TAX FOUNDATION, INCORPORATED
ONE THOMAS CIRCLE, N.W., WASHINGTON, D.C. 20005 (202) 822-9050

ROBERT C. BROWN
President

[illegible] to Bob Brown: thanks for material
BJ

8-15-84
8/17

File

Mike:

I am getting great feedback on this:

I'd like to talk to you about it sometime

Set-up Meeting
Yes ✓
No ___

Bob

TAX FOUNDATION, INCORPORATED
ONE THOMAS CIRCLE, N.W., WASHINGTON, D.C. 20005 (202) 822-9050

M E M O R A N D U M

DATE: August 3, 1984

TO: Board of Trustees and Advisory Council

FROM: Robert C. Brown

RE: Attached WASHINGTON POST Article

Most of you have undoubtedly seen the enclosed article or heard it referred to. It relates to a topic we discussed at some length during our Board meeting in New York last November, and I must again repeat that this kind of activity is a major contributor to the problem we face here in Washington: the difficulty of forcing Congress to cut spending as much as possible before tax increases are even considered.

The goal of moving toward a balanced Federal budget is unquestionably desirable and one we had better seek in the not-too-distant future. However, in this town, tax increases and spending cuts cannot safely be mentioned in the same sentence, even in private discussions, much less in anything going to the press.

We have repeatedly seen instances over the last three years when such linkage has given the press, and the tax writers on the Hill and in the Executive Branch, an opening wedge to emphasize the concept of tax hikes and virtually ignore the even more urgent need for spending reductions. In short, conceding on the front end of the deliberative process that we may need more revenues at some point in the struggle to balance the budget yields the choice of the playing field and establishment of the rules to the other side. It almost automatically excludes any alternative which relies heavily on potential reductions in spending.

The size and cost of the Federal government is a fundamental issue that has not been adequately debated, much less resolved. However, to continually point to tax increases as a principal ingredient in reducing the deficit simply aborts any progress toward deciding the key issue: How large do we want government to be and what services are we willing and able to pay for?

Not everybody in Washington wants to "spend, spend,

spend; tax, tax, tax." But every time a group like the one described in this story from the Washington Post speaks out, the effectiveness of those who want to move toward responsible tax and fiscal policy is severely handicapped.

We must continually make the point that increases in taxes should be a last resort. We should continually point out that in 1982 and 1983 taxes were increased by far larger amounts than spending was cut. If we ignore this pattern, it won't go away. It will worsen. And individuals like those mentioned in the Post will help it worsen.

We all agree that the President's Private Sector Survey on Cost Control (Grace Commission) has come up with recommendations that can help get a handle on a significant portion of the Federal government's excessive costs. However, groups like the one described in the Post may well rob the Grace Commission of much of its potential. Business people, who have put so much time and energy into the commission, should be alarmed that so much of what they have done is being undermined and that their efforts could ultimately come to nought because others are working at cross-purposes to their efforts.

I am by no means a "supply sider." But I do believe that some of the insights from supply side theory which lie behind the Administration's cost-control efforts can be used as levers to work for even more spending cuts than we have been able to wring out of Congress thus far.

On a personal level, I am fighting the temptation to tell some of those who have signed on for balancing the budget through tax increases that they had their chance in this town and failed to achieve meaningful results. In fact, some of them were part of the problem, rather than part of the solution.

Maybe the time has come to go back to the old fashioned line-by-line budget analysis and debate. I am troubled that so many are calling for the preservation of the budget process and for maintaining the appearance that something is being done about our alarming level of public indebtedness. Perceptions may count in this town. But substance--and substantial action on deficit reduction through spending cuts--is what will save us from ourselves.

I welcome your comments.

Former Presidents, Cabinet Officers Call for Tax Boosts, Spending Cuts

By Ken Moritsugu
Washington Post Staff Writer

A bipartisan group that includes former presidents Gerald R. Ford and Jimmy Carter and Cabinet members from four administrations yesterday called for a balanced budget by 1989 through a combination of tax increases and cuts in defense and domestic spending.

Vermont Gov. Richard A. Snelling said the group will urge President Reagan to support a tax increase to help balance the budget. Snelling co-chairs Reagan's reelection campaign in Vermont.

Asked about Reagan's statement this week that he has no plan to raise taxes, Snelling said that tax boosts and cuts in defense and domestic spending "are going to have to be done, and insofar as any politician makes statements that they can balance the budget without using all three sources, I believe—and I think a substantial number of knowledgeable people believe—that those statements are incorrect."

Other members of the bipartisan group, called Proposition One, include former treasury secretaries John B. Connally, William E. Simon, W. Michael Blumenthal, Henry M. Fowler and C. Douglas Dillon; former commerce secretary Peter G. Peterson, former secretary of state Cyrus R. Vance, former defense secretary Harold Brown and three former chairmen of the Council of Economic Advisers.

Snelling said the nonprofit group, which has raised almost $200,000 toward a goal of $10 million, hopes to inform and mobilize Americans to pressure Congress to adopt a budget plan by June 30 that will lead to a balanced budget by 1989.

The fiscal 1984 federal deficit is expected to be about $173 billion, bringing the government's total debt to about $1.5 trillion.

Snelling said that both Democrats and Republicans must make compromises on how the budget will be balanced. He said that Americans have not demanded a balanced budget in part because they are unaware of the consequences of the deficit.

"We're going to make it clear to the American people that the failure to [reduce the deficit] threatens things which are very important to them," the four-term governor said. ". . . We have to make it clear that there cannot be a strong defense, there can be no real safety nets for this country unless we get these deficits under control."

He said the deficit would force up interest rates, which would crowd out business investment and prevent people from borrowing the funds to buy a home or a car or provide for their children's education.

"I fear that, if we go on the way we are, that there is a distinct possibility that the recovery will be aborted," he said. "I think we will lose jobs. I think we will fail to find jobs for people who need them and want them. I think we'll be threatening the American dreams that are so important to the sense of hope of the people of this country."

ADVISORY COMMITTEE ON THE ARTS
JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS

Herbert L. Hutner
Chairman

File

August 7, 1984

William F. Sittmann
The White House
1600 Pennsylvania Avenue
Washington, D. C. 20500

Dear Mr. Sittmann:

We have had to cancel the September 16th Hispanic Gala about which we spoke due to a change in plans of our star performer, Julio Iglesias. We have postponed this event until next spring and I shall contact you when our plans are definite.

Sincerely,

Herbert L. Hutner

HLH/ar

A-I

file

THE WHITE HOUSE

WASHINGTON

July 27, 1984

Dear Mr. Deaver :

Thank you so very much for showing the book of local media clippings to the President -- and thanks are not sufficient for having him write in it. It is something I will treasure always.

Your thoughtfulness and graciousness on behalf of your staff are so unusual. It is a pleasure and privilege to serve you and the President.

Sincerely,

Merrie

Merrie Spaeth
Special Assistant to the President

The Honorable Michael K. Deaver
The Deputy Chief of Staff
The White House
Washington, D.C.

Dear Mike   file   8/6

Thanks to you and Antonovich Pat & Karyl are going to Dallas, they will be staying at the same hotel as the President.

Unknown to me, Antonovich also nominated Pat as a delegate. Karyl is along as a paying guest with no official duties, other than to enjoy.

Mike, I thank you for your interest and wish you well in the campaign.

All is well with our family. Hope the same ~~e~~ for yours.

As ever
Hoo

THOMPSON
1808 WEST AVE N-4
PALMDALE, CA. 93550

THE WHITEHOUSE
WASHINGTON D.C.

ATTN: MIKE DEAVER

THE WHITE HOUSE

WASHINGTON

File

July 30, 1984

MEMORANDUM FOR MICHAEL K. DEAVER

FROM: WILLIAM HENKEL WH

SUBJECT: Security Related Expenses

The exact figure for all security related expenses is very difficult to break down with precision because security requirements are part of our general site preparation costs.

