

Headline: EXPLOITING OPPORTUNITY

SubHead: The founder of Boes Iron Works acknowledges he's not disadvantaged, but that didn't stop him from working his way into a program aimed at minorities and women and using it to his advantage.

Byline: By Jeffrey Meitrodt Staff writer

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Text: Roger Boes is proof that a white man can be certified as a disadvantaged business owner. He's just not what the architects of underprivileged- business programs had in mind.

When he first sought disadvantaged business status for Boes Iron Works in 1992, Boes said, he had been a millionaire for at least seven years. In 1996, when his firm was getting about \$1 million in work through the disadvantaged business program at the Orleans Parish School Board, his net worth was up to \$4,255,803, records show.

Boes, an opponent of affirmative-action programs, readily acknowledges that he is anything but disadvantaged.

"I look at other people in the program, and I don't see that they're disadvantaged either," said Boes, who earned as much as \$1.5 million per year in salary and bonuses as the owner and president of Boes Iron Works. "A lot of them have more assets than me, but they're still in the program. That's the way the system is. Some people work within the system, and some people can't work within the system."

Statistically, Boes -- who also is known as "Mickey" Boes -- is an anomaly. He is one of only two white businessmen who have been certified by any of seven local agencies as a majority owner of a disadvantaged business enterprise, according to a review of applications for 895 of the 1,224 companies that have been certified in the past 12 years. Applications for the other companies were unavailable.

Agency officials said they believe a handful of other white businessmen have been certified in recent years, but they were unable to provide specifics.

Opening the door

After a 1989 Supreme Court decision that limited the ability of state and local governments to offer business preferences to minority- and woman-owned businesses, local agencies changed their rules so anyone, including white men, could seek disadvantaged business status.

The rules at most local agencies still make it easier for minority or women business owners to qualify, because their companies are considered "presumptively disadvantaged." That is, the firms are automatically certified unless someone files a written complaint about the applicant or the agency finds evidence that the company or its owners don't qualify.

Some firms have been disqualified because administrators determined they were too large, or their owners too wealthy, to participate. Other times, records show, agencies have rejected firms after concluding that women were acting as fronts for their husbands, who actually owned and controlled the firm.

For a white man to qualify, he has to show that he is socially and economically disadvantaged and that his disadvantage has hurt the growth of his business. According to the U.S. Department of Transportation, examples of white men who would qualify for disadvantaged business enterprise programs include "disabled Vietnam veterans" and "Appalachian white males."

White men rarely meet the standards. In a 1994 city-commissioned study called "Discrimination in New Orleans," National Economic Research Associates of Cambridge, Mass., said, "Although white men can show that they are socially or economically disadvantaged, virtually all DBEs are owned by minorities and women."

Breaking the mold

In his applications for local programs, Boes said he deserved to be considered disadvantaged because of a physical disability. According to his attorney, Harold E. Dearie II, Boes hurt his back on a construction job more than 20 years ago, making him eligible for monthly disability assistance from the Social Security Administration.

Boes waved off questions about his handicap. "It affected me years ago," he said. "I can't do physical labor."

Despite his disability status, Boes was rejected when he applied for disadvantaged business programs at the Sewerage & Water Board in 1992 and the New Orleans Aviation Board in 1995. In its rejection letter, the airport, which operates under Department of Transportation oversight, told Boes that he failed "to establish that Boes (Iron Works) is both a socially and economically disadvantaged business enterprise."

Boes appealed the airport's decision and lost. He subsequently fired off letters to the Department of Transportation, the Equal Employment Opportunity Commission and several congressmen.

In a Feb. 26, 1996, letter to U.S. Rep. William Jefferson, D-New Orleans, Boes said, "I have a problem as a white general contractor in the New Orleans area. . . . We find that the black personnel in the area are trying to eliminate the white people. They are trying to

regulate contracts for only the black and eliminate the DBE section because of the white people in the program."

Though Jefferson asked the airport for a report on Boes' application, the airport never certified Boes Iron Works as a DBE.

But Boes' persistence paid off elsewhere. His firm was certified by four local agencies, including the Orleans Parish School Board in 1995, leading to several large contracts.

Former School Board President Gail Glapion said she was troubled that Boes and other millionaires were admitted into the School Board's DBE program. Unlike several other local agencies, the School Board has no limit on an applicant's personal net worth.

"I wasn't aware of this," said Glapion, the senior member of the School Board. "I really need to check on that, because that appears to be a critical standard that would determine disadvantage. It certainly would be a flaw in our program if we don't have a net-worth limitation."

Working the system

In 1989, when the School Board overhauled its disadvantaged business program in the wake of the Supreme Court decision, it didn't look as if anyone like Boes could be certified. At the time, board member Carl Robinson said the tough new certification standards meant a successful applicant would have to be poor, a high-school dropout, come from a broken home and operate a failing business.

