

Minority Contractors

(Continued From Front)

law, and the state constitution. In other words, can the council draft a legal program?

"It seems to me that the basic requirements of a MBE program appears to fly in the face of the competitive bidding statute," said Gene Smith, senior deputy attorney general in the N.C. Attorney General's office. "It is not clear to me what authority a city council would have to establish a 'set aside' program in the first place."

"Set aside" is a term used to describe a concept that began at the federal government level years ago where a certain percentage of either construction or procurement money was put in a separate category and could be bid on only by minority firms.

The question of city council authority to do that has not been settled, and will probably have to be answered in the courts.

In July 1980, the U.S. Supreme Court ruled that the federal set aside program, mandated by Congress was unconstitutional because Congress was empowered to determine that discrimination had occurred and then to act. The court also said that race is a valid basis upon which to form a program. Quoting the court's decision in *Swann vs. Charlotte-Mecklenburg Board of Education*, Chief Justice Warren Burger wrote "...not to acknowledge race would freeze the status quo that is the very target of all desegregation processes."

But in August 1981, the Alabama Supreme Court, ruling on a MBE program in Birmingham that set aside fifteen per cent of city contracting money for minority businesses, said among other things that the Birmingham City Council had not determined that prior discrimination had occurred, and in addition was constitutionally powerless to even make such a determination.

However, a year earlier, the U.S. Second Circuit Court of Appeals said that the Hartford City Council did have the power to determine past discrimination, had done so, and had proposed a constitutionally

sound program to address the problem. Both decisions were appealed to the U.S. Supreme Court which refused to hear either case.

So the question of who has the authority to determine past discrimination, and how it can be determined and what program successfully addressed the problem remains up in the air.

Another potential pitfall facing Durham officials is how to conceptually design such a program. There are essentially two types that have been formed across the country. They are "set aside" programs and "goal" programs. Set asides specifically allocate a percentage of the money only for minorities.

Goal oriented programs establish a "target" for participants, usually stated in a percentage of project money.

The major difference in the programs is that in the former, a prime contractor, the bigger usually white businesses who bid on city work, can't get the job unless they have minority participation in their contract bid.

In the latter program, a prime contractor can get the work without minority participation, provided he shows that he has "made a good faith effort" to find such businesses for this contract, but was unsuccessful.

According to the AGC's Courtney Roberts, both set asides and goal oriented programs are more trouble than they are worth.

"The people who set these goals don't try to find out if there are enough minority firms in a particular field, in a particular area, to adequately handle that goal," Roberts said. "And when you set unrealistic goals you create problems."

One of the problems Roberts cited as resulting from unrealistic goal setting is "fronting," businesses that purport to be owned by blacks, but which are really owned by whites with a black person "fronting" as head of the company.

"It's really rather understandable," Roberts explained, "because if you set goals to high, it forces prime contractors to not go after the business unless they have minority participation. This usually means that all the business goes to one or two minority firms who, realizing that they have a monopoly, jack up the prices. This creates a need for lower subcontracting prices and then smaller white subcontractors begin putting their black friends or anyone else black they can find into business to go after that money."

The problem of "fronting" is another headache that city MBE program planners will have to try to avoid.

Business In The Black Tale of Technology and Telecommunications Healthy Investment Outlook - 1982

By Charles E. Belle

Revolution is everywhere in America this year including the investment sector. Some small fortunes will be made by those investors who find common stocks with superior technical products and proper management.

The application of computers to the design and manufacture of industrial products promises to reverse the decline of industrial productivity in the United States as well as deliver better designed, higher quality products than this nation has ever seen. Sensational areas for stock investments exist in the fields of high technology (software), telecommunications (cable TV) and health care (genetics).

Two hundred thirty million Americans will have to make their way to these investment opportunities in spite of the current stumbling blocks out of Washington. "What a realistic reading of the high employment budget is telling us is that fiscal policy has been and will continue to be highly stimulative."

"And with the Fed trying to hold monetary growth to about three per cent, that kind of fiscal policy is madness. Unless the budget is brought under control, it will mean a weak recovery with a crowding out of the private investment as high interest rates nullify the supply side effects of the tax cut," Otto Eckstein, noted economist is quoted as stating in a business magazine.

Prudential Insurance Company of America predicts Gross National Products (GNP), all the goods and services produced in the country, will be up two per cent by year end and expects unemployment will peak at nine per cent. Inflation and interest rates are expected to continue to recede, renders "the Rock".

In 1982, the primary trade-off will be between lower inflation and high real economic growth, according to Bank of America, the country's largest commercial bank.

The Housing sector of the economy has been decimated by high interest rates and represents as do many other investments an opportunity to go bargain shopping. The effects of monetary restraint will show increasing benefit in 1983 and beyond, at best.

Cheap cost is not enough to make people buy. Rapid advances in computer technology will enable management to take full advantage of research data, handle more complex product designs and better meet the demands of new product development, as well as, increase the efficiencies of the work place for greater output at lower total cost. Thereby increasing the value of the product to the consumer.