AUSTIN, TEXAS

Construction of a back wall, carpentry and supports for steel plates and glass (overtime rates)	$6,258
Draping behind stage	500

ATLANTA, GEORGIA

Approximately one half of the total bill from Shepherd Convention Services or $6,000 was for construction of shields, barriers, visual blocks, ropes, barrels, pipe and drape and the renting of twenty-one trucks to block the view from the main highway.

> NOTE: The Advance team was forced to reduce some of our decorating needs in order to accommodate the construction costs related to security and bring the trip in on budget.

ELIZABETH & HOBOKEN, NEW JERSEY

We incurred no specific security related costs. The staging at both events and the USSS requirements converged.

THE WHITE HOUSE

WASHINGTON

July 30, 1984

MEMORANDUM FOR MICHAEL K. DEAVER

FROM: WILLIAM HENKEL

SUBJECT: July 27 Meeting to Review Texas, Georgia and New Jersey

Attendees: M. Deaver, R. Darman, L. Speakes, L. Atwater, W. Henkel, F. Ryan, W. Sittmann, C. Bakaly, J. Petro

Listed below are some of the key points discussed at the meeting:

- Each of the major speeches were too long. Speechwriting must consider audience reaction into the timing of the speech and the fact that the President will probably ad lib.

- Lee Atwater or the R.P.D. will obtain advance copies of pre-program speeches to ensure conformity with the President's remarks.

- All speeches will be completed prior to the President's arrival on stage and a musical interlude will immediately precede the President's entrance.

- Bill Henkel will distribute copies of the survey report (when a survey has been conducted) to: M. Deaver, R. Darman, E. Hickey, L. Speakes, L. Atwater, M. Tutwiler, W. Sittmann, F. Ryan and R. DeProspero.

- Henkel will also distribute copies of the Event Concept Memo to those listed in above paragraph.

- Henkel will submit a copy of the proposed trip budget to M. Deaver, J. Rogers, M. Tutwiler and B. Buchanan.

- The Deaver Trip Meetings will be reinstituted and, when practical, will occur two or three days before the event.

- The number of personnel moving with the President, particularly along ropelines, must be sharply reduced including White House, Reagan-Bush and Press Office staff. Advance staff will designate viewing areas and the detailed staff schedule will be very specific as to who will accompany the President and where the staff should view photo opportunities. Henkel will draft a memorandum for M. Deaver to Traveling White House and Reagan-Bush staff on this subject.

- Speakes and Bakaly will be responsible for briefing the press pool on photo opportunity movements, especially in crowd situations.

- "The Rule of Five" will be in effect for all ropelines. The only White House Press Advance or White House Press Office involvement will be to rotate the five members of the press to the President and it will be Dave Fischer's responsibility to stage the activity.

- The Lead Presidential Advanceman has final authority during the actual advance preparations, reporting back to Henkel. Henkel will be responsible to keep M. Deaver, M. Tutwiler and L. Atwater informed. L. Atwater will inform the Reagan-Bush Advance operation and the R.P.D.'s.

- The Advance team will be responsible for identifying a credible crowd estimator by name at each event.

- Magnetometers sufficient to process the expected crowd within a prescribed period of time must be agreed upon by the Advance Office and USSS. Backup mags should be available.

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

July 27, 1984

TO: MICHAEL K. DEAVER

FROM: FAITH RYAN WHITTLESEY FRW

Subject: Anna Gear
President of the American Legion Auxiliary

The enclosed correspondence concerning Anna Gear from Harry Walters is sent for your review. I hope that favorable consideration can be given to Mr. Walters's request for Mrs. Gear to accompany the President on Air Force One at some time in the future.

Attachment

VETERANS ADMINISTRATION
WASHINGTON, D.C. 20420

OFFICE OF
THE ADMINISTRATOR OF
VETERANS AFFAIRS

July 26, 1984

JUL 27 1984

Mrs. Faith Ryan Whittlesey
Assistant to the President
for Public Liaison
The White House
Washington, D.C. 20500

Dear Faith:

I am enclosing a copy of a speech Anna Gear, President of the American Legion's Auxiliary this year, is delivering at various State Department conventions for the American Legion's Auxiliary.

Anna is a great supporter of the President. I suggest that Anna be a surrogate speaker following the American Legion's National Convention in early September. You might want to consider having her accompany the President on Air Force I on occasion, as well. She is a marvelous woman and a true patroit.

Anna can be contacted either through us or the American Legion's Headquarters here in town.

Sincerely,

Harry

Harry N. Walters
Administrator

Enclosure

cc: Ms. Maureen Reagan

VETERANS ADMINISTRATION
WASHINGTON, D.C. 20420

OFFICE OF
HE ADMINISTRATOR OF
VETERANS AFFAIRS

July 26, 1984

Ms. Maureen Reagan
310 First Street, S.E.
Republican National Committee
Washington, D.C. 20003

Dear Maureen:

I am enclosing a copy of a speech Anna Gear, President of the American Legion's Auxiliary this year, is delivering at various State Department conventions for the American Legion's Auxiliary.

Anna is a great supporter of the President. I suggest that Anna be a surrogate speaker following the American Legion's National Convention in early September. You might want to consider having her accompany the President on Air Force I on occasion, as well. She is a marvelous woman and a true patroit.

Anna can be contacted either through us or the American Legion's Headquarters here in town.

Sincerely,

Harry

Harry N. Walters
Administrator

Enclosure

cc: Mrs. Faith Ryan Whittlesey

Dale

August 17, 1984

Dear Mr. Dever:

Of that quote about the Russians, was the president sending them a warning of some type? The reason I ask is if not, he saved the American public billions in defense spending.

I hope all who can push the so called button know that it is a NO WIN situation! I believe this president knows whats right and I think the Russians do too!

If what the president said was a mistake, it was a good one!

Thanks for your time.

Sincerely,

Steve Randolph

Steve Randolph
P.O. Box 571
Sylvania, Ohio 43560

Phone Number: (419) 243-9100

Jill

Colburn Marine Services, Inc.

~~Bill get me a response from J Herrington.~~

August 15, 1984

Mr. Michael Deaver
THE WHITE HOUSE
Washington, D. C. 20230

Dear Mr. Deaver,

It is with upmost personal concern that I write to you regarding the appointment of a new administrator for the National Oceanic and Atmospheric Administration. The position certainly requires a person that is qualified in all areas.

I therefore strongly recommend that William G. Gordon be appointed as the new administrator of NOAA. I have had the pleasure of working very closely with Mr. Gordon for the past three years and he has proven himself more than capable for this position. Mr. Gordon has performed his duties as Assistant Administrator for Fisheries at National Marine Fisheries Service in more than an outstanding manner.

I regret to learn that Dr. Byrne is vacating this position. I know that his services to our government will be sorely missed. His appointment to that post was an excellent one. Likewise, the appointment of William G. Gordon as Administrator of National Oceanic and Atmospheric Administration will be an excellent choice.

Thankyou for your interest and support.

Sincerely,

John F. Colburn

John F. Colburn

2055 Reyko Road • Suite 101 • Jacksonville, Florida 32207 • (904) 396-0907

THE WHITE HOUSE
WASHINGTON

August 17, 1984

MKD:

I have spoken to Speakes about the attached and he was very emphatic that we don't want to do this.

BILL

Bill
pls call Buckley
& tell him we
can't do Before
Election — Don't
have enough
time for US
press

File

7/12

Bill
I write LS
+ see if he
has any interest.
I don't

WB

BBC tv

BRITISH BROADCASTING CORPORATION
KENSINGTON HOUSE RICHMOND WAY LONDON W14 0AX
TELEPHONE 01-743 1272 TELEX: 265781
TELEGRAMS AND CABLES: TELECASTS LONDON TELEX

5th July 1984

Dear Bill

I wonder whether I may prevail upon your good nature and seek your advice regarding a project for which Malcolm and I have some enthusiasm.

Yesterday, during the course of a very pleasant summers day spent with Malcolm at Robertsbridge, he and I discussed whether or not there might be some merit in Malcolm talking to President Reagan with the ultimate intention of broadcasting that conversation. What we both felt might be interesting was if Malcolm tackled President Reagan on the subject of power, politics and the moral dilemmas in the exercise thereof.

