



WILLIE HARRIS

Enforcing the STAA

by Lanita Duke

Grassroot News, N.W. — The Surface Transportation Assistance Act (STAA) of 1982 is like money in the bank for the business person of color. The STAA requires that at least ten percent of the Jobs Bill monies that will be spent by the Federal Highway Administration must be spent with Minority Business Enterprises.

It is the job of Willie Harris, Regional Director in the Office of Civil Rights for the FHWA, to see to it that this Act is implemented.

"First of all I want to clear up that this is a set-aside. The 105(f) provision of the STAA calls it a provision. It gives the States the latitude of setting goal attainments for MBEs who are socially and economically disadvantaged."

Harris states that a minority business woman would fall under the definition of MBEs. "However, non-minority women would have to prove that because of their sex they were economically disadvantaged. In this case the burden of proof is placed on the non-minority female."

Harris hopes that MBEs will use the STAA to enter and stay in the mainstream of American business. "The ten percent provision means that minority businesses have an opportunity for real and substantial participation with State Highway agencies and the Department of Transportation. I look at the ten percent provision as a minimum — not as a maximum."

According to the Department of Transportation's final regulation on July 21, 1983, the STAA built upon the Department's existing minority

business enterprise rule. "Transit authorities and state highway agencies must set overall goals based on an annual program. Separate goals are set for minority-owned firms and women-owned firms. Contractors must meet contract goals or show that they made good faith efforts to do so."

As far as enforcement is concerned, the STAA has written into it, "that if the recipient is in non-compliance there is a danger of losing its Federal funds."

The father of the Surface Transportation Assistance Act, Parren Mitchell (D-Md.), said he believes that the Secretary of Transportation will not grant waivers to States who claim they cannot meet the ten percent provision. "Secretary Dole has said that no waiver has been granted to any state and it is not likely that one will be granted. Those who do not comply with the law will have their Surface Transportation Act monies taken away."

Harris suggests there is a time factor involved. "The MBEs who meet the test of ownership should get certified with the State as soon as possible. In some States the certification occurs rapidly while in others you have a three to five month delay." The place to go to apply for certification is the State's Department of Transportation.

Harris also states that the STAA may be one of the last efforts made to gain minority participation in the mainstream. "This regulation only applies for a limited number of years and if minority businesses do not reap the benefits they are justly entitled to within this short time — the opportunity will be lost forever."

SURFACE TRANSPORTATION ASSISTANCE ACT OF 1982 FACT SHEET

The Department of Transportation issued a final regulation on July 21, 1983, to increase disadvantaged business participation in the Department's large financial assistance programs for highways and mass transit. The regulation carries out section 105(f) of the Surface Transportation Assistance Act of 1982.

BACKGROUND

Section 105(f) provides as follows: *Except to the extent that the Secretary determines otherwise, not less than ten percent of the amounts authorized to be appropriated under this act shall be expended with small business concerns owned and controlled by socially and economically disadvantaged individuals as defined by section 8(d) of the Small Business Act [15 U.S.C. 637(d)] and relevant subcontracting regulations promulgated pursuant thereto.*

The new regulation builds on the Department's existing minority business enterprise rule (49 CFR Part 23). Under this existing rule, transit authorities and state highway agencies must set annual program goals ("overall goals"). Separate goals are set for minority-owned firms and women-owned firms. Contractors must meet contract goals or show that they made good faith efforts to do so. Under the existing regulation, there has been encouraging growth in minority business participation in DOT financial assistance programs. For example, the dollar value of minority business participation in the

highway program in Fiscal Year 1982 was \$415 million, over two and a half times more than in Fiscal Year 1979, the year before the rule was published. Minority business participation in the mass transit program was worth \$274 million in Fiscal Year 1982.

RECIPIENTS' OVERALL GOALS

In section 105(f), Congress sent a clear message that it wanted the Department to do more. The new regulation is designed to implement the ten percent requirement of section 105(f).

The Department recognizes, however, that it may not be reasonable to expect every recipient to meet a ten percent goal at once. A recipient may request approval of a goal of less than ten percent. To decide whether a lower goal is justifiable, the Department needs information about the ability of disadvantaged businesses to work on the recipient's DOT-assisted contracts and the efforts the recipient is making to increase disadvantaged business participation. Thus, recipients requesting approval of a lower goal will be asked to submit such information. Before requesting a lower goal, recipients will also consult with minority and general contractors' associations, community organizations, and other interested groups.