Considering the contribution the telecommunications and health care industries can make — much of the U.S. success and strength could be expected to show its face in the latter part of this year.

Because of its demand for business communication the telecommunications industry should grow more rapidly in the 1982-85 period.

Health care, too, is expected to be one of the most robust industries this year. The only real question is how fast can the larger companies digest the swallow-up of the smaller companies. Buyouts are just an additional way to receive a higher price. People looking ahead see many opportunities for investment funds to grow. Getting money invested in the high technology, telecommunication or health care fields offers a chance for great financial reward in 1982, according to most economic observers.

program planners will have to try to avoid.

Assistant City Manager Cecil Brown: "The way we are progressing at this point is to develop an inventory of minority firms so that we will know who is in the area and what they are doing and can do. Then when we begin the certification process, if a new firm suddenly crops up, it will automatically create a red light, and cause us to stop and scrutinize it closely."

The fourth pitfall to successful minority participation programs are the structural and administrative problems that seem to always plague black businesses. These include bonding capability, cash flow, adequate equipment, etc.

"We are also considering a number of ways that we can approach these problems," Brown said. "Options that we have include waiving the sub-contractor's bond, and let him perform under the prime contractor's bond. We could also maybe let the contracts in smaller packages which would allow smaller firms to bid. Then there's the possibility of an arrangement where a sub-contractor can use the awarded contract as collateral to 'front-end' his money he needs to perform the contract."

And so while discussions continue on how to insure that black businesses get "their share" of the \$50 million action, planners and officers might do well to consider a warning from Roberts: "Everybody might have good intentions, both those who propose such programs and those who oppose them. But the important thing is to avoid these political confrontations that could in fact destroy the very business climate in this state that we all need so desperately to survive. We cannot afford anything that will polarize the races against each other any more than we already are."

Witness

Williams Hated Poor Blacks

By Trelle L. Jeffers

ATLANTA — In the closing testimony in the prosecution's case of Atlanta's slain and missing adults and children against prime suspect Wayne Williams, friends of Williams testified that he "hated poor blacks", that he thought that they "lowered the reputation of the race" and that he once theorized about how many "niggers" could be eliminated by eliminating one male at a time.

The testimony was considered to be the strongest against Williams in the prosecution's attempt to establish a motive for the crimes. Williams is formally charged with the murders of Nathaniel Cater and Jimmy Lee Payne, but he has been linked with eleven of the other 29 murders.

The prosecution in the approximately five weeks of testimony produced 120 witnesses against Williams. At least twelve said that they saw six of the victims with Williams, some shortly before their disappearance or death. Others testified that Williams made homosexual advances toward them or offered them from \$2 to \$20 to perform homosexual acts.

Also crucial to the prosecution's case against Williams are the multiple fibers found on ten of the murdered victims, fibers that some experts say come from close contact between Williams and the victims. (Williams testified that he knew none of the

victims, their families or the associates.)

Last week, the defense began its case for Williams by calling witnesses that it hopes will discredit testimony given against Williams.

One witness, Dr. Daniel Stowens, a New York pathologist, said that he found no evidence that either Payne or Cater was murdered. He said Payne probably died from drowning and that Cater had a heart condition.

Dr. Stowens' conclusion would seem to indicate that one of the victims apparently entered the Chattahoochee River in April and the other in May of 1981.

Another of the defense witnesses, a former police recruit, who said that he resigned because he was about to be fired for low test scores, testified that the stakeout team on the Chattahoochee often drank beer, saw ghosts and fell asleep on the job.

A black minister also testified that one of the witnesses who said that he saw one of the victims at Williams' house from a church across the street, was not a member of the church. He later admitted that he could not actually tell whether or not the witness had ever attended the church.

The defense team has also issued subpoenas to a number of state officials and members of the U.S. Justice Department. The purpose is to attempt to show that the Atlanta prosecution

team was pressured into arresting Williams without having sufficient evidence of his guilt.

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VA Fishin' Hole Therapy



World War II veteran Felix Albo, foreground, watches his bobber dip into the Red Butte Canyon reservoir as a fish goes after his bait. At the same time, Ray Hancey, another wheelchair veteran from the Salt Lake City VA Medical Center, feels a strike on his line.

Elks Club volunteer Bart Barteaux, rear, was one of a number of volunteers who assisted Jesse Carter, VA recreation specialist, arrange the "fishin' hole therapy" outing for local hospitalized veterans. Volunteers help wheelchair veterans down bumpy paths to choice fishing and aid some disabled veterans by baiting hooks, untangling lines, and landing fish.

Carter pointed out the value of recreational opportunities as therapy that is unavailable in any other way.

So says the VA... MURIEL MILLERS by Paul Johnson



Contact nearest VA office (check your phone book) or VA Medical Center.

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