Information regarding King County, San Francisco, and Denver Programs was summarized.
2. **Geographical Areas to be Considered in a Post-Croson**
  - a. Based on Croson, Coral, and the office of the State Attorney General's office's assessment of these cases, the following are required:
    - Jurisdictions can only use data from smaller, included jurisdictions.
    - Smaller jurisdictions cannot use data from larger jurisdictions.
    - "The enacting jurisdiction cannot use evidence from adjacent jurisdictions, even though contractors may work in both jurisdictions."
    - "The race-conscious remedy should be limited to the boundaries of the enacting jurisdiction."

\* This feasibility study was not designed to look at the availability of qualified minority and women contractors in relationship to their utilization in a given industry.

- The MBE must be located in the jurisdiction or be able to demonstrate that it has “attempted to become involved in the business community in the jurisdiction.”
- b. Based on the above requirements, the report summarizes opportunities for statewide or regional collaboration and how the data might be collected and shared.
- Data on the availability and capacity of potential M/WBE contractors within a given industry could be both gathered and used by all 11 participating jurisdictions within the Portland SMSA as well as by the various agencies of the State of Oregon.
  - Information on the experiences of the businesses within the various jurisdictions.
  - Identification of where each contractor currently does business or has attempted to do business.
3. Industry/Commodity/Service Area Focus
- a. This section evaluates information obtained from national reports, court cases, and other jurisdictions. It concludes that:
- Jurisdictions must identify which industry or commodity will be targeted for statistical analysis.
  - Businesses included in the study should be businesses located within the geographic boundaries of the jurisdiction, or there should be specific examples documented of businesses that attempted to do business with the jurisdiction.
- b. Useable data provided by participating jurisdictions was summarized by industry/commodity/service area focus which concluded that:
- More jurisdictions (five) have kept data on the construction industry than on any other industry.
  - Data in the construction industry is available for both federally mandated and non-mandated programs between 1987 and 1991.
  - To discuss disparity in a meaningful way requires:
    - information regarding availability of qualified MBEs and WBEs in a given industry/commodity/service area.
    - an analysis of the relationship regarding MBE and WBE participation rates compared to the number of available and qualified MBE and WBE contractors and to the total available dollars for contracting.

4. Cost Estimates

- a. Cost estimates were obtained from King County, San Francisco, and Denver.
- b. Additional information was obtained from local jurisdictions on the cost of conducting hearings.
- c. Based on this information, the following cost estimates were developed:
  - The joint aspects of a disparity/predicate study would be approximately \$700,000. If ten jurisdictions participated, the cost would be approximately \$70,000 per jurisdiction.
  - There would be additional cost to each individual jurisdiction of \$50,000 to \$100,000 for separate activities including data analysis and report preparation depending on the condition of the jurisdiction's data.
  - If some of the elements are done jointly, as is recommended, it is estimated that total costs to an individual jurisdiction would range between \$120,000 and \$170,000, based on the number of jurisdictions participating in the joint data collection efforts and on the condition of the individual jurisdiction's data.
  - If a jurisdiction decides to conduct a disparity study alone, the estimated cost would range from \$400,000 to \$600,000 depending on the number of industries studied, the condition of the jurisdiction's data, and the amount of work performed by existing jurisdiction staff.

5. Post-Crosen Programs and Their Impact on MBE and WBE

- a. Analysis of combined data from various jurisdictions indicates the following:
  - Weak evidence of post-Crosen changes because of the limited amount of available data.
  - Some evidence of higher participation rates for projects with federally mandated MBE/WBE participation as demonstrated by the data from ODOT and the Port of Portland which both have mandated and non-mandated programs.
  - Actual minority and women participation percentages in both federally mandated and non-mandated programs seem low.
- b. Based on the available data submitted, an analysis was done by individual jurisdictions including total and separate industry data where available.

Key findings include:

- More jurisdictions seem to have retained more data on the construction industry.
- Data from ODOT and the Port of Portland indicated higher levels of MBE/WBE participation in federally mandated as opposed to non-mandated programs.
- Data from METRO and METRO-ER Commission show an increase in participation possibly due to activities related to the construction and operation of the convention center.
- Clackamas County, Housing Authority of Portland, Portland Community College, and Portland Public Schools all submitted no data or only limited data which could not be used in a statistical summary.

6. Summary Information, Findings, and Recommendations

This section summarized key points of the study including:

a. Programs, policies, and ordinances 1987-1991 in the 14 jurisdictions.

- The findings show no variability in the use of programs for MBE mandated programs since Croson, but a major decrease in the use of special programs since Croson for WBE mandated programs and MBE and WBE non-mandated programs.
- Seventy-nine percent (79%) of the jurisdictions reported changing policies, practices, rules, and ordinances affecting purchasing/contracting for non-mandated programs since the Croson decision.

b. Summary of Reasons For and Against Conducting a Study.

• Reasons for Conducting a Study

Governments have a “**compelling interest**” to assure opportunities for full participation of all its citizens in the free enterprise system and greater economic opportunities for minorities and women. It is in the jurisdiction’s best interest to promote equitable opportunities for minorities and women in order not to perpetuate or reinforce past and present discriminatory practices.

Other reasons include:

- The findings of this study show some evidence of higher participation rates for MBEs and WBEs in mandated projects. (See Section V-A).
- A disparity study is required in order to establish any race-based programs, particularly numerical goals, set-asides, or other preferences.
- In order to demonstrate concern about discrimination issues.

- Reasons for Not Conducting a Study

The primary reasons for not conducting a study are the costs:

- The cost of a disparity study is high. This would range between \$120,000 and \$170,000 per jurisdiction for a cooperative study as was recommended in Section IV, depending on the number of jurisdictions participating and the condition of an individual jurisdiction's data. If an individual jurisdiction did its own study, the cost would range from \$400,000 to \$600,000.
- The cost of possible legal action as a result of the disparity study and subsequent programs.
- Lack of readily available comprehensive statistical data in many of the jurisdictions.
- Increased political expectations of women and minority businesses.
- Increased political challenges by non-minority contractors.
- Administrative costs associated with implementation and management of a race-based program which includes: staffing and a computerized data base.
- Lack of interest, support, and leadership from key elected public officials.

- c. Concluding comments and recommendations.

Regardless of whether or not a given jurisdiction decides to conduct or participate in a disparity study, the following activities should be undertaken by individual jurisdictions in order to maximize opportunities for women and minority businesses and avoid accusations of discrimination:

- Establish a comprehensive computerized data base similar to the models being used in King County and San Francisco in order to monitor and evaluate ongoing efforts.
- Establish and enforce a comprehensive race-neutral program similar to King County's, without the goals, set-asides, and preferences.
- Evaluate whether or not to conduct a disparity study based on this feasibility study. See particularly the "Disparity Study Checklist" in Section I-C.
- If a decision is made to conduct a disparity study, a consulting firm should be selected to participate with the jurisdiction(s) in both the design and the implementation of the disparity study. The selection of the consultant should be based on the consultant's general qualifications, experience, approach to the project, and on a proposed project cost which is set by the jurisdiction(s) and which cannot be exceeded by the

consultants. This will allow the jurisdiction(s) as well as the prospective consultant to negotiate dollar amounts and project responsibilities in order to assure cost savings and quality outcomes.

## METHODOLOGY

Sara Glasgow Cogan and Associates was contracted to conduct a multi-jurisdictional study that would assist in determining the feasibility of conducting a comprehensive disparity study of minority business enterprises (MBEs) and women business enterprises (WBEs).<sup>\*</sup> The jurisdictions that participated in this study included:

- City of Portland
- Clackamas County
- Housing Authority of Portland
- METRO
- METRO E-R Commission
- Multnomah County
- Port of Portland
- Portland Community College
- Portland Public Schools
- Oregon, Department of General Services
- Oregon, Department of Transportation
- Oregon, State System of Higher Education
- Tri-Met
- Washington County

### **Process for Developing the Survey**

A uniform survey instrument was developed to permit review and evaluation of post-Croson purchasing efforts, including race and gender neutral programs. A draft of this survey instrument was reviewed with representatives of the 14 participating jurisdictions for clarity, relevance, and comprehensiveness and revised accordingly.

### **Methodology for Collecting the Data**

The final survey instrument was distributed to representatives of each of the 14 participating jurisdictions for collection of information and data. This survey instrument collected data for the years 1987 through 1991 in order to be able to accurately evaluate the impact of Croson on race and gender specific purchasing/contracting efforts. Data was gathered for both federally mandated programs and programs without federally

<sup>\*</sup> This study was designed to look at MBE and WBE utilization rates only and not at Disadvantaged Business Enterprises (DBEs).

mandated MBE and WBE participation in order to permit a comparative analysis of the impact of Croson on programs with and without federal mandates. The survey instrument contained questions which addressed the following issues:

- Efforts to promote purchasing in programs both with and without federal mandates for MBE and WBE participation.
  1. Pre-Croson programs to promote purchasing efforts or contracting with MBE and/or WBE firms.
  2. Post-Croson programs to promote purchasing efforts or contracting with MBE and/or WBE firms.
- Changes in policies, practices, rules, ordinances, resolutions, and statutes since Croson in programs both with and without federal mandates for MBE and WBE participation.
- The use of numerical goals for 1987, 1988, 1989, 1990, 1991.

The use of numerical goals to promote purchasing efforts with MBE and/or WBE firms for programs both with and without federal mandates for MBE and WBE participation for each of the designated five years with a breakdown by industry, commodity, and service area, and the length of time numerical goals have been used with these programs.
- The use of set-asides for 1987, 1988, 1989, 1990, 1991.

The use of set-asides to promote purchasing efforts with MBE and/or WBE firms for each of the designated five years with a breakdown for programs both with and without federal mandates for MBE and WBE participation as well as by industry, commodity, and service area, and the length of time set-asides have been used with these programs.
- A record of MBE and WBE participating in purchasing and contracting for programs both with and without federal mandates for MBE and WBE participation for 1987, 1988, 1989, 1990, 1991.
  1. The total number of firms bidding on programs, with a breakdown for each of the designated five years by gender, ethnic group, industry, commodity, and service area.

2. The total number of firms awarded contracts with a breakdown by gender, ethnic group, industry, commodity, and service area for each of the designated five years.
3. The total amount of contract awards for each of the designated five years with a breakdown by gender, ethnic group, industry, commodity, and service area.
4. The location of contractors receiving awards.
5. The level of MBE and WBE participation including percentage goals, actual participation rates, dollar amounts, and number of actual firms participating. (Jurisdictions who record MBE and WBE data in a combined figure, rather than separately, were given the option of providing the combined data.

### **Methodology for Analyzing the Data**

- How the Data was Treated.

1. Data was analyzed on a jurisdiction-by-jurisdiction basis in order to analyze:
  - a. the level of MBE/WBE participation, and
  - b. the comparison of participation rates for jurisdictions with and without federally mandated programs for participation of MBEs and WBEs.
2. Data from all jurisdictions was pooled into one data base in order to allow the following analysis:
  - a. whether or not disparity is of substantial importance or has significantly increased throughout the region;
  - b. whether or not there is a significant difference between MBE and WBE contracting rates in programs both with and without federal mandates for MBE and WBE participation;
  - c. whether or not there has been a significant change in the difference between MBE and WBE contracting rates in programs both with and without federal mandates for MBE and WBE participation;
  - d. whether or not there is an important disparity existing in one or more industries.

- What Data Analysis Techniques Were Used.

1. Graphical displays of time series data (including both pre- and post-Croson periods) on MBE/WBE participation.
2. Time series regression analysis using pooled data on MBE/WBE participation, for both programs with and without federal mandates for

MBE/WBE participation. A dummy variable technique allowed us to investigate the possibility of a shift in participation rates in the post-Croson period compared to the pre-Croson period.

3. Comparison of time-series of percent of agencies having MBE/WBE preference programs for purchasing/contracting for programs with and without federal mandates.
4. Comparison of percent of agencies changing policies, practices, and rules and ordinances for MBEs/WBEs for programs both with and without federal mandates.
5. Standard statistical tests (where appropriate) of the statistical significance of the difference in percents.

### **Review of Findings**

Following the completion of the draft report, the consultants met with representatives of the jurisdictions to review the draft report and its findings. Comments and suggestions were solicited and considered. After this presentation, some jurisdictions reviewed the data and determined that they had additional and/or new data to submit. At this point, it was not possible to include additional new data into the report and retain the integrity of the data analysis that was already completed.

## DEFINITIONS

The following terms were defined by the participating jurisdictions either in the original RFP or subsequent meetings.

<b>Disparity Study</b>	A study which examines whether or not there is a statistical discrepancy between the participation of qualified minorities and/or women-owned businesses (M/WBEs) in purchasing and contracting and their availability in a given industry in that jurisdiction.
<b>Federally Mandated Projects or Programs</b>	Those programs attached to federal projects with Congressionally imposed requirements for MBE and/or WBE participation.
<b>Jurisdiction</b>	As defined by the RFP for this project, the term jurisdiction refers to the local governments, special service districts, and state agencies participating in this study.
<b>MBE</b>	Minority-owned business enterprise as defined by each jurisdiction.
<b>M/WBE</b>	Minority and/or women-owned business enterprise.
<b>Predicate Study</b>	A study which documents discrimination in order to find a "compelling state interest" to implement a race-based program.
<b>Professional Services</b>	For the purpose of data collection in this study, Multnomah County Vendor registration information was used for distinctions between types of professional services. Professional design services include architecture, engineering, and landscaping. Public contracted services refer to those listed as "trade services," professional contracted services refer to those listed as "professional services." (See also Appendix II.)
<b>WBE</b>	Women-owned business enterprise as defined by each jurisdiction.

# I. REQUIRED COMPONENTS OF A POST-CROSON DISPARITY/ PREDICATE STUDY

## A. THE CROSON DECISION

In its decision in *City of Richmond v. Croson* (January 23, 1989), the Supreme Court found specifically that in order for state and local government to use racial classifications in its purchasing or contracting activities it needed to pass a "strict scrutiny" test. As defined by Croson, strict scrutiny, which does not apply to Congressionally enacted set-aside programs, has two basic components:

1. **Compelling Interest.** The jurisdiction must prove that it has a "compelling interest" in using racial classifications. That is, it does not have to prove "active" discrimination. It only must demonstrate that it has become a "passive participant" through use of taxpayer dollars in racial exclusion which exists within a given industry in that jurisdiction. In order to accomplish that, it must prove two basic points:
  - **Statistical Disparity.** A statistical disparity must exist between the participation of qualified minorities and/or women-owned businesses (M/WBEs) in purchasing and contracting and their availability<sup>1</sup> in a given industry in that jurisdiction.
  - **Discrimination.** Furthermore, it must demonstrate that the disparity is related to discrimination and not just to chance. This latter point may be documented by both laws and written materials as well as by anecdotal testimony provided by M/WBEs.
  
2. **Narrowly Tailored Remedy.** Any remedy to address the discrimination and disparity must be "narrowly tailored." That is the M/WBE program must be designed to include the following elements:
  - **Targeted Minority Groups.** It must include only those minority groups that it can be demonstrated have suffered from discrimination in the particular jurisdiction.
  - **Geographical Limits.** The program should be limited in scope to the boundaries of the enacting jurisdiction.
  - **Race-Neutral Remedies.** The program should be instituted either in conjunction with, or after race-neutral strategies. This might include ordinances or statutes prohibiting discrimination, implementation of technical assistance and

<sup>1</sup> This feasibility study was not designed to look at availability of qualified minority and women contractors in relationship to their utilization in a given industry.

outreach programs, strategies for breaking down contracts into smaller size units, certifying M/WBEs, and other activities within the legal limits of their authority.

- **Flexible Goals.** The goals should be established on a project-by-project basis. A "waiver process" should be included to account for sole-source business situations and the unavailability of M/WBEs for a given contract.
- **M/WBE Business Capacity.** Any set-aside or numerical goal should be related to the size and capacity of the local minority business population.

The jurisdiction must also establish that it has the **legal authority** to enact any remedial legislation.

## **B. INFORMATION DEVELOPED BASED ON EVOLVING CASE LAW: 1991 NINTH CIRCUIT COURT CASES**

A general legal analysis of Croson and the most recent Ninth Circuit Court cases was prepared for this study by Wendy Robinson, Assistant Attorney General, Business Activities Section, Department of Justice, State of Oregon. Its contents have been included in the considerations for this analysis and in the recommendations at the conclusion of the report. It is included in the appendix to this report.

1. *Associated General Contractors of California Inc. (AGCC) v. the Coalition for Economic Equity, City and County of San Francisco, December 6, 1991.*

AGCC brought action challenging San Francisco's city ordinance giving bid preference to minority business enterprises. In this case, the United States Court of Appeals, Ninth Circuit Court ruled that although the AGCC had standing to bring action on behalf of its members, it failed to show likelihood of success on merits as required for preliminary injunctive relief.

Further, it made the following key rulings:

- **No State Constitutional Violations.** It ruled that San Francisco's 1968 charter permitted the Board of Supervisors to change the bidding threshold from \$50,000 to \$10,000,000 thereby allowing the bid preference system for MBEs.
- **No Violation of Equal Protection Clause of the U.S. Constitution.** Under Croson the City was justified in using "some form of narrowly tailored racial preference where such a measure is necessary to break down patterns of deliberate exclusion."

- **City had “Compelling Interest”/Findings of Prior Discrimination.** This compelling interest was based on detailed findings of prior discrimination in construction and building within the City’s borders, based on testimony taken at more than ten public hearings and on numerous written submissions from the public. The City also documented continued discrimination against minority business enterprises (MBEs) and women business enterprises (WBEs) by City departments. Furthermore, San Francisco demonstrated that large statistical disparities existed between the percentage of contracts awarded to MBEs and the percentage of available MBEs and that the disparity could not be attributed to chance. The court stated that “Such statistical disparities are an ‘invaluable tool’ in demonstrating the discrimination necessary to establish a compelling interest.” The court also quoted the Coral Construction case that a “combination of convincing anecdotal and statistical evidence is potent.”
- **City Specified Discrimination.** In the Ninth Circuit Court case, the court stated that the City of San Francisco’s findings were substantially more specific than those found to be inadequate in the prior cases. The City had both statistical evidence as well as dozens of specific instances of discrimination in the record. The Court stated that the City must “simply demonstrate the existence of past discrimination with specificity.”
- **City Established Geographic Boundaries.** The court stated that the new 1989 San Francisco ordinance which only applies to resident MBEs “appears appropriately to have confined its study to the city limits in order to focus on those whom the preference scheme targeted.”
- **Program Narrowly Tailored/Utilized Race-Neutral Means.** The court quoted the Coral case stating that “while strict scrutiny requires serious, good faith consideration of race-neutral alternatives, strict scrutiny does not require exhaustion of every possible such alternative . . . however irrational, costly, unreasonable, and unlikely to succeed such alternatives may be.” It ruled that the City’s “passage of a race-neutral ordinance which prohibited city contractors from discriminating against their employees on the basis of race and required contractors to take steps to integrate their work force and its efforts to enforce the anti-discrimination ordinance was a legitimate race-neutral measure.
- **Program Narrowly Tailored/Avoided the Use of Rigid Numerical Quotas.** The court approved the use of the “more modest system . . . of bid preferences . . . [with] no goals, quotas or set-asides.” The court stated that according to the Coral Case “. . . the percentage method is simply not a quota.”

“Moreover, the plan remedies only specifically identified discrimination . . . to those minority groups found to have previously received a lower percentage of specific types of contracts than their availability to perform such work would suggest.”

2. *Coral Construction Company v. King County (Coral), August 8, 1991.*

Coral Construction Company challenged King County’s M/WBE preference program on the basis that it violated the “equal protection clause of the 14th Amendment.”

**In this case the Court of Appeals made the following key rulings:**

- **Geographic limitations of data valid in proving discrimination.** It upheld the District Court’s decision that a jurisdiction may use data from jurisdictions that share the same boundaries or are within its boundaries to prove discrimination; however, a jurisdiction cannot use data from an adjoining district.
- **Programs assisting WBEs.** The Court used ‘intermediate scrutiny’ to review King County WBE programs and upheld the County’s WBE program in its entirety. However, other circuits have used strict scrutiny when evaluating WBE programs. Therefore, a decision to conduct a disparity study should probably include both WBE and MBE programs.
- **The Ninth Circuit Court remanded back to the District Court, three issues:**
  - a. That it review the two disparity studies completed by King County in 1990 in order to determine whether or not they demonstrate that there is **sufficient evidence of discrimination** to justify a “race-conscious program.”
  - b. It stated that **King County’s definition of minority businesses was too broad**, and that if in fact sufficient evidence of discrimination existed, the County should include in its program only those minority businesses who have attempted to do business within King County.
  - c. That the District Court determine whether or not **Dirt and Aggregate**, the minority business whose preference award was the instigating factor in Coral, **would have been legitimately qualified** to benefit from the program under the new definitions of “minority business.”

[Information obtained from the Coral Construction decision and from Terry Koyano, Compliance Supervisor, King County Office of Civil Rights and Compliance, which is housed in the Department of Executive Administration. (Interviews on 11/5/92, 11/9/92, and 11/16/92.)]

**C. INFORMATION DEVELOPED BASED ON COMPARABLE STUDIES IN OTHER JURISDICTIONS AS IDENTIFIED IN THE NATIONAL LEAGUE OF CITIES', MINORITY BUSINESS PROGRAMS AND DISPARITY STUDIES AND THE BRIMMER-MARSHALL REPORT.**

1. National League of Cities. *Minority Business Programs and Disparity Studies*. Washington, D.C. c1991.

This report provides a very useful review of the impact of Croson on minority business programs and the factors which cities and other local jurisdictions might want to consider in refining their programs and conducting disparity studies.

The introduction to this study includes a key quote from Justice O'Connor, author of the Croson decision, which defines the parameters of post-Croson requirements. "Where there is a significant statistical disparity between the number of qualified minority contractors willing and able to perform a particular service and the number of such contractors actually engaged by the locality or the locality's prime contractors, an inference of discriminatory exclusion could arise." Basically, her position was that "racial classifications" should only be used when a local or state jurisdiction could prove that discrimination in public contracting existed which could only be cured by that remedy.

Chapter Two: "Commissioning a Disparity Study" provides the following disparity study checklist:

- Define industry groupings
- Define geographical area of contractors
- Define ethnic groups to be considered
- Define criteria for M/WBE business ownership and what constitutes "qualified group"
- Define how M/WBE availability is to be defined, including what constitutes "firm's capacity" for various amounts of work: employees, capital, experience
- Define whether study will consider prime or subcontracts or both
- Clarify how private sector market outcomes are to be considered in determining disparity and discrimination
- Define time period of the study. The time period should include enough years before and after set-asides or goals are in place to avoid short-term distortions

- Define how disparity will be measured. Will the study use utilization ratios to define disparity?
- Determining remedies
  - A race-conscious remedy requires a causal link between the statistical disparity and an identified form of discrimination.
  - Any numerical preference or remedy must be logically related to the data gathered.
- Race-Neutral remedies which may be implemented include:
  - sub-dividing larger projects into smaller components
  - making sure bonding is racially neutral**
  - subsidizing bonding
  - making sure contracting information is available
  - providing workshops and development assistance for small businesses
  - establishing sanctions for primes that exclude MBEs from participation
  - improving statistical reporting and investigation on prime/sub relationships
  - encouraging certification of primes as non-discriminatory contractors
  - offering prompt payment or direct payment for subcontractors
  - appointing an ombudsman to hear complaints from both public and private market discrimination

2. Brimmer and Marshall. *Public Policy and Promotion of Minority Economic Development: City of Atlanta and Fulton County Georgia, Part I.* June 29, 1990.

This report begins with an **overview of the study** and its components which include:

- Documentation of discrimination against minority businesses both through quantitative and anecdotal evidence.
- Documentation of the effectiveness of special programs before they were invalidated by Croson.
- Documentation of the jurisdiction's "compelling interest" in establishing programs to eliminate discrimination.
- Options available to the City and County in reestablishing programs to promote MBEs and WBEs.

"Discrimination in the Atlanta Marketplace" is demonstrated through anecdotal, statistical and historical data. The authors began by discussing what they think Croson requires in terms of strict scrutiny. This includes:

- That the jurisdiction demonstrate that it has a **"compelling interest "** in using "race-conscious" criteria by showing the relationship of the percentage of MBE firms available locally in a given industry and the relationship of the prime and subcontract dollars awarded, as well as by documenting "particularized anecdotal accounts" of discrimination.
- That the jurisdiction develop a **"narrowly tailored"** program which was to be within the power of the enacting authority which contained:
  - evidence of discrimination against specific minorities
  - flexible goals
  - race-neutral alternatives
  - a sunset provision.
- Documentation of the **availability of M/WBEs**, their location, and certification procedures.
- An identification of **business/industry affiliation**.
- **Profile of firms certified** including: years in business, education completed, and years working in industry.
- Determination of whether **firms located outside the jurisdiction** have actually been discriminated against in trying to get work within the jurisdiction.
- **Identification of disparity in contracting opportunities** between the public and private sectors and within each sector.
- Comparison for **"median value" of MBE contracts with non-MBE contracts** (the median number is less distorted by a few large contracts than the average is).
- Identification of **problem areas** including: bonding capacity, access to capital, "old boys network," and the requirement to accept "low bid" or "best low bid" as well as the type of bidding -- formal, informal, negotiated -- provide the most opportunities.
- **The use of the UPR, "Utilization Percentage Ratio,"** (from the Croson decision itself) to measure discrimination. This measure is a "ratio of fraction of 'contract dollars' . . . to [minority business enterprises] in a given year to the fraction of 'available' businesses which were minority-owned in that year." A ratio of 1.0 shows no discrimination; less than 1.0 is evidence of discrimination. This report suggests that the UPR can also be used to establish preference MBE goals.

Trends and characteristics of the construction industry were explored to determine the following:

- **Obstacles to the development of minority contractors** such as restricted access to apprenticeship training, private construction, markets, financing, and bonding.
- **The growth of the construction industry** during the seventies and eighties.
- **The role of construction and its impact** on employment, earnings, and economic development in the Atlanta region.
- **Information on participants** in the construction industry.

Finally, it briefly explored issues of **discrimination against women** in business, including verbal abuse, networks, bonding, financing, and slow payment.

#### **D. INFORMATION DEVELOPED FROM PHONE INTERVIEWS: KING COUNTY, SAN FRANCISCO, AND DENVER**

##### **1. KING COUNTY**

[Information from: Terry Koyano, Compliance Supervisor, King County Office of Civil Rights and Compliance, within the Department of Executive Administration.] The King County Office of Civil Rights and Compliance, located in Seattle, Washington, operates its minority and women's business utilization program under King County Code, Chapter 4.18 and ordinances amending that code.

