



ASSOCIATED GENERAL CONTRACTORS of WASHINGTON

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Port Commissioners: Creighton, Albro, Bowman, Felleman and Gregoire

AGCWA recently received the "Final Draft" of the Construction Labor Resolution. Disappointingly, the Resolution doesn't address any of AGCWA's major concerns communicated to the Commission and staff over the past nine months:

- Including contractors at the table to negotiate the terms and conditions of PLA projects for which they are held accountable.
- Creating equal access to Port contracts for all contractors and their workers regardless of union affiliation or not.
- Using comprehensive criteria to single out projects that may be appropriate for a PLA rather than relying on an arbitrary threshold that catches too many projects.

Therefore, we request Section III be amended by adding a new paragraph C to read as follows:

C. If the criteria weigh in favor of a PLA, a PLA template negotiated by the Port, contractors and the unions will be executed for the project. (See attached amended Resolution 3725)

This will allow contractors to advocate for the issues not addressed by the Resolution. If contractors are not at the table, these issues will not be addressed.

Further the Resolution inadvertently omits the "**cost and duration**" criteria included in the staff memo. These important criteria should be added to the Resolution.

I look forward to your consideration of this request and its inclusion of these provisions in the next draft of the resolution. Thank you.

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Draft Resolution No. 3725

A Resolution of the Port of Seattle Commission establishing a Policy Directive for practices for construction labor for projects located on Port property

WHEREAS, the Washington State Legislature in 1911 authorized local voters to create publicly owned and managed port districts as independent government bodies run by directly elected port commissioners with powers to acquire and manage resources that promote trade and commerce; and

WHEREAS, constructed transportation, industrial and administrative facilities such as terminals, roads, berths, runways, warehouses, parking garages and warehouses are critical to accomplishing the Port's transportation and economic development missions; and

WHEREAS, expanding and diversifying operations as well as need for facilities renewal and replacement drive an ongoing Port program of capital development; and

WHEREAS, effective and economical execution of the Port's capital program depends on a healthy and diverse market of general contractors, subcontractors and suppliers; and

WHEREAS, to ensure diverse competition and provide fair access to economic opportunity that market should include small, minority-owned and women-owned businesses who successfully compete for a share of direct and subcontracted Port construction work; and

WHEREAS, Port capital program success depends also on availability of a skilled, experienced, capable construction labor workforce; and

WHEREAS, Project Labor Agreements can help ensure construction workplace safety; and

WHEREAS, to meet labor supply needs and to ensure equality of opportunity the construction labor workforce should encourage participation by women and minorities; and

WHEREAS, for timely and efficient delivery of construction projects the Port has an interest in avoiding work stoppages; and

WHEREAS, in helping create economic prosperity across the region, it is important that the jobs generated by Port activity are quality jobs on which workers can build their careers and support their families; and

WHEREAS, apprenticeship and pre-apprenticeship programs play a key role both in providing access for individuals aspiring to good construction jobs and in supplying sufficient trained and capable labor to meet the construction needs of the Port and other public and private facilities owners; and

WHEREAS, RCW 39.12 requires the payment of prevailing wages on all public works contracts of government entities such as the Port; and

WHEREAS, some projects constructed on Port property are contracted for by the Port under the provisions of RCW 39.04 and other applicable statutes, some projects are contracted for by Port lease tenants with all or part of the cost reimbursed by the Port and some are constructed entirely at the cost of Port tenants; and

WHEREAS, Project Labor Agreements (PLA), also known as Community Workforce Agreements (CWA), authorized under the National Labor Relations Act (NLRA), 29 U.S.C., provide a means for aligning the interests of public owners such as the Port with those of construction labor unions; and

WHEREAS, The Port of Seattle Commission and the CEO together develop Policy Directives as stated under Section 1(A)(2) of the General Delegation of Authority, which Policy Directives, under section (B)(1)(2) and (3), are intended to provide guidance, inform operations, and deliver standards that support the effective use of internal audit functions to verify compliance;

NOW, THEREFORE, BE IT RESOLVED by the Port Commission of the Port of Seattle as follows:

Section 1:

The following Policy Directive related to practices for construction labor for projects located on Port property is hereby adopted.

Section I. For major construction contracts (excluding small works executed per RCW 39.04.155):

- A. **The** Port shall evaluate the applicability of a project labor agreement (PLA) for **each contract** according to the following criteria:
 1. The assumption will be in favor of employing a PLA when projected construction labor costs are \$5 million or greater
 2. Project needs for labor continuity and stability, including analysis of labor needs by trade
 3. Project complexity, **cost and duration**
 4. Value of having uniform working conditions
 5. Potential impact of PLA on small business opportunities
 6. Past labor disputes or issues indicating risk of delay
 7. Potential PLA impact on project cost

8. Project presents specific safety concerns to the public
 9. Value of an established PLA grievance process to resolve labor management or jurisdictional disputes
 10. Other considerations (identify)
- B. The Port shall require the payment and reporting of prevailing wages per RCW and State Department of Labor and Industries requirements.
 - C. **If the criteria weigh in favor of a PLA, a PLA template negotiated by the Port, contractors and the unions will be executed for the project.**
 - D. Commission approval is needed to employ a PLA.
 - E. For contracts \$1 million in value or greater, as part of a regional cooperative program:
 1. Establish in contracts and PLAs appropriate apprentice and locality hiring goals.
 2. Establish in contracts and PLAs appropriate aspirational women and minority apprentice hiring goals.

Section II. For tenant-administered construction contracts paid for entirely or in part by the Port through tenant reimbursement or other means, the Port shall:

- A. Encourage tenants to examine the applicability of a PLA for each contract according to the criteria in Section I(A) above.
- B. As a condition of cost reimbursement, require the payment and reporting of prevailing wages as per RCW and State Department of Labor and Industries requirements.
- C. For contracts \$1 million in value or greater, as part of a regional cooperative program:
 1. Require the establishment in contracts and PLAs of appropriate apprentice hiring goals.
 2. Encourage the establishment in contracts and PLAs appropriate locality hiring and aspirational women and minority apprentice hiring goals.

Section III. For construction contracts performed on Port property at the full cost of tenants, the Port shall:

- A. Encourage tenants to examine the applicability of a PLA for each contract according to the criteria in Section I(A) above.
- B. As a provision of initial requests for proposal or opening negotiations, as appropriate:
 1. As a lease provision, require the payment and reporting of prevailing wages as per RCW and State Department of Labor and Industries requirements.
 2. For contracts \$1 million in value or greater, as part of a regional cooperative program:
 - a. Require the establishment in contracts and PLAs of appropriate apprentice hiring goals.
 - b. Encourage the establishment in contracts and PLAs appropriate locality hiring and aspirational women and minority apprentice hiring goals.

- C. If an advertised or negotiated development opportunity featuring the above provisions fails to attract proposers, staff shall take the following actions:
1. Investigate the circumstances, to include discussions with potential proposers and labor.
 2. Modify the construction labor provisions to be used in the request for proposal or lease amendment to include scoring provisions for each criterion in Section III(B) above.

Section IV. In each case above, the Port will establish reliable, auditable, and disclosable measures to ensure compliance.

Section 2:

This Policy Directive shall be labeled and codified as appropriate, together with subsequent Policy Directives, and shall be made readily available for use by Port staff and members of the public as a governance document of the Port of Seattle.

ADOPTED by the Port Commission of the Port of Seattle at a duly noticed meeting thereof, held this ___ day of _____, 2016, and duly authenticated in open session by the signatures of the Commissioners voting in favor thereof and the **seal** of the Commission.

Port Commission