The Department will consider each request for a goal of less than ten percent on its merits, in light of all circumstances relevant to the request. If the information provided in support of the request is insufficient, the Department will consult further with the recipient. If the Department does not approve the goal the recipient has re-

quested, the Department, after consulting with the recipient, may establish an adjusted overall goal that represents a reasonable expectation for disadvantaged business participation in the recipient's programs.

COMPLIANCE

If the recipient fails to meet its overall goal, it has the opportunity to explain to the Department why the goal could not be achieved. Among the circumstances that may be taken into consideration is the award of contracts to contractors who did not meet contract goals but made strenuous efforts to do so. If the recipient's explanation does not justify its failure to meet the goal, the Department may direct the recipient to take future remedial steps to improve its Disadvantaged Business participation.

A recipient is regarded as being in non-compliance with the rule, and therefore in danger of losing its Federal funds, in only two situations. First, a recipient is in non-compliance if it does not have an approved disadvantaged business program or goal. Second, a recipient is in non-compliance if it fails to take remedial action to improve its disadvantaged business participation as the Department requests. A recipient is not regarded as being in non-compliance simply because it has failed to achieve the level of disadvantaged business participation called for in its overall goal.

WOMEN-OWNED BUSINESSES

Many women-owned businesses have expressed concern about the effect of this regulation on them. The Department's existing requirement of separate goals for women-owned businesses will continue without change. As section 8(d) provides, non-minority women will have the opportunity to request consideration as socially and economically disadvantaged individuals on a case-by-case basis. If a recipient approves such a request, contracts with the woman's company would count toward the goal for disadvantaged businesses on the same basis as a minority-owned firm.

EXISTING PROGRAM PROVISIONS

Most provisions of the Department's existing program will continue to operate as they have in the past. Recipients will set separate overall and contract goals for the participation of disadvantaged businesses and women-owned businesses. Prime contractors must meet these goals or demonstrate that they made good faith efforts to do so. Recipients will continue to make determinations about the eligibility of companies to participate as disadvantaged or women-owned businesses. Effective eligibility screening by recipients will continue to be essential in order to prevent the award to "fronts" of contracts that should go to legitimate disadvantaged businesses.

OREGON DIRECTORY For Agencies Impacted By The Surface Transportation Assistance Act

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|---|--|
| <p>1. FEDERAL AVIATION ADMINISTRATION Northwest Region FAA Bldg. King County International Airport Seattle, WA 98108 Contact: Jo Kimball</p> | <p>6. STATE OF OREGON Highway Division Contact: Kay Turner Tel. 378-6114</p> |
| <p>2. FEDERAL HIGHWAY ADMINISTRATION 610 East Fifth Street Vancouver, WA 98661 Contact: Pete Jenkins Tel. 283-2503</p> | <p>7. TRI MET 4012 S.E. 17th Avenue Portland, OR 97202 Contact: Angelica Chapman Tel. 238-4869</p> |
| <p>3. THIRTEENTH COAST GUARD 915 Second Avenue Seattle, WA 98174 Contact: Don Gorman Tel. 442-5586</p> | <p>8. METROPOLITAN SERVICE DISTRICT 527 S.W. Yamhill Contact: Rick Gutson Tel. 221-1646</p> |
| <p>4. CITY OF PORTLAND 1220 S.W. Fifth Avenue Room 412 Portland, OR 97204 Contact: Harold Vaughn Tel. 248-4191</p> | <p>9. SEA TRAN Vancouver Contact: Alexander French Tel. 206-1696-4494</p> |
| <p>5. PORT OF PORTLAND P.O. Box 5529 Portland, OR 97208 Contact: Stan Jones Tel. 231-5000</p> | <p>10. SMALL BUSINESS ADMINISTRATION Federal Building 1220 S.W. Third Avenue, Room 676 Portland, OR 97204-2882 Contact: Don Matsuda Tel. 294-5105</p> |

Regional Director
Office of Civil Rights, Region 10
Mr. R. Edward Quick, Director
Office of Civil Rights
Washington, D.C.