##### **a. Changes put in place immediately after Croson:**

- Changed from overall county goals to contract-by-contract goals in order to have a flexible, narrowly tailored program.
- Modified the waiver process to allow departments to request a waiver from the requirement to use an MBE or WBE when the price quotes submitted by the MBE/WBE were deemed too high.
- Added an administrative investigation and hearing process that would allow groups or individuals to file a complaint based on an allegation that a particular firm or group should not be eligible for the benefits of the M/WBE program.
- All the jurisdictions conducted post-Croson public hearings. King County made the records from all of the hearings part of its legislative record of discrimination.

b. Changes made after the completion of the 1990 disparity studies in construction and purchasing:

- It developed a flexible percentage preference level for primes.
- It added a section to its ordinance which permitted the Director of the Department of Executive Administration to exclude a firm or groups from its preference programs that it determined had overcome discrimination barriers.
- It required all non-minority contractors doing business with the County to maintain records that show utilization of M/WBE businesses in their non-governmental, private sector work as well as in other non-King County governmental work.
- It studied and recommended the development of an inter-jurisdictional data base to allow more effective collection of availability and utilization data.
- It passed an ordinance which asserts that the office of Contract Compliance is responsible for assuring that the program does not disproportionately benefit one or more ethnic or gender group.

c. Changes made as a result of the Coral Case:

- In 1991, following the Ninth Circuit Court ruling, the King County Commission amended the ordinance governing its public contracting and purchasing to address the court's concern that only those minority businesses who have previously done business in King County or attempted to do business in the County, benefit from the County's special M/WBE programs. If challenged as to whether a business is eligible to participate in the program, the ordinance places the burden of proof on the individual business to show that they attempted to do business in King County in the past.
- Establishment of criteria for a comprehensive technical assistance program.

d. Key Issues:

- Identification of resources for implementing a more comprehensive outreach and technical assistance program.
- Development and implementation of a mechanism for getting more prime contracts to M/WBE prime contractors.

e. Status of appeals and legal suits:

The Ninth Circuit Court of Appeals remanded a number of issues back to the District Court in its August 1991 opinion. The discovery phase of the process is

to be completed by November 30, 1992 and a final decision from the District Court should be forthcoming in 1993.

f. Key components of the current King County program:

- **Preference program** which gives varying percentage bidding preferences to certified M/WBEs who are bidders or proposers or who use certified M/WBEs when none are required.
- **Subcontract variable percentage set-asides** which require prime contracts to subcontract out a specific percentage of the work to M/WBEs to be considered responsive.
- **Data base** which tracks: purchase orders, contractor demographics, total dollar value of contract, M/WBEs named and dollar value named, race and gender data on participating forms, change orders and waivers, original M/WBE availability analysis which determined preferences and set-aside percentages for the project, mechanisms for tracking investigations tied to the project, ADA data, on-site monitoring data, contract closeout data including final amounts paid and dollar value of contract. From this data, they are able to calculate the total number of contracts awarded by the county and the total number of awards to M/WBEs, as well as the total dollar amount of contracts and total dollar amount of contracts to M/WBEs. (The purchasing department tracks the total number of bidders and total number of M/WBE bidders.) Private non-MBEs who do business with the County are also required to maintain records on their use of M/WBE subcontracts in private sector work.

2. CITY AND COUNTY OF SAN FRANCISCO

[From interviews with Jackie Hale, Coordinator, Human Rights Commission (HRC), City of San Francisco and Mara Rosales, City Attorney, City of San Francisco.]

a. Changes made as a result of Croson:

- **Computer system** was established to centralize contract data.
- **"Took control of contract information."** Established process for information regarding contracts to come directly from the comptroller, not the individual departments. Note: The community has now asked that the department also track payments on contracts not just award of contracts. There

is a concern that with the budget problems, contractors will have increasing problems in getting paid.

- **“Set-Asides.”** After a review of their other efforts to increase women and minority competition, the City was given the authority to set-aside contracts for bid competition only by minority and women-owned businesses.
- **Suspension or interventions in the Selection Process.** The Human Rights Commission (HRC) Director has been given the authority to suspend or intervene in the selection process to correct contracting practices which hinder equal business opportunities for MBEs and WBEs.
- **Department Notification.** Departments are now required to notify the HRC of large projects, particularly construction projects, and to comply with any determination the HRC makes to divide large contracts into smaller contracts to enhance opportunities for MBE/WBEs on the project.
- **Total city involvement in the implementation of the new ordinance such as:**
  - Mandating all City commissioners and department heads to attend a one-hour training session regarding the ordinance.
  - Making all contract-awarding authority personnel, not just department heads, responsible for implementation of the ordinance.
  - Allowing disciplinary procedures against employees who fail to implement the ordinance.
- **Expanded number of eligible MBEs and WBEs** by requiring the HRC to collect and analyze data which will enable the Board to consider race or gender remedies.
- **Expanded the “Economically Disadvantaged Business”** program to include equipment suppliers.
- **Expanded provisions for women and minority lawyers** by establishing a new bid preference of 7.5% for law firms which enter an affirmative action program with the HRC to increase minority lawyers as partners and associates, increase joint ventures with minority law firms, request that all co-counsel be minority law firms, and require that all conflict of interest situations are referred to minority-owned law firms.
- **Increased opportunities for Asian-owned firms in architecture and engineering and Asian, Latino, Black, and women-owned firms in the “Miscellaneous Professional Services”** industry category so that they may receive bid preferences.

- **Broadened bid preferences** to firms who form joint ventures of MBE/WBE Majority/Male firms, to provide another level of MBE/WBE participation in joint ventures. Three levels of joint venture participation are now available:
  - 5% bid preference to joint ventures whose local MBE or WBE participation equals or exceeds 35% and is less than 40%.
  - New 7.5% bid preference to joint ventures whose local MBE or WBE participation equals or exceeds 40% but is less than 51%.
  - 10% bid preference to joint ventures whose local MBE or WBE participation equals or exceeds 51%.

b. Key Issues:

- Continue to tighten and clarify aspects of the program.
- In the future, add more industries and subcontract levels such as architects and engineers.

c. Status of appeals and legal suits:

- The AGCC challenged the City of San Francisco in the Ninth Circuit Court and the City prevailed.
- AGCC was mostly concerned about the construction contracts.
- AGCC continues to “keep an eye” on the City.
- The City does not expect any further challenges.

**3. CITY AND COUNTY OF DENVER**

[From an interview with Ms. Gene Darby, Supervisor, Compliance Unit, Mayor’s Office of Contract Compliance, and Denver Ordinance No. 513.]

a. Changes made as a result of Croson:

- **Completed disparity study** in order to document past discrimination, especially for those businesses prior to 1990.
- **Developed a new ordinance** which is clearer and less subjective in its decision-making.
- **Declared discrimination existed** prior to July 1, 1990, both by the city and by the private sector industries. Discrimination was present in private and public works contracting, reconstruction, remodeling, and professional design and construction service markets in the city.

- **Created new office.** The Office of Contract Compliance is under the Mayor's office. The Office of Affirmative Action and its staff was transferred to the Office of Contract Compliance. The position of Affirmative Action Officer, formerly within the Office of Public Works, was retitled the Director of the Office of Contract Compliance, reporting to the Mayor for more comprehensive oversight capability.
- **Included all contracts.** All contracts, regardless of how financed, are now subject to the affirmative action and equal employment opportunities requirements. Failure to subscribe to and accept such requirements renders a bidder ineligible for a contract award and a subcontractor ineligible to participate in the work for which an award is made.
- **Allowed specific project goals** for participation for WBEs and MBEs in professional design and construction, reconstruction, and remodeling work, based on the availability and capacity of WBEs and MBEs for that particular project.
- **Allowed graduation from the program** when the WBE and MBEs revenue indicates that they have had the opportunity to overcome the effects of discrimination.
- **Revised annual goals in addition to establishing project goals.** The annual goals were based on the minority and women representation in the industry in the Denver MSA:
  - 16% of the dollars spent for construction, reconstruction, and remodeling contract to MBEs.
  - 12% of the dollars spent for construction, reconstruction, and remodeling contracts to WBEs.
  - 10% of the dollars spent for professional design and construction services to MBEs and WBEs.
- **Established compliance requirement.** All bidders seeking to become a contractor with the City are required to demonstrate sufficient good faith efforts to meet the project goals through a combination of requirements including:
  - the bidder shall be an MBE or WBE
  - the bidder shall be a joint venture.
  - the bidder shall use MBEs or WBEs as subcontractors or suppliers
- **Required good faith efforts.** If the bidder has not fully met the project goals as required, then the bidder is required to demonstrate that it has made a good faith effort as defined in the ordinance. Failure of a bidder to show good

faith efforts in any one of the means described in the ordinance shall render its effort "insufficient." The efforts include verification of the following:

- Knowledge of the information presented at pre-bid conference (attendance is preferred).
- Advertising to solicit bids from MBEs and WBEs for three consecutive days.
- Efforts to contact by timely written notice, all appropriate WBEs or MBEs listed in the certification list of the Office of Contract Compliance.
- Efforts to subcontract with MBEs and WBEs whom the bidder has contacted or who have contacted the bidder.
- Efforts to recruit WBEs and MBEs from at least the same geographic area from which it attempted to recruit other subcontractors and members of a joint venture.
- Bidders gave WBEs and MBEs necessary access to and adequate time to review all necessary project plans, drawings, specifications, and other documents, as well as adequate time to prepare subcontract bids and/or negotiate joint venture arrangements.
- Structuring of the contract into economically feasible units to facilitate meaningful MBE and WBE participation as subcontractors or suppliers.
- Statements giving the reasons why the bidder and the WBE or MBE, which contacted the bidder did not succeed in reaching a subcontracting or joint venture agreement.
- Verification that the bidder rejected WBEs and MBEs because they did not submit the lowest bid or they were not qualified.
- Efforts of the bidder to assist WBEs and MBEs in obtaining bonds, if required.
- **Annual Review**--The Director shall annually determine the present availability of and capacity of all WBEs and MBEs doing business in the City by profession and trade grouping, and past utilization by the City of MBEs and WBEs, make an adjustment for the effects of discrimination, and recommend such annual goals to the City Council for its review. "Adjustment for the effects of discrimination include: business formation rates, business growth rates, and employment of minorities and women in the construction trades and the design and construction services professions, and on the level of City contracting which would exist absent the effects of past discrimination."

b. Key Issues:

- Need to be able to meet the legal requirements of Croson and survive any legal challenges.
- Continue to tighten the ordinance to meet the requirements of Croson.

c. Status of appeals and legal suits:

- A small Anglo contractor is suing Denver with his own private attorney, but he is also receiving legal assistance from Mountain States Legal Foundation, a non-profit organization that was originally started by James Watts and the Coors family.
- The suit charges “reverse discrimination” and is challenging the validity of the disparity study, stating that there is no proof of discrimination.
- Although the trial is set for December, the City has asked for a summary judgment, so the judge can review the currently available information and, hopefully, dismiss the case. Because they have not received a response, they assume that they will go to court in December.
- The city of Denver expects to win the case, because they are confident in the disparity study and the analysis of the data.

**II. GEOGRAPHICAL AREA TO BE CONSIDERED IN A POST-CROSON DISPARITY/PREDICATE STUDY:**

**A. REQUIREMENTS FROM CROSON AND SUBSEQUENT COURT CASES STATE THE FOLLOWING:**

1. **Croson.** All remedies to demonstrated disparity and discrimination should be “narrowly tailored.” This requires that the program be limited in scope to the boundaries of the enacting jurisdiction.
2. **Coral.** In the Coral decision, the Ninth Circuit Court stated that King County’s definition of minority businesses was too broad and that the County should include in its program only those minority businesses who have attempted to do business within King County.
3. **The Oregon Attorney General’s Office assessment of the Croson, Coral and AGCC cases.** (See pages 2 and 4 of the full statement in the Appendix.)
  - “. . . the MBE program should be limited in its scope to the boundaries of the enacting jurisdiction.”
  - “Evidence from a jurisdiction within or coterminous (a jurisdiction which shares the same boundaries) with the boundaries of the enacting jurisdiction can be considered by that jurisdiction. In other words, a geographically larger jurisdiction can use data from smaller, included jurisdictions. The reverse is not true. The enacting jurisdiction cannot use evidence from adjacent jurisdictions, even though contractors may work in both jurisdictions.”
  - “The race-conscious remedy should be limited to the boundaries of the enacting jurisdiction. The issue is not where the MBE is located, but whether it has been a victim of discrimination within the enacting jurisdiction. If there has been systematic discrimination within the jurisdiction, a presumption arises that the MBE has been a victim of that discrimination. However, the MBE must prove that it is or has attempted to become involved in the business community in the jurisdiction.”

**B. OPPORTUNITIES FOR STATEWIDE OR REGIONAL ANALYSIS, AS OPPOSED TO STRICTLY A JURISDICTIONAL ANALYSIS, BASED ON THE ABOVE STATED LEGAL REQUIREMENTS.**

1. **The State of Oregon** and all its agencies which do business statewide can share both statistical data and anecdotal information. This includes the **Department of General Services, the Department of Transportation, and the State System of Higher Education** which are all participating in this feasibility study. Furthermore, these agencies can use data from all the other jurisdictions participating in the study, as well as any other jurisdictions within the state, as part of its documentation of disparity and discrimination, the state must still collect data from all parts of the state where it does business. In fact all state agencies should share data from contracting and purchasing activities in any effort to consider the state's effectiveness of state agencies in providing business opportunities to all its citizens.
2. **Tri-Met, METRO and METRO E-R Commission, Port of Portland, Portland Community College, Multnomah County, and the Housing Authority of Portland** can use information from the City of Portland and Portland Public Schools.
3. Since **Tri-Met, METRO, and the METRO E-R Commission** share much the same boundaries, perhaps as much as 90%, they may be able to share data in analyzing and documenting statistical disparity and discrimination. (A legal determination would have to be made.)
4. The **Port of Portland's** jurisdictional boundaries include Washington, Multnomah, Clackamas, and Yamhill Counties. Therefore the Port can use data from all these counties, as well as from the City of Portland and the Portland Public Schools, in determining disparity and discrimination.
5. Since the **Portland Public Schools** share much the same boundaries, but not the exact boundaries with the **City of Portland**, it is not clear whether they can share data in analyzing and documenting statistical disparity and discrimination. (A legal determination would have to be made.)
6. The **City of Portland, Washington County, and Clackamas County** cannot use data from any other districts.

### C. HOW DATA MIGHT BE COLLECTED AND SHARED

Although jurisdictions may only use evidence -- either statistical data or anecdotal evidence -- documenting disparity and discrimination from a jurisdiction within their boundaries or one that shares the same boundaries, it is still possible for jurisdictions to gather certain data together. Since many contractors are available to provide services throughout the metropolitan area, it would be possible to conduct a joint survey of contractors within a given industry within the region.

- Data on the availability and capacity of potential M/WBE contractors within a given industry could be both gathered and used by all 11 participating jurisdictions within the Portland SMSA as well as by the various agencies of the State of Oregon.
- Information on the experiences of the businesses within the various jurisdictions.
- Identification of where each contractor currently does business or has attempted to do business.

This would have the advantage of only having to develop one interview tool and only having to contact the contractors once. Any public hearings could also be organized to collect data on discrimination within an industry, within any or all of the jurisdictions of the PSMSA. Again, testimony would include information on the jurisdictions in which discrimination was experienced and information on the businesses involved.

### III. INDUSTRY/COMMODITY/SERVICE AREA FOCUS

#### A. AN EVALUATION OF INFORMATION OBTAINED FROM REPORTS, COURT CASES, AND OTHER JURISDICTIONS

##### 1. Industry/Commodity Focus

According to Croson:

- The jurisdiction must demonstrate a statistical disparity between the participation of minorities and/or women-owned businesses in purchasing and contracting and their availability in a given industry in that jurisdiction.

According to the National League of Cities', *Minority Business Programs and Disparity Studies*, jurisdictions should:

- Define industry groups
- Define geographic areas of contractors

##### 2. Service Area Focus

According to Croson:

- The program should be **limited in scope** to the boundaries of the enacting jurisdictional boundaries.
- Where there is a **significant statistical disparity** between the number of qualified minority contractors willing and able to perform a particular service and the number of such contractors actually engaged by the locality or the locality's prime contractors, inference of discriminatory exclusion could arise.

According to the Ninth Circuit Court in the AGCC I case:

- Any plan that extends race-conscious remedies beyond territorial boundaries " . . . must be based on very specific findings that actions the city has taken in the past have visited racial discrimination on such individuals."

According to the Brimmer and Marshall Report and the Coral Decision, information required for strict scrutiny includes:

- **Whether or not firms located outside the jurisdiction have actually been discriminated against** in trying to get work within the jurisdiction.
- In its revised ordinance and practices, King County states that only those minority businesses who have previously done business in King County or have attempted to do business in the County benefit from the County's special M/WBE programs.

### 3. Conclusions

Based on the above, the jurisdictions:

- Must identify which industry or commodity will be targeted for statistical analysis.
- Businesses included in the study should be businesses located within the geographic boundaries of the jurisdiction, or there should be specific examples documented of businesses that attempted to do business with the jurisdiction.

## B. EVALUATION OF DATA DEVELOPED IN THE SURVEY OF THE 14 JURISDICTIONS REGARDING DISPARITIES IN CONTRACTING

Table 1<sup>2</sup> summarizes the useable data provided by participating jurisdictions by industry/commodity/service area focus.

- More jurisdictions (five) have kept data on the construction industry than on any other industry.
- Data in the construction industry is available for both federally mandated and non-mandated programs between 1987 and 1991.
- To discuss disparity in a meaningful way requires:
  - information regarding availability of qualified MBEs and WBEs in a given industry/commodity/service area.
  - an analysis of the relationship regarding MBE and WBE participation rates compared to the number of available qualified MBE and WBE contractors and to the total available dollars for contracting.

### 1. Disparity in Contracting by Industry

The following commodity or service area focus observations can be made regarding disparity based on the limited and incomplete data provided by the jurisdictions and the fact that no data was collected on availability of MBEs or WBEs by industry.

- **Construction**

The City of Portland which has both federally mandated as well as non-mandated programs appears to have decreasing MBE utilization in both programs between 1987 and 1991.

<sup>2</sup> In the following tables whenever data are not available the table displays "NA" for not available. Data that are internally inconsistent, and hence obviously in error, was not entered for data analysis, neither was incomplete data.

Table 1

## Industry/Commodity/Service Area Focus

	Federally Mandated MBE/WBE Particip.					No Federally Mandated MBE/WBE Particip.				
	1987	1988	1989	1990	1991	1987	1988	1989	1990	1991
<b>Construction, City of Portland</b>										
% Minority, actual	11.2%	14.4%	4.6%	4.3%	8.1%	11.1%	11.2%	10.0%	15.4%	5.6%
% Women, actual	6.9%	13.4%	0.0%	9.5%	32.8%	3.8%	13.7%	4.1%	1.9%	4.8%
Total \$ (\$1,000's)	17,377	22,454	230	1,853	1,062	22,748	22,914	30,078	9,842	39,270
<b>Construction, METRO</b>										
% Minority, actual	NA	NA	NA	NA	NA	9.1%	10.7%	11.6%	68.7%	5.1%
% Women, actual	NA	NA	NA	NA	NA	3.2%	3.1%	1.3%	3.9%	8.0%
Total \$ (\$1,000's)	NA	NA	NA	NA	NA	16,698	44,446	7,970	172	5,748
<b>Construction, Multnomah Co</b>										
% Minority, actual	NA	NA	NA	NA	NA	10.6%	14.5%	8.9%	8.7%	0.0%
% Women, actual	NA	NA	NA	NA	NA	0.0%	0.1%	NA	NA	NA
Total \$ (\$1,000's)	NA	NA	NA	NA	NA	8,511	2,670	14,821	13,513	2,883
<b>Construction, OR Dept of Trans</b>										
% Minority, actual	11.4%	12.6%	8.9%	5.2%	6.0%	NA	4.2%	2.3%	2.6%	1.0%
% Women, actual	6.5%	5.5%	6.6%	6.3%	8.6%	NA	3.8%	3.1%	3.7%	2.6%
Total \$ (\$1,000's)	34,454	109,998	109,025	130,417	137,118	NA	95,951	74,133	85,860	39,160
<b>Construction, Port of Portland</b>										
% Min+Women, actual	29.0%	15.0%	11.3%	11.5%	12.6%	NA	NA	NA	NA	NA
Total \$ (\$1,000's)	2,586	95	6,182	4,554	8,633	NA	NA	NA	NA	NA
<b>Prof Des Serv, City of Portland</b>										
% Minority, actual	NA	NA	NA	NA	NA	5.6%	2.3%	35.0%	3.0%	6.8%
% Women, actual	NA	NA	NA	NA	NA	4.9%	3.4%	2.9%	1.4%	5.0%
Total \$ (\$1,000's)	NA	NA	NA	NA	NA	4,738	3,037	4,537	4,220	10,222
<b>Prof Cont Serv, METRO</b>										
% Minority, actual	NA	NA	NA	NA	NA	3.0%	20.6%	2.9%	47.8%	3.4%
% Women, actual	NA	NA	NA	NA	NA	0.4%	15.0%	4.3%	2.2%	1.3%
Total \$ (\$1,000's)	NA	NA	NA	NA	NA	3,183	1,732	6,039	4,939	4,119
<b>Prof Cont Serv, Multnomah Co</b>										
% Minority, actual	NA	NA	NA	NA	NA	0.0%	0.0%	0.0%	0.1%	0.2%
% Women, actual	NA	NA	NA	NA	NA	0.2%	0.3%	0.4%	0.8%	1.0%
Total \$ (\$1,000's)	NA	NA	NA	NA	NA	29,622	40,601	42,349	48,706	49,391
<b>Pub Cont Serv, City of Portland</b>										
% Minority, actual	NA	NA	NA	NA	NA	3.9%	3.4%	6.4%	0.5%	NA
% Women, actual	NA	NA	NA	NA	NA	0.9%	1.5%	2.4%	0.5%	NA
Total \$ (\$1,000's)	NA	NA	NA	NA	NA	3,449	2,388	2,923	6,759	NA
<b>Pub Cont Serv, METRO</b>										
% Minority, actual	NA	NA	NA	NA	NA	1.0%	7.2%	3.4%	0.6%	NA
% Women, actual	NA	NA	NA	NA	NA	0.0%	3.6%	0.6%	0.2%	NA
Total \$ (\$1,000's)	NA	NA	NA	NA	NA	948	209	10,812	1,768	NA
<b>Pub Cont Serv, Multnomah Co</b>										
% Minority, actual	NA	NA	NA	NA	NA	7.0%	2.4%	0.8%	2.0%	0.4%
% Women, actual	NA	NA	NA	NA	NA	NA	0.0%	NA	NA	NA
Total \$ (\$1,000's)	NA	NA	NA	NA	NA	5,341	3,285	2,794	3,597	8,739

Multnomah County which only reports data on non-federally mandated programs, decreased its MBE participation from a high of 14.5% in 1988 to 0% in 1991.

METRO reports an exceptionally high MBE participation rate of 68.7% of \$172,000, or \$118,000 in 1990 which drops to 5.1% of \$5,748,000, or \$293,167 in 1991. Although the percentage rate dropped in 1991, the actual contracted dollars to MBEs more than doubled. WBE participation, which was at 3.2% in 1987, dropped in 1989 and then went up to 8.0% in 1991.

ODOT reports decreased MBE participation for federally mandated programs from 12.6% of \$109 million in 1988 to 8.9% of \$109 million in 1989 and then a further drop to 6.0% in 1991. ODOT also reports a consistent drop in MBE participation in its non-mandated programs from 4.2% of over \$95 million in 1988 to 1% of over \$39 million in 1991.

Port of Portland reports M/WBE participation rates that decline after a high of 29% in 1987 to 12.6% in 1991.

- **Professional Design Services**

The City of Portland was the only jurisdiction reporting separately in this area. Its data is too erratic to indicate any trend.

- **Professional Contracted Services**

METRO only reports data on non-mandated programs. Its data is too erratic to indicate any trend.

Multnomah County only reports on non-mandated programs. Actual numbers for both MBE and WBE participation in this area are low, ranging from 0.0% to 1.0%.

- **Public Contracted Services**

City of Portland only reports data on non-mandated programs. Both MBE and WBE participation rates decreased during 1987-1990.

METRO only reports data on non-mandated programs through 1990. Its data is too erratic to identify a trend.

METRO only reports data on non-mandated programs through 1990. Its data is too erratic to identify a trend.

Multnomah County only provides data on non-mandated programs for MBEs.

This data shows a definite decrease from 7.0% of over \$5 million in 1987 to 0.4% of over \$8 million in 1991.

## IV. COST ESTIMATES

### A. OTHER JURISDICTIONS

#### 1. KING COUNTY

[Information from: Terry Koyano, Compliance Supervisor, King County Office of Civil Rights and Compliance, Jack Johnson, a former King County Attorney, and David Burman, Attorney, Perkins Coie.]

King County participated in two separate disparity studies:

- a. The first report, referred to as the **Perkins Coie Report**, looked at *Utilization of Minority and Women's Businesses in the Construction and Consulting Fields*, was completed in January 1990. It involved 10 jurisdictions including the City of Seattle, the Municipality of Metropolitan Seattle, Seattle School District, Port of Seattle, City of Tacoma, Pierce County, Tacoma School District, Metropolitan Park District, and Pierce Transit.

Fee to consultants: \$425,000 (cost to King County was \$60,000)

This included interviews, project design, report preparation, and statistical analysis.

In-house costs:

- Hearings (each jurisdiction did their own): Estimated cost without use of attorneys, \$1,000 - \$2,000 per hearing or \$10,000 - \$20,000.
- Legal analysis: Additionally, in-house legal support costs estimated at up to 100 hours or \$6,000 - \$10,000.
- Project design and management: staff from each jurisdiction was involved for the six months of the project, plus three months in preparing the job description and plan for the study on the front end and one month on the back end, for a total of 10 months. The cost to each jurisdiction was approximately \$8,775 in staff time for a total of \$87,750 for all ten jurisdictions. This is based on 15% of 1 FTE @ \$45,000 + 30% fringe benefits.
- Preparing and collecting data: In-house costs varied by jurisdiction. For those jurisdictions that were not automated it was a bigger and more time-consuming task. King County calculated that it took them one week's time for a professional and a clerical worker at an approximate cost of \$2,000. It may have cost other jurisdictions up to \$8,000. Thus the

approximate in-house cost may have been anywhere from \$20,000 to \$60,000.

**Total Approximate Cost: \$577,750**

(plus hearings)

Funding source:

The jurisdictions shared the cost according to their budget size and the availability of resources. Within King County, the cost was allocated to various departments based on their use of contractors or their purchasing of materials.

David Burman, the attorney from Perkins Coie, estimates the actual cost to do such a project today as \$100,000 plus the cost of the hearings, or at least \$678,000. Furthermore, he thinks that a lawyer should be involved in the hearings, which should last at least 6 hours. Each hearing would then cost approximately \$5,000 if conducted by consultants rather than in-house.

- b. The second report, *Study of Minority/Women Business Participation in Purchasing and Concessions*, was completed July 9, 1990 by the Washington Consulting Group, Inc. for King County, the Municipality of Metropolitan Seattle, the Port of Seattle, and the Seattle School District.

Fee to consultants:

\$90,000 (Cost to King County was \$35,000. This included interviews, project design, report preparation, and statistical analysis.)

In-house costs

--Legal analysis: Estimated time 50 hours or \$5,000.