The President is after all one of the two most powerful people in the world. From this side of the Atlantic he seems to have avoided some of the less agreeable symptons of megalomania. Is that only because he is a first-class professional politician? Is it because he has arrived at a moral stance - a sort of personal litmus test - and if he has, is that dependent on a religious faith and so on? I think knowing Malcolm you can see the drift of the proposed conversation.

Although, as you know, Malcolm has some slight acquaintance with your President, naturally he is loath to presume upon that acquaintance in order to make a direct approach. Do you think our proposed notion has any merit and if so how may we best set about it? Is it something that Reagan would welcome in what after all is an election year?

Would you be kind enough to let either myself or Malcolm know whether or not you think we should pursue the idea and if yes, how best we should proceed.

Yours sincerely

Peter Chafer
Executive Producer
BBC Television

notified .. 8/21
by phone TD

William F Buckley Jnr
c/o National Review Inc

SKILL RESPONSIBILITY INTEGRITY

THE ASSOCIATED GENERAL CONTRACTORS OF AMERICA

1957 E Street, N.W. • Washington, D.C. 20006 • (202) 393-2040 • TWX: 710-822-9406 AGC WSH

August 23, 1984

Mr. Michael K. Deaver
Deputy Chief of Staff and
Assistant to the President
The White House
Washington, D. C. 20500

Dear Mr. Deaver:

The enclosed report, "Discriminatory Impact of Racist and Other Special Preference Procurement Programs," is a reflection of what is happening in the construction marketplace and to fellow citizens as a consequence of special preference procurement programs.

This document is a sampling of experiences of contractors and subcontractors who have suffered the results of discriminatory and racist programs that flout fairness in the guise of special preference procurement. We urge your review of this document.

Sincerely,

Hubert Beatty

Hubert Beatty
Executive Vice President

Enclosure

HB/cb

DISCRIMINATORY IMPACT OF RACIST AND OTHER SPECIAL PREFERENCE PROCUREMENT PROGRAMS

A report to the U.S. Congress

THE ASSOCIATED GENERAL CONTRACTORS OF AMERICA
AGC
SKILL RESPONSIBILITY INTEGRITY

Published by
The Associated General
Contractors of America
1957 E Street, N.W.
Washington, D.C. 20006

TABLE OF CONTENTS

Published
August, 1984

INTRODUCTION

Taxpayers, through their federal, state and local governments, finance approximately 20 percent of total U.S. construction annually for public facilities such as schools, hospitals, highways, bridges, dams, sewage treatment plants, prisons and defense installations. The letting of such public construction contracts is usually regulated by state or federal statutes.

Ordinarily, public construction contracts must be awarded through open competitive bidding procedures to the lowest responsible bidder. This process, protected and established by statute in most states and practiced in all states, functions to assure the quality of the work and to prevent unwarranted increase in its cost.

Under this method, which precludes any favoritism or special preferences, public construction buyers make project drawings, specifications and bidding instructions available to interested construction contractors. Contractors then prepare their bids for the project based on the design, materials, labor costs, insurance, other overhead and profit. Contractors submit their sealed bids along with bid bonds, which assures the buyer that the contractor will build the project to specifications for the amount of money cited in the bid. The sealed bids are opened publicly, read aloud and evaluated by the construction buyer. The contract is then awarded to the lowest responsible bidder. This open procedure assures intense competition and assures that the project will be completed at the most economical cost to taxpayers.

Increasingly, special preference procurement, much of it racially motivated, at the federal, state and local levels requires that award of construction contracts and subcontracts be made on criteria irrelevant to price or ability to perform the contract.

Increasingly, requirements are being imposed that require that the award of public construction contracts be made based on race, ethnic origin, sex or size of firm.

Increasingly, law abiding construction contractors and subcontractors are prevented from bidding on contracts or prevented from receiving award of contracts because:

- they are not the required race
- they are not of the required ethnic origin
- they are not the required sex
- they are not the required company size

. . . with a result that their livelihoods and the livelihoods of their employees are removed or severely impacted.

Such programs are blatantly discriminatory and, with growing frequency, racist.

This document is a sampling of experiences of contractors and subcontractors who have suffered the results of these discriminatory and racist programs that flout fairness in the guise of special preference procurement.

Their experiences bring into question the very basis of these programs which mandate discrimination and racism against innocent third parties on the basis of race, ethnic origin, sex or size of firm.

When government sanctions race, ethnic or sex consciousness, it practices the very discrimination it purportedly seeks to eliminate and makes a mockery of equal protection under the law.

EXAMPLES OF THE IMPACT OF SPECIAL PREFERENCE PROCUREMENT PROGRAMS

ARIZONA

John L. Gray
John L. Gray, Inc.
Phoenix, AZ 85040

I bid (27 projects) during the past year but due to set aside programs or quotas, I received no subcontracts for my specialty of fence, guard rail or signs which until these programs were instituted, comprised 80% of my annual volume.

There were only three jobs bid with no Minority Business Enterprise (MBE) requirements. I was low on one small job and because of adjacent jobs having MBE requirements the job was awarded to an MBE.

Mercury Contractors
Phoenix, AZ 85040

We are a Phoenix-based subsidiary of a large corporation. We have been unable to bid 20 federal projects in the last three years for the Air Force, the Army and most importantly the Bureau of Reclamation because the construction projects have been set aside for small business. Work at Luke Air Force Base, at the CAP headquarters in North Phoenix and other CAP projects has been restricted to small businesses.

ARKANSAS

Howard Jones, Jr., V.P.
Machen Construction Company
Little Rock, AR

Our firm is a wholly owned subsidiary of a large general building contracting group. We specialize in site development (earth moving & drainage) and our annual volume is well below the small business limit. Our parent group is larger than the small business limit.

Because of affiliation we are denied the opportunity to bid work, particularly suited to our company, in federal programs. This involves a *majority* of work advertised and let by the Corps (of Engineers), Air Force, Soil Conservation Service, etc. Some of the awards in these federal jobs are made to competitors much larger than we. Denial of opportunity is solely on the "affiliation" clause and certainly not on our small company's ability, etc.

CALIFORNIA

Frank F. Burrows
Williams and Burrows, Inc.
Belmont, CA 94002

Moscone Center Parking Structure, and Moscone Center Parking Structure with accommodations, (MBE) Bid Date: October 15, 1983

Despite our tendering the lowest bid, the contract was not awarded to us because the MBE subcontract goal attainment was ruled insufficient. Our attainment was *stated* at 15% at time of bid (goal was 22%), but within the five-day grace period following the bid, we came up with an MBE percentage of 24.2%, including allowances.

The court awarded the job to the second bidder because at bid time they left blank the space allowed for statement of MBE compliance, which implies agreement to comply with the minimum requirement (bidder then has five days to come up with the minimum).

L. D. Hawley
L. S. Hawley Corp.
Irwindale, CA 91706

The Bureau of Reclamation has let several (SBA) 8(a) non-bid contracts on work at the Colorado River in California and Arizona. In several cases the total contract was subcontracted by the MBE to a legitimate contractor at a much lower price. The 8(a) program costs extra money that has not gone to increase the MBE contractors' ability to perform.

COLORADO

Robert D. Thompson
A. S. Horner, Inc.
Littleton, CO 80161

We submitted a subcontract proposal to a general contractor. We were advised by the general contractor that we were the low bidder and would receive the work except for the fact that they could not meet their MBE requirements which were imposed by the U.S. Department of Transportation. They therefore subcontracted the work to an MBE firm at a price $18,000 higher than our proposal. This was an increase of approximately 5% in the amount of the subcontract.

GEORGIA

William V. Headley
Headley Construction Corp.
Newnan, GA 30264

Feb. 24, 1984 Headley Construction Corp. submitted bids to Georgia Department of Transportation for truck weighing stations located in Troup County and Douglas County. At the time of the bid opening our bids were rejected as "non-responsive." When asked to explain "non-responsive" the bid official would not give us an answer. A letter was then written to the DOT director who responded that our bids were rejected because they did not contain a commitment for subcontracting a portion of the work to disadvantaged business enterprise (DBE firms). We were planning to do most of the work with our own forces. Also no DBE firms gave us sub-bids. The job was bid again (four times). We did not bid anymore.

