

**MOTION
OF THE PORT OF SEATTLE COMMISSION
REGARDING QUALITY JOBS, SERVICE AND
EMPLOYMENT CONTINUITY ASSURANCES FOR THE
AIRPORT DINING AND RETAIL PROGRAM**

**PROPOSED
NOVEMBER 25, 2014**

TEXT OF THE MOTION

The Commission hereby reaffirms its commitment to the program principles articulated in the Commission motion of February 14, 2012, as clarified and expanded upon in the Statement in Support of the Motion and Statement of Policy Direction below.

Also consistent with the principles described in the Statement in Support of the Motion and Statement of Policy Direction, the Commission further directs staff to:

- Provide the Commission with regular reporting on the financial performance of the Airport Dining and Retail Program (“Program”) as well as on the number of employees retained in Airport employment and the growth of such employment;
- Establish job quality reporting requirements in new leases for Program operators similar to other common financial reporting requirements;
- Utilize a combination of “prime” lessee/operators and direct leases with small, local, and/or disadvantaged businesses when soliciting new operators as leases expire in or after 2015;
- Incorporate quality jobs, service and employment continuity assurance expectations as described in this motion into solicitation processes to the maximum degree possible when recruiting and selecting restaurant, retail, duty free, and personal services operators; and
- Incorporate into the Internal Audit plans and programs the inclusion of periodic auditing of compliance with this motion.

STATEMENT IN SUPPORT OF THE MOTION

The Port Commission supports the creation of business opportunities that foster economic prosperity, entrepreneurial initiative, increased job opportunity and job security. In addition, the Commission is committed to the creation of job opportunities that offer wage compensation and other benefits that allow employees to thrive and the empowerment to seize opportunities for personal and professional growth.

In the last decade, the Port of Seattle (the Port) has developed a model for its Airport Dining and Retail (ADR) offering at Seattle-Tacoma International Airport (Airport) that is characterized by a combination of “prime” lessee operators and direct leases with local, small, and disadvantaged operators.

This model has supported the growth of concession sales at the Airport, as well as Airport concessions revenues, by more than 100 percent – as well as doubled employment – since 2003. At the end of 2013, there were approximately 1,640 individuals employed through the program. It is the intent of the Port of Seattle Commission to reaffirm its commitment to this management model as the best suited for the Airport and the broader community.

In its motion of February 14, 2012, the Port Commission “identified ... preliminary Concessions Program Goals as the basis for the Airport concessions program.” In the past two and a half years, staff has used these goals, and ongoing Commission feedback, as direction in developing a new Airport Dining and Retail Master Plan. The Commission believes these goals continue to provide excellent guidance for program implementation.

As part of the Airport Dining and Retail Master Plan, the Port has considered the issue of workforce stability in dining and retail as the program enters several years of lease transitions. Also in the February 2012 motion, specifically with regard to employees, Commission provided direction to: *“maximize continued employment opportunities and job security for qualified workers wishing to continue working in the program in the event their employer does not remain an airport lessee.”*

In addition, the Commission has expressed intent that Airport Dining and Retail employment represent “quality jobs.” In January 2014, the Commission announced its intention to develop employment policies that support the Port’s mission as an economic development agency. The Commission, along with other regional and national policy makers, recognizes the economic and societal impacts of income inequality and the decline of the middle class.

In order to accomplish these important objectives, the Port will:

1. Incorporate the Commission’s “Expectations of Employers Regarding Quality Jobs” into Request for Proposal and Competitive Evaluation processes for awards of contracts to restaurant, retail, duty free, and personal services operators (ADR Employers).
2. Designate a third-party contractor to create and manage an Employment Continuity Pool.

The objective of the Employment Continuity Pool is to make employment transitions more secure and smooth for both employers and employees. New and incumbent operators will benefit by having ready access to a pool of qualified employees for hire when needed for their operations.

The objective of the Expectations of Employers is to encourage prospective ADR operators/lessees to provide robust wage and benefit packages as well as advancement opportunities for their employees.

STATEMENT OF POLICY DIRECTION

As specific reaffirmation of the Commission's guidance articulated in the 2012 motion, the principles for the program redevelopment are:

1. Encouragement of broad business participation by creation of opportunities attractive to all types of businesses;
2. Use of flexible competitive leasing processes to accommodate both large and small businesses;
3. Creation of new opportunities for small, disadvantaged, and local businesses and the facilitation of such businesses' success in the sometimes challenging operating environment at an airport;
4. Maximized employment continuity for qualified employees;
5. Continuation of 'street pricing' of products and services;
6. Greater efficiency and affordability in dining and retail unit build-out processes; and
7. Strengthening of a local Pacific Northwest sense of place.

As a part of a new dining and retail master plan, the Port also has developed a number of more specific, ambitious goals for the program in the next decade. The Commission firmly believes that its commitment to increased job quality can be achieved in tandem with the achievement of these goals by 2025:

- Grow sales per enplanement by at least 40 percent.
- Reach and remain within the top 10 North American airports as ranked by sales per enplanement.
- Grow gross revenues to the Port by 50 percent.
- Grow employment by 40 percent.
- Grow the share of sales generated by small, disadvantaged, and/or local businesses to 40 percent. These businesses are encouraged to pursue opportunities both as prime lessees/operators and as direct lessees.
- Create an aspirational objective of increasing ACDBE gross sales to 25 percent of total sales by exploring all means to accomplish that goal, including submitting a request to the FAA for adoption.

Definitions

For the purposes of this Motion:

“Prime lessee/operator” means a company that operates or will operate four or more units under one or more contracts awarded as a result of the request for proposal or competitive evaluation processes. This number is based on the bidding process previously laid out in relation to the Airport Dining and Retail Master Plan redevelopment.