Glapion said the certification of Boes and other wealthy entrepreneurs suggests the board has relaxed its standards too much. "As a school system, we have a responsibility to protect our limited resources," she said. "This is not intended to be a welfare program for the rich or for those whose economic situations are not disadvantaged."

During the past five years, the School Board's program has helped land five jobs for Boes Iron Works which paid a total of \$1.1 million. Almost all of that money came in the mid-1990s, when Boes was hired as a subcontractor by Gibbs Construction Co. to supply steel for the construction of Dr. Martin Luther King Jr. Elementary School.

To satisfy the school system's DBE goal, Gibbs needed to allocate 25 percent of the \$7.6 million project to disadvantaged businesses. Gibbs satisfied about half its goal by hiring Boes.

Three minority-owned firms were used on the project, but that wasn't enough to satisfy the Coalition of Minority Contractors of Louisiana, which in 1995 protested the amount of work that went to its members.

"Here you have a new school, named after civil rights leader Martin Luther King Jr. and located in a black neighborhood, that was built with virtually no minority participation of any consequence," said Louis Butler, who was chairman of the 100-member group at the time.

Boes said he sought disadvantaged status because he was being shut out of jobs that were being set aside for minorities.

"We're just trying to work within the system," Boes said. "There were some jobs we couldn't get because they required minority participation."

Starting out small

Like many DBEs, Boes Iron Works started out as a small business. Boes, who quit school after seventh grade and joined the Marines Corps at 17, formed the company as a hobby in 1953. At the time, he had just started working for Middle South Utilities, now known as Entergy Corp., where he performed maintenance work and, more important, learned to weld.

His first weekend jobs were small, backyard projects, such as iron doors and hand rails. He gradually shifted to commercial work, fashioning iron railings and structural steel. But the business wasn't big enough for him to quit his day job at Entergy until 1977. At the time, his sales were about \$500,000 per year and he had three employees. Within 10 years, the company made him his first million dollars.

While Boes Iron Works eventually became one of the five biggest metal shops in New Orleans, Boes said he constantly worried that he would start losing business to minority-owned firms. So in 1992, he started applying for disadvantaged business status. Ultimately, the programs accounted for only a fraction of his business, which had annual sales as high as \$9.7 million.

Still, Boes Iron Works won more DBE dollars than a thousand other companies trying to participate in the programs. In The Times-Picayune's analysis of DBE spending, the firm finished in the top 100, at No. 63.

Boes said the real beneficiary was the prime contractor, which had to meet its DBE goal.

"This program has helped the general contractors more than it has helped me," Boes said. "He had to meet a goal, and he used our paperwork to do it."

Still at it

Boes, who describes his ethnicity as German and Dutch, said he is against affirmative action, which laid the groundwork for disadvantaged business programs.

"I mean, discrimination should be over with after 40 years," he said. "If you've got to help the black brother to overcome it, fine. The only thing I say is a man has got to get off his butt and go to work, make a living like everybody else."

Although Boes doesn't consider himself disadvantaged, he said he shouldn't be removed from such programs until the agencies also kick out the "black millionaires."

That rankles some public officials.

"He is kind of missing the whole point, isn't he?" said Andrenecia Morris, spokeswoman for the Housing Authority of New Orleans, which also certified Boes Iron Works. "We can go back and forth on how many black millionaires have been created through this program, and how many of them should still be in the program, but you can also make the case that a lot of them started out a lot more disadvantaged than Mr. Boes."

Recently, Boes had to find a new way to go after DBE contracts. He's starting over at a new company, Boes Corp., after giving Boes Iron Works to his ex-wife as part of their divorce settlement. Boes said his net worth still is close to \$5 million, but he said it will take a while for the new company to get on its feet. Sales for 2000 were expected to reach about \$2 million, he said.

Boes Corp. has been certified as a disadvantaged business by three local agencies and rejected by two. This time, Boes put the company in the name of his new wife, who received her shares as a "gift." Boes said he did it that way so the company would be classified as a woman-owned business and he could remain in the program.

"Why walk away from an opportunity?" he said.

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Staff writer Mark Schleifstein contributed to this report.

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Caption: STAFF PHOTO BY ELIOT KAMENITZ

Roger 'Mickey' Boes, seen here at one of his company's job sites last fall, was rejected by some local agencies' disadvantaged business programs but accepted in others. 'I look at other people in the program, and I don't see that they're disadvantaged either,' said Boes, who earned as much as \$1.5 million per year in salary and bonuses.

STAFF PHOTO BY TED JACKSON

Children at Dr. Martin Luther King Jr. Elementary School pass through gates and ironwork built by Boes Iron Works. Although the company at the time was owned by a wealthy white man, Roger 'Mickey' Boes, who acknowledges his company is not disadvantaged, the company has been certified as disadvantaged by four local agencies, including the Orleans Parish School Board. Boes served as a subcontractor on the school project, helping Gibbs Construction Co. meet a goal that it allocate 25 percent of the \$7.6 million school project to disadvantaged businesses. Gibbs satisfied about half its goal by hiring Boes.

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