--Project design and management: staff from each jurisdiction was involved in these areas for the six months of the project, plus three months in preparing the job description and plan for the study on the front end and one month on the back end, for a total of 10 months. The cost to each jurisdiction was approximately \$7,500 in staff time for a total of approximately \$30,000. This is based on 15% of 1 FTE @ \$45,000 + 30% fringe benefits.

--Preparing and collecting data: In-house costs varied by jurisdiction. For those jurisdictions that were not automated it was a bigger and more time consuming task. King County calculated that it took them one week's time for a professional and a clerical worker at an approximate cost of \$2,000. It may have cost other jurisdictions up to \$8,000. Thus the approximate in-house cost may have been anywhere from \$8,000 to \$30,000.

**Total Approximate Cost: \$145,000**

Funding source:

The jurisdictions shared the cost according to their budget size and the availability of resources. Within King County, the cost was allocated to various departments based on their use of contractors or their purchasing of materials.

**2. SAN FRANCISCO**

The City and County of San Francisco contracted with BPA Economics, Inc. to conduct a study entitled *Statistical Support for San Francisco's MBE/WBE/LBE Ordinance*, which was completed in May 1989. This report provided statistical analysis concerning discrimination in the awarding of prime contracts by the city and county for construction, equipment and supplies, general services, professional services, and miscellaneous services. The study also examined subcontracting but "the utilization indices were generally not statistically significant for MBEs or WBEs to indicate that this might not have happened by chance."

Fees to consultants:

The cost of the disparity study was \$10,000, which, if done now, would cost \$100,000.

Attorney time to investigate information regarding compliance with Croson, consultation regarding the hearings, preparation of questions for the hearings, and actual attendance at the hearings was \$40,000. Attorney time to draft city legislation was \$16,000.

In-house costs:

The new computer system for centralization of contract data cost \$400,000. The approximate total for direct expenses was \$466,000. (Note: This estimated total does not include 2/3 time for 29 staff members of a \$1.6 million department budget dedicated to MBE/WBE contract monitoring and who assisted in the gathering of the data for consultants to analyze for the disparity study.) These additional staff costs were approximately \$1,056,000.

**Total Approximate Cost: \$1,522,000**  
(plus hearings)

Funding source:

The Human Rights Commission is a city agency of 29 staff members that is funded by the city's general fund plus a percentage from other city departments to monitor their contracts. The Human Rights Commission has a \$1.6 million budget and 2/3 of the staff time is dedicated to the MBE/WBE Program (\$1,056,000). This MBE/WBE Program staff time also includes monitoring of minority and women employment goals set for contractors. One third of this cost (\$348,480) is charged to other departments.

**3 . DENVER**

The City and County of Denver contracted with Harding & Ogborn; Browne, Bortz & Coddington, Inc., and the Minority and Professional Directory Inc., who produced a report entitled, *Denver Disparity Study, Construction and Professional Design Services*, June 1990.

Fees to consultants:

The cost of the disparity study was \$325,000. Approximately \$80,000 was paid to the City Attorney's office for time spent on this issue (1 year).

In-house costs:

Cost of staff time to collect data for the study (1 year) was approximately \$80,000.

**Total Approximate Cost: \$485,000**

Funding source:

The City of Denver funded the disparity study through a special appropriation. The other costs of the city staff time was absorbed by the departments.

The Contract Compliance Department is housed within the Mayor's office and is funded through general funds. The department has 15 people with two units--Compliance and Certification. A portion of the department is paid by the Denver airport since one remote office is dedicated exclusively to monitoring the contracts associated with the airport.

**B. INFORMATION FROM LOCAL JURISDICTIONS**

Tri-Met, METRO, and Multnomah County provided information on their experience conducting public hearings. They provided the following estimates of in-house costs for conducting a 6-hour public hearing. This estimated cost includes space, equipment and personnel costs, costs for an attorney, a procurement specialist, and a recorder for the hearing, as well as staff time to advertise and organize the hearing and to report on the results. Estimates for the above averaged between \$1,000 and \$2,000.

**C. COST ESTIMATES FOR LOCAL JURISDICTIONS**

Based on information from Seattle, Denver, and San Francisco, the estimated total cost for a one-industry disparity study for the fourteen jurisdictions would be approximately \$700,000. In order to reduce costs and maximize the project effectiveness, a number of common elements could be undertaken jointly. The costs associated with these joint activities could be divided among all participating jurisdictions. If ten jurisdictions participated, the cost would be approximately \$70,000 per jurisdiction. These joint activities could include:

1. Project design and development.
2. Development of survey and interview tools to collect data on:
  - availability of qualified MBE and WBE contractors
  - experiences of MBE, WBE, and non-M/WBE contractors
  - examples of discriminatory practices from M/WBE contractors
3. Design of a common data base to summarize historical and future public contracting records by jurisdiction.

4. Design of a common data base to collect information on private sector M/WBE subcontracting information.
5. Implementation of public hearings to collect anecdotal data on specific examples of discriminatory experiences.
6. Legal analysis regarding up-to-date information on post-Croson legal cases.

In addition, the following elements would have to be conducted separately for each jurisdiction:

1. Collection of all relevant contracting data within the industry being studied.
2. Statistical analysis of M/WBE utilization rates in relation to their availability within the jurisdiction.
3. Examples and analysis of discriminatory practices within both the public and private sectors within the jurisdiction.
4. Examples and analysis of institutional practices within the jurisdiction which have an adverse impact on M/WBEs.
5. Analysis of unique jurisdictional legal issues.
6. Report preparation.

The above separate activities would cost each individual jurisdiction approximately \$50,000 to \$100,000 depending on the condition of the available data.

However, if a jurisdiction decides to conduct a disparity study alone, the estimated cost would range from \$400,000 to \$600,000 depending on the number of industries studied, the condition of the jurisdiction's data, and the amount of work performed by existing jurisdiction staff.

## V. POST-CROSON PROGRAMS AND THEIR IMPACT ON MBE AND WBE CONTRACTING EFFORTS

### A. ANALYSIS OF COMBINED DATA FROM DIFFERENT JURISDICTIONS

The analysis of the statistical data obtained from the second half of the survey form examines the data that was most complete. More agencies provided data for the MBE/WBE participation data than for bidders and awards. Table 2 provides a summary of the MBE and WBE participation data findings for those jurisdictions which provided complete data for either mandated and/or non-mandated programs. Since MBE and WBE participation data were the only data for which more than one agency provided enough complete data to allow a separate composite analysis across agencies, this was the only data combined.

The trends in average MBE and WBE participation rates across jurisdictions (Table 2) are graphically shown in Figures 1 and 2.<sup>3</sup> For projects with **federally mandated participation**, Figure 1 shows a drop from the pre-Croson period to immediate post-Croson (1989), followed by an apparent rise in 1990-91. However, most of the apparent increased average participation rate for women results from the especially high rate in 1991 for the City of Portland construction participation and the other two reporting agencies indicated little change. For projects with **no federally mandated participation**, Figure 2 shows **little change over time**, except for a large increased average participation rate for MBEs in 1990, resulting from the unusually high Metro participation rate for that year, which may be attributed to the efforts associated with the construction of the Convention Center.

To further examine for possible Post-Croson changes in the MBE/WBE participation rates, a statistical analysis using an interrupted time-series design and the statistical technique of regression analysis was undertaken. Table 3 presents the results from this statistical analysis. These results show **some modest evidence of a possible shift downward in MBE/WBE participation rates following Croson for projects with federally mandated**

<sup>3</sup> These averages are the simple unweighted means computed across the agencies.

## Table 2

### Disparity Feasibility Study Survey, 1992

#### Composite Table for Jurisdictions Providing Complete Data for actual Minority and Women Participation, 1987-91, for either Federally Mandated and/or not Mandated MBE/WBE Programs

Sara Glasgow Cogan & Associates

*\*More than one entry is included for these agencies because whenever data were available for an agency in more than one category, including totals, each category was included in the table separately.*

Participation:		Federally Mandated MBE/WBE Particlp.					No Federally Mandated MBE/WBE Particlp.				
		1987	1988	1989	1990	1991	1987	1988	1989	1990	1991
City of Portland, Construction*	% Minority, actual	11.2%	14.4%	4.6%	4.3%	8.1%	11.1%	11.2%	10.0%	15.4%	5.6%
	% Women, actual	6.9%	13.4%	0.0%	9.5%	32.8%	3.8%	13.7%	4.1%	1.9%	4.8%
City of Portland, Prof Des Serv*	% Minority, actual						5.6%	2.3%	35.0%	3.0%	6.8%
	% Women, actual						4.9%	3.4%	2.9%	1.4%	5.0%
METRO, Totals*	% Minority, actual						7.5%	7.9%	5.1%	39.0%	4.2%
	% Women, actual						2.5%	3.6%	2.3%	2.1%	4.7%
METRO, Construction*	% Minority, actual						9.1%	10.7%	11.6%	68.7%	5.1%
	% Women, actual						3.2%	3.1%	1.3%	3.9%	8.0%
METRO, Prof Cont Serv*	% Minority, actual						3.0%	20.6%	2.9%	47.8%	3.4%
	% Women, actual						0.4%	15.0%	4.3%	2.2%	1.3%
Multnomah Co, Prof Cont Serv*	% Minority, actual						0.0%	0.0%	0.0%	0.1%	0.2%
	% Women, actual						0.2%	0.3%	0.4%	0.8%	1.0%
Multnomah County*	% Minority, actual						2.5%	1.0%	2.3%	2.0%	0.2%
	% Women, actual						0.2%	0.4%	0.3%	0.6%	0.8%
OR Dept of Trans, Construction	% Minority, actual	11.4%	12.6%	8.9%	5.2%	6.0%					
	% Women, actual	6.5%	5.5%	6.6%	6.3%	8.6%					
Port of Portland	% Minority, actual	24.0%	10.0%	6.0%	2.3%	8.5%	7.6%	4.1%	0.5%	0.2%	1.1%
	% Women, actual	5.0%	4.9%	5.2%	10.6%	4.0%	3.3%	1.3%	3.4%	4.7%	3.0%
Averages	% Minority, actual	15.5%	12.3%	6.5%	3.9%	7.5%	5.8%	7.2%	8.4%	22.0%	3.3%
	% Women, actual	6.1%	7.9%	3.9%	8.8%	15.1%	2.3%	5.1%	2.4%	2.2%	3.6%

Figure 1

### Composite Participation Findings Federally Mandated MBE/WBE Particip.

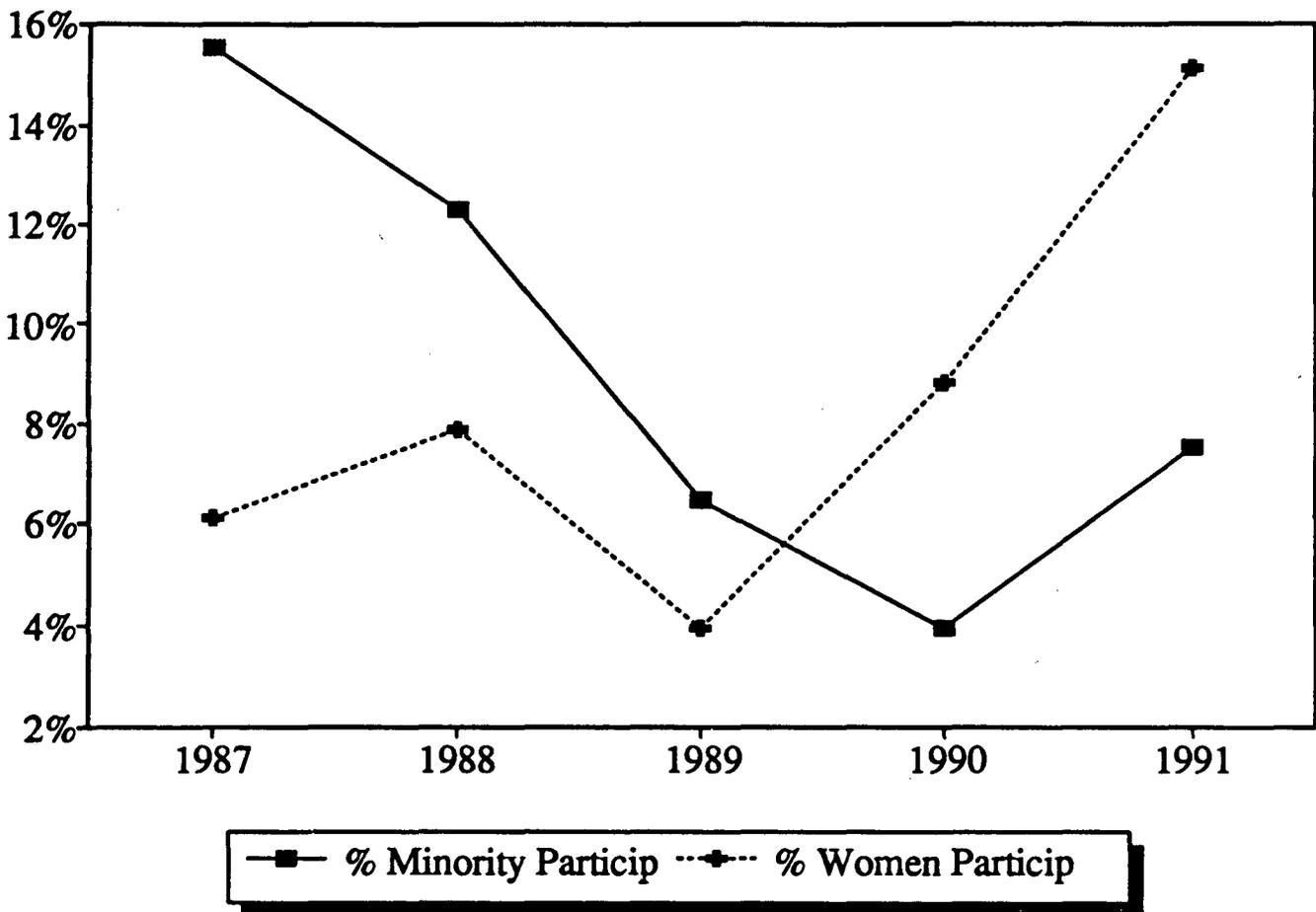


Figure 2

### Composite Participation Findings No Federally Mandated MBE/WBE Particip.

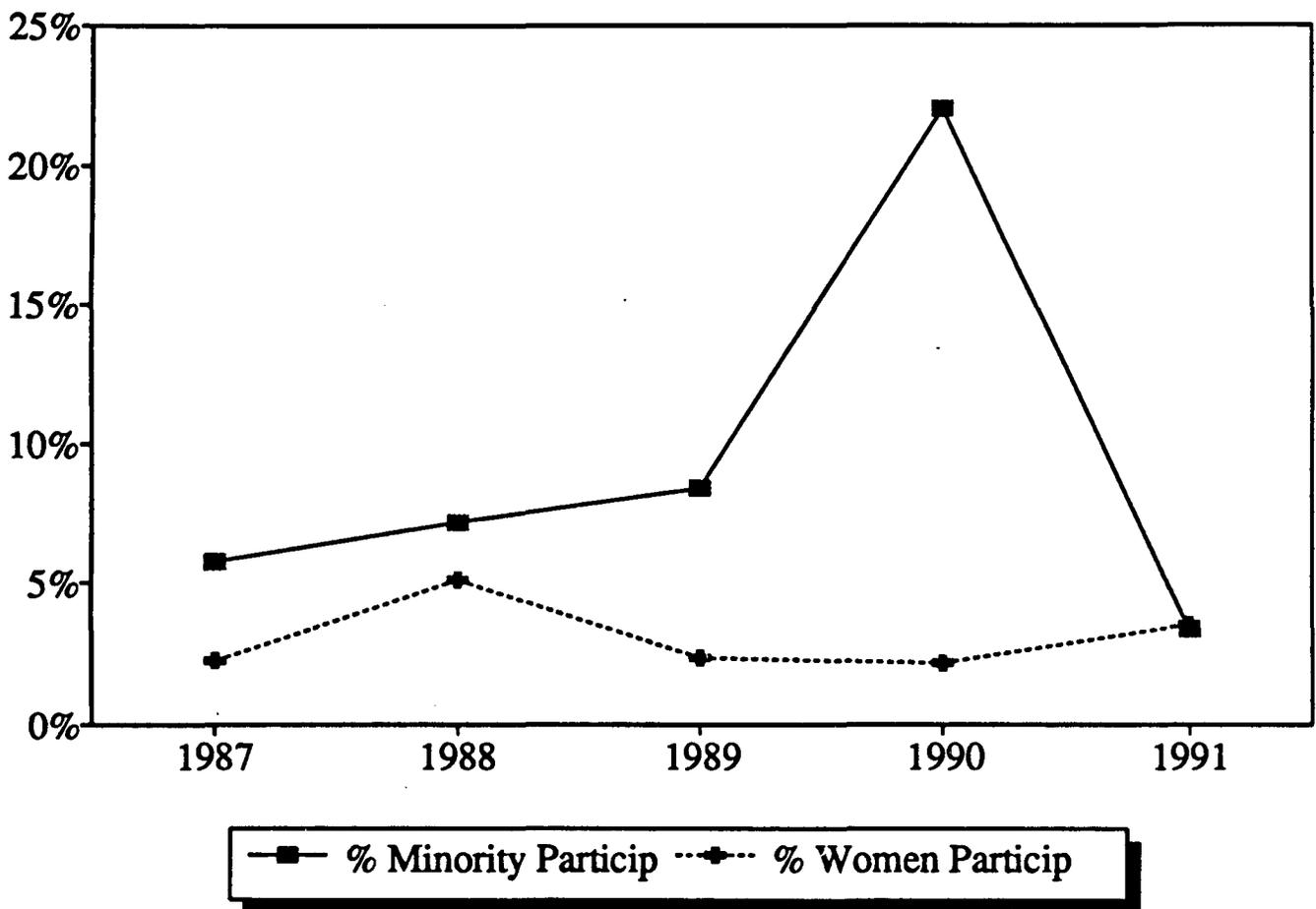


Table 3

## Regression Analysis of Possible Post-Croson Changes in the Participation Rates of MBE's/WBE's

<b>Federally Mandated MBE/WBE Participation</b>			
Independent Variables	Coefficient	t-statistic	p-value
Year	2.31	.52	.16
Post-Croson	-8.60	-.67	.07
Constant = -4574.69 Multiple Correlation (R) = .34 Number of Cases (N) = 30			

<b>No Federally Mandated MBE/WBE Participation</b>			
Independent Variables	Coefficient	t-statistic	p-value
Year	-.01	-.21	.84
Post-Croson	-.03	-.56	.58
Constant = 7.15 Multiple Correlation (R) = .09 Number of Cases (N) = 80			

**Explanatory Notes:**

Dependent variable = percent actual participation

Independent variables:

Year = actual calendar year, e.g. 1987, 1988, etc.

Post-Croson = a dummy variable created with a value of 0 for 1987, 1988, and a value of 1 for 1989, 1990, 1991.

The coefficient, t-statistic, and p-value entries are the unstandardized partial regression coefficients, the associated t-statistics, and the associated 2-tail probability-values, respectively.

The dataset used for each analysis was created by pooling data for all agencies providing complete participation data of that type, 1987-91. Because of the small number of cases, the data on minority participation and on women participation were pooled together. Thus, each agency supplying complete data generated 2 cases for each year.

participation,<sup>4</sup> but no evidence for projects with no federally mandated participation.<sup>5</sup> Regarding the possible shift downward (Table 3) in MBE/WBE participation rates following Croson for projects with federally mandated participation, Figure 1 offers some evidence that although the 1987-88 participation rate for MBEs was higher than 1989-90, a downward trend may have changed into an upward trend over 1990-91.<sup>6</sup> There was also an immediate decline in WBE participation between 1988 and 1989. However, participation by WBEs increased during 1990 and particularly in 1991, when the City of Portland's participation jumped to 32.8%.

**Overall, the composite analyses indicates the following:**

- **Only weak evidence of post-Croson participation changes, because of the limited amount of data available for use in the composite analysis (Tables 2-3, Figures 1-2).** There were only three jurisdictions with sufficient data for the analysis of mandated projects, and only five jurisdictions with sufficient data for the analysis of non-mandated projects.
- **These findings do reveal some evidence of higher participation rates for projects with federally mandated MBE/WBE participation, compared to projects without federally mandated MBE/WBE participation.** Unfortunately, the data are limited since only two agencies provided a set of complete data for both mandated and non-mandated projects. If we examine the complete sets of data for these two agencies (City of Portland, Construction data, and Port of Portland), we find an average MBE participation rate of 9.3% for mandated projects compared to 6.7% for non-mandated projects. Similarly, we find an average WBE participation rate of 9.2% for mandated projects compared to 4.4% for non-mandated projects. The average combined MBE/WBE rate for these two agencies is 9.3% for mandated projects compared to 5.5% for non-mandated projects.

<sup>4</sup> The coefficient for the pre-Croson/post-Croson dummy variable indicates a post-Croson drop of 8.6% with a p-value of .07. The .07 p-value indicates a statistically significant result at the .1 level, but not at the more commonly used .05 level which would indicate greater significance.

<sup>5</sup> The coefficient for the pre-Croson/post-Croson dummy variable is very small and its p-value (.58) shows no statistical significance.

<sup>6</sup> The dummy variable technique used in the Table 3 analysis allows for a shift up or down of the regression line, but allows for no change in the slope of the regression line. If an interaction term is added to the Table 3 analyses to allow for a change in slope, the resulting coefficients are not statistically significant for either the Croson dummy variable or for the interaction term. However, the multicollinearity among the regressors is so severe that this test is inadequate and these results are therefore not presented in Table 3.

- **Actual minority and women participation percentages in federally mandated programs seem low with numbers in 1989-91 ranging from 2.3% to 8.9% for MBE participation and 0% to 10.6% for WBE participation, excluding Portland's unusually high 1991 participation rate of 32.%.**
- **The percentages also seem low for non-federally mandated programs with numbers for 1989-91 ranging from 0% to 15.4% for MBE participation excluding METRO's unusually high 1990 participation rate of 39.0% to 68.7% and the City of Portland's 1989 participation rate of 35.0% for professional design services. WBE participation in non-mandated programs ranged from .3% to 4.8% during this same period.**

In comparison, King County, which has continued to have a goal-oriented program, has an overall MBE participation rate of 15.3% and WBE participation rate of 12.3% for 1991. The M/WBE participation rates in various industry/service areas range from a low of 7.8% for MBEs and 9.4% for WBEs in the purchase/service classification to a high of 24.0% for MBEs and 16.8% for WBEs in construction.

## **B. ANALYSIS OF DATA FROM INDIVIDUAL JURISDICTIONS**

Key findings include:

- More jurisdictions seem to have retained more data on the construction industry.
- Data from ODOT and the Port of Portland indicated higher levels of MBE/WBE participation in federally mandated as opposed to non-mandated programs.
- Data from METRO and METRO-ER Commission show an increase in participation possibly due to activities related to the construction and operation of the convention center.
- Clackamas County, Housing Authority of Portland, Portland Community College, and Portland Public Schools all submitted no data or only limited data which could not be used in a statistical summary.

## 1. City Of Portland<sup>7</sup>

The City of Portland continues to have goals for federally mandated projects. However, their MBE goals and construction set-asides and WBE goals for non-mandated projects were eliminated after the Croson decision in January 1989.

### Construction

The City of Portland provided relatively complete data for both federally mandated and non-mandated construction projects. Table 4 presents the major statistical results for the City of Portland for construction, and Figures 3-4 graphically display the major findings.

- For projects with federally mandated MBE/WBE participation (Table 4), there were no minority prime bidders and hence no minority prime awards. The percent of MBE participation and WBE participation dropped slightly immediately post-Croson (1989), but increased by 1991 slightly for MBEs and a large amount for WBEs (Figure 3).
- For projects with no federally mandated MBE/WBE participation (Figure 4), WBE participation rates appear to drop immediately post-Croson (1989) following an unusually high 1988 WBE participation rate of 13.7%. Minority participation rates shift slightly up and then down following the Croson decision.
- The data in Table 4 shows no strong and consistent difference, between projects with federally mandated MBE/WBE participation and those with no mandated participation, as did the findings from the pooled analysis.

### Materials and Equipment

Table 5 presents the major statistical results for the City of Portland's non-mandated program, and Figure 5 graphically displays the major findings.

- Both MBE and WBE participation show a declining overall trend for 1987-90.
- WBE participation shows a large proportional drop immediately post-Croson (1990).