“Full-time employee” means employees that work an average of 30 hours per week over a years’ time.

“Employment Continuity Pool” or “Pool” means a database of all non-management, non-supervisory, and non-confidential employees who wish to continue working in the Airport Dining and Retail program; the Port will designate a third-party contractor to create and manage the Pool. These employees will have been continuously employed in the dining and retail program for 12 months or more, maintain a schedule of 16 or more hours per week, and whose primary place of employment is at the Airport.

“Paid Time Off” or “PTO” means accrued hours of paid leave provided by an employer for use by an employee. PTO may be provided through vacation, sick or safe leave, combined PTO, or other plans that permit employees to accrue paid leave and then use the leave in accordance with the employer plan. Employee must work more than 240 hours in a calendar year to qualify for this benefit.

“King County Self-Sufficiency Standard” approximates how much income families of various sizes and composition need to make ends meet without public or private assistance in King County. It is a measure of economic security that is based on real data regarding basic living expenses for family size, composition, and location.

Solicitation and Contracting with new Operators

When soliciting operators as leases expire in or after 2015, the Port will utilize a combination of “prime” lessee/operators and direct leases with small, local, and/or disadvantaged businesses. The Commission directs the Chief Executive Officer to incorporate employment continuity, quality jobs, and labor organization discussion expectations into solicitation and contracting processes to the maximum degree possible consistent with the following principles:

Employment Continuity Pool

The Commission seeks to facilitate employment continuity to the greatest degree possible for current employees. To that aim, the Port will designate a third-party contractor to create and manage the Pool. Current employees will automatically participate in the Pool, but will have the option to opt out of the Pool if they do not want to participate. The Port will provide existing employers with the requirements for the relevant documentation. The employer must submit the documentation on behalf of all employees to the Port’s designee. Returning tenants will be allowed to continue to employ the same employees.

Any employee that has been dismissed for cause will be ineligible to participate in the Pool. Port staff shall have no responsibility to mediate disputes or complaints from employees with regard to their suitability or lack thereof for initial or continued employment as determined by any tenant or operator.

Expectations of Employers regarding Quality Jobs

The Commission expects employees in the Airport dining and retail program to have access to quality jobs. For purposes of the program, through both the solicitation and contracting processes, quality jobs include the following specific components. Each of these areas will be separately considered and receive points through the bidding process as these expectations are met and/or exceeded.

- **Wages and Compensation:** The Commission's expectation is that employers pay a living wage rate, using the King County Self-Sufficiency Standard as a guide. Commission further expects that employers provide benefits to full-time employees; examples include health care, pension or other retirement contributions, educational cost reimbursement, or other workforce development opportunities. These expectations do not apply to seasonal, temporary, or part-time employees.
- **PTO:** The Commission expects employers to provide their employees with a minimum level of PTO. It is reasonable that workers accrue at least one hour for every forty hours worked, that they be allowed to begin to use it no later than after 180 days of employment, that they be able to carry over a minimum of 40 hours from year to year, and that an employee would have any accrued PTO reinstated if he or she returns to employment after separation or transfer. Employees will not be disciplined or retaliated against for use of accrued PTO.
- **Affordable Care Act Compliance:** The Commission expects employers to provide health insurance to their full-time employees, consistent with the requirements of the Affordable Care Act (ACA) rather than accept the penalties of the ACA in lieu of providing stipulated health care benefits.

Service Continuity Assurances

The Commission expects prospective prime operator respondents to requests for proposals to document good faith discussions with labor organizations representing incumbent employees regarding the mitigation of impacts on airport operations or revenue due to labor disputes, prior to responding to such requests for proposals.

Recruitment and Selection of New Airport Dining and Retail Operators/Lesseees

The Chief Executive Officer is directed to manage the recruitment and selection of new Airport Dining and Retail operators in or after 2015 consistent with the following direction:

- Whether using a Request for Proposals, a Competitive Evaluation or contracting process, the staff shall articulate the Commission's expectations regarding quality jobs, service and employment continuity assurances, as outlined above. The Chief Executive Officer and his or her delegates are authorized to translate the policy direction given in this Motion into appropriately and necessarily specific terms for the Request for Proposal and Competitive Evaluation process in close consultation with the Commission office.

- The criteria used for selecting a prospective operator shall include the commitment by prospective prime operators/lessees to hire employees and by other prospective operators to interview from the Employment Continuity Pool before considering applicants outside such Pool, as well as a commitment to provide quality jobs to their employees. The degree of this commitment will be evaluated and scored in the same fashion as other expectations in dining, retail and personal services solicitations and contracts.
- Employees from the Pool must be qualified for the position sought. Operators/lessees shall not be required to hire or interview an employee who does not meet the minimum qualifications for available positions.
- Hiring from the Pool would entitle employees to a 90 day trial period, under the terms and conditions established by the operator/lessee or as required by law or other applicable agreement.
- The staff is further directed to ensure that the relative weighting of the criteria related to these expectations is substantial enough to encourage prospective operators to meet these expectations and to result in the choice of an operator committed to these expectations through the contracting process when two or more prospective operators are otherwise similar in their abilities and characteristics.

Reporting Requirements

On a regular basis, following the issuance, evaluation, and selection of operators pursuant to Request for Proposal or Competitive Evaluation processes, staff shall report to the Commission on how effectively these directives are being met and whether staff believes any adjustments to future criteria or weighting in solicitations is appropriate to meet the Commission's strategic direction as set forth in this Motion.

During the implementation of the ADR program, the Commission at its discretion may choose to retain an independent consultant to advise it on the effectiveness of the program in meeting the Commission's goals set forth in this motion, and on any additional strategies that the Commission may consider in ensuring achievement of those goals.