

MEMORANDUM

Agenda Item No. 11(A)(6)

TO: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

DATE: July 7, 2011

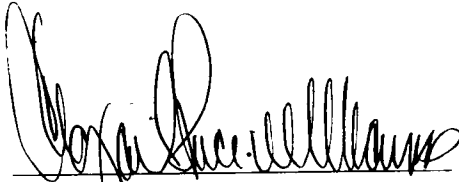
FROM: R. A. Cuevas, Jr.
County Attorney

SUBJECT: Resolution directing the County Mayor to prepare a feasibility report in preparation for a proposal to enact race, ethnic and gender based programs to redress identified discrimination

Resolution No. R-564-11

This item was amended at the 6-15-2011 Economic Development and Social Services Committee by changing the deadline for submission of the Feasibility Report from 90 to 120 days and by adding that it should contain information from available data of the percentages of County contracts awarded to each racial, ethnic and gender group.

The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Vice Chairwoman Audrey M. Edmonson, and Co-Sponsors Commissioner Barbara J. Jordan, Commissioner Jean Monestime and Commissioner Dennis C. Moss.



R. A. Cuevas, Jr.
County Attorney

RAC/up



MEMORANDUM

(Revised)

TO: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

DATE: July 7, 2011

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County Attorney

SUBJECT: Agenda Item No. 11(A)(6)

Please note any items checked.

- _____ **“3-Day Rule” for committees applicable if raised**
- _____ **6 weeks required between first reading and public hearing**
- _____ **4 weeks notification to municipal officials required prior to public hearing**
- _____ **Decreases revenues or increases expenditures without balancing budget**
- _____ **Budget required**
- _____ **Statement of fiscal impact required**
- _____ **Ordinance creating a new board requires detailed County Manager’s report for public hearing**
- _____ **No committee review**
- _____ **Applicable legislation requires more than a majority vote (i.e., 2/3’s _____, 3/5’s _____, unanimous _____) to approve**
- _____ **Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required**

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 11(A)(6)
7-7-11

RESOLUTION NO. R-564-11

RESOLUTION DIRECTING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO PREPARE A FEASIBILITY REPORT IN PREPARATION FOR A PROPOSAL TO ENACT RACE, ETHNIC AND GENDER BASED PROGRAMS TO REDRESS IDENTIFIED DISCRIMINATION

WHEREAS, this Board wishes to assure that all segments of the County have a full, fair and meaningful opportunity to participate in County contracting regardless of race, gender or ethnic origin; and

WHEREAS, in furtherance of that policy, on June 19, 2001 this Board adopted Resolution R-730-01, directing the County Manager to engage a consultant to evaluate the County's data in support of a disparity study of Black, Hispanic and Women owned business participation in County contracting¹ and

WHEREAS, pursuant to that resolution, the County engaged the services of MGT of America, Inc., a national public sector management research firm ("MGT") to conduct an evaluation of the County data that could be used in support of disparity research¹ and

WHEREAS, on March 4, 2005, MGT issued a final report evaluating the County data (the "Report"), concluding based on a sampling of County departments that there was no uniformity among County departments in the gathering of relevant data and severe limitations in data and record keeping, and that as a result no reliable or accessible data existed that would permit a reliable analysis which would support a disparity study (a description of the data

¹ Committee amendments are indicated as follows: words stricken through and/or ~~[[double bracketed]]~~ shall be deleted, words underscored and/or ~~>>double arrowed<<~~ constitute the amendment proposed.

limitations specifically identified in the Report appear as Exhibit 1 to this Resolution, hereinafter the “Limitations”); and

WHEREAS, the Report made specific recommendations to improve the availability and retrieval of data for purposes of supporting a disparity study, which appear as Exhibit 2 to this Resolution (the “Recommendations”); and

WHEREAS, on June 30, 2009, this Board adopted Resolution R-869-09 directing that the County Mayor or County Mayor’s designee collect data on the race and gender of County contractors and their employees for purposes of supporting a disparity study; and