#### 7 City of Portland

- no records kept for non-mandated MBE/WBE total actual participation percent. Participation percentage was calculated by consultants using actual MBE/WBE \$ amount divided by total \$ amount of awards.
- no specified data for non-mandated MBE/WBE prime contractors
- 1990 non-mandated data for first six months only
- non-mandated data for materials only through mid-1990

Table 4

**Disparity Feasibility Study Survey, 1992**

Name of Agency: City of Portland, Construction

Sara Glasgow Cogan & Associates

	Federally Mandated MBE/WBE Particip.					No Federally Mandated MBE/WBE Particip.				
	1987	1988	1989	1990	1991	1987	1988	1989	1990	1991
<b>Bidders (Prime):</b>										
Total #	59	93	4	11	12	200	167	160	183	191
# of Minority	NA	0	0	0	0	NA	NA	NA	NA	NA
# of Women	1	NA	NA	NA	NA	NA	NA	NA	NA	NA
% Minority	NA	0.0%	0.0%	0.0%	0.0%	NA	NA	NA	NA	NA
% Women	1.7%	NA	NA	NA	NA	NA	NA	NA	NA	NA
<b>Awards (Prime):</b>										
Total #	9	17	1	3	3	49	53	58	56	60
# of Minority	0	0	0	0	0	NA	NA	NA	NA	NA
# of Women	1	NA	NA	NA	NA	NA	NA	NA	NA	NA
% Minority	0.0%	0.0%	0.0%	0.0%	0.0%	NA	NA	NA	NA	NA
% Women	11.1%	NA	NA	NA	NA	NA	NA	NA	NA	NA
Total \$ (\$1,000's)	17,377	22,454	230	1,853	1,062	22,748	22,914	30,078	9,842	39,270
\$ of Minority (\$1,000's)	0	0	0	0	0	NA	NA	NA	NA	NA
\$ of Women (\$1,000's)	579	NA	NA	NA	NA	NA	NA	NA	NA	NA
% Minority	0.0%	0.0%	0.0%	0.0%	0.0%	NA	NA	NA	NA	NA
% Women	3.3%	NA	NA	NA	NA	NA	NA	NA	NA	NA
<b>Participation (Primes and Subs):</b>										
% Minority, goals	10.0%	10.0%	10.0%	10.0%	10.0%	10.0%	10.0%	10.0%	NA	NA
% Women, goals	2.5%	2.5%	2.5%	NA	8.5%	1.0%	2.5%	2.5%	NA	NA
% Minority, actual	11.2%	14.4%	4.6%	4.3%	8.1%	11.1%	11.2%	10.0%	15.4%	5.6%
% Women, actual	6.9%	13.4%	0.0%	9.5%	32.8%	3.8%	13.7%	4.1%	1.9%	4.8%
% Min+Women, goals	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
% Min+Women, actual	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA

Figure 3

### City of Portland, Construction Federally Mandated MBE/WBE Particip.

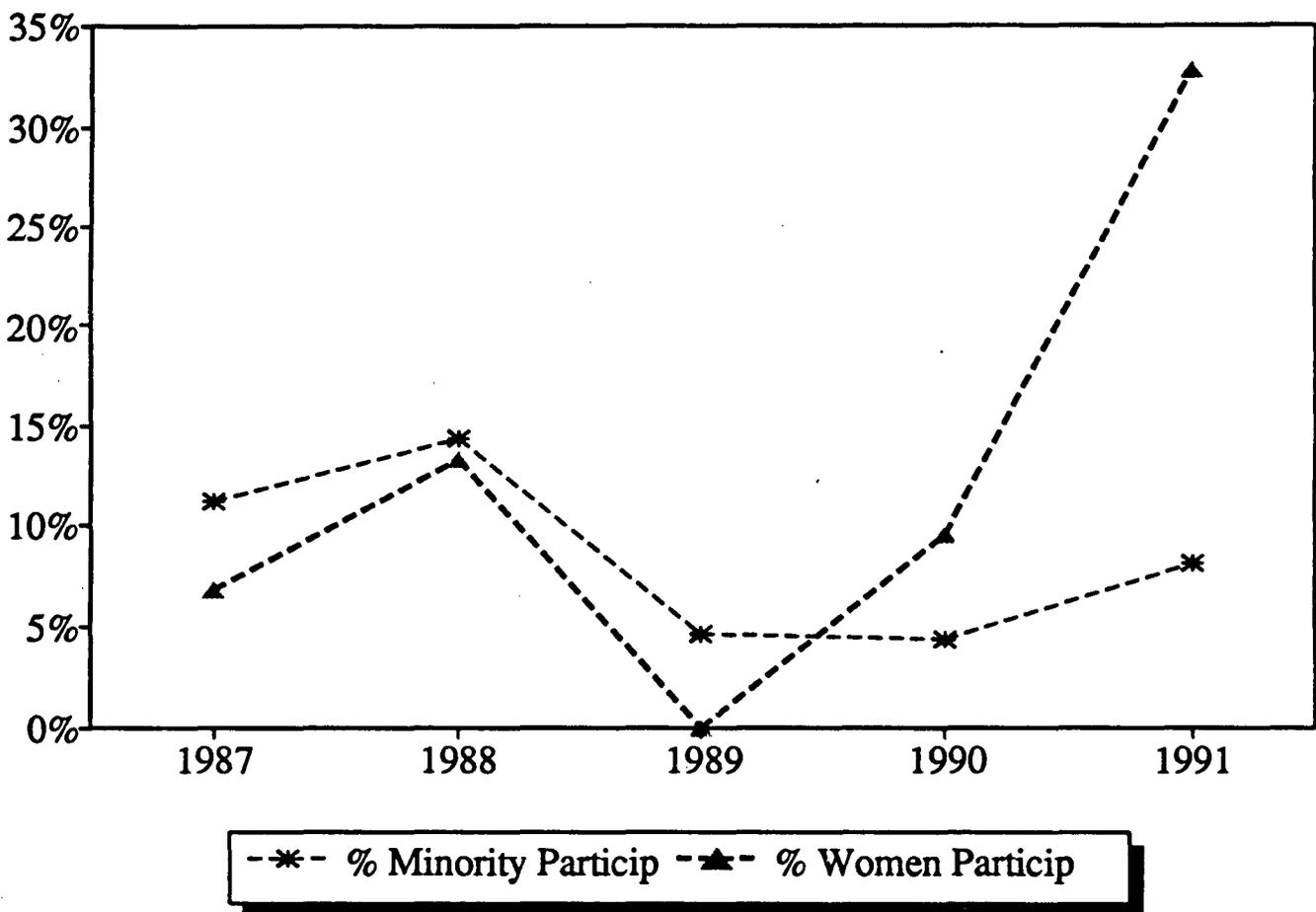


Figure 4

### City of Portland, Construction No Federally Mandated MBE/WBE Particip.

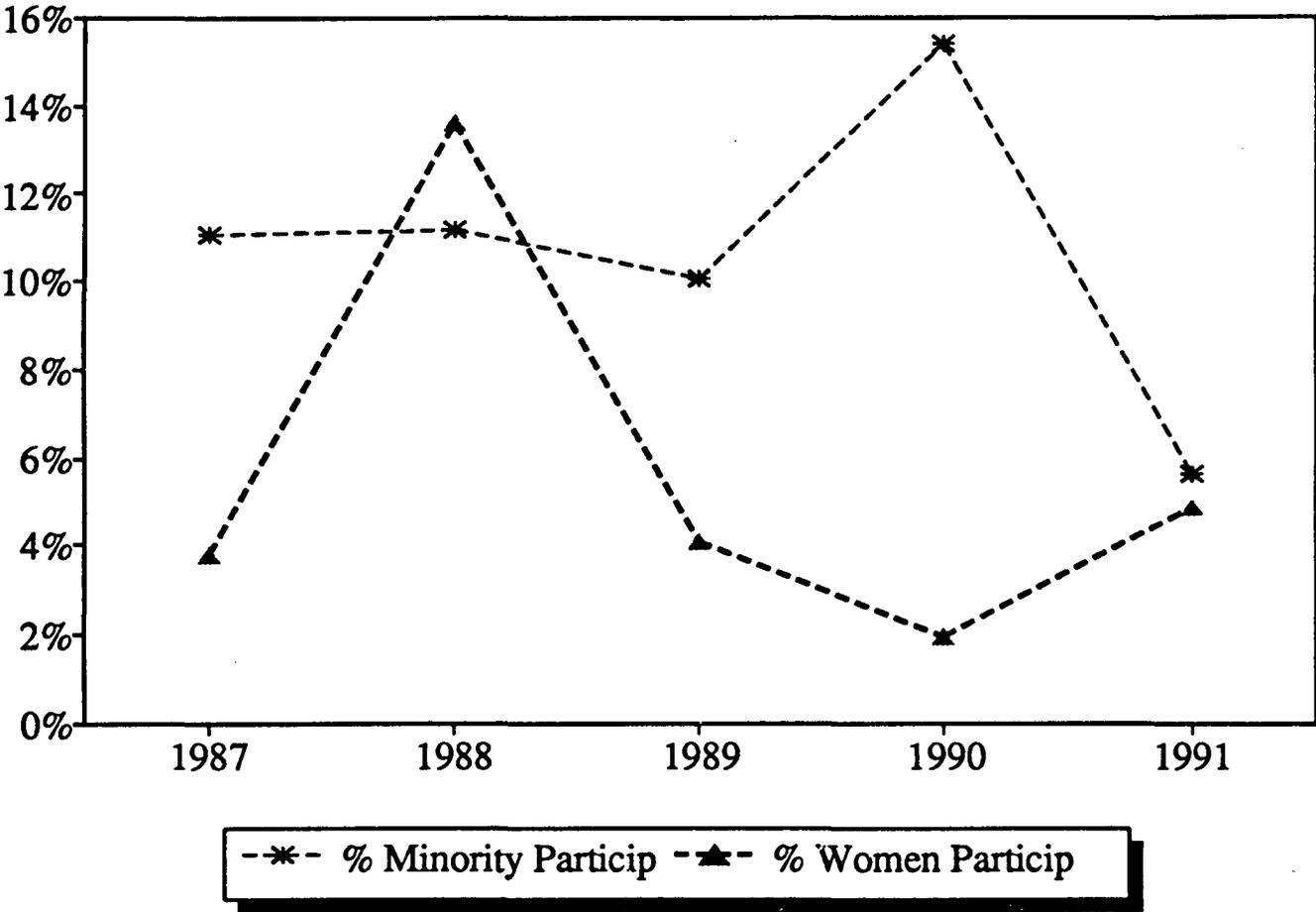


Table 5

**Disparity Feasibility Study Survey, 1992**

Name of Agency: City of Portland, Materials and Equipment Only

Sara Glasgow Cogan & Associates

**Bidders (Prime):**

	Federally Mandated MBE/WBE Particip.					No Federally Mandated MBE/WBE Particip.				
	1987	1988	1989	1990	1991	1987	1988	1989	1990	1991
Total #	NA	NA	NA	NA	NA	339	219	265	171	312
# of Minority	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
# of Women	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
% Minority	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
% Women	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA

**Awards (Prime):**

Total #	NA	NA	NA	NA	NA	108	75	90	71	82
# of Minority	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
# of Women	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
% Minority	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
% Women	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA

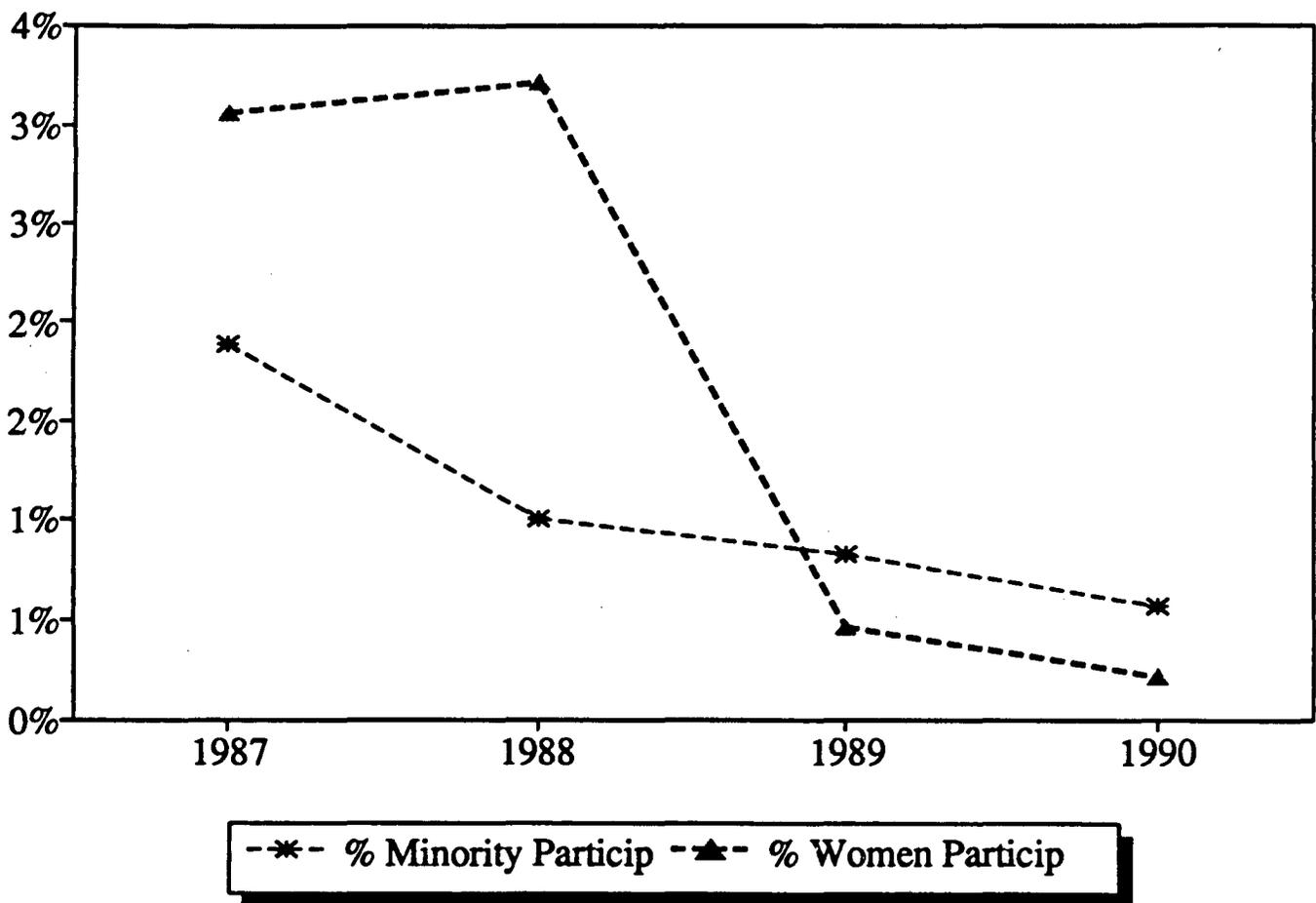
Total \$ (\$1,000's)	NA	NA	NA	NA	NA	16,325	15,075	21,650	11,514	NA
\$ of Minority (\$1,000's)	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
\$ of Women (\$1,000's)	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
% Minority	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
% Women	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA

**Participation  
(Primes and Subs):**

% Minority, goals	NA	NA	NA	NA	NA	2.8%	2.8%	2.8%	NA	NA
% Women, goals	NA	NA	NA	NA	NA	4.5%	4.5%	4.5%	NA	NA
% Minority, actual	NA	NA	NA	NA	NA	1.9%	1.0%	0.8%	0.6%	NA
% Women, actual	NA	NA	NA	NA	NA	3.1%	3.2%	0.5%	0.2%	NA
% Min+Women, goals	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
% Min+Women, actual	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA

Figure 5

### City of Portland, Materials & Equipment No Federally Mandated MBE/WBE Particip.



- The absolute participation levels for both MBEs and WBEs are very low, never higher than 4%.

#### Professional Design Services

Table 6 presents the major statistical data reported by the City of Portland's non-mandated programs and Figure 6 graphically displays the major findings. Overall, the findings show relatively unchanged MBE and WBE participation percentages with the exception of a 35% MBE participation in 1989.

#### Public Contracted Services

Table 7 presents the statistical results for the City of Portland's non-mandated programs. Figure 7 graphically displays the findings. These findings show a major decline in 1990 MBE and WBE participation percents after elimination of the goals.

#### Total Figures

Table 8 presents the major statistical results for the total figures for the City of Portland, and Figure 8 graphically displays the major findings.

- WBE participation rates for projects with no federally mandated MBE/WBE participation appear to decline following Croson.
- MBE participation rates for these same projects appear fairly constant.

## 2. Metropolitan Service District (METRO)<sup>8</sup>

METRO reports DBE goals in non-federally mandated programs for 1987-91. However, in 1991, as a result of Croson, they stopped enforcing the goals and went to good faith efforts.

#### Professional Contract Services

Table 9 presents the major statistical results for non-mandated Professional Contracted Services. Figure 9 graphically presents these results which show an immediate post-Croson drop for both MBEs and WBEs although MBEs had a high participation percent in 1990.

#### Public Contracted Services

Table 10 presents the major statistical results for non-mandated Public Contracted Services. Figure 10 graphically presents these results which show

#### <sup>8</sup> METRO

- no tracking for labor and materials purchases under \$2,500
- no mandated projects during 1987, 1983, and 1990. Data for 1988 and 1991 incomplete
- data does not distinguish MBE/WBE prime contractor awards from subcontractor participation
- Missing total dollar contract award amounts were estimated by consultant by dividing the reported actual MBE and WBE dollar amounts by the reported actual participation percents.

Table 6

**Disparity Feasibility Study Survey, 1992**

Name of Agency: City of Portland, Professional Design Services

Sara Glasgow Cogan & Associates

**Bidders (Prime):**

	Federally Mandated MBE/WBE Particip.					No Federally Mandated MBE/WBE Particip.				
	1987	1988	1989	1990	1991	1987	1988	1989	1990	1991
Total #	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
# of Minority	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
# of Women	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
% Minority	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
% Women	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA

**Awards (Prime):**

Total #	NA									
# of Minority	NA									
# of Women	NA									
% Minority	NA									
% Women	NA									

Total \$ (\$1,000's)	NA	NA	NA	NA	NA	4,738	3,037	4,537	4,220	10,222
\$ of Minority (\$1,000's)	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
\$ of Women (\$1,000's)	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
% Minority	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
% Women	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA

**Participation**

**(Primes and Subs):**

% Minority, goals	NA	NA	NA	NA	NA	9.0%	9.0%	9.0%	NA	NA
% Women, goals	NA	NA	NA	NA	NA	9.0%	9.0%	9.0%	NA	NA
% Minority, actual	NA	NA	NA	NA	NA	5.6%	2.3%	35.0%	3.0%	6.8%
% Women, actual	NA	NA	NA	NA	NA	4.9%	3.4%	2.9%	1.4%	5.0%
% Min+Women, goals	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
% Min+Women, actual	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA

Figure 6

### City of Portland, Prof. Design Services No Federally Mandated MBE/WBE Particip.

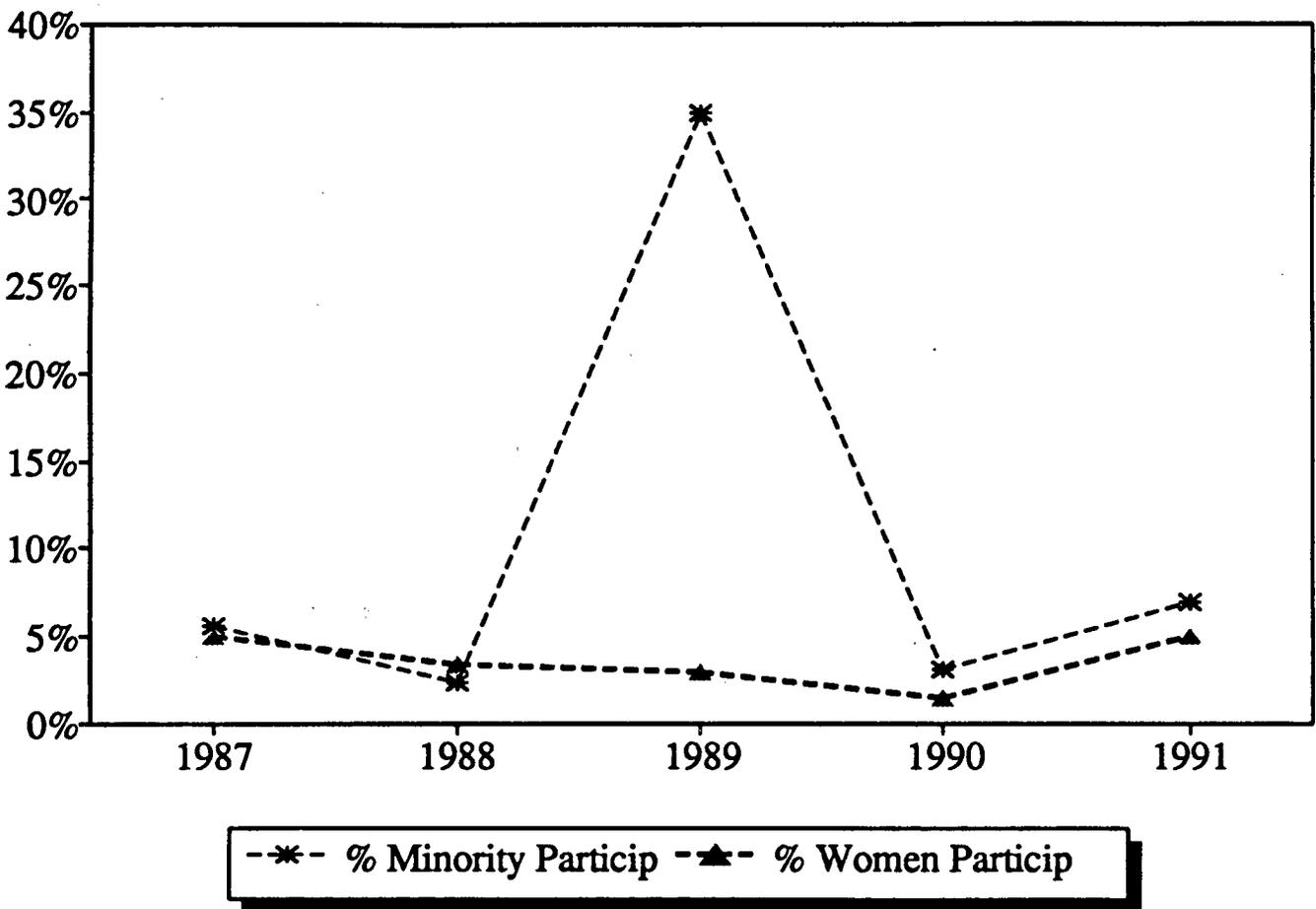


Table 7

**Disparity Feasibility Study Survey, 1992**

Name of Agency: City of Portland, Public Contracted Services

Sara Glasgow Cogan & Associates

**Bidders (Prime):**

	Federally Mandated MBE/WBE Particip.					No Federally Mandated MBE/WBE Particip.				
	1987	1988	1989	1990	1991	1987	1988	1989	1990	1991
Total #	NA	NA	NA	NA	NA	44	27	62	46	52
# of Minority	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
# of Women	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
% Minority	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
% Women	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA

**Awards (Prime):**

Total #	NA	NA	NA	NA	NA	23	10	22	12	23
# of Minority	NA									
# of Women	NA									
% Minority	NA									
% Women	NA									

Total \$ (\$1,000's)	NA	NA	NA	NA	NA	3,449	2,388	2,923	6,759	NA
\$ of Minority (\$1,000's)	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
\$ of Women (\$1,000's)	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
% Minority	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
% Women	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA

**Participation  
(Primes and Subs):**

% Minority, goals	NA	NA	NA	NA	NA	20.0%	20.0%	20.0%	NA	NA
% Women, goals	NA	NA	NA	NA	NA	3.7%	3.7%	3.7%	NA	NA
% Minority, actual	NA	NA	NA	NA	NA	3.9%	3.4%	6.4%	0.5%	NA
% Women, actual	NA	NA	NA	NA	NA	0.9%	1.5%	2.4%	0.5%	NA
% Min+Women, goals	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
% Min+Women, actual	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA

Figure 7

### City of Portland, Public Contracted Services No Federally Mandated MBE/WBE Particip.

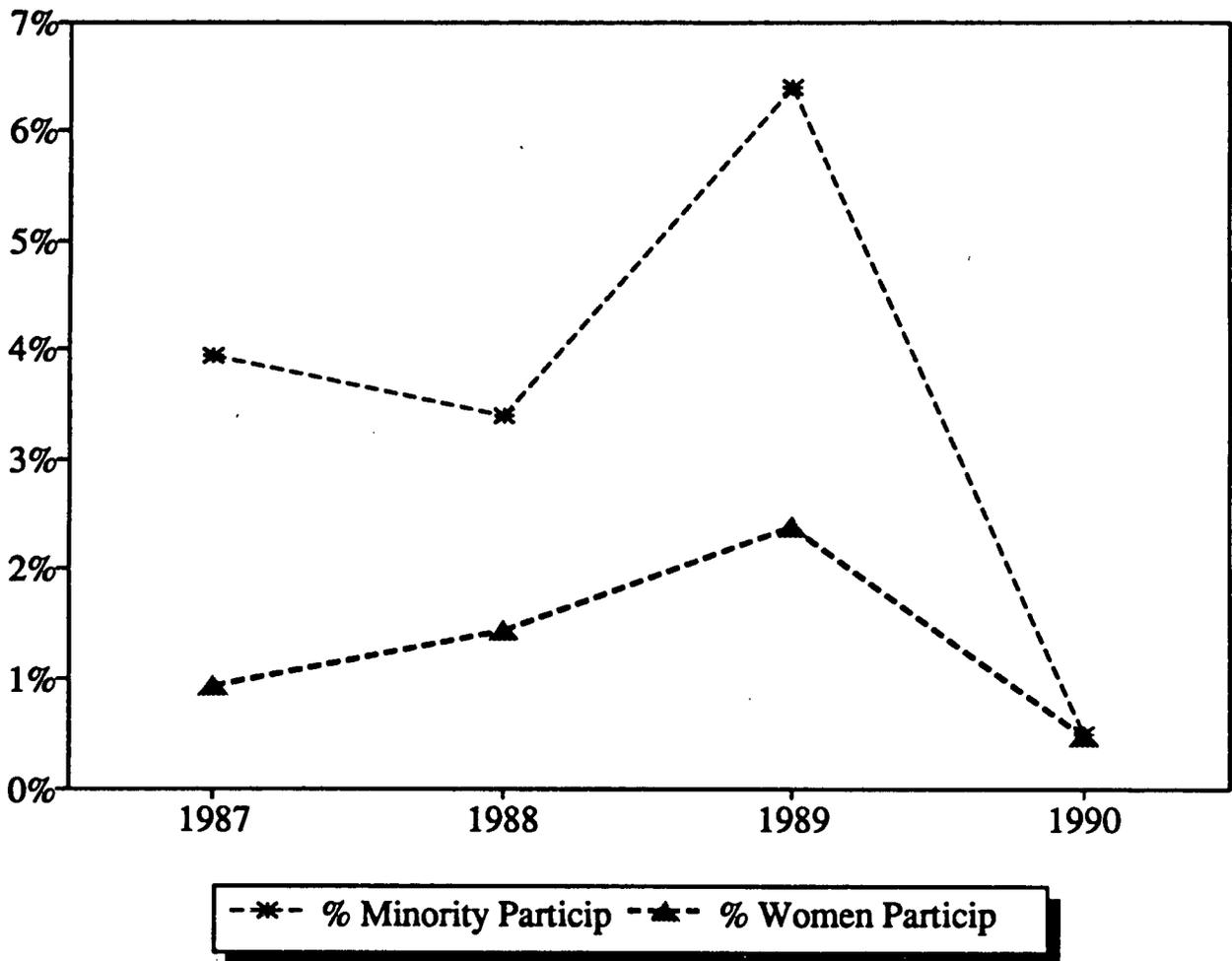


Table 8

**Disparity Feasibility Study Survey, 1992**

Name of Agency: City of Portland, Totals

Sara Glasgow Cogan & Associates

**Bidders (Prime):**

	Federally Mandated MBE/WBE Particip.					No Federally Mandated MBE/WBE Particip.				
	1987	1988	1989	1990	1991	1987	1988	1989	1990	1991
Total #	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
# of Minority	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
# of Women	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
% Minority	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
% Women	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA

**Awards (Prime):**

Total #	NA									
# of Minority	NA									
# of Women	NA									
% Minority	NA									
% Women	NA									

Total \$ (\$1,000's)	NA	NA	NA	NA	NA	47,310	43,413	59,188	32,336	NA
\$ of Minority (\$1,000's)	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
\$ of Women (\$1,000's)	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
% Minority	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
% Women	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA

**Participation  
(Primes and Subs):**

% Minority, goals	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
% Women, goals	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
% Minority, actual	NA	NA	NA	NA	NA	6.8%	6.6%	8.4%	5.4%	NA
% Women, actual	NA	NA	NA	NA	NA	3.4%	8.7%	2.6%	1.0%	NA
% Min+Women, goals	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
% Min+Women, actual	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA

Figure 8

### City of Portland, Totals No Federally Mandated MBE/WBE Particip.

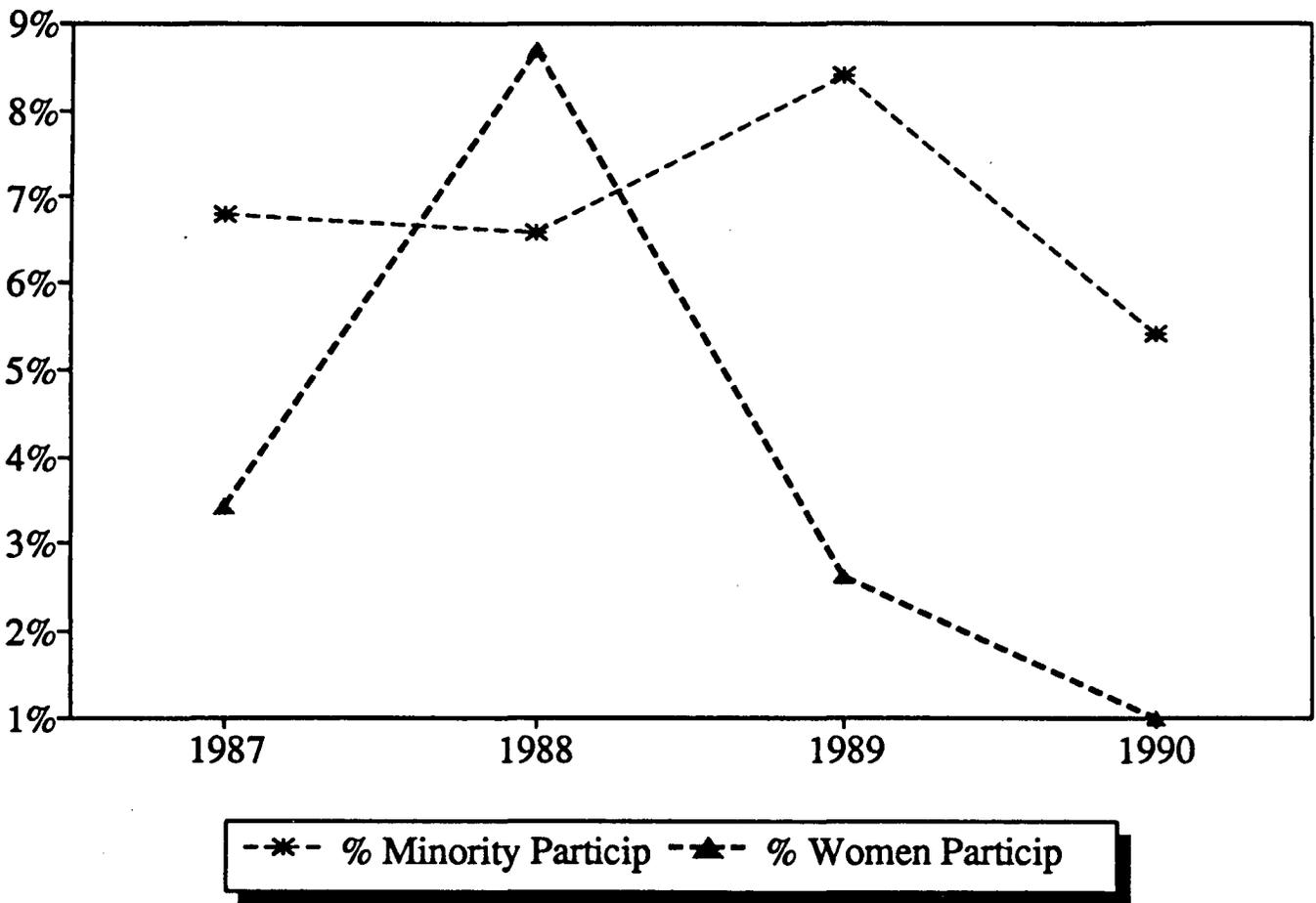


Table 9

Disparity Feasibility Study Survey, 1992

Name of Agency: Metropolitan Service District, Professional Contracted Services

Sara Glasgow Cogan & Associates

**Bidders (Prime):**

Total #  
# of Minority  
# of Women  
% Minority  
% Women

**Awards (Prime):**

Total #  
# of Minority  
# of Women  
% Minority  
% Women

Total \$ (\$1,000's)  
\$ of Minority (\$1,000's)  
\$ of Women (\$1,000's)  
% Minority  
% Women

**Participation  
(Primes and Subs):**

% Minority, goals  
% Women, goals  
% Minority, actual  
% Women, actual  
% Min+Women, goals  
% Min+Women, actual

	Federally Mandated MBE/WBE Particip.					No Federally Mandated MBE/WBE Particip.				
	1987	1988	1989	1990	1991	1987	1988	1989	1990	1991
Total #	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
# of Minority	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
# of Women	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
% Minority	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
% Women	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
Total #	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
# of Minority	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
# of Women	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
% Minority	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
% Women	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
Total \$ (\$1,000's)	NA	NA	NA	NA	NA	3,183	1,732	6,039	4,939	4,119
\$ of Minority (\$1,000's)	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
\$ of Women (\$1,000's)	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
% Minority	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
% Women	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
% Minority, goals	NA	NA	NA	NA	NA	7.0%	7.0%	7.0%	7.0%	7.0%
% Women, goals	NA	NA	NA	NA	NA	5.0%	5.0%	5.0%	5.0%	5.0%
% Minority, actual	NA	NA	NA	NA	NA	3.0%	20.6%	2.9%	47.8%	3.4%
% Women, actual	NA	NA	NA	NA	NA	0.4%	15.0%	4.3%	2.2%	1.3%
% Min+Women, goals	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
% Min+Women, actual	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA

Figure 9

### METRO, Professional Contracted Services No Federally Mandated MBE/WBE Particip.

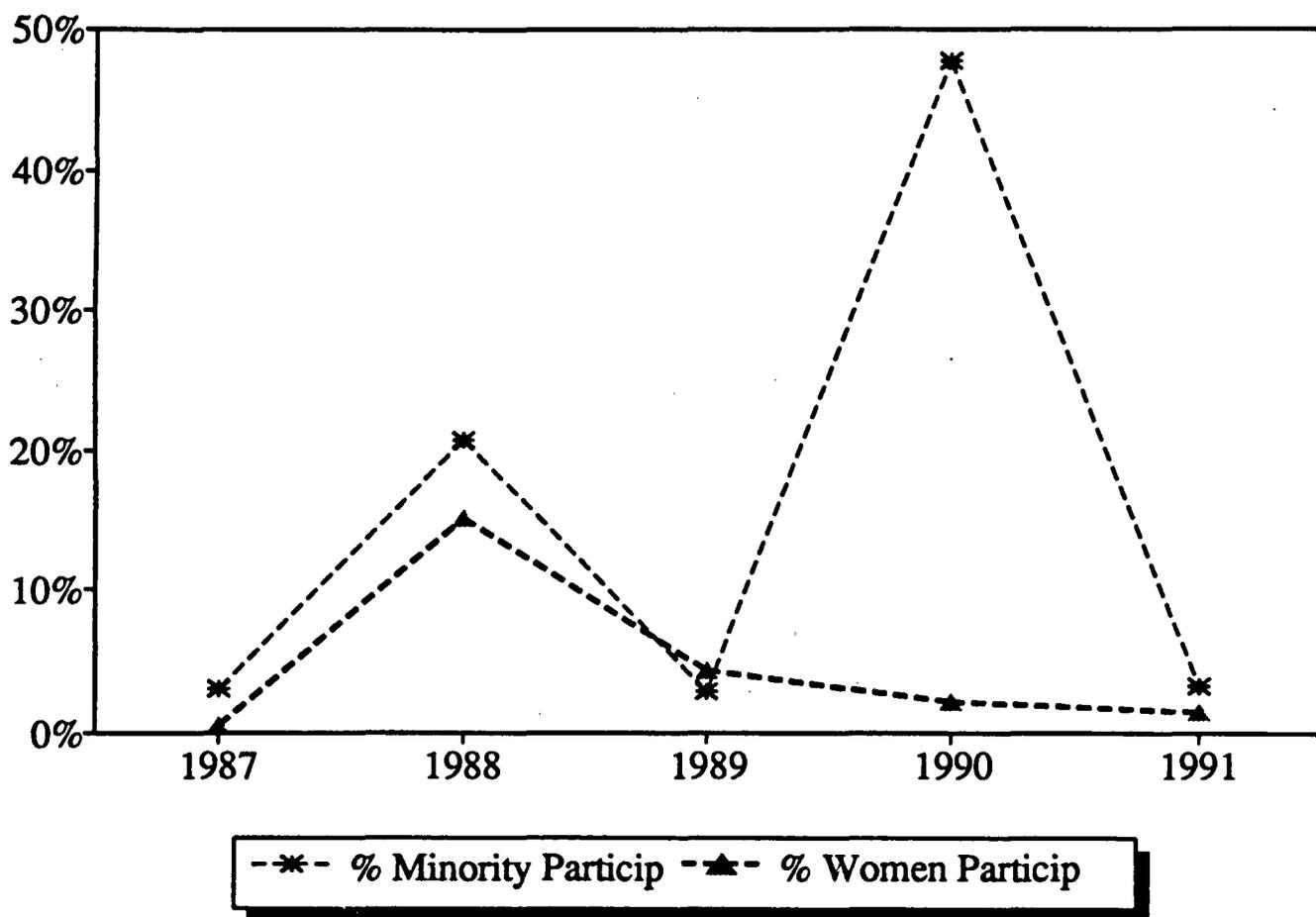


Table 10

**Disparity Feasibility Study Survey, 1992**

Name of Agency: Metropolitan Service District, Public Contracted Services

Sara Glasgow Cogan & Associates

**Bidders (Prime):**

	Federally Mandated MBE/WBE Particip.					No Federally Mandated MBE/WBE Particip.				
	1987	1988	1989	1990	1991	1987	1988	1989	1990	1991
Total #	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
# of Minority	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
# of Women	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
% Minority	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
% Women	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA

**Awards (Prime):**

Total #	NA									
# of Minority	NA									
# of Women	NA									
% Minority	NA									
% Women	NA									

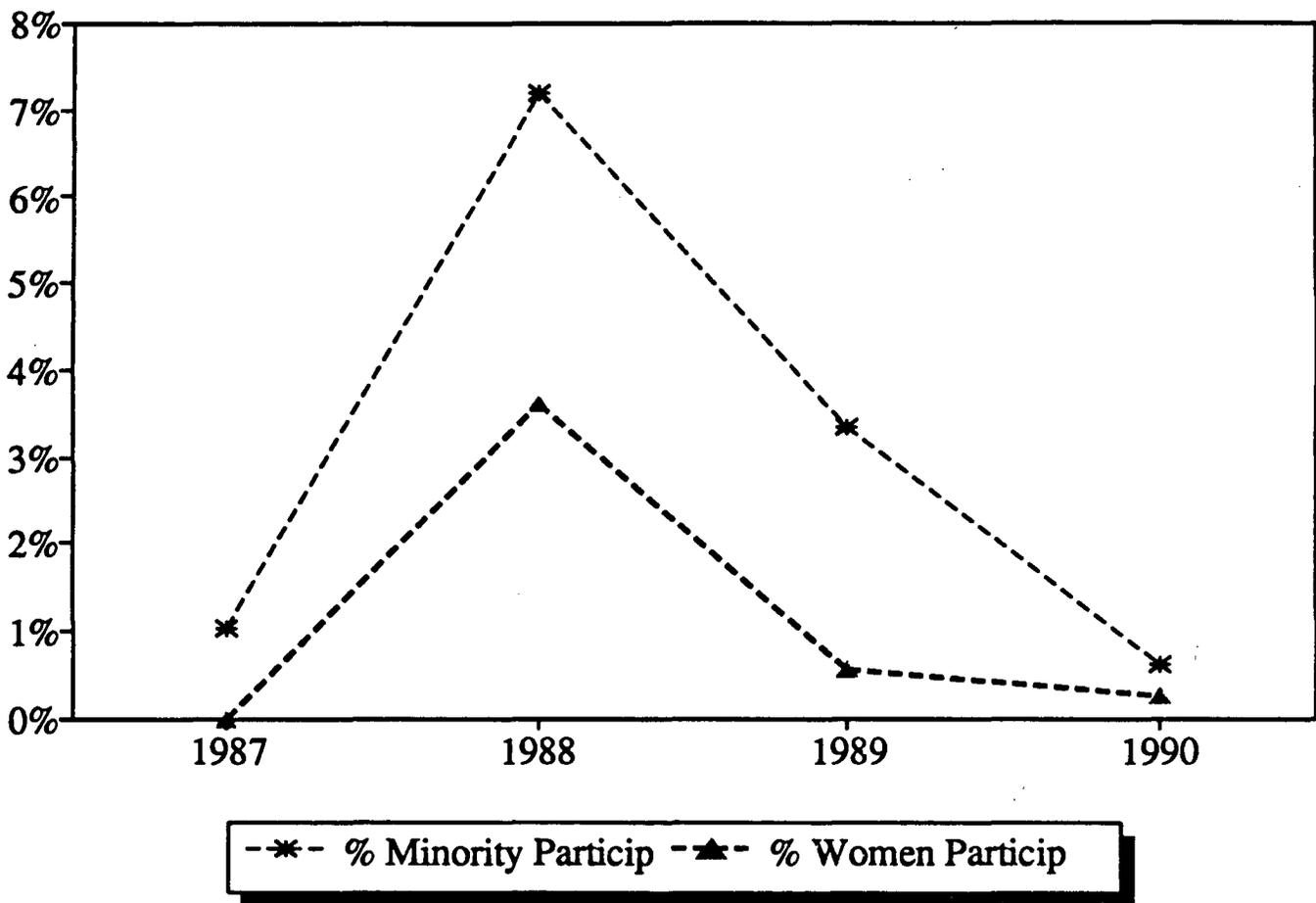
Total \$ (\$1,000's)	NA	NA	NA	NA	NA	948	209	10,812	1,768	NA
\$ of Minority (\$1,000's)	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
\$ of Women (\$1,000's)	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
% Minority	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
% Women	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA

**Participation  
(Primes and Subs):**

% Minority, goals	NA	NA	NA	NA	NA	7.0%	7.0%	7.0%	7.0%	NA
% Women, goals	NA	NA	NA	NA	NA	3.0%	3.0%	3.0%	3.0%	NA
% Minority, actual	NA	NA	NA	NA	NA	1.0%	7.2%	3.4%	0.6%	NA
% Women, actual	NA	NA	NA	NA	NA	0.0%	3.6%	0.6%	0.2%	NA
% Min+Women, goals	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
% Min+Women, actual	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA

Figure 10

### Metro, Public Contracted Services No Federally Mandated MBE/WBE Particip.



an immediate post-Crosen drop for both MBE participation percentages after 1988 reaching lows of .6% for MBEs and .2% for WBEs in 1990.

#### Construction

Table 11 presents the major statistical results for non-mandated Construction Services. Figure 11 graphically displays these results which show an immediate post-Crosen decrease in the MBE percent of participation, and an increase in the percent for WBEs.

#### Total Figures

Table 12 presents the major statistical results for the total figures for METRO, and Figure 12 graphically displays the major findings. The MBE and WBE participation rates appear fairly constant over 1987-91, except for an exceptionally high MBE participation rate in 1990 possibly due to efforts related to the convention center construction activity.

### 3. Multnomah County<sup>9</sup>

Multnomah County has no federally mandated projects. In 1987 and 1988, the County had MBE and WBE goals and set-asides which they were forced to abandon as a result of a court order in December 1988. Tables 13, 14, 15, and 16 present the major statistical results for Multnomah County for construction, professional contracted services, materials and equipment, public contracted services, and total figures, respectively.

#### Construction

Table 13 shows a decreasing trend in the MBE participation rates for construction projects with no federally mandated participation, 1987-91, ranging from 14.5% down to 0%.

#### Professional Contracted Services

Table 14 shows very low participation rates (under 1%) for MBEs and WBE firms. These low rates may be due, in part, to the fact that the County's contracts with non-profits for social services are included in this category.

#### Public Contracted Services

Table 15 shows a possible indication of a decreasing trend in the MBE participation rates, 1987-91, with rates since 1989 of 2% or lower.

<sup>9</sup> Multnomah County

- no data for total bidders or MBE prime contractors
- data does not distinguish WBE prime contractor awards from WBE subcontractor participation
- consultants recalculated total MBE/WBE actual participation percents when jurisdiction revised total \$ award amounts

Table 11

**Disparity Feasibility Study Survey, 1992**

Name of Agency: Metropolitan Service District, Construction

Sara Glasgow Cogan & Associates

**Bidders (Prime):**

Total #

# of Minority

# of Women

% Minority

% Women

**Awards (Prime):**

Total #

# of Minority

# of Women

% Minority

% Women

Total \$ (\$1,000's)

\$ of Minority (\$1,000's)

\$ of Women (\$1,000's)

% Minority

% Women

**Participation**

**(Primes and Subs):**

% Minority, goals

% Women, goals

% Minority, actual

% Women, actual

% Min+Women, goals

% Min+Women, actual

	Federally Mandated MBE/WBE Particip.					No Federally Mandated MBE/WBE Particip.				
	1987	1988	1989	1990	1991	1987	1988	1989	1990	1991
Total #	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
# of Minority	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
# of Women	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
% Minority	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
% Women	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
Total #	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
# of Minority	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
# of Women	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
% Minority	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
% Women	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
Total \$ (\$1,000's)	NA	NA	NA	NA	NA	16,698	44,446	7,970	172	5,748
\$ of Minority (\$1,000's)	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
\$ of Women (\$1,000's)	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
% Minority	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
% Women	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
% Minority, goals	NA	NA	NA	NA	NA	10.0%	10.0%	10.0%	10.0%	10.0%
% Women, goals	NA	NA	NA	NA	NA	3.0%	3.0%	3.0%	3.0%	3.0%
% Minority, actual	NA	NA	NA	NA	NA	9.1%	10.7%	11.6%	68.7%	5.1%
% Women, actual	NA	NA	NA	NA	NA	3.2%	3.1%	1.3%	3.9%	8.0%
% Min+Women, goals	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
% Min+Women, actual	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA

Figure 11

### METRO, Construction No Federally Mandated MBE/WBE Particip.

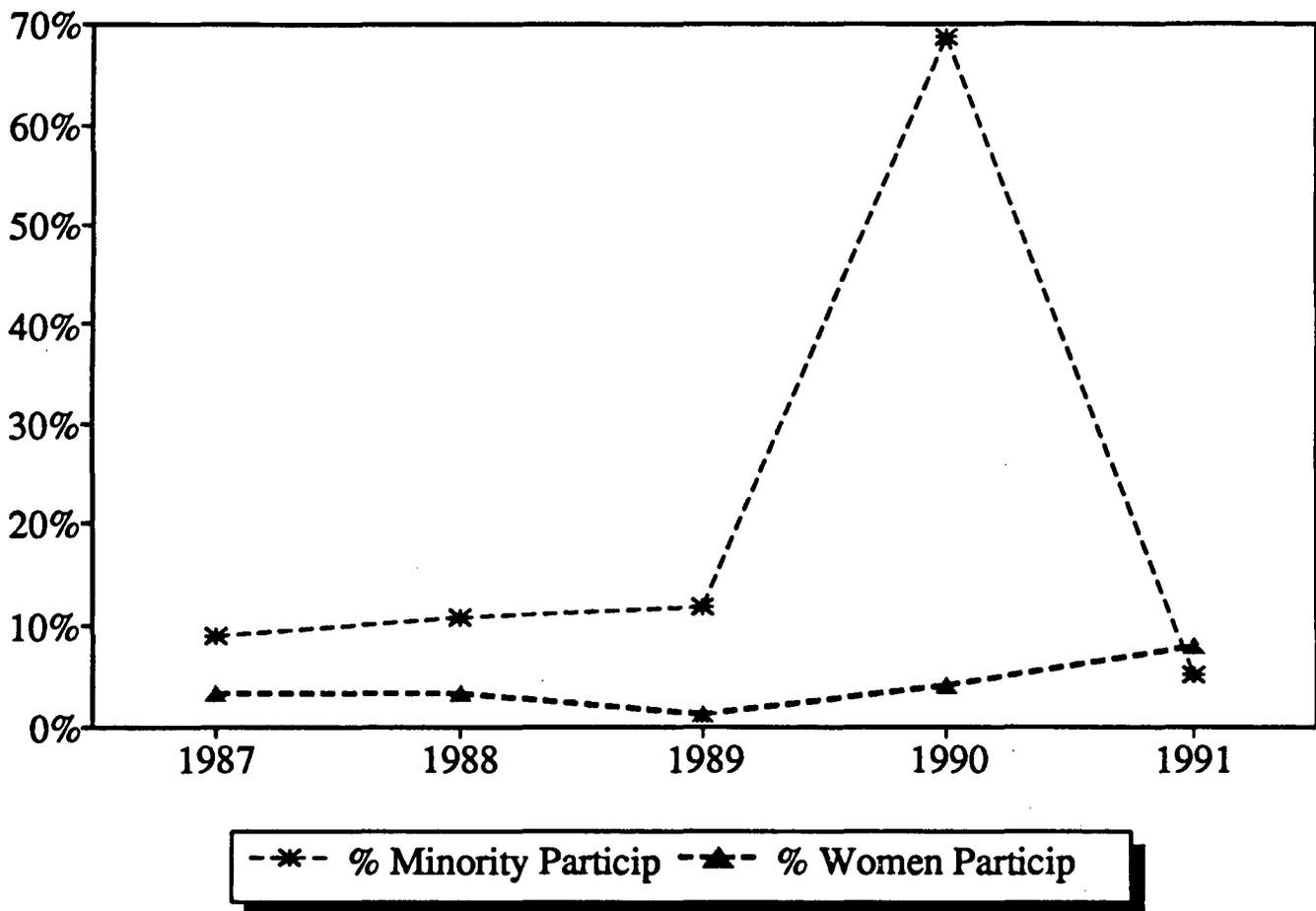


Table 12

**Disparity Feasibility Study Survey, 1992**

Name of Agency: Metropolitan Service District, Totals

Sara Glasgow Cogan & Associates

**Bidders (Prime):**

	Federally Mandated MBE/WBE Particip.					No Federally Mandated MBE/WBE Particip.				
	1987	1988	1989	1990	1991	1987	1988	1989	1990	1991
Total #	NA	NA	0	0	NA	NA	NA	NA	NA	NA
# of Minority	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
# of Women	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
% Minority	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
% Women	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA

**Awards (Prime):**

Total #	0	NA	0	0	NA	NA	NA	NA	NA	NA
# of Minority	NA									
# of Women	NA									
% Minority	NA									
% Women	NA									

Total \$ (\$1,000's)	0	NA	0	0	854	21,659	256,367	22,052	6,341	11,180
\$ of Minority (\$1,000's)	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
\$ of Women (\$1,000's)	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
% Minority	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
% Women	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA

**Participation  
(Primes and Subs):**

% Minority, goals	NA	NA	NA	NA	12.0%	7.1%	6.3%	6.3%	6.3%	6.3%
% Women, goals	NA	NA	NA	NA	NA	3.4%	3.4%	3.5%	3.5%	3.4%
% Minority, actual	NA	NA	NA	NA	34.0%	7.5%	7.9%	5.1%	39.0%	4.2%
% Women, actual	NA	NA	NA	NA	NA	2.5%	3.6%	2.3%	2.1%	4.7%
% Min+Women, goals	12.0%	12.0%	12.0%	12.0%	NA	NA	NA	NA	NA	NA
% Min+Women, actual	0.0%	19.9%	0.0%	0.0%	NA	NA	NA	NA	NA	NA

Figure 12

### METRO, Totals No Federally Mandated MBE/WBE Particip.

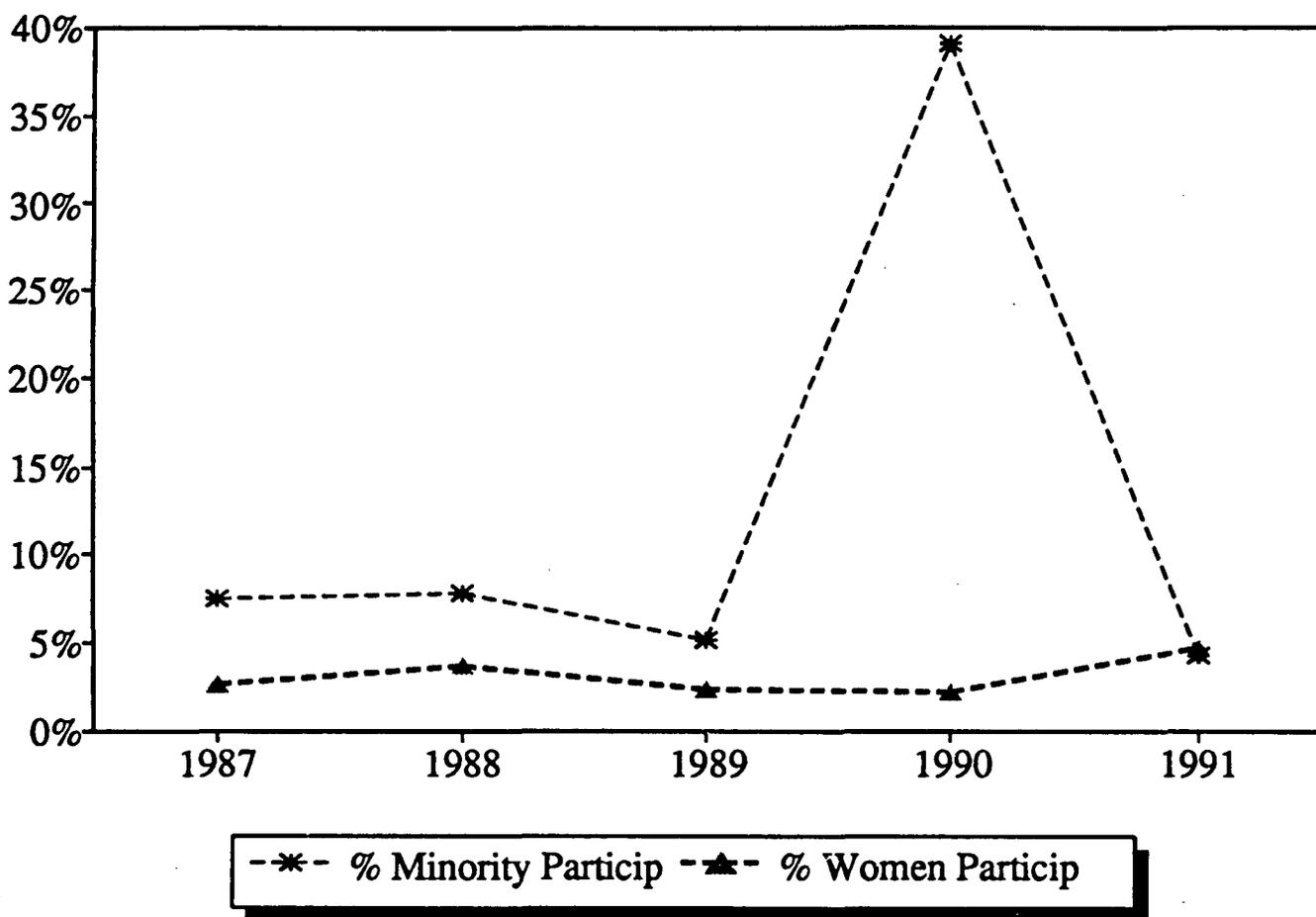


Table 13

**Disparity Feasibility Study Survey, 1992**

Name of Agency: Multnomah County, Construction

Sara Glasgow Cogan & Associates

**Bidders (Prime):**

	Federally Mandated MBE/WBE Particip.					No Federally Mandated MBE/WBE Particip.				
	1987	1988	1989	1990	1991	1987	1988	1989	1990	1991
Total #	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
# of Minority	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
# of Women	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
% Minority	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
% Women	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA

**Awards (Prime):**

Total #	NA	NA	NA	NA	NA	34	28	38	112	56
# of Minority	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
# of Women	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
% Minority	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
% Women	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
Total \$ (\$1,000's)	NA	NA	NA	NA	NA	8,511	2,670	14,821	13,513	2,883
\$ of Minority (\$1,000's)	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
\$ of Women (\$1,000's)	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
% Minority	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
% Women	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA

**Participation  
(Primes and Subs):**

% Minority, goals	NA	NA	NA	NA	NA	10.0%	10.0%	NA	NA	NA
% Women, goals	NA	NA	NA	NA	NA	1.0%	1.0%	NA	NA	NA
% Minority, actual	NA	NA	NA	NA	NA	10.6%	14.5%	8.9%	8.7%	0.0%
% Women, actual	NA	NA	NA	NA	NA	0.0%	0.1%	NA	NA	NA
% Min+Women, goals	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
% Min+Women, actual	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA

Table 14

**Disparity Feasibility Study Survey, 1992**

Name of Agency: Multnomah County, Professional Contracted Services

Sara Glasgow Cogan & Associates

**Bidders (Prime):**

	Federally Mandated MBE/WBE Particip.					No Federally Mandated MBE/WBE Particip.				
	1987	1988	1989	1990	1991	1987	1988	1989	1990	1991
Total #	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
# of Minority	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
# of Women	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
% Minority	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
% Women	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA

**Awards (Prime):**

Total #	NA	NA	NA	NA	NA	728	893	775	1067	1103
# of Minority	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
# of Women	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
% Minority	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
% Women	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA

Total \$ (\$1,000's)	NA	NA	NA	NA	NA	29,622	40,601	42,349	48,706	49,391
\$ of Minority (\$1,000's)	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
\$ of Women (\$1,000's)	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
% Minority	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
% Women	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA

**Participation  
(Primes and Subs):**

% Minority, goals	NA	NA	NA	NA	NA	7.0%	7.0%	NA	NA	NA
% Women, goals	NA	NA	NA	NA	NA	2.0%	2.0%	NA	NA	NA
% Minority, actual	NA	NA	NA	NA	NA	0.0%	0.0%	0.0%	0.1%	0.2%
% Women, actual	NA	NA	NA	NA	NA	0.2%	0.3%	0.4%	0.8%	1.0%
% Min+Women, goals	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
% Min+Women, actual	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA

Table 15

**Disparity Feasibility Study Survey, 1992**

Name of Agency: **Multnomah County, Public Contracted Services**

Sara Glasgow Cogan & Associates

**Bidders (Prime):**

Total #

# of Minority

# of Women

% Minority

% Women

**Awards (Prime):**

Total #

# of Minority

# of Women

% Minority

% Women

Total \$ (\$1,000's)

\$ of Minority (\$1,000's)

\$ of Women (\$1,000's)

% Minority

% Women

**Participation**

**(Primes and Subs):**

% Minority, goals

% Women, goals

% Minority, actual

% Women, actual

% Min+Women, goals

% Min+Women, actual

	Federally Mandated MBE/WBE Particip.					No Federally Mandated MBE/WBE Particip.				
	1987	1988	1989	1990	1991	1987	1988	1989	1990	1991
<b>Bidders (Prime):</b>										
Total #	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
# of Minority	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
# of Women	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
% Minority	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
% Women	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
<b>Awards (Prime):</b>										
Total #	NA	NA	NA	NA	NA	58	72	72	65	87
# of Minority	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
# of Women	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
% Minority	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
% Women	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
Total \$ (\$1,000's)	NA	NA	NA	NA	NA	5,341	3,285	2,794	3,597	8,739
\$ of Minority (\$1,000's)	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
\$ of Women (\$1,000's)	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
% Minority	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
% Women	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
<b>Participation</b>										
<b>(Primes and Subs):</b>										
% Minority, goals	NA	NA	NA	NA	NA	10.5%	10.5%	NA	NA	NA
% Women, goals	NA	NA	NA	NA	NA	1.0%	1.0%	NA	NA	NA
% Minority, actual	NA	NA	NA	NA	NA	7.0%	2.4%	0.8%	2.0%	0.4%
% Women, actual	NA	NA	NA	NA	NA	NA	0.0%	NA	NA	NA
% Min+Women, goals	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
% Min+Women, actual	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA

### Combined Totals

Table 16 shows WBE participation rates of consistently below 1%, and MBE rates of about 2% with some possibility of a decreasing trend. The results from Table 16 are presented graphically in Figure 13.

#### **4. Oregon State System of Higher Education<sup>10</sup>**

Oregon State System of Higher Education has no federally mandated projects. It has had numerical goals for some non-federally mandated projects over \$100,000 during 1987 and 1988. Table 17 presents the major statistical results for the Oregon State System of Higher Education for construction, and Figure 14 graphically displays the major findings. MBE and WBE participation rates have been under 3%, dropping to below 1% in 1990, except for the unusually high 1988 MBE rate of 8.2%.

#### **5. Oregon Department of Transportation (ODOT)**

ODOT has both federally mandated projects and those without federal mandates. ODOT federally mandated programs have had goals from 1987-91. The non-federally mandated MBE and WBE construction projects had goals in 1988 only. The department provided generally complete data, except for data on total bidders. Table 18 presents the major statistical results for the Oregon Department of Transportation construction, and Figures 15-16 graphically display the major findings.

- Award and participation rates show no consistent trends over time or post-Croson changes.
- MBE/WBE award rates and participation rates appear consistently lower for projects with no federally mandated MBE/WBE participation, compared to projects with federally mandated MBE/WBE participation. Participation rates for mandated projects run as high as 12.6%, compared to a high of 4.2% for non-mandated projects.

<sup>10</sup> Oregon State System of Higher Education

- generally complete data for non-mandated construction projects
- no data on total bidders
- no data kept on MBE/WBE prime contractors

Table 16

**Disparity Feasibility Study Survey, 1992**

Name of Agency: Multnomah County, Totals

Sara Glasgow Cogan & Associates

**Bidders (Prime):**

	Federally Mandated MBE/WBE Particip.					No Federally Mandated MBE/WBE Particip.				
	1987	1988	1989	1990	1991	1987	1988	1989	1990	1991
Total #	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
# of Minority	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
# of Women	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
% Minority	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
% Women	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA

**Awards (Prime):**

Total #	NA	NA	NA	NA	NA	820	993	885	1244	1246
# of Minority	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
# of Women	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
% Minority	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
% Women	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
Total \$ (\$1,000's)	NA	NA	NA	NA	NA	43,474	46,555	59,964	65,814	61,013
\$ of Minority (\$1,000's)	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
\$ of Women (\$1,000's)	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
% Minority	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
% Women	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA

**Participation  
(Primes and Subs):**

% Minority, goals	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
% Women, goals	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
% Minority, actual	NA	NA	NA	NA	NA	2.5%	1.0%	2.3%	2.0%	0.2%
% Women, actual	NA	NA	NA	NA	NA	0.2%	0.4%	0.3%	0.6%	0.8%
% Min+Women, goals	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
% Min+Women, actual	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA

Figure 13

### Multnomah County, Totals No Federally Mandated MBE/WBE Particip.

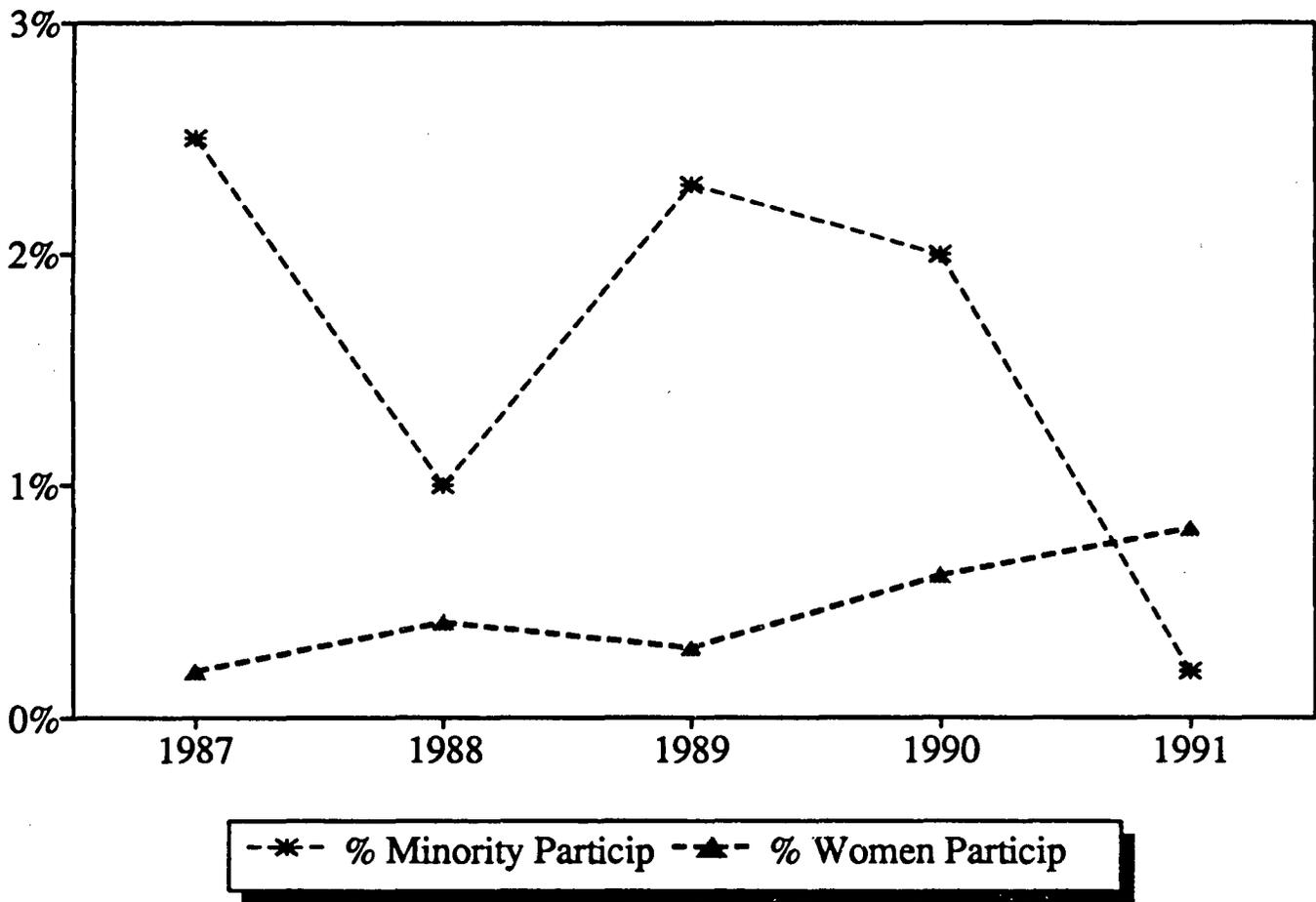


Table 17

**Disparity Feasibility Study Survey, 1992**

Name of Agency: Oregon State System of Higher Education, Construction

Sara Glasgow Cogan & Associates

**Bidders (Prime):**

	Federally Mandated MBE/WBE Particip.					No Federally Mandated MBE/WBE Particip.				
	1987	1988	1989	1990	1991	1987	1988	1989	1990	1991
Total #	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
# of Minority	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
# of Women	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
% Minority	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
% Women	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA

**Awards (Prime):**

Total #	NA	NA	NA	NA	NA	119	96	84	73	99
# of Minority	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
# of Women	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
% Minority	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
% Women	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA

Total \$ (\$1,000's)	NA	NA	NA	NA	NA	55,698	36,316	57,004	95,519	41,403
\$ of Minority (\$1,000's)	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
\$ of Women (\$1,000's)	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
% Minority	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
% Women	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA

**Participation  
(Primes and Subs):**

% Minority, goals	NA	NA	NA	NA	NA	10.0%	10.0%	NA	NA	NA
% Women, goals	NA	NA	NA	NA	NA	2.0%	2.0%	NA	NA	NA
% Minority, actual	NA	NA	NA	NA	NA	2.7%	8.2%	2.4%	0.7%	NA
% Women, actual	NA	NA	NA	NA	NA	1.0%	0.6%	2.2%	0.5%	NA
% Min+Women, goals	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
% Min+Women, actual	NA	NA	NA	NA	NA	NA	NA	NA	NA	2.9%

Figure 14

### OSHE, Construction No Federally Mandated MBE/WBE Particip.

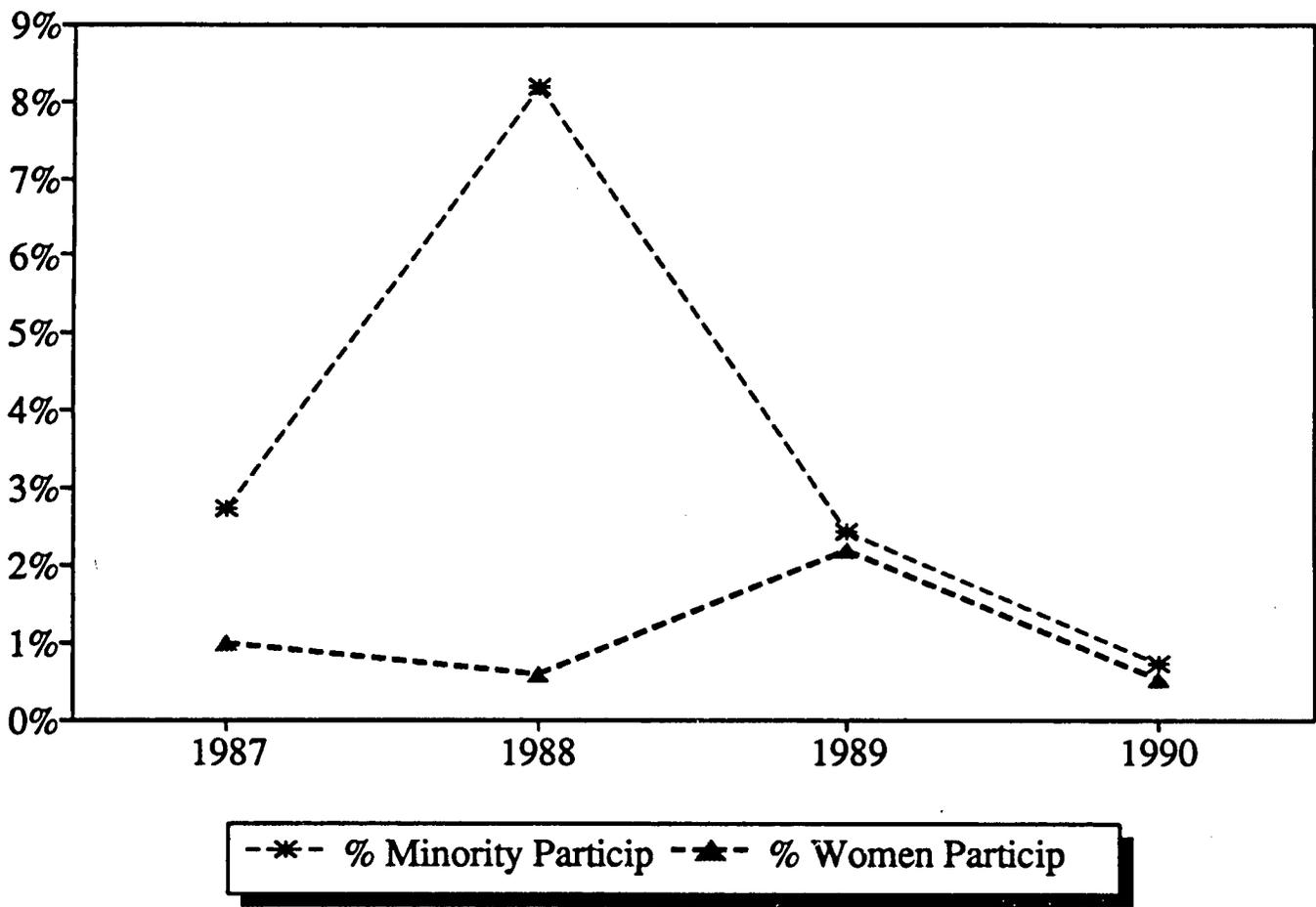


Table 18

**Disparity Feasibility Study Survey, 1992**

Name of Agency: Oregon Department of Transportation, Construction

Sara Glasgow Cogan & Associates

**Bidders (Prime):**

	Federally Mandated MBE/WBE Particip.					No Federally Mandated MBE/WBE Particip.				
	1987	1988	1989	1990	1991	1987	1988	1989	1990	1991
Total #	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
# of Minority	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
# of Women	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
% Minority	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
% Women	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA

**Awards (Prime):**

Total #	38	73	66	77	65	NA	70	79	87	66
# of Minority	0	2	0	1	2	NA	0	0	1	2
# of Women	0	4	3	1	1	NA	0	0	0	1
% Minority	0.0%	2.7%	0.0%	1.3%	3.1%	NA	0.0%	0.0%	1.1%	3.0%
% Women	0.0%	5.5%	4.5%	1.3%	1.5%	NA	0.0%	0.0%	0.0%	1.5%
Total \$ (\$1,000's)	34,454	109,998	109,025	130,417	137,118	NA	95,951	74,133	85,860	39,160
\$ of Minority (\$1,000's)	NA	1,425	0	1,089	1,173	NA	0	0	242	361
\$ of Women (\$1,000's)	NA	595	407	460	28	NA	0	0	0	245
% Minority	NA	1.3%	0.0%	0.8%	0.9%	NA	0.0%	0.0%	0.3%	0.9%
% Women	NA	0.5%	0.4%	0.4%	0.0%	NA	0.0%	0.0%	0.0%	0.6%

**Participation  
(Primes and Subs):**

% Minority, goals	10.0%	0.0%	0.0%	0.0%	0.0%	NA	0.0%	0.0%	0.0%	0.0%
% Women, goals	2.0%	0.0%	0.0%	0.0%	0.0%	NA	0.0%	0.0%	0.0%	0.0%
% Minority, actual	11.4%	12.6%	8.9%	5.2%	6.0%	NA	4.2%	2.3%	2.6%	1.0%
% Women, actual	6.5%	5.5%	6.6%	6.3%	8.6%	NA	3.8%	3.1%	3.7%	2.6%
% Min+Women, goals	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
% Min+Women, actual	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA

Figure 15

### OR Dept of Transportation, Construction Federally Mandated MBE/WBE Particip.

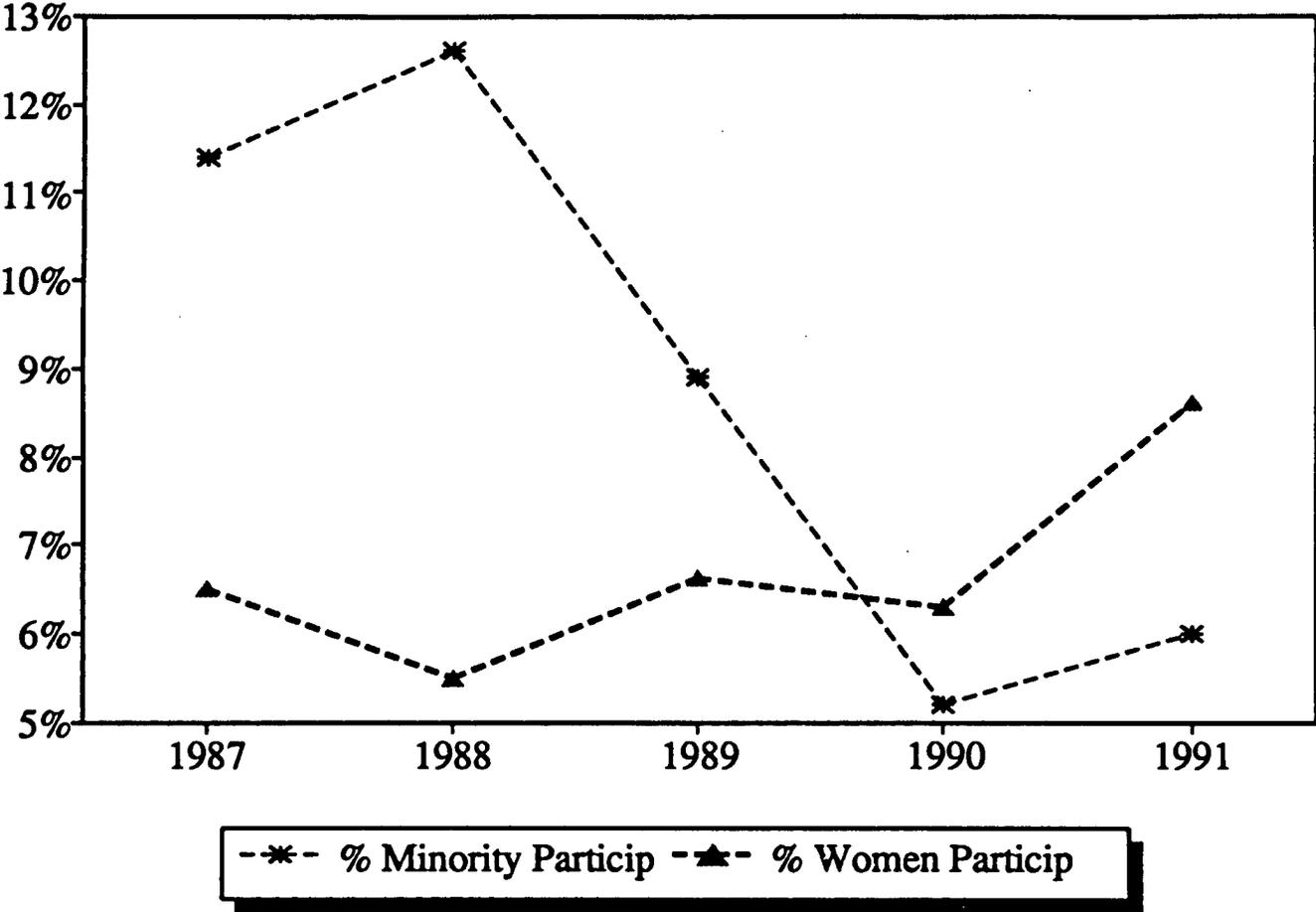
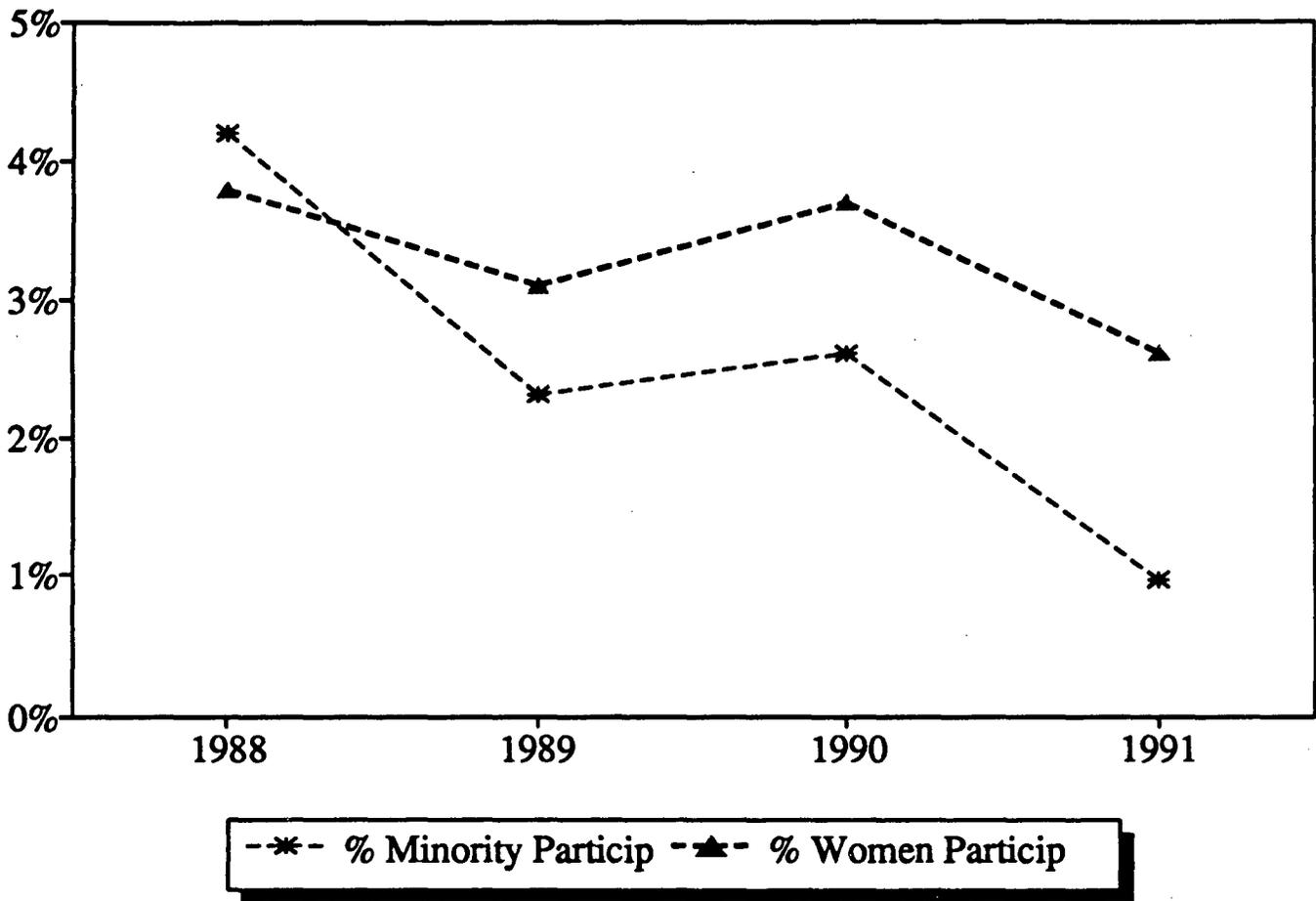


Figure 16

### OR Dept of Transportation, Construction No Federally Mandated MBE/WBE Particip.



## 6. Port of Portland<sup>11</sup>

### Construction

The Port of Portland provided sufficient data for analysis, five years of data, for its mandated programs only. Table 19 displays the results which show declining percentages from combined M/WBE participation from 1987 to 1991.

### Total Figures

The Port of Portland has both federally mandated and non-federally mandated projects. Their federally mandated MBE and WBE projects had goals in 1987-91. The non-federally mandated MBE and WBE programs had goals in 1987 and 1988 only. Table 20 presents the major statistical results for the Port of Portland total data, and Figures 17-18 graphically display the major findings.

- Minority participation rates for non-mandated projects appear to decrease dramatically from 1987 to 1989 and remain low in 1990 and 1991.
- MBE/WBE participation rates are consistently lower for projects with no federally mandated MBE/WBE participation, compared to projects with federally mandated MBE/WBE participation, similar to the findings for the Oregon Department of Transportation. Participation rates for mandated projects run as high as 24% to a low of 2.3%, compared to a high of 7.6% to a low of .2% for non-mandated projects.