MBE Liaison Officers for the States in Region 10 are as follows:

Alaska:
Mr. Ron Lind
Deputy Commissioner for Administration
Alaska Department of Transportation and Public Facilities
Pouch 2
Juneau, Alaska 99811
(907) 465-4900

Idaho:
Mr. A. Lee Mundell
Civil Rights Coordinator
Idaho Transportation Department
P.O. Box 7129
Boise, Idaho 83720
(208) 554-2929

Oregon:
Ms. Kay Turner
(external civil rights)
EEO, MBE, and Labor
Compliance Manager
Highway Division
Oregon Department of Transportation
State Transportation Building
Room 155
Salem, Oregon 97310
(503) 578-8077

Mr. Russ Graham
(internal)
Affirmative Action Section Manager
Oregon Department of Transportation
State Transportation Building
Salem, Oregon 97310
(503) 578-8077

Washington:
Mr. V. William Korff, Jr.
Deputy Secretary
Washington State Department of Transportation
Highway Administration Building
Maple Park Drive
Olympia, Washington 98504
(206) 753-6005

Roadbuilder welcomes sub-bids

Cascade Construction Company, Inc., is a general contractor with expertise in road building. The company was established in 1923 in Portland and all of its activity has been in the metropolitan area. They have a large asphalt plant located in the John's Landing area and its work includes grading, underground, grade stabilization, rocking

and asphalt paving. They employ approximately 100 people during the busy time of the construction season but only 10-15 during winter months. The company's expertise is mainly in new and rebuilding highways and streets for public agencies and asphalt overlays.

Cascade generally subcontracts all concrete, electrical, landscaping, signing and fencing on its projects

and welcomes quotes from qualified MBE and WBE firms.

In 1973 Cascade was selected as the outstanding asphalt facility in the Nation by the National Asphalt Pavement Association (a trade association for its environmental efforts).

In 1982 Cascade was cited for its longstanding efforts in the civil

rights area by the FHWA as the outstanding contractor in the 36 Western states. Four years ago Cascade assisted Wog'e Construction Inc. (a MBE firm) in getting started as a concrete contractor. After the first six months Wog'e has done very well in establishing itself as a qualified bidder on many Public Agency contracts.

REWARD YOURSELF WITH CONFIDENCE

Solid foundations help support what we build. Whether a house, a project — or a life. One of the surest foundations is confidence. And Shari Ichida-Busse has it.

An early hunch that led to her first job, at WGN-Chicago, also opened the door to the career she maintains today. Once just on the ground floor of Traffic Operations for the Illinois station, Shari now oversees an entire department as Traffic Manager for KPTV. The confidence that grew with her is well-earned. It also had to be learned.



Lessons could be found from home, and from honest self-assessment. On the one hand, Shari recognized the example of her parents. Though both second-generation Pacific Northwesters, they were interred in the American concentration camps that sprang up after the bombing of Pearl Harbor. Determined to put the experience behind them, they relocated after the war and raised their family with values to depend on, such as perseverance and respect for life.

For her part, Shari moved gradually through the ranks of her business specialty, becoming familiar with all its aspects. The desire for a fresher, more hospitable environment impelled her to seek work in Portland, where she and her husband then moved. Her willingness in Chicago to master the new computer-based Broadcast Industry Automation System — now standard in the business — enabled Shari to transfer her abilities to TV-12. Patience with much to be learned again proved worthwhile, as she garnered further experience necessary for her present position.

After so much effort, Shari is comfortable with her proficiency, but not surprisingly, she still pays close attention to what is before her. Keeping her staff motivated. Upholding organization. Handling the turnover of technical data. These are simply par for the expectations she sets and upgrades. In her view, "You've got to take pride in what you do, no matter what." That means, "overcome the past, rise above it, and strive to be better." Shari also senses the importance of education, formal and informal. "If you don't have guidance, find it from someone who knows." With such a blueprint, efforts are rewarding, and confidence is inevitable.

Whether or not your training is broadcast-related, the skills you take pride in might be applicable to a television career. To learn more about such possibilities, consult the KPTV Personnel Department.

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