Gerald V. Anderson, Jr.
Anderson Construction Co.
Fort Gaines, GA 31751

In 1982, we heard rumors that the Mobile District Corps of Engineers was negotiating a local project with a minority contractor. During the negotiation period we were informed that the negotiating deadline had been extended twice, at the request of the minority contractor. The Contract was successfully negotiated and awarded to an 8(a) firm for approximately $400,000.00, under the SBA 8(a) program.

Particularly galling was the fact that this project was located less than 10 miles from our home office. In addition, the construction market in our area was severely depressed during 1982. We had been aware of this pending project for several months and were eagerly awaiting the Corps' release of bidding documents. After learning that this project was being negotiated under SBA 8(a), we made several calls to the Georgia Branch AGC and to two congressmen in an attempt to squelch the negotiations, but were unsuccessful.

I later visited the office of (the 8(a) firm) and was surprised to find a very modern office with approximately ten or twelve office employees. In talking with one of their project engineers, I learned that the contractor has negotiated several contracts through SBA 8(a) and other special preference programs. I do not believe these programs were designed to enrich the coffers of those minority contractors who already have a well-established business. I have no doubt that the project could have been built at less cost if it had been awarded under the competitive bidding process.

Gilbert Corporation of Delaware, Inc.
Atlanta, GA

We do not regularly keep track of all the projects we turn down because of obvious SBA, MBE, set aside status. Most of Commerce and Business Daily is so heavily limited that it is hardly worth scanning anymore. It is upsetting that even after receiving some plans there are bid restrictions which were not known at the time of ordering plans.

I see no benefit in allowing these projects to bid without free competition. If major firms are so large and remote from the project they will obviously be non-competitive to the small local firm but this decision should be made by the market place, not a government bureaucrat. The present litigious society takes any technical bid irregularity to court and the SBA/MBE firms frequently rebid after everyones prices are known. This is in effect "price shopping" and results in a lot of wasted bidding effort and wasted administrative spending.

ILLINOIS

John M. Goodrich
Bates & Rogers Construction Corp.
Chicago, IL 60606

All of the following specifically relate to the Federal Department of Transportation's DBE programs.

1. West Chicago, Illinois—a $12 million addition has been delayed over a suit attempting to stop/delay award of a badly needed sewage plant renovation—reason: inadequate DBE paper work.

2. Chicago, Illinois—a $10 million contract was not awarded to the apparent low bidder on the O'Hare Extension Project—reason: failure to completely fill out "Schedule D" which was redundant. (Schedule D has since been dropped from the Chicago plans).

3. General contractors are told in the State of Indiana that a DBE firm is responsive if he/she is within 10% of the low bid—general contractors, with regularity, award subcontracts to minority firms which are not low bidders . . . This is done with the knowledge and approval of state officials.

The above instances are occurrences I am personally aware of in the past two years; the occurrences I have heard about from other subs and contractors number in the hundreds. It is totally possible to bid a $10 million project with a 15% minority requirement that will "cost" the contractor 10% more than required and yet still have responsive DBE subcontractors. This $150,000.00 is out of the contractor's pocket. It represents that particular contract's total before tax earnings. It represents the difference between the "Disadvantaged" and the "Disenfranchised".

INDIANA

Gale M. Tschuor
Gale Tschuor Co., Inc.
Muncie, IN 47304

When bidding an Indiana Department of Highways project we were put on hold until we found a (MBE) subcontractor to do work which cost us more money than we could have done the same work for ourselves. If our volume would have been good at that time we would have forgotten the project and been much better off. In this case we paid $20,000.00 more to the MBE than we had allowed in our bid. The MBE was qualified to do the work but was slow on our progress due to a $5,000,000 federal project 60 miles away which he had negotiated. Most qualified MBE's know what's going on and are in a situation of being high-priced. This is only one instance of several.

IOWA

Cork Peterson
Peterson Contractors, Inc.
Reinbeck, IA

1983 subdrain work on highway 412 in Iowa—a subcontract of about $50,000 (goal) awarded to MBE—our bid was plus $45,000—*Federal DBE Goals*

1984 misc. grading on highway 14 in Iowa—subcontract of about $77,000 awarded to DBE—our bid was $73,000—*Federal DBE Goals*

1984 subdrain work on I-380 in Iowa was awarded to DBE for $42,000—our bid was plus $39,000 *Federal DBE Goals*

Curtis M. Brown
Herberger Construction Co., Inc.
Indianola, IA 50125

Project F-28-1(2)—20-91 Grade & Pave

On the above project we were low bidder on approximately $300,000.00 worth of work which was tied to the grade & pave project. The work involved included construction of a 90-foot simple span prestress bridge and a culvert. The project had a $500,000.00 MBE goal. The bridge and culvert therefore were awarded to a minority contractor with no bridge or culvert experience whatsoever. The prime contractor who was awarded the job has indicated to us that he would much rather have used us in his bidding but needed the minority subcontract to meet the MBE requirements.

Project BROS-9068(6)—5F-68

On this project we were 2nd bidder by $1000.00 plus. We were forced to add approximately $2000.000 to this project because it was going to cost us more to sub out a portion of the work to meet the MBE goal than it would cost us to do the work with our own crews.

R. H. Templeton, V.P.
W. A. Klinger, Inc., Constructor
Sioux City, IA 51102

We had intended to bid a $10,000,000 job in May, 1983 at Ft. Leavenworth, but specs indicated it was a total small business set-aside.

Since that date we have passed up *many* bids because of this same "total small business set-aside" requirement. These jobs have been in the $5 million to $10 million range; mostly Corps of Engineers jobs; jobs at Offut base, Omaha; jobs at Ellsworth AFB, South Dakota.

KANSAS

Robert D. Carlile
J & R Sand Co., Inc.
Liberal, KS 67901

To date in 1984, we have been low bidder on two jobs in our local area that require MBE participation. The only way to reach the goals on each project is to bring in MBE or WBE truckers from other parts of Kansas or Oklahoma. This is very unfair to local independent truckers. These MBE/WBE goals hurt local independent truckers and will eventually hurt prime contractors as local independent truckers are forced out of business and are no longer available.

Don King
King Construction Co.
Hesston, KS 67062

We lost a KDOT job because our MBE goal was not sufficient, even though we were clearly the low bidder.

We lost a Federal Aviation Administration job under the same circumstances.

We do a lot of general contracting, and in virtually all cases, the MBE subcontract prices are 10-20% higher than the non-MBE subs. Yet, if you do not use the MBE, you run the risk of losing the entire job.

Nick LaForge
LaForge and Budd Construction Co.
Parsons, KS 67357

A $6,000,000 office building in Parsons, Kansas is being built. We were told that the project was reserved for a black contractor in order to meet established quotas. The selected black contractor has to do 15% of the work on the Corps of Engineers project under the SBA 8(a) program. But the 15% that he does can be overhead and profit so that is the part he will do with his own forces. To make matters worse this selected contractor has been in the 8(a) program for over 10 years and did $11 million in volume in 1983.

KENTUCKY

Gerry Hargis
R. R. Dawson Bridge Co.
Lexington, KY 40501

We have been denied the opportunity to bid as a prime contractor on several SBA 8(a) contracts through the Corps of Engineers. The set-aside programs were mainly in the Louisville, Kentucky region and included projects on the Taylorsville Dam and Reservoir and access roads.

LOUISIANA

C. B. Hakenjos
Williams-McWilliams Co., Inc.
Metairie, LA 70010

We understand that there are two dredging jobs being set-aside for two (SBA) 8(a) contractors. One is on the GIWW from the Atchafalaya River to Vermilion Lock, a distance of about sixty (60) miles and has 3,000,000 cubic yards of excavation. This is very difficult and complex with over one hundred tows passing the dredge each day. The other is in the Atchafalaya Basin at Berwick Harbor and is for over a million cubic yards. The job is critical when the river falls to a certain stage and it is always done as a rental contract which specifies a certain type dredge. (size of discharge, horsepower, etc.)