WHEREAS, under applicable law, a disparity study is the first step to determine whether or not, and to what extent, programs to remedy racial, ethnic or gender discrimination will withstand judicial scrutiny,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that:

Section 1. Consistent with this Board’s policy that all segments of the County have a full, fair, and meaningful opportunity to participate in County contracts regardless of race, gender and ethnicity, and to prevent public dollars being spent to promote any identifiable discriminatory practice, this Board wishes to explore the enactment of race, gender and ethnic based programs to remedy such discrimination.

Section 2. This Board is mindful that a lawful enactment of these programs must be supported by a strong basis in evidence that remedial measures are necessary. The Board is also mindful that those programs must be narrowly tailored to meet the legitimate purposes or redressing discrimination. The Board is further mindful that the Report identified certain deficiencies in the manner in which the County gathered and stored the data necessary to support

those programs, and that the correction of those deficiencies may be extraordinarily time consuming and costly.

Section 3. The County Mayor or Mayor's designee is hereby directed to make a report to this Board, within ~~[[ninety (90)]]>>one hundred twenty (120)<<~~ days of this resolution, with respect to the need, feasibility, and cost of such enactment (the "Feasibility Report") which will at a minimum contain the following:

- (a) A description of any and all steps that have been taken by the County administration to address the Limitations of the data relating to County contracting practices identified in the Report. For all Limitations that have not been corrected to date, a plan of action to correct such Limitations. Where the correction of a Limitation involves the expenditure of County funds, an estimate of the cost involved in correcting such Limitation.
- (b) A description of any and all steps that have been taken by the County administration to implement the Recommendations made in the Report. For all the Recommendations that have not been implemented, a plan of action to implement those Recommendations. Where the adoption of a Recommendation involves the expenditure of County funds, an estimate of the cost involved in adopting the Recommendation.
- (c) A description of all race neutral contracting, education and outreach programs that have been adopted by the County in the recent past, ~~[[and]]~~ an evaluation of the participation and measurable results of those programs, including but not limited to the County's SBE, CSBE and CBE programs~~[[]>>~~, and a description from available data of the percentages of County contracts being awarded to each racial, ethnic and gender group.<<
- (d) Recommendations for areas of contracting, or particular departments, for analysis and study, where the data would be more readily accessible and usable, including an analysis of the nature and quality of the data available for study, the suspected presence of disparity in contracting in that particular segment, and the cost and time effectiveness of researching that contracting segment.
- (e) An estimate of costs of the disparity study with appropriate assumptions and identification of any outside consultant service deemed necessary to accomplish the intent of this resolution;

- (f) Recommendations for the adoption of any further legislative measure necessary or appropriate to accomplish the intent of this resolution.

The Prime Sponsor of the foregoing resolution is Vice Chairwoman Audrey M. Edmonson, and the Co-Sponsors are Commissioner Barbara J. Jordan, Commissioner Jean Monestime and Commissioner Dennis C. Moss. It was offered by

Commissioner **Sally A. Heyman**, who moved its adoption. The motion was seconded by Commissioner **Jose "Pepe" Diaz** and upon being put to a vote, the vote was as follows:

	Joe A. Martinez, Chairman	aye
	Audrey M. Edmonson, Vice Chairwoman	aye
Bruno A. Barreiro	absent	Lynda Bell absent
Esteban L. Bovo, Jr.	aye	Jose "Pepe" Diaz aye
Sally A. Heyman	aye	Barbara J. Jordan aye
Jean Monestime	aye	Dennis C. Moss aye
Rebeca Sosa	aye	Sen. Javier D. Souto aye
Xavier L. Suarez	aye	

The Chairperson thereupon declared the resolution duly passed and adopted this 7th day of July, 2011. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.



MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By: **Christopher Agrippa**
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

Hugo Benitez