## 7. Tri-Met<sup>12</sup>

Tri-Met provided data for projects with federally mandated participation only. It reports goals for these MBE and WBE programs for 1987-91. Table 21 presents the major statistical results for Tri-Met and M/WBE participation rates both appear to drop since 1990. Figure 19 graphically displays the major findings.

### <sup>11</sup> Port of Portland

- data does not distinguish MBE/WBE prime contractor awards from subcontractor participation
- gave figures or estimates on total bidders
- in 1989, switched from separate mandated MBE/WBE goals and participation to combined DBE. For consistency in analysis and comparison, missing individual MBE/WBE actual participation percents were calculated by consultant using actual MBE/WBE \$ amount divided by total \$ award amount.

### <sup>12</sup> Tri-Met

- no data on total bidders
- data does not distinguish MBE/WBE prime contractor awards from subcontractor participation
- data for MBE/WBE goals and participation percents kept as combined DBE. For consistency in analysis and comparison, individual MBE/WBE participation percents were calculated by consultant.

Table 19

**Disparity Feasibility Study Survey, 1992**

Name of Agency: Port of Portland, Construction

Sara Glasgow Cogan & Associates

**Bidders (Prime):**

	Federally Mandated MBE/WBE Particip.					No Federally Mandated MBE/WBE Particip.				
	1987	1988	1989	1990	1991	1987	1988	1989	1990	1991
Total #	50	8	33	35	43	NA	NA	NA	NA	NA
# of Minority	3	NA	NA	1	1	NA	NA	NA	NA	NA
# of Women	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
% Minority	6.0%	NA	NA	2.9%	2.3%	NA	NA	NA	NA	NA
% Women	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA

**Awards (Prime):**

Total #	10	2	8	8	5	NA	NA	NA	NA	NA
# of Minority	NA									
# of Women	NA									
% Minority	NA									
% Women	NA									

Total \$ (\$1,000's)	2,586	95	6,182	4,554	8,633	NA	NA	NA	NA	NA
\$ of Minority (\$1,000's)	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
\$ of Women (\$1,000's)	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
% Minority	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
% Women	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA

**Participation  
(Primes and Subs):**

% Minority, goals	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
% Women, goals	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
% Minority, actual	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
% Women, actual	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
% Min+Women, goals	13.0%	13.0%	10.5%	NA	NA	NA	NA	NA	NA	NA
% Min+Women, actual	29.0%	15.0%	11.3%	11.5%	12.6%	NA	NA	NA	NA	NA

Table 20

**Disparity Feasibility Study Survey, 1992**

Name of Agency: Port of Portland, Totals

**Bidders (Prime):**

Total #

# of Minority

# of Women

% Minority

% Women

**Awards (Prime):**

Total #

# of Minority

# of Women

% Minority

% Women

Total \$ (\$1,000's)

\$ of Minority (\$1,000's)

\$ of Women (\$1,000's)

% Minority

% Women

**Participation**

**(Primes and Subs):**

% Minority, goals

% Women, goals

% Minority, actual

% Women, actual

% Min+Women, goals

% Min+Women, actual

	Federally Mandated MBE/WBE Particip.					No Federally Mandated MBE/WBE Particip.				
	1987	1988	1989	1990	1991	1987	1988	1989	1990	1991
<b>Bidders (Prime):</b>										
Total #	50	8	41	59	63	312	600	353	NA	NA
# of Minority	NA	NA	NA	NA	NA	20	NA	NA	NA	NA
# of Women	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
% Minority	NA	NA	NA	NA	NA	6.4%	NA	NA	NA	NA
% Women	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
<b>Awards (Prime):</b>										
Total #	10	2	10	14	10	69	171	NA	5244	6122
# of Minority	NA	NA	NA	NA	NA	1	NA	NA	NA	NA
# of Women	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
% Minority	NA	NA	NA	NA	NA	1.4%	NA	NA	NA	NA
% Women	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
Total \$ (\$1,000's)	2,586	95	6,470	5,135	9,464	35,981	14,146	31,513	44,033	44,644
\$ of Minority (\$1,000's)	NA	NA	NA	NA	NA	55	NA	NA	NA	NA
\$ of Women (\$1,000's)	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
% Minority	NA	NA	NA	NA	NA	0.2%	NA	NA	NA	NA
% Women	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
<b>Participation</b>										
<b>(Primes and Subs):</b>										
% Minority, goals	10.0%	10.0%	NA	NA	NA	10.0%	10.0%	0.0%	0.0%	0.0%
% Women, goals	3.0%	3.0%	NA	NA	NA	3.0%	3.0%	0.0%	0.0%	0.0%
% Minority, actual	24.0%	10.0%	6.0%	2.3%	8.5%	7.6%	4.1%	0.5%	0.2%	1.1%
% Women, actual	5.0%	4.9%	5.2%	10.6%	4.0%	3.3%	1.3%	3.4%	4.7%	3.0%
% Min+Women, goals	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
% Min+Women, actual	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA

Figure 17

### Port of Portland, Totals Federally Mandated MBE/WBE Particip.

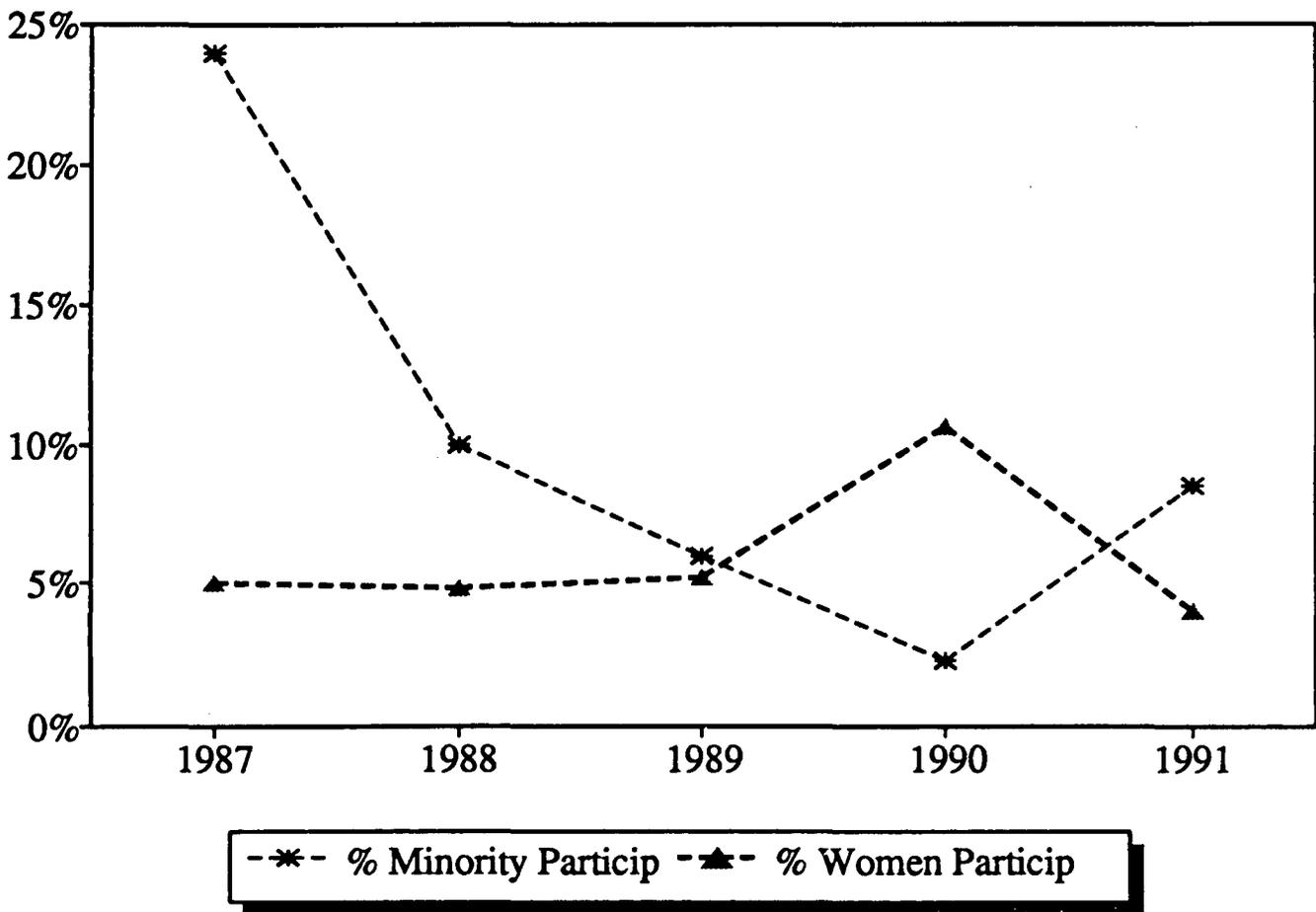


Figure 18

### Port of Portland, Totals No Federally Mandated MBE/WBE Particip.

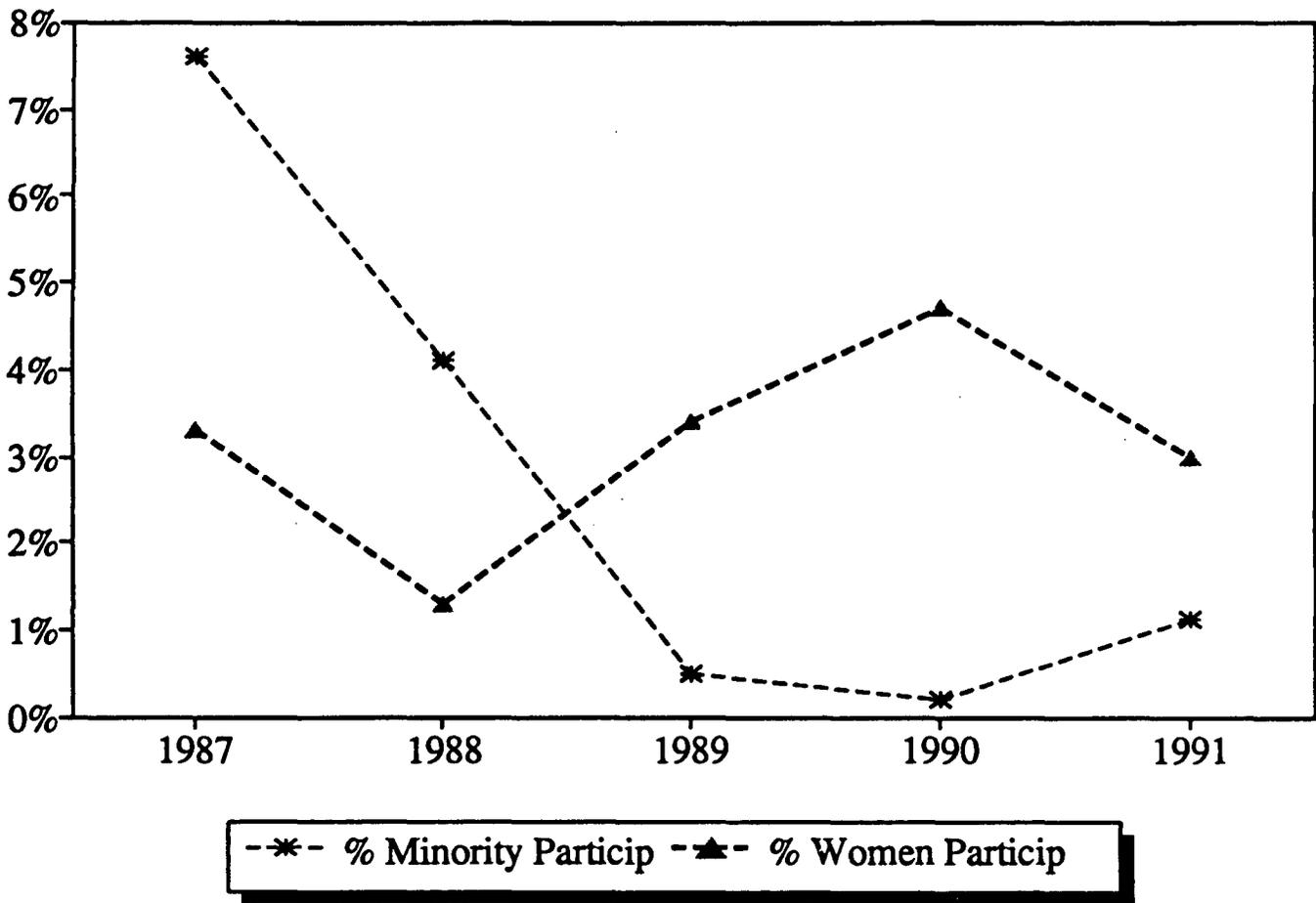


Table 21

**Disparity Feasibility Study Survey, 1992**

Name of Agency: Tri-Met, Totals

Sara Glasgow Cogan & Associates

**Bidders (Prime):**

	Federally Mandated MBE/WBE Particip.					No Federally Mandated MBE/WBE Particip.				
	1987	1988	1989	1990	1991	1987	1988	1989	1990	1991
Total #	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
# of Minority	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
# of Women	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
% Minority	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
% Women	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA

**Awards (Prime):**

Total #	NA	1982	189	301	418	NA	NA	NA	NA	NA
# of Minority	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
# of Women	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
% Minority	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
% Women	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA

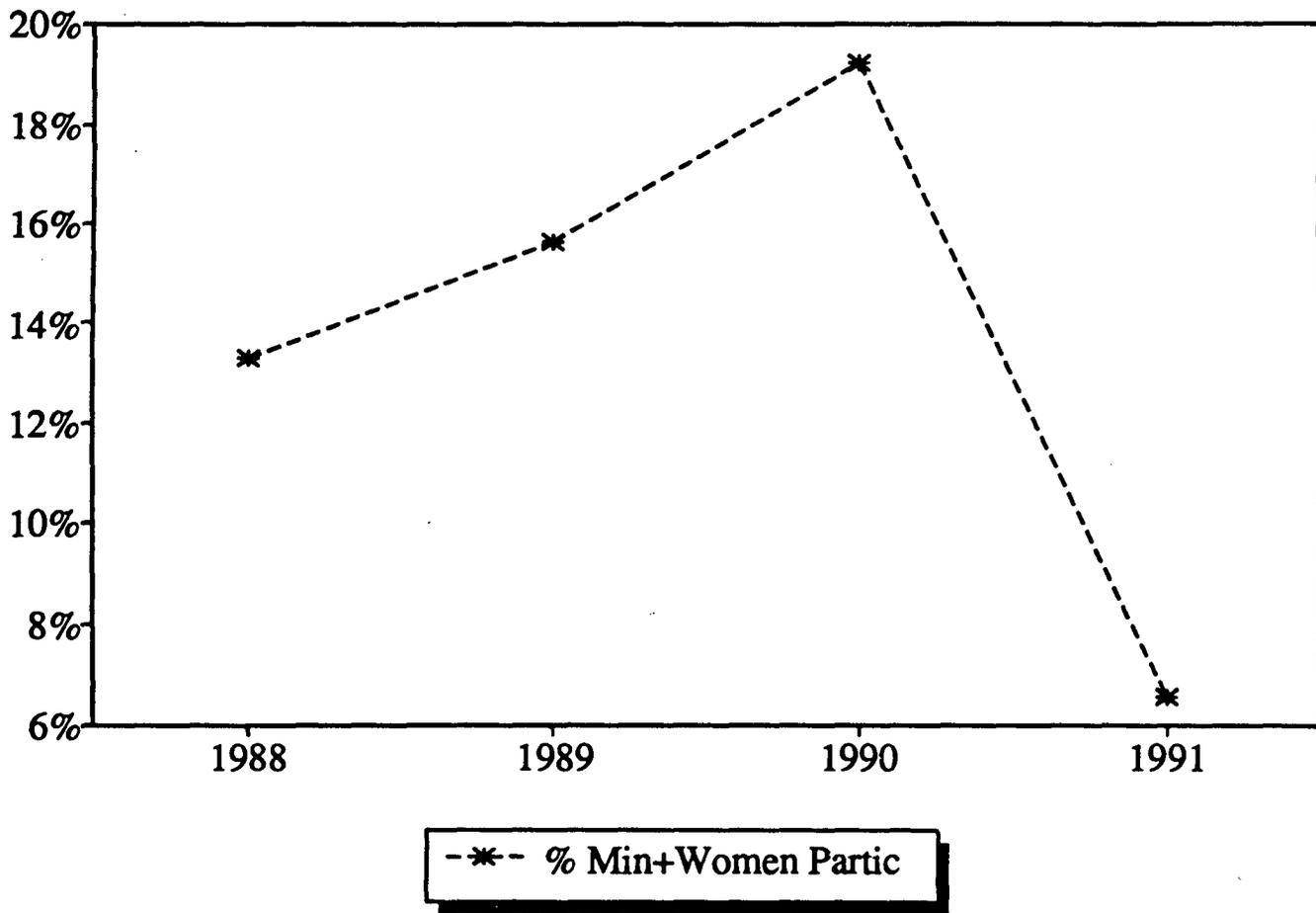
Total \$ (\$1,000's)	NA	5,779	5,064	5,458	2,904	NA	NA	NA	NA	NA
\$ of Minority (\$1,000's)	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
\$ of Women (\$1,000's)	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
% Minority	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
% Women	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA

**Participation  
(Primes and Subs):**

% Minority, goals	NA	10.0%	NA	NA	NA	NA	NA	NA	NA	NA
% Women, goals	NA	2.0%	NA	NA	NA	NA	NA	NA	NA	NA
% Minority, actual	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
% Women, actual	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
% Min+Women, goals	NA	12.0%	10.0%	12.0%	14.0%	NA	NA	NA	NA	NA
% Min+Women, actual	NA	13.3%	15.6%	19.2%	6.5%	NA	NA	NA	NA	NA

Figure 19

### Tri-Met, Totals Federally Mandated MBE/WBE Particip.



## 8. Other Agencies

Other agencies provided only very limited data for constructing Tables 22-24, and some jurisdictions provided no data at all. Tables 22-24 present the limited data available from METRO E-R Commission, Oregon Department of General Services, and Washington County.

- The 1991 MBE/WBE rates for the METRO E-R Commission (Table 22) for bids, awards, and participation appear unusually high (15%-40%), which may be due to State requirements for operation of the Convention Center.
- Clackamas County, Housing Authority of Portland, Portland Community College, and Portland Public Schools all **submitted no data or only limited data** which could not be used in a statistical analysis.

Table 22

**Disparity Feasibility Study Survey, 1992**

Name of Agency: METRO E-R Commission, Public Contracted Services

Sara Glasgow Cogan & Associates

	Federally Funded Projects					Non-Federally Funded Projects				
	1987	1988	1989	1990	1991	1987	1988	1989	1990	1991
<b>Bidders (Prime):</b>										
Total #	NA	NA	NA	NA	NA	NA	NA	NA	NA	13
# of Minority	NA	NA	NA	NA	NA	NA	NA	NA	NA	2
# of Women	NA	NA	NA	NA	NA	NA	NA	NA	5	4
% Minority	NA	NA	NA	NA	NA	NA	NA	NA	NA	15.4%
% Women	NA	NA	NA	NA	NA	NA	NA	NA	NA	30.8%
<b>Awards (Prime):</b>										
Total #	NA	NA	NA	NA	NA	NA	NA	NA	NA	5
# of Minority	NA	NA	NA	NA	NA	NA	NA	NA	NA	2
# of Women	NA	NA	NA	NA	NA	NA	NA	NA	2	1
% Minority	NA	NA	NA	NA	NA	NA	NA	NA	NA	40.0%
% Women	NA	NA	NA	NA	NA	NA	NA	NA	NA	20.0%
Total \$ (\$1,000's)	NA	NA	NA	NA	NA	NA	NA	NA	NA	150
\$ of Minority (\$1,000's)	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
\$ of Women (\$1,000's)	NA	NA	NA	NA	NA	NA	NA	NA	60	30
% Minority	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
% Women	NA	NA	NA	NA	NA	NA	NA	NA	NA	20.0%
<b>Participation (Primes and Subs):</b>										
% Minority, goals	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
% Women, goals	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
% Minority, actual	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
% Women, actual	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
% Min+Women, goals	NA	NA	NA	NA	NA	NA	NA	NA	NA	12.0%
% Min+Women, actual	NA	NA	NA	NA	NA	NA	NA	NA	NA	40.0%

Table 23

Disparity Feasibility Study Survey, 1992

Name of Agency: Oregon Department of General Services, Public Contracted Services

Sara Glasgow Cogan & Associates

	Federally Funded Projects					Non-Federally Funded Projects				
	1987	1988	1989	1990	1991	1987	1988	1989	1990	1991
<b>Bidders (Prime):</b>										
Total #	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
# of Minority	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
# of Women	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
% Minority	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
% Women	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
<b>Awards (Prime):</b>										
Total #	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
# of Minority	NA	NA	NA	NA	NA	NA	5	9	5	4
# of Women	NA	NA	NA	NA	NA	NA	5	8	5	6
% Minority	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
% Women	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
Total \$ (\$1,000's)	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
\$ of Minority (\$1,000's)	NA	NA	NA	NA	NA	NA	634	2,326	1,121	694
\$ of Women (\$1,000's)	NA	NA	NA	NA	NA	NA	95	308	837	792
% Minority	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
% Women	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
<b>Participation (Primes and Subs):</b>										
% Minority, goals	NA	NA	NA	NA	NA	NA	0.0%	0.0%	0.0%	0.0%
% Women, goals	NA	NA	NA	NA	NA	NA	0.0%	0.0%	0.0%	0.0%
% Minority, actual	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
% Women, actual	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
% Min+Women, goals	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
% Min+Women, actual	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA

Table 24

**Disparity Feasibility Study Survey, 1992**

Name of Agency: Washington County, Totals

Sara Glasgow Cogan & Associates

**Bidders (Prime):**

	Federally Mandated MBE/WBE Particip.					No Federally Mandated MBE/WBE Particip.				
	1987	1988	1989	1990	1991	1987	1988	1989	1990	1991
Total #	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
# of Minority	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
# of Women	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
% Minority	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
% Women	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA

**Awards (Prime):**

Total #	NA	NA	NA	NA	NA	52	3	14	35	36
# of Minority	NA	3	3	6	5	7	1	NA	NA	3
# of Women	NA	NA	NA	NA	NA	3	0	0	1	1
% Minority	NA	NA	NA	NA	NA	13.5%	33.3%	NA	NA	8.3%
% Women	NA	NA	NA	NA	NA	5.8%	0.0%	0.0%	2.9%	2.8%

Total \$ (\$1,000's)	NA	179	206	562	305	1,474	172	530	1,349	971
\$ of Minority (\$1,000's)	NA	NA	NA	NA	NA	55	NA	NA	NA	56
\$ of Women (\$1,000's)	NA	NA	NA	NA	NA	29	0	NA	1	40
% Minority	NA	NA	NA	NA	NA	3.7%	NA	NA	NA	5.8%
% Women	NA	NA	NA	NA	NA	2.0%	0.0%	NA	0.1%	4.1%

**Participation  
(Primes and Subs):**

% Minority, goals	NA	10.0%	10.0%	10.0%	10.0%	NA	NA	NA	NA	NA
% Women, goals	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
% Minority, actual	NA	1.6%	1.0%	2.6%	8.0%	NA	NA	NA	NA	NA
% Women, actual	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
% Min+Women, goals	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
% Min+Women, actual	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA

## VI. SUMMARY INFORMATION

### A. PROGRAMS, POLICIES, AND ORDINANCES FOR PURCHASING/CONTRACTING, 1987-91 IN THE 14 PARTICIPATING JURISDICTIONS

- Figure 20 graphically displays the amount of use of mandated and non-mandated MBE/WBE programs to promote purchasing/contracting over the 5-year period, 1987-91. It shows no variability in the use of programs for MBE mandated projects. The three other types of programs, including WBE mandated projects, show decreases in the use of programs since Croson over the 1987-91 period.<sup>13</sup>
- A large majority (79%) of the 14 jurisdictions surveyed reported changing policies affecting purchasing/contracting since the Croson decision. (See Table 25.)

A big difference appears between projects with mandated participation and projects with no mandated participation. No agencies reported changes for federally mandated projects, whereas most agencies (64% for MBE, 57% for WBE) did report changes for projects without mandated participation.<sup>14</sup>

- A large majority (79%) reported changing practices affecting purchasing/contracting since the Croson decision. (See Table 26.) A big difference appears between projects with mandated participation and projects with no mandated participation.

No agencies reported changes for mandated projects, whereas most agencies (64% for both MBE and WBE) do report changes for projects without mandated participation.<sup>15</sup>

- A large majority (79%) reported changing rules and ordinances affecting purchasing/contracting since the Croson decision (Table 27).<sup>16</sup> Of particular interest is the new MBE/WBE ordinance adopted by METRO in September 1992. A big difference appears between projects with mandated

<sup>13</sup> Decreases are not statistically significant at .05 level ( $p=.06-.23$ ). Only MBE, not mandated projects decrease is statistically significant at .1 level. Differences between MBE, mandated projects, and other types of projects are not statistically significant at .05 level; only difference with MBE, not mandated is statistically significant at .1 level.

<sup>14</sup> Differences between projects with mandated participation and without mandated participation are highly statistically significant ( $p<.01$  for both MBE and WBE).

<sup>15</sup> Differences between projects with mandated participation and without mandated participation are highly statistically significant ( $p<.01$  for both MBE and WBE).

<sup>16</sup> Similar percentages in Tables 25, 26, and 27 may indicate that agency respondents are not differentiating between policies, practices, and rules and ordinances.