We have challenged the 8(a) negotiations . . . by requesting a copy of the impact survey that was to have been made on this proposed 8(a) contract. We believe these so-called impact surveys are completely worthless and a total farce. We will contend that both of the above mentioned projects are of such magnitude and complexity that they cannot be performed, and especially safely performed, by an 8(a) contractor. Both these projects, and in fact *any* dredging contract, involves highly sophisticated construction equipment and techniques. Any dredging project requires a great deal of technical competence, which can only be obtained with years of experience. It requires a specially trained crew, not just on the dredge, but boatmen, derrick barge operators, skidder barge operators, etc., which expertise each has acquired only with years of experience. It also requires a very high cash flow which can only be obtained by highly productive and very efficient dredges and organization.

MAINE

Jerry G. Haynes
AGC of Maine
Augusta, ME 04330

Data Automation Facility, Loring Air Force Base, Limestone, ME. SBA 8(a) *awarded* in August, 1982, for $999,981 to the *only* SBA 8(a) certified general contractor in Maine. It was the largest single contract in the firm's history. At least two dozen non-minority firms in central and northern Maine were qualified to and would have bid this project competitively.

Alert Runway, Loring Air Force Base, Limestone, ME. SBA 8(a) *awarded* in April, 1984, at just under $13.5 million to an out-of-state 8(a) certified general contractor with previous experience in vertical construction only. At least three in-state, non-minority firms have the technical and financial capability to have bid the project competitively.

MICHIGAN

W. A. Hendrick
R. C. Hendrick & Son, Inc.
Saginaw, MI 48605

State of Michigan—Federally-assisted project—MBE program requiring 10% minimum MBE participation—project bids taken June 21, 1983. (location Saginaw, MI). As the general contractor on the project, including all trades, we subcontracted the electrical work to an MBE firm, which was 4th low bidder at an amount of $402,112 among 11 electrical bidders. The low (and qualified) electrical bid was $375,000, $27,112 lower than the MBE firm. The action taken, award of subcontract to the MBE firm, was the least cost method of meeting the 10% minimum MBE participation required within our total bid of 3.2 million. We've had to make joint payments to this firm—joint with their suppliers and sub-subs from the start of the project—and fear possible problems at the fast-approaching end of the job.

MINNESOTA

John L. Skamp
Progressive Contractors, Inc.
Osseo, MN 55369

On September 29, 1983 the State of Montana, Department of Highways, received bids for the overlay of the Warden Bridge in Great Falls, Montana. Progressive Contractors, Inc. bid was read low at $497,014.35. The State of Montana called for a $40,000.00 DBE goal. The proposal included an insert which was to be filled out by all the prime contractors which documented the DBE companies, classification of work and dollars allocated to fulfill the DBE goal on this Warden St. Bridge. Since we were out of state, we did not get any quotes prior to the letting, nor were we able to get, prior to the time of submission of our bid, a bonafide DBE quote which would fulfill the requirement under the established goal. We submitted the proposal with the name of a local DBE which told us he would quote us a number, yet prior to the letting, never supplied a subcontractor quote to Progressive Contractors, Inc. The State of Montana administers the DBE requirement on the day of the letting. This is quite different to us in that most of the states that we do business in administrate the DBE prior to award. A civil rights investigator for the State of Montana contacted the DBE which we listed in our proposal immediately after the bids were opened. Since this contractor had not quoted Progressive Contractors, Inc., he told the investigator that he had not made a deal with PCI prior to the submission of the proposal to the State of Montana, Department of Roads.

Within a week of the letting date, the Montana commissioners met to make award to the lowest responsible bidders for the September 29 state letting. At this award meeting the civil rights investigator who contacted our DBE subcontractor told the commissioners that Progressive Contractors did not have a deal made with the subcontractor prior to the submission of our bid. Consequently, the commissioners, under their DBE enforcement guidelines, did not make award to Progressive Contractors, Inc., but awarded it to the second bidder since his subcontractor, which was listed on the DBE sheet, agreed that a deal was made prior to the letting date. Progressive Contractors, Inc. had, between time of the letting and the award meeting, three companies which were certified DBE entities quote us dollars that would have more than sufficed the $40,000.00 goal, yet the commissioners could not approve of PCI using these sub quotes since they came after the letting date. The State of Montana based its ruling on a June 3, 1983 memorandum that summarized the policies by which the Montana Highway Commission would enforce the DBE policy. This memorandum included a provision which states, "bids that do not contain a schedule or bids containing a schedule that is incomplete shall be considered as non-responsive and may be rejected." Given these guidelines, the commissioners felt that our bid was not complete on the day of the letting since we had not made a deal with a subcontractor and would not consider any sub prices which we received during the time between the letting date and the commissioners award meeting. Consequently, they felt they had no recourse but to award to the second bidder.

MISSOURI

Charles A. Garney, President
Garney Companies, Inc.
Kansas City, MO 64118

Attached you will find a list of Kansas City, Missouri Water and Pollution Control Projects we have bid on within the past year. The MBE and WBE goals for these projects are also included.

Most of the jobs were under $250,000.00 and in the majority of cases, Garney Companies, Inc. was capable of completing the project with 100% of their own forces as there was very little we could subcontract.

It has been the policy of Garney Companies, Inc. in the past, to solicit bids from MBE's and WBE's, but with very little success. Much time and effort has been spent to make a "good faith effort" to include these subcontractors on any project we have bid for the city of Kansas City, Missouri, because of the stringent requirements.

Our experience has been that we have received very little response and the bids from the MBE and WBE subcontractors are not always competitive. Like the owner, we use the most responsive, low sub-bid on any of the projects we submit proposals on.

We have found, however, in our relationship with the Human Relations Department of Kansas City, Missouri, that our efforts were not always acceptable and prior to award of a contract, we again had to solicit the MBE and WBE subcontractors to reach what was considered unrealistic goals for these projects.

It would be our recommendation on these public lettings, that it be the responsibility of the MBE's and WBE's to contact the prime contractor with their sub-bids, just as the other subcontractors and material suppliers are required to do if they want the work.

The burden should not be placed on the prime contractor, nor should they be penalized if the goal set by the City is not met.

NEBRASKA

John A. Schoepf, Jr.
Mueller & Schoepf Drywall, Inc.
Columbus, NE 68601

Construction firms were not allowed to bid on certain Indian Reservation jobs because the firms were not owned or partly owned by an Indian.

NEW MEXICO

Ray Luther
Luther Construction Co.
Albuquerque, NM 87125

1980—VA Hospital, Albuquerque. Job estimated at $300,000—given to local Indian owned construction firm, no competitive bids were accepted.

1983—Indian Health Service—Alamo Health Clinic, N.M. Luther completed contract, but before final payment was made a portion of the project was destroyed by fire. Luther was asked for estimate of cost to rebuild, and Luther complied. Local Indian owned construction firm was hired to do the work under department MBE guidelines. We (Luther) were informed that we *would not get* the job shortly after submitting estimate, but long before job was *given* to Indian owned firm.

Ted F. Brown
T. Brown Constructors, Inc.
Albuquerque, NM 87125

Bureau of Indian Affairs, Albuquerque office is using a "Buy Indian Set Aside". Only "Indian owned" firms may bid. Low bidders for highway paving work are usually Indian house builders. They broker-out all the work.

BIA Navajo Gallup Office is also doing this. When they determine insufficient competition, they do the work with force account forces.

New Mexico highway department is attempting to introduce MBE set asides where qualified firms cannot bid. This is temporarily stopped by court injunction. New Mexico has extended this also to include jobs funded *100%* with *state money*.

New Mexico Highway Department has made it clear no award will be made unless goal is met.

"Price is no object—just meet the goal." NMSHO does lots of harrassment and intimidation in order to achieve the goals. There have been no outright award denials to date. So far all contractors have given in to the "award blackmail."

NEW YORK

Melvin W. Banker
United Electrical Construction Co.
Schenectady, NY 12302

We were the low electrical bidder on NYS DOT Project #D-96387 in Fulton County, but the general contractor was forced to use a WBE.

We were the low electrical bidder on NYS DOT #D-96926 in Montgomery County, but the general contractor was forced to use a WBE.

We were the low electrical bidder on NYS DOT Project #D-250275 in Schenectady County, but the general contractor was forced to use an MBE.

We were the low electrical bidder on EPA Project #36-1279 Wastewater Treatment Plant Secondary Treatment Facilities in Glens Falls, NY, but the contractor was forced to use a WBE.

Peter A. Reale
Reale Construction Co., Inc.
Ticonderoga, NY 12883

Although we have never been denied a contract on the basis of MBE requirements, many times MBE goals have, in our opinion, been set higher than reasonable in our area. As most of our work is done in rural upstate New York (Adirondack area) obtaining qualified and competitive MBE firms proves difficult.

NORTH CAROLINA

W. M. Mixon
W. M. Mixon Co., Inc.
Charlotte, NC 28230

The MBE/DBE program and the manner in which it is being implemented has forced us to discontinue the highway construction business. We have always had competition. We have no objections to competing with legitimate, viable firms that are in business to make a profit.

The MBE/DBE program has created two basic situations that make it almost impossible for us to get any guardrail work.

In one case an MBE/DBE firm will go into the guardrail business, frequently with encouragement from highway departments and/or prime contractors. In most cases the new firm will have no experience, equipment or qualified personnel for the type of work they are quoting. Their prices will usually be ridiculously low due to their inability to determine total costs. (We have seen MBE's quote installed guardrail prices for less than the cost of the basic materials).

In the other case when the MBE quotes a legitimate price, even if it is somewhat higher than ours, the prime contractors will use the MBE's price in order to satisfy the contract requirements and not risk having their bids rejected.

The above two cases are by no means the only problems brought about by the artificially created competition of the MBE program, there are many more.

We have had to dismiss approximately 40 employees, many of which are on unemployment. It would seem that they have been discriminated against by the very regulations which were supposed to create equality.

Ralph D. Stout, Jr.
Southern Seeding Service, Inc.
Greensboro, NC 27420

As an erosion control contractor in business for over thirty-three (33) years, we now find ourselves legislated out of our primary marketplace. Southern Seeding Service, Inc. performed the very first erosion control contract let by the North Carolina Department of Transportation on the Interstate system back in the early 1960's. Since that time, our company has grown by specializing in the highway erosion control field. While we continue to submit bids as subcontractors to the prime contractors bidding on North Carolina Department of Transportation highway work, we have felt that our bids, regardless of price, are basically not considered since we are a non DBE or MBE contractor. We have subcontracted erosion control work from a "legitimate" DBE prime contractor specializing in clearing, grading and drainage work. We even went to the expense to have our attorney study the guidelines and draw up a contract between us so that we would be able to have access to our marketplace and at the same time benefit a "legitimate" minority contractor; however when we (the minority contractor and ourselves) presented our method to the proper state officials, we were subsequently advised that our method would not meet their approval. We have chosen to not form a "sham" DBE or MBE corporation. We do not feel that it is fair to the employees, who helped make the progress of our company, to arbitrarily bring in an outside minority and create earnings and wealth for that person. The management of our company feels that if there are "goodies" to be had they should be had by those who are responsible for the ongoing success and progress of our company. Aside from this general statement, there have been jobs on which we were able to determine that we were low bidder and which were awarded to a DBE or MBE rather than ourselves. We can only assume this was done to meet the goals required of the general contractor as we have and have had an ongong good relationship with those involved. Having been involved in the construction industry all of my working life, which spans of period of 33 years, it is apparent that the open competitive bid concept is in danger of extinction. There is more price shopping and it seems that all that counts for a subcontractor is his nationality or the color of his skin regardless of his "experience, past performance, skill, integrity or responsibility". If the unconstitutional set-aside program is not done away with, there will be many companies like ourselves who will probably not survive.

Lanny Thornburg
LTN Contracting, Inc.
Kings Mountain, NC 28086

We are unable to even bid on many projects because of minority quotas! This is the most unfair practice that we have against us as landscape contractors. The City of Charlotte, N.C. has the most strict MBE program in the state.

C. D. Collins
Alpha Mechanical, Inc.
Charlotte, NC 28224

We are a mechanical subcontractor doing plumbing, heating and air conditioning and have put in bids on several projects involving a percentage of the project to be an MBE subcontractor. There was a *great deal* of time, effort and expense incurred trying to locate and entice MBE contractors to give us a price.

MBE contractors should have to operate under the same rules, regulations and conditions as any other contractor.

I assure you that any qualified MBE contractor quoting us a low price would receive the contract, even if the project is not federally funded. We would be unable to compete in today's market if we did not use the best prices available.

L. W. Kitchin, Jr.
Kitchin Construction Co.
Warsaw, NC 28398

We were lowest qualified bidder on a project. The general contractor used our exact prices to win the contract. Yet, we were denied the contract because the general contractor said he had to give it to an MBE contractor.

Frank W. Carpenter
The Dickerson Group
Monroe, NC 28110

Project No. 26.559-Horry County, South Carolina Highway Department; initial bid date—June 14, 1983; re-let date—July 19, 1983. Low bid of $2,969,764.30. Bid rejected because MBE quota was not met. The project was re-let July 19, 1983, and awarded at $3,172,011.06.

Project No. 8.2060101—Gates County, North Carolina DOT; bid date November 8, 1983. Low bid was $190,616.45. Second bidder was $195,524.25. The low bid was rejected because they did not meet the MBE subcontracting goals. The project was awarded to the second bidder at the higher price.

Project No. 81260401—Onslow County, North Carolina DOT. In order to meet the MBE subcontracting goal, we were required to subcontract a portion of the project to an MBE firm at a price higher than a non-MBE firm had quoted us. This resulted in an additional cost of $3,800.00 over the price of the non-MBE firm. This represented a 20% differential between the non-MBE and the MBE firms. The bid date for this project was January 24, 1984.

Project No. 36.1086—Chester-York, South Carolina Highway Department; letting date—March 13, 1984. This particular project had an 11% MBE goal. It was basically an asphalt resurfacing job and, normally, we would do all of this work with our own forces and equipment. In order to meet the subcontracting goal, we had to sub a portion of the hauling to an outside MBE firm at a cost approximately 2% above what our costs would be for the work.

This project was one of five projects set up by ODOT involving Portland Cement Concrete shoulders, specialized concrete pavement repairs and/or concrete overlays. These projects were the result of a promotional effort by the Portland Cement concrete industry to become involved in the reconstruction of Ohio's highways.

This particular project involved the addition of concrete shoulders to an existing concrete highway and specialized repairs to the existing concrete pavements. Our company specializes in concrete pavement construction and was counting heavily on the opportunity to bid this project. Our backlog of work is low and we have no work for some of our regular crews.

However, since this project was a set-aside project we had no opportunity to bid the work as a prime contractor.

Three MBE's (DBE's as Ohio calls them) bid on the project with the following results:

State Estimate	$780,000
Bidder 1	893,000
Bidder 2	960,000
Bidder 3	999,000

The lowest bidder was 14½% over state estimate—it is not known at this time whether the project will be awarded. In the meantime we still have people unemployed.

M & P Construction Co., Inc.
Blacklick, OH 43004

We did a project at D.C.S.C. Columbus, Ohio which involved the remodeling of an interior of an office building. We replaced ceiling tile and floors, etc. The identical project came out for bid at the D.C.S.C. Columbus, Ohio and we were the low bidder but the project was awarded to another firm because they were a minority firm and this job was designated for that requirement. They informed our company that we were indeed qualified and they paid $350,000 more to do the project.