Figure 20

### Percent of Agencies Having MBE/WBE Preference Programs for Purchasing/Contracting, 1987-1991

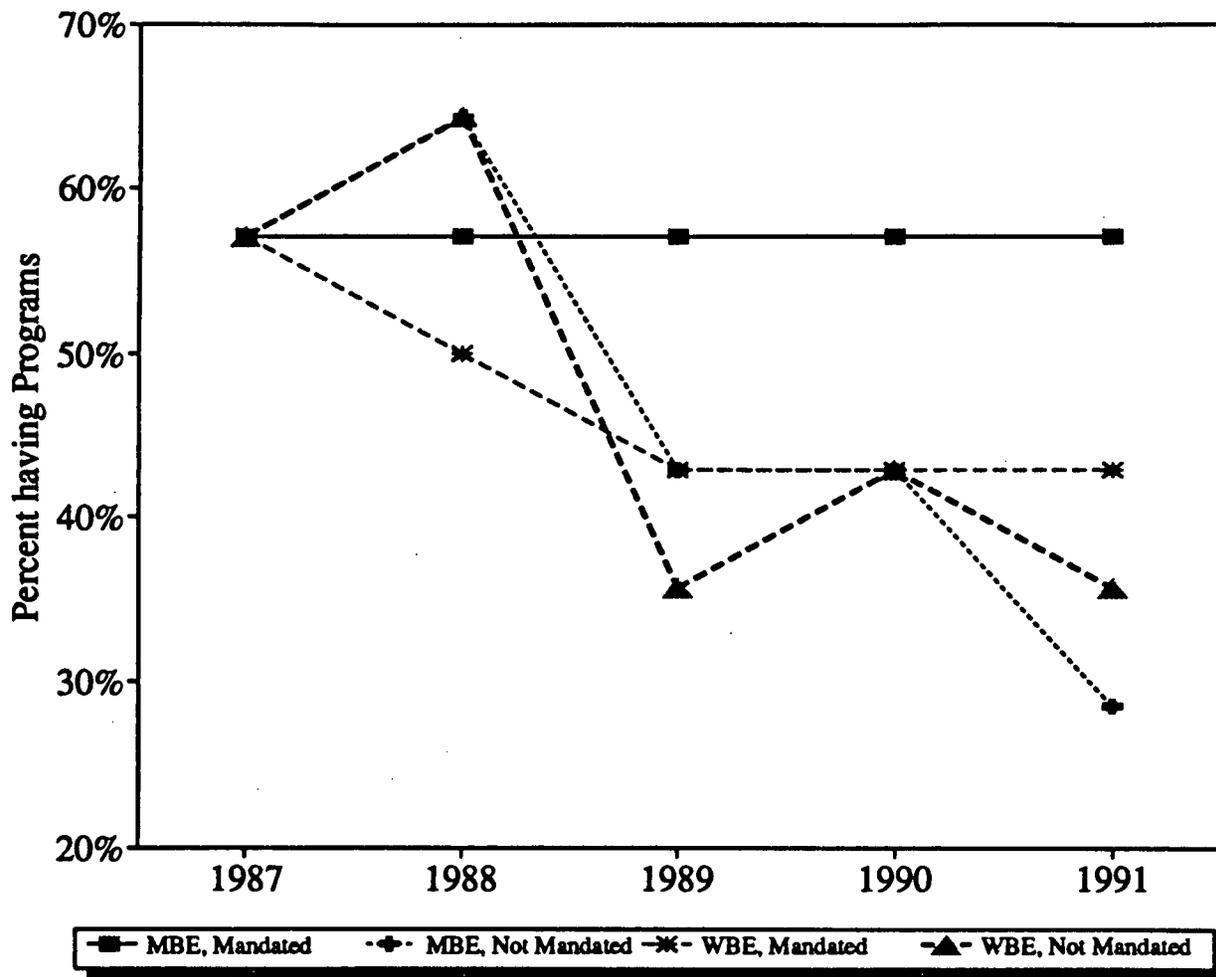


Table 25

## Changes in Policies Affecting Purchasing/Contracting Since Croson Decision

Changes Made Since Croson Decision:	Percent
Changed Policies	79%
Changed Policies for MBE's, federally funded, mandated participation	0%
Changed Policies for MBE's, no mandated participation	64%
Changed Policies for WBE's, federally funded, mandated participation	0%
Changed Policies for WBE's, no mandated participation	57%

Note: Percents are the percent of the responding jurisdictions that indicated they have changed policies for programs of that type.

Table 26

## Changes in Practices Affecting Purchasing/Contracting Since Croson Decision

Changes Made Since Croson Decision:	Percent
Changed Practices	79%
Changed Practices for MBE's, federally funded, mandated participation	0%
Changed Practices for MBE's, no mandated participation	64%
Changed Practices for WBE's, federally funded, mandated participation	0%
Changed Practices for WBE's, no mandated participation	64%

Note: Percents are the percent of the responding jurisdictions that indicated they have changed practices for programs of that type.

Table 27

## Changes in Rules and Ordinances Affecting Purchasing/Contracting Since Croson Decision

Changes Made Since Croson Decision:	Percent
Changed Rules and Ordinances	79%
Changed Rules and Ordinances for MBE's, federally funded, mandated participation	0%
Changed Rules and Ordinances for MBE's, no mandated participation	64%
Changed Rules and Ordinances for WBE's, federally funded, mandated participation	0%
Changed Rules and Ordinances for WBE's, no mandated participation	50%

Note: Percents are the percent of the responding jurisdictions that indicated they have changed rules and ordinances for programs of that type.

participation and projects with no mandated participation. No agencies reported changes for mandated projects, whereas most agencies (64% for MBE and 50% for WBE) did report changes for projects without mandated participation.<sup>17</sup>

#### **B. CROSON AND POST-CROSON LEGAL ANALYSIS**

Based on the legal summary prepared by the State of Oregon Attorney General's Office, the following are key post-Croson requirements:

- Demonstration of "compelling interest" based on statistical evidence of disparity and discrimination and anecdotal support evidence.
- Development of a "narrowly-tailored program" limited to a geographic jurisdiction, industry, and ethnic groups.
- Establishment of race-neutral programs including the development of flexible programs and monitoring strategies. (See Section I and the Appendix for further discussion.)

#### **C. POST-CROSON DISPARITY**

- According to the composite analysis of the data provided by the 14 jurisdictions in Section V-A of this report, there is weak evidence of post-Croson participation changes, because of the limited amount of data available.
- However, these findings do reveal some evidence of higher participation rates for projects with federally mandated MBE/WBE participation compared to projects without federally mandated MBE/WBE participation.
- For information on individual jurisdictions, see Section V-B.

#### **D. COST ESTIMATES FOR CONDUCTING A DISPARITY STUDY BY JURISDICTION**

- The estimated cost for conducting a one-industry disparity study for the 14 jurisdictions would be approximately \$700,000. This would include costs associated with joint activities such as: project design and development; development of survey and interview tools; the design of a common data base to summarize contracting records by jurisdictions; design of a common data base to summarize private sector subcontracting information; public hearings; and legal analysis.
- Additionally, each jurisdiction would have to incur separate costs for activities conducted individually including: collection of contracting data within the industry; statistical analysis of utilization rates; examples and analyses of discriminatory practices; examples and analyses of institutional practices;

<sup>17</sup> Differences between projects with mandated participation and without mandated participation are highly statistically significant ( $p < .01$  for both MBE and WBE).

analyses of unique legal issues; and report preparation. These additional costs would vary in part based on the condition of the individual jurisdiction's existing data records and could range from \$50,000 to \$100,000.

#### **E. CONSIDERATIONS FOR A REGIONAL DISPARITY STUDY**

- There are opportunities for statewide or regional collection of data and disparity studies. However, it must be emphasized that jurisdictions can only use data from smaller jurisdictions within their boundaries. Smaller jurisdictions may not use data from larger jurisdictions in which they are located. No jurisdiction may use data from an adjoining jurisdiction. (See Section II for further discussion.)
- Given the cost of conducting the various elements of a disparity study and the fact that contractors who provide services in more than one jurisdiction shouldn't be asked to participate in multiple interviews and hearings, we would recommend collecting all data from external sources jointly. This would have the advantage of collecting data from one contractor in one interview or hearing for all participating jurisdictions.
- Given the legal requirements of Croson and subsequent court cases, it is not possible to do a complete regional disparity study. However, it would be useful and effective to design the project and conduct as many activities as possible on a regional basis.

#### **F. TARGETING INDUSTRY/COMMODITY/OR SERVICE AREA**

- Based on Croson and subsequent court cases, disparity and discrimination must be proven within a given industry/commodity.
- Businesses included in the study, should be located within the geographic boundaries of the jurisdictions, or be able to demonstrate that they have attempted to do business in the jurisdiction.
- We would recommend the construction industry and the professional design services for a targeted disparity study for the following reasons:
  - More jurisdictions seem to have retained more data on the construction industry.
  - The construction industry involves relatively large total amounts of dollars.
  - There are a number of models of disparity studies in the construction and professional design industries from other jurisdictions such as King County and San Francisco.
  - The professional design industry is related to the construction industry.

## **G . SUMMARY OF REASONS FOR AND AGAINST CONDUCTING A STUDY**

### **1. Reasons for Conducting a Study**

Governments have a “**compelling interest**” to assure opportunities for full participation of all its citizens in the free enterprise system and greater economic opportunities for minorities and women. It is in the jurisdiction’s best interest to promote equitable opportunities for minorities and women in order not to perpetuate or reinforce past and present discriminatory practices.

Other reasons include:

- The findings of this study show some evidence of higher participation rates for MBEs and WBEs in mandated projects. (See Section V-A).
- A disparity study is required in order to establish any race-based programs, particularly numerical goals, set-asides, or other preferences.
- In order to demonstrate concern about discrimination issues.

### **2. Reasons for Not Conducting a Study**

The primary reasons for not conducting a study are the costs:

- The cost of a disparity study is high. It would range between \$120,000 and \$170,000 per jurisdiction for a cooperative study as was recommended in Section IV, depending on the numbers of jurisdictions participating and the condition of an individual jurisdiction’s data. If an individual jurisdiction did its own study, the cost would range from \$400,000 to \$600,000.
- The cost of possible legal action against the jurisdiction as a result of the disparity study and subsequent programs.
- Lack of readily available comprehensive statistical data in many of the jurisdictions which might delay the jurisdiction’s ability to conduct a study.
- Increased political expectations of women and minority businesses.
- Increased political challenges by non-minority contractors.
- Administrative costs associated with implementation and management of a race-based program which includes: staffing and a computerized data base.
- Lack of interest, support, and leadership from key elected public officials.

## H. CONCLUDING COMMENTS AND RECOMMENDATIONS

Regardless of whether or not a given jurisdiction decides to conduct or participate in a disparity study, the following activities should be undertaken by individual jurisdictions in order to maximize opportunities for women and minority businesses and avoid accusations of discrimination:

- Establish a comprehensive computerized data base similar to the models being used in King County and San Francisco in order to monitor and evaluate ongoing efforts.
- Establish and enforce a comprehensive race-neutral program similar to King County's, without the goals, set-asides, and preferences.
- Evaluate whether or not to conduct a disparity study based on this feasibility study. See particularly the "Disparity Study Checklist" in Section, I-C.
- If a decision is made to conduct a disparity study, a consulting firm should be selected to participate with the jurisdiction(s) in both the design and the implementation of the disparity study. The selection of the consultant should be based on the consultant's general qualifications, experience, approach to the project, and on a proposed project cost which is set by the jurisdiction(s) and which cannot be exceeded by the consultants. This will allow the jurisdiction(s) as well as the prospective consultant to negotiate dollar amounts and project responsibilities in order to assure cost savings and quality outcomes.

## REPRESENTATIVES OF PARTICIPATING JURISDICTIONS

City of Portland	Carlton Chayer, Director of Purchasing
Clackamas County	Ben Rainbolt, Purchasing Director
Housing Authority of Portland	Douglas Galash, Purchasing Agent
METRO	Rich Wiley, Procurement Officer
METRO E-R Commission	Mark Hunter, Assistant to General Manager
Multnomah County	Lillie Walker, Director of Purchasing
Port of Portland	Ron Stempel, Contracts and Procurement Manager
Portland Community College	Gene Lile, Purchasing Manager
Portland Public Schools	Mike Hutchens, Purchasing Manager
Oregon, Dept. of General Services	Rob Rickard, Chief Purchasing Officer
Oregon, Dept. of Transportation	Beatrice Brooks, Manager, Civil Rights Division
Oregon, State System of Higher Education	Truman Baird, Research Assistant, Facilities
Tri-Met	Julius L. Evans, Public Information Specialist
Washington County	Roger Cardinal, Purchasing Director
Multi-Jurisdictional Study Facilitator	Clifford Freeman

## SOURCES CONSULTED

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- Darby, Gene, Supervisor, Compliance Unit, Mayor's Office of Contract Compliance, Denver, Colorado.
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- Johnson, Jack, Attorney, formerly on the Staff of the King County Prosecutor's Office, Nov. 10, 1992.
- Koyano, Terry, Compliance Supervisor, King County Office of Civil Rights and Compliance. Interviews on Nov. 5, 9, and Nov. 16, 1992.
- Robinson, Wendy, Assistant Attorney General, Business Activities Section, Oregon Department of Justice. (See also formal opinion in Appendix I.)
- Rosales, Mara, City Attorney, City of San Francisco.

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- Associated General Contractors of California, Inc. (AGCC) v. The Coalition for Economic Equity, City and County of San Francisco*, December 6, 1991.
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**APPENDIX I**

**Croson Analysis**

**Oregon Department of Justice  
General Counsel Division  
October 27, 1992**



DEPARTMENT OF JUSTICE

GENERAL COUNSEL DIVISION

Justice Building

Salem, Oregon 97310

Telephone: (503) 378-6986

FAX: (503) 378-3784

October 27, 1992

Faye Burch, Acting Advocate  
Minority, Women & Emerging Small Business  
Executive Department  
155 Cottage St., N.E.  
Salem, OR 97310

Re: Croson Analysis  
DOJ File No. 105-075-BA002-92

Dear Faye:

You have asked me to answer two questions about Richmond v. J.A. Croson, 488 U.S. 469 (1989) and the 9th Circuit cases that apply Croson.

Croson Requirements

The Supreme Court held that any racially-based affirmative action program was subject to strict scrutiny. Strict scrutiny has two prongs: there must be a compelling interest in using racial classifications and the remedy must be narrowly tailored to achieve the compelling interest.

The Court stated that states and municipalities had a compelling interest in assuring that their money does not finance the evils of private prejudice. The jurisdiction does not need to have actively contributed to the discriminatory practices; passive contribution through the contribution of taxpayer's money is sufficient.

The jurisdiction must prove particular discrimination suffered by minorities in the particular industry to be benefitted by the remedial program. Statistical proof is invaluable in making this determination.

Where there is a significant statistical disparity between the number of qualified minority contractors willing and able to perform a particular service and the number of such contractors actually engaged by the

locality or the locality's prime contractors, an inference of discriminatory exclusion could arise.

Id. at 509. Anecdotal evidence is also helpful. The Court pointed out that in considering both statistical and anecdotal evidence, the minorities receiving the race-based preference must be the same minorities that are studied statistically and who provide the anecdotal evidence. Id. at 506. If minorities are broadly defined, yet the evidence includes only one minority group, the evidence is insufficient.

There are four specific ways that a jurisdiction can narrowly tailor its remedial program. First, the MBE program must be instituted after or in conjunction with race-neutral means. Second, the goals should be set on a case-by-case basis instead of being rigid quotas. It is unrealistic to assume that minorities will choose a profession in exact proportion to their representation in the population at large. Third, the MBE program should be limited in its scope to the boundaries of the enacting jurisdiction. Fourth, a waiver process permits treatment of people as individuals.

The Richmond plan failed because it merely stated that its purpose was remedial. The evidence of past discrimination in the construction industry was not limited to the boundaries of Richmond. The Court specifically prohibited the extrapolation of discrimination in one jurisdiction from experiences in a different jurisdiction. The City could not compare the percentage of contracts awarded to MBEs to the minority population as a whole. There was no evidence of the number of qualified MBEs in the Richmond construction industry. There was also no evidence of the percentage of total City construction contracts received by MBEs.

#### Data Required to Support Numerical MBE/WBE Goals

Two decisions have been issued by the 9th Circuit which review MBE programs. Coral Constr. Co. v. King County, 941 F2d 910 (9th Cir 1991); Assoc. Gen. Contractors of Cal. v. Coalition for Economic Equity, 950 F2d 1401 (9th Cir 1991). I also reviewed Cone Corp. v. Hillsborough County, 908 F2d 908 (11th Cir 1990) because it was referred to and discussed in Coral Construction.

#### I. Evidence

A. Geographical Area. Evidence from a jurisdiction within or coterminous with the boundaries of the enacting jurisdiction can be considered by that jurisdiction. Coral at 917. In other words, a geographically larger jurisdiction can use data from smaller, included jurisdictions. The reverse is not true. The enacting

jurisdiction cannot use evidence from adjacent jurisdictions, even though contractors may work in both jurisdictions. Id.

B. Statistical and Anecdotal Evidence. Statistical data alone must be carefully scrutinized. One year of statistical data is probably sufficient. Associated General Contractors at 1414 (hereafter "AGCC"). Three years of statistical data is sufficient. Cone at 914. The statistical data should compare the availability of MBE prime construction contractors in the jurisdiction with the amount of contract dollars awarded to MBE prime construction contractors based within the jurisdiction.

Anecdotal evidence alone is insufficient. Coral at 919. Anecdotal evidence should be provided by most of the minorities included within the remedial legislation. Anecdotal evidence has included such things as: the inability of MBEs to get private contracts, MBEs being denied contracts even when they are the low bidder, MBEs being told they were not qualified when an independent party determines that they are qualified, MBEs being refused work after they have been awarded a contract, MBEs being harassed to prevent them from submitting bids, prime contractors not talking or being available to MBEs, prime contractors accepting MBE bids and not submitting them, prime contractors accepting MBE bids and then shopping those bids to non-MBE contractors and non-MBEs getting special prices and discounts from suppliers which were unavailable to MBEs.

A combination of statistical and anecdotal evidence is the most powerful. Coral at 919. In all three cases the jurisdiction had large statistical studies performed and had lots of anecdotal evidence. In AGCC the city held more than ten public hearings to solicit input.

A jurisdiction only needs some evidence of its own culpability in fostering or furthering discrimination to enact a race-conscious program, so long as subsequent factfinding bears out the need for the program. However, the jurisdiction bears the risk that subsequent factfinding will not support the need for the program or it will not be narrowly enough tailored. Coral at 920-1. There must be a chance to rebut the statistical evidence.

It is insufficient to compare the percentage of MBEs receiving contracts from the jurisdiction to the percentage of MBEs within the jurisdiction because this comparison fails to take account of the fact that many MBEs may not provide goods or services that are subject to significant jurisdictional contracting. AGCC at 1414.

## II. Narrow Tailoring.

A. Consider Race-Neutral Means. Croson set out various race-neutral means that a jurisdiction should consider. However, a jurisdiction does not need to exhaust every possible alternative means. Coral at 923. It only needs to exhaust measures that it is authorized to enact and which have a reasonable probability of being effective. Thus, there is no necessity to lobby the legislature to change the law. There is also no necessity to provide assistance to MBEs by providing bonding or extending credit if those activities would be prohibited by law. Both these activities are prohibited under Oregon law. Or Const Art XI, §§ 7, 8, 9 and 10.

At a minimum, the jurisdiction should have ordinances or statutes prohibiting contractors from discriminating against their employees on the basis of race and requiring contractors to integrate their workforce. The jurisdiction should enforce its ordinance or statutes. Six years of race-neutral attempts are sufficient. Cone at 916. How much less is unclear. In addition, a jurisdiction should include all the race-neutral means listed in Croson, so long as it is authorized to provide those means and there is a reasonable probability that these means will be successful.

B. Program Flexibility. A percentage preference is not a quota because the advantages it provides to an MBE are slight. Coral at 924; AGCC at 1417. Case-by-case utilization goals with a waiver process permit individualized determinations. Waivers have been permitted for situations such as: no qualified MBEs are available, the MBE quote is not competitive, the prime contractor made a good faith effort to find MBEs, and a non-MBE contractor is the sole source. In addition, preferences should not be provided to MBEs in particular industries that have not suffered past discrimination. AGCC at 1417.

C. Geographical Boundaries. The race-conscious remedy should be limited to the boundaries of the enacting jurisdiction. The issue is not where the MBE is located, but whether it has been a victim of discrimination within the enacting jurisdiction. If there has been systematic discrimination within the jurisdiction, a presumption arises that the MBE has been a victim of that discrimination. However, the MBE must prove that it is or attempted to become involved in the business community in the jurisdiction. Coral at 925. You cannot have a remedy that benefits MBEs outside the jurisdiction based on statistics proving discrimination within the jurisdiction. AGCC at 1414.

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D. Monitoring. The program should be monitored so that its effects are not disproportionate and to guaranty that it will not continue past the date necessary to remedy the past discrimination.

E. WBE Programs. Croson applied strict scrutiny to race-conscious programs. It did not deal with the level of scrutiny to be applied to gender-based programs. Only Coral Construction has reviewed a WBE program. The court held that intermediate scrutiny would be applied to gender-based programs. Id. at 931. This requires an important governmental objective and a direct, substantial relationship between the objective and the means of accomplishing it.

It is an important governmental objective to remedy disadvantages that confront WBEs. There is no requirement for any governmental involvement, active or passive, in the discrimination faced by WBEs. Id. at 932.

A direct, substantial relationship exists if there has been some discrimination in a particular field. Even though the preference for WBEs applied to all WBEs, it does not invalidate the entire WBE program.

It should be noted that other Circuits have applied strict scrutiny to WBE programs and have required governmental involvement in the discrimination against WBEs.

Sincerely,

*Wendy A. Robinson*

Wendy A. Robinson  
Assistant Attorney General  
Business Activities Section  
General Counsel Division

**APPENDIX II**

**Multnomah County Vendor  
Registration Information  
(Excerpt)**

MISCELLANEOUS (Cont'd)

<u>Memorials, Cemetery &amp; Mortuary Supplies</u>	98-300
<u>Parking Meters/Ticket Dispensers</u>	98-901
<u>Recreational &amp; Athletic Equipment</u>	48-000
Athletic & Sporting Equipment	48-100
Games, Toys & Wheeled Goods	48-200
Recreational & Gymnastic Equip	48-300
<u>Ships, Small Craft, Pontoons &amp; Floating Docks &amp; Supplies</u>	03-000
Misc Small Craft	03-001
<u>Ship &amp; Marine Equipment &amp; Supplies</u>	04-000
<u>Signs, Adv. Displays, ID Plates</u>	98-050

OFFICE/COMMERCIAL/HOUSEHOLD EQUIPMENT & FURNISHINGS

<u>Copier Equipment &amp; Supplies</u>	
Copier	17-120
Copier Supplies	17-122
<u>Furniture</u>	43-000
Cabinets/Lockers/Bins/Shelves	43-250
Household Furniture	43-050
Office Furniture	43-100
File Cabinets, Card Files, Etc.	43-130
Tabulating Equipment & Supplies	43-140
WP/DP Furniture	43-150
Misc Office Furniture	43-190
Misc Furniture & Fixtures	43-950
<u>Household &amp; Commercial Furnishings &amp; Supplies</u>	72-000
Draperies, Awnings & Shades	72-300
Floor Coverings, Carpet	72-200
Floor Coverings, Other	72-250
Furnishings Repair & Maintenance	72-800
Household & Commercial Containers	72-400
Household Furnishings	72-100
Wall Hangings & Frames	72-600
Misc Household & Commercial Furnishings & Appliances	72-900
<u>Office Machine Visible Record Equipment</u>	45-000
Accounting & Calculating Machines	45-200
Office Machine Rental/Leasing	45-700
Office Type Sound Recording & Reproduction Machines	45-500
Typewriters & Office-Type Composing Machines	45-300
Miscellaneous Office Machines	45-900

OFFICE SUPPLIES/CONTAINERS/PAPER/PRINTING/PHOTO

<u>Books, Maps &amp; Other Publications</u>	
Books & Pamphlets	75-100
Drawings & Specifications	75-200
Maps, Atlases, Charts & Globes	75-400
Newspapers & Periodicals	75-300
Processed Microfilm	75-700
Misc Printed Matter	75-900
<u>Containers, Packaging &amp; Packing Supplies</u>	78-000
Bags & Sacks	78-050
Bottles & Jars	78-250
Boxes, Cartons & Crates	78-150
Drums & Cans	78-100
Packaging & Bulk-Packing Material	78-350
Reels & Spools (Not Audio/Visual)	78-300
Special Containers & Packages	78-400

<u>Office Supplies</u>	74-000
Calendars	74-303
Continuous Stock Forms	74-402
DP/WP Supplies	74-500
Forms/Labels	74-400
Office Supplies	74-100
Pinfeed Labels	74-401
Rubber/Date Stamps	74-302
Stationery	74-300

<u>Paper &amp; Paperboard</u>	80-000
Carbonless Paper	80-300
Cut Stock	80-200
Roll Paper	80-100
Xerographic Paper	80-400

<u>Photographic &amp; Microfilm Equipment</u>	
Cameras, Motion Picture	39-100
Cameras, Still Picture	39-200
Microfiche Reader/Printer	39-310
Photographic Equipment & Accessories	39-600
Photographic Finishing & Developing Equip	39-400
Photographic Projection Equipment	39-300
Miscellaneous	39-900

<u>Photographic Supplies &amp; Film</u>	69-700
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<u>Printing</u>	
Bindery	81-600
Business Forms	81-400
Custom Printing	81-700
Decals	81-900
Duplicating	81-100
Envelopes	81-300
Index Tabs	81-800
Letterhead	81-200
Typesetting	81-500

SERVICES

<u>Professional Services (Professional Contracted Services)</u>	
Accounting & Auditing	62-100
Advertising	62-101
Aging Programs	62-213
Alcohol & Drug Programs	62-209
Ambulance	62-200
Appraisal	62-102
Arbitration	62-103
* Architectural	61-913
Attorney & Legal	62-104
Banking	62-105
Corrections Programs	62-214
Dental	62-205
Developmental Disabilities Programs	62-211
Education & Training	62-111
* Engineering	61-912
Hospital	62-206
Insurance & Bonds	62-109
Laboratory	62-207
* Landscaping	61-928
Management & Other Consulting	62-107
Medical	62-208
Mental/Emotional Disabilities Programs	62-210
Mortician Services	62-930
Nursing	62-201
Physician, Surgeon, Psychiatric	62-202
Programming, Software	62-113
Psychologist, Social Work, Counseling	62-203
Residential/Custodial Care	62-204
Security Monitoring	62-416
Testing & Monitoring (Environmental)	61-910
Third Party Financing	62-110
Travel	62-501
Veterinary	62-112
Youth Programs	62-212

\*Include under Professional Design Services

SERVICES (Cont'd)

Trade Services (Public Contracted Services)

Addressing & Mailing	62-702
Amusement & Recreation	62-800
Armored Car Service	62-411
Auto/Truck Rental	62-406
Beverage, Hot & Cold	62-803
Cemetery (Grave Open/Close)	62-931
Copier Repair & Maintenance	62-600
Courier	62-410
Disinfecting & Exterminating	62-407
Electronic Sign, Equipment & Light Rental	62-408
Employment, Temporary Clerical & Other	62-106
Food Concessionaire	62-801
Food Service	62-802
Garbage Hauling	62-300
Grounds Maintenance	62-403
Hazardous Waste Removal	62-301
Janitorial & Window Cleaning	62-412
Laundry, Dry Cleaning & Linen	62-405
Locksmith	62-413
Lodging	62-500
Moving & Storage	62-402

SERVICES (Cont'd)

Trade Services

Office Machine Repair & Maintenance	62-601
PC/Laptop Repair & Maintenance	62-602
Pest Control	62-414
Photographic Finishing & Developing	62-700
Printer Repair & Maintenance	62-603
Recycling Dealer (Office)	62-351
Recycling Dealer (Other)	62-352
Reprographics	62-701
Scrap Dealers	62-350
Scrap Vehicle Dealers	62-360
Security Guard	62-415
Silver Recovery Dealers	62-358
Surplus Property Dealers, Misc.	62-361
Sweeping, Parking Lots, Etc.	62-404
Towing	62-401
Trucking & Hauling Service	62-400
Used Oil Dealers	62-359
Vehicle Engine Services	62-409
Vending Machine	62-804

COMMODITIES OR SERVICES NOT LISTED

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