OKLAHOMA

Gerald Scott
3-Way Constructors, Inc.
Altus, OK 73521

March 11, 1984

As a "too big" small business paving contractor, we have mostly been hurt by small business set-aside invitations on military construction. There is an Air Force base 2 miles from our asphalt and concrete plants; also Ft. Sill, a huge Army post, is 55 miles away, and Sheppard Air Force Base is 80 miles from us. For over three years now, we have not been allowed to bid on *any* jobs from the military, because everything in our line of work has been set-aside.

I asked for, and received from Altus AFB, a list of contract invitations on which we were capable of bidding during the past two years:

F34612-82-C0077, $125,773 Construct Nav-Aids Road
F34612-82-C0059, 106,872, Construct Fire Training Pit
F34612-84-B0015, 499,173, Rehab C-5 Parking Area
F34612-84-B0034, 10,925, Extend Shoulders, SAC Alert Area

While we cannot be certain of just how much military work has taken place over the past three years on which we were effectively denied bidding opportunity, a conservative estimate would be in the area of $3 million.

Is this any way to treat a small business which has succeeded in staying in operation over the past 15 years?

OREGON

Patrick R. O'Brien
OTKM Construction Inc.
Portland, OR 97201

Project: Alaska Tundra Exhibit, Washington Park Zoo, Portland, Oregon.

Government body METRO. Project size $1.6 million. METRO postponed the bid, lined up a minority contractor (general) to bid the project, found a bonding company to write him a bond even though the contractor was in deep financial difficulty. The largest project in this contractor's completed work list at bid time was $150,000.00. METRO allowed him to bid the project using a bid bond from a surety that was not approved to supply bonds of this type in the State of Oregon, allowed this MBE to declare his own work as part of his minority participation and did not require him to solicit MBE sub bids, all of this is contrary to METRO's own MBE plan. This set up was done because METRO's area MBE participation goal had not been met and federal funding on some projects were threatened. It all amounts to METRO manipulating the public bidding process in order to fill its own MBE requirements. The contractor in this case ended up filing bankruptcy, costing METRO $500,000 and delays on their project, all because METRO encouraged him to do work that he could not handle.

The above actual cases are only a couple of the many instances that the public bidding process has been badly abused by local government bodies in order to protect their federal funding. Until the federal requirements were enacted the public bidding process in Oregon was free from manipulation by anyone and as fair as any system in the country. Now when a contractor bids a job for a government body and complies to the letter of the plans and specifications and is low bidder there is a good chance he won't get the contract. As a result there are a lot of contractors crying foul and financing litigation against public bodies. All of this belly aching is giving the public a very bad image of our industry.

As for our firm, public work used to be our bread and butter, now we only bid public work when there are no federally mandated requirements. Unfortunately, those public projects are few and far between. We are all for equal opportunity, but denying taxpaying citizens the right to perform work for public bodies, allowing public bodies the opportunity to manipulate the bidding process, encouraging unskilled contractors to take on projects that are over their head, giving opportunity to front organizations to profit at public expense and generally wasting government money which isn't available to waste, is not the way to promote equal opportunity. It is unfortunate that the lofty principles of "equal opportunity" have been laid to waste by mishandling and bad legislation.

Joel L. Burt
Copenhagen Utilities & Construction, Inc.
Clackamas, OR 97015

Copenhagen submitted a low bid of $8.2 million for contract #7025/85-597A, Tri-Met light rail transit project. This bid was $747,000 below the second bidder. The contract calls for a goal of 15% MBE/DBE. Copenhagen, however, could only obtain 11% MBE/DBE participation prior to bid opening and was prepared to demonstrate that we exceeded the federal guidelines of using "good faith" efforts to obtain the suggested goal of 15%. Tri-Met (Tri-County Metropolitan Transportation District of [Portland] Oregon) however, did not agree that Copenhagen used good faith efforts to obtain the goals and rejected the bid. Copenhagen appealed to the Urban Mass Trans. Administration (UMTA) but their response was nothing more than a rubber stamp of Tri-Met's ruling.

The agency's response can be summed up as follows: "Copenhagen did not meet the goals (quotas), therefore, your efforts to do so were not in good faith." The contract was awarded to the next lowest bidder at an additional cost of $747,000.

Linda Steingraber
Columbia Pacific Construction Co.
Lake Oswego, OR 97034

We were not a prime contractor on this project but a subcontractor. The work was for a light rail system for an agency called Tri-Met in Portland, Oregon. Tri-Met is using UMTA funds, therefore it is an MBE program. The prime contractor made 11% MBE. The "goal" was 15% MBE. The prime was denied the work for "not making a good faith effort" in obtaining the "goal." This was an $8.2 million bid by prime and instead Tri-Met awarded the work to the second bidder whose bid was $8.9 million. Since low bidder was denied the work, we were also denied the work.

We bid a project for the Federal Highway Administration. The FHWA has a 15% incentive clause for the use of MBE's. We were a subcontractor on the bridge and were low bidder. However, an MBE was extremely close to our price and the low prime went in with the MBE using the 15% incentive clause. Therefore, we were denied the contract.

Don J. Thompson
Donald W. Thompson, Inc.
North Bend, OR 97459

The U.S. Coast Guard gave the Motor Lifeboat Station at Winchester Bay, Oregon to the SBA 8(a) program. The SBA then gave the job to an 8(a) firm. The project, which is over 100% of last year's commercial volume, is scheduled to start this summer. In the first place, the 8(a) contractor was an established contractor long before the minority set-asides came along, but more importantly, this single job is the largest single job and the largest total volume to come along in this area for years. The Coast Guard says that they are just following the rules. The SBA will not listen to the local contractor's point of view.

SOUTH CAROLINA

John R. Terry, Jr.
Terry Construction Co., Inc.
Greenville, S.C. 29604

Bid under EPA Regulations, with MBE subcontractors goals. Contract was not awarded because MBE subcontract attainment was not deemed sufficient.
Saluda River-Kinley Creek Interceptor, Division III, City of Columbia, S.C.
EPA Project No. C450372-060
TCCI Bid—$1,215,113—Second Lowest Bid $1,443,926.

SOUTH DAKOTA

Clifford Nelson
Northwest Fencing Co.
Chester, S.D. 57016

I own my small business enterprise named Northwest Fencing Company. We are very proud of our track record in the work we have completed since 1958. Our work has consisted mainly as subcontracting all types of erosion control such as seeding and mulching—excelsior blanket work—rock and wire basket work—some rip rap work—highway fencing—guard rail work—highway signing and stream crossing and flood gates work. Now when this unfair bill pertaining to MBE and WBE participation became law we were automatically put out of business. I have had to lay off all my very loyal and qualified personnel of up to 20 years of high quality work. By the way, these employees are all veterans of foreign wars and well over 10% minorities. In our company we have never paid any attention to what color their faces are or which way their eyes slant. All we require is quality work for above wage rate wages. We are now out of business with no company to sell as these minorities shams are in no position to buy us out. In other words we are now strapped with a dead horse that has taken many years of hard work to put together.

Pat Healy
J. L. Healy Construction Co.
Sioux Falls, S.D. 57101

On April 6, 1984 the Bureau of Indian Affairs let an asphalt project worth over $2,000,000 as a 100% Indian set aside. We have completed many similar projects and were the last company to put asphalt on these particular roads in Lyman County, S.D. We were not allowed to bid due to the set aside under the "Buy Indian" act. There are no *real* Indian asphalt contractors in our area.

TENNESSEE

D. W. Puckett
Atlas Contractors, Inc.
Memphis, TN 38108

Shelby County (Memphis) Tennessee has recently been implementing a set-aside program that excludes any contractor whose dollar volume for the last three years exceeds $3,000,000 in Shelby County. Two (2) projects involving sidewalks and driveways and one (1) project involving water line extensions have recently been bid under these requirements. The projects have been in the $100,000-$300,000 range.

TEXAS

Sid Smith
S. S. Smith & Sons Masonry, Inc.
Corpus Christi, TX 78405

Smith and Sons Masonry was the low bidder on several occasions but was denied the contract because of MBE requirements.

UTAH

Hamilton Bros. Electric, Inc.
Springville, UT 84663

(MBE programs have) caused general contractors to totally ignore our quotes to them and award bids to MBEs even though in the majority of instances they are not the low bidders, and have caused our normal work under contract to drop from an average of approximately $3,000,000 a year to approximately $500,000 a year. I feel that a change of these practices (unfair) are way past due and if they continue they will bankrupt us.

Cache Valley Electric Company
Logan, UT 84321

Occupational Health Clinic, Hill AFB. Contracting Agency—U.S. Army Corps of Engineers, Sacramento District. Job range $500,000-$1,000,000. Negotiated with an MBE under the SBA 8(a) program. MBE general contractor denied subcontracting opportunities to various trades including electrical.

Syracuse Road Interchange—Bid 3/17/81. Our sub bid for traffic signals was low. Job was awarded to higher bidder in order for prime contractor to meet MBE goals. Owner: Utah DOT

Redwood Road, 4700 South and 2200 West. Our sub bid for traffic signals was substantially below second bidder. However, job was awarded to the higher bidder by the prime to meet MBE goals. Owner: Utah DOT.

We have ceased bidding all federally funded work at the Salt Lake International Airport because MBE provisions discourage any hope of obtaining work.

WASHINGTON

Allan F. Osberg, President
Osberg Construction Co.

Seattle, WA 98133

Osberg Construction Co. in joint venture with Manson Construction & Engineering Co., has been in the hydraulic dredging business since 1948. We have performed many contracts for the Corps of Engineers in the Pacific Northwest and Alaska, but in recent years have encountered increasing problems in coping with the SBA set-aside program.

Manson-Osberg Co. is deemed a large business for dredging since gross receipts of the joint venture and of the two venturers exceeds the magic number, presently $9,500,000 for dredging. We have never reached this number for dredging alone but we must count all receipts.

To illustrate the problem, the Seattle District opened bids on April 26 for FY 1984 maintenance dredging of the Snohomish River at Everett, Washington. They received two proposals. The low bidder definitely qualifies as small business. If the other bidder had been low, a protest would undoubtedly have been filed as there is a question that he would qualify. This is a job that we have performed at least three times in years past when it was not set-aside. In this instance our bid would have been close to that of the apparent low bidder, but we were not even permitted to bid. The government was deprived of all chance for a lower acceptable bid and God knows there is little opportunity to obtain work for hydraulic dredges these days.

James T. Welsh
Garco Construction
Spokane, WA 99202

MBE program gave a minority contractor the Veterans Administration Hospital addition in Spokane, Washington. He had never done a project of this size, and other non minority contractors were not even invited to bid the work. Obviously not the best use of taxpayer's money.

Eastern Washington Chemical Storage Building. We had to use a WBE price that was higher than another subcontractor in order to meet the WBE goal.

Terry Deeny
Deeny Construction Co., Inc.
Seattle, WA 98144

We have refused to bid jobs to Seattle and King County, Washington because of the 15% MBE and 3% WBE requirements for Seattle and 11% MBE and 3% WBE for King County. When these are added to apprenticeship and EEO requirements, over 60% of the job is no longer under the contractor's control. In particular, in utilities work, the contractor usually does all the work with his own forces, without subcontracting. When forced to subcontract, the utilities contractor become non-competitive as he must pay more to have work done by others.

Frank Garney, Inc.
P.O. Box 11557
Parkwater Station
Spokane, WA 99211

Re: State Highway bid for SR 90, Tyler to Salnave Road
Bid Date April 1, 1981

Gentlemen:

We acknowledge receipt of and we thank you for your guard rail quotation for subject project.

While your bid was lower than the quotation we used in preparing our bid, we were obligated to use the higher quotation to satisfy the 6% Minority Business Enterprise goal as set forth in the specifications for subject projects.

While we were unable to use your lower price quotation, we trust you will continue to quote prices to our firm on future projects.

Jack Zeigler
Chief Estimator
Associated Sand & Gravel Co., Inc.

Re: Inchelium-Kettle Falls Rd
Contract #2027

After your call this week with regard to the guard rail and anchor prices you quoted us on the above project please see the following.

As you may or may not know this project has a three percent MBE goal as a requirement. The only MBE subcontractor quotes we were able to get were on items thirteen & fourteen (guard rail & anchors) which were as follows:

$38,200.00 total bid
$32,460.00 total bid

Your bid of $26,168.00 was obviously low Frank, but we could not use it because of the MBE requirement.

N. A. Degerstrom, Inc.

Re: Yakima River to East Zillah I/C
Contract No. 1969

Dear Frank:

I apologize for taking so long in getting this information to you, but hope it will be of some benefit.

As you can see from the attached comparison of subcontractors, your firm was considerably lower for the guard rail and signing items than any of the quotes we received. However, as you are also aware, this job required that the prime contractor meet an 8% MBE and a 1% WBE goal. We had subcontract prices on concrete paving, guard rail, signing, electrical and landscaping.

My analysis of the subcontract prices, the only way I could put the bid together and meet the MBE and WBE goals and still maintain a competitive position, was to use a combination of minority firms for the guard rail and signing items. I also used a minority firm for the electrical even though another contractor was considerably lower than them, and I used a WBE firm for the landscaping. That permitted us to fulfill the 1% WBE goal and have approximately 11% MBE's.

Along with the sub comparison, I have also enclosed a copy of the bid items that were actually awarded to the various subcontractors on this project.

I will get the information out on the other job you requested within the next day or two, Frank, and if I can be of any further help, please don't hesitate to call.

Thank you and we remain.

Richard E. McKinnon
Projects Manager
Eucon Corporation

WISCONSIN

Larry D. Cepek, President
Cepek Construction & Engineering
Madison, WI 53716

In 1977, under the Economic Development Act (EDA), the County of Columbia in Wisconsi took concrete foundation bids for a County office in Portage, Wisconsin. Cepek Constructio & Engineering's bid was about $100,000. An MBE (Minority Business Enterprise) firm bid wa about $125,000 and was awarded the bid by the County. The County was thus able to mee its 10% minority goal on this project. The MBE firm then turned around and sub-contracte the work to a non-MBE for about $110,000. Few if any minorities worked on the project an the MBE firm made about $15,000 for handling.

GLOSSARY

Minority Business Enterprise (MBE) Program — Programs which provide special preference in construction procurement to firms classified as minority business enterprises and/or socially and economically disadvantaged firms (disadvantaged business enterprises — DBEs). Such preference generally takes the form of meeting goals and quotas in the award of construction contracts and subcontracts as, for example, the requirement contained in the Surface Transportation Assistance Act of 1982 that requires 10% of the funds authorized to be expended with small business concerns owned and controlled by socially and economically disadvantaged individuals.

Small Business Set-Aside Program — The small business set-aside program requires federal procurement agencies to remove individual contracts and classes of contracts from the open competitive system and "set them aside" for restricted bidding by small business firms as defined by SBA regulations.

Small Business 8(a) Program — Under the SBA 8(a) program, the SBA and a federal procurement agency agree to remove a contract from the open unrestricted competitive bid system and sole-source negotiate the contract with a "socially and economically disadvantaged small business firm."

Women's Business Enterprise (WBE) Programs — Programs which provide special preference in construction procurement to firms classified as women's business enterprises. Such preference generally takes the form of meeting goals and quotas in the award of construction contracts and subcontracts.

One or more of the above special preference procurement programs are being utilized in the following federal agencies and construction programs:

Department of Defense
Department of Transportation
Corps of Engineers
Naval Facilities Engineering Command
Air Force
Bureau of Reclamation
Soil Conservation Service
Federal Aid Highway Program
Airport Construction Program
Environmental Protection Agency (EPA)
    Construction Grants Program
General Services Administration
Veteran's Administration
Department of Housing and Urban Development
Economic Development Administration
Farmer's Home Administration
Department of Health and Human Services
Department of Energy
Department of the Interior

Similar special preference procurement programs are used extensively throughout the country by the various construction procurement branches of state, city and municipal governments.