



**COMMISSION
AGENDA MEMORANDUM**

Item No. 6c

ACTION ITEM

Date of Meeting December 19, 2017

DATE: December 14, 2017
TO: Port of Seattle Commission
FROM: Aaron Pritchard, Commission Policy Manager
SUBJECT: Diversity in Contracting Policy Directive

ACTION REQUESTED

Request Commission to vote on Amendments to the First Reading of Resolution 3737, the Diversity and Contracting Policy Directive and to vote on Second Reading of Resolution 3737.

EXECUTIVE SUMMARY

Below are fourteen proposed Amendments to the First reading of Resolution 3737. The Amendments are categorized as Technical Amendments, Minor Amendments, and Amendments.

- Technical Amendments fix any clerical errors or add clarity and are non-controversial.
- Minor amendments significantly change language in the resolution to add clarity and/or have some impact on the Diversity in Contracting Program and are non-controversial.
- Amendments include broad changes from first reading and/or have been subject to significant Commission discussion.

Key to reviewing proposed Amendments:

- If a whole section is struck, it is noted by the line numbers and the new language is in this memo.
- If a words or phrase is struck, it has strikethrough and is highlighted in red.
- If new language is added it is underlined and in red.

DIVERSITY IN CONTRACTING AMENDMENT REVIEW

Technical Amendments – Proposed by Commission Staff

Technical Amendment 1 – Commission Staff

Purpose: Clarify meaning

Line 92, Strike Lines 92 - 94 and insert “controlled businesses in Port Contracting for public works, consulting services, supplies, material, equipment, other services to create the opportunity to leverage Port spend to increase WMBE utilization.”

Line 208 , Strike Lines 208- 209 and Insert “To improve inclusion and outreach to sustain and improve WMBE participation in Port contracts, the Port shall:”

Technical Amendment 2 – Commission Staff

Purpose: Explicit statement of Federal supremacy to clarify applicability of WMBE policy.

Line 280, Page 7, Strike Lines 280 – 286 and insert:

“(5) In applying the provisions of this Policy Directive to Contracts funded in whole or in part with federal funds and subject to 49 CFR Part 23, Subpart D, regarding Airport Concessions Disadvantaged Business Enterprises (ACDBE) or 49 CFR 26, Subpart C, regarding Disadvantaged Business Enterprises (DBE), references to Women and Minority Businesses shall also include federally recognized ACDBE’s or DBE’s. In the event of a conflict between the provisions of this chapter, or the rules implementing this Policy Directive, and the requirements of 49 CFR 26, Subpart C or 49 CFR Part 23, Subpart D, or any other superseding applicable federal statute or regulation, the provisions of the federal statute or regulation shall control.”

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Technical Amendment 3 – Commission Staff

Purpose: Add a Definition to clarify responsibilities, used on line 195.

Line 117, page 3, Insert: “Contract awarding authority” means any individual, office, or division that is receiving the benefit of the Contract.

Technical Amendment 4 – Commission Staff

Purpose: Consistent Language

Line 192, Page 5, Strike “annual WMBE plan” and insert Diversity in Contracting Annual Plan to read:

“B. As instructed by the ~~annual WMBE plan~~ Diversity in Contracting Annual Plan,”

Line 319, Page 8, Strike “Women and Minority Business Enterprise Utilization and Participation Annual Report” and insert “Diversity in Contracting Annual Report” to read:

“(5) Preparation and publication of an annual report titled ~~Women and Minority Business Enterprise Utilization and Participation~~ Diversity in Contracting Annual Report Report.”

Line 196, page 5, strike Women and Minority Businesses and Insert “WMBE’s” to read:

“(1) Specific measures the Contract awarding authority will undertake to increase the utilization of ~~Women and Minority Businesses~~ WMBE’s.”

Minor Amendments

Minor Amendment 5 – Proposed by Gregoire and Albro

Purpose: Eliminate the phrase “covered contracts” to be explicit that this policy shall cover all contracts.

Line 139 Page 4: strike the word “covered” to read:

“This policy shall apply to all ~~covered~~ Contracts and other activities at the Port, including construction and consulting Contracts, purchased goods and services.”

Line 181 Page 5: Add the word “Identify” before categories and strike the word “covered” to read:

“(3) Identify categories of ~~covered~~ Contracts that will require WMBE Inclusion Plans and other tools, if applicable, that will be applied to other categories of Contracts Port-wide.”

Minor Amendment 6 - Proposed by Bowman

Purpose: Raise profile of the five-year goals

Line 147, page 4. Strike lines 147 – 152 and insert:

“A. Achieve the goal to triple the number of WMBE firms that Contract with the Port and increase to 15% the percentage of dollars spent on WMBE Contracts, within five years of the Diversity in Contracting program implementation.

B. Within 120 days of passage of this Policy Directive, develop a Diversity in Contracting Program that identifies affirmative efforts to afford Women and Minority Businesses the maximum practicable opportunity to meaningfully participate on Port Contracts and to achieve the Port-wide goals.”

Minor Amendment 7 – Felleman

Purpose: Add Whereas to highlight internal work the Port is undertaking to improve Diversity and Inclusion for Port employees.

Line 50, page 2, Insert: WHEREAS the Port of Seattle values a diverse workforce and has engaged in improving diversity and inclusion focused on race and expects to develop a new equity process tool designed to integrate explicit consideration of racial inequities and identification of interventions for use in policy, program, and budget planning and implementation.

Minor Amendment 3 – Executive Staff

Line 192, Page 5, Strike lines 192 – 193 and Insert:

- B. The Diversity in Contracting Annual Plan shall include:

Amendments

Amendment 8 – Albro

Purpose: Conforming Policy Directive to Century Agenda Motion, only needed if Century Agenda Motion passes.

Line 149, Page 4, Strike lines 150 – 152.

Line 149, Page 4 after “and” Insert: “to achieve the Port’s Century Agenda goals.”

- A. Within 120 days of passage of this Policy Directive, develop a Diversity in Contracting Program that identifies affirmative efforts to afford Women and Minority Businesses the maximum practicable opportunity to meaningfully participate on Port Contracts and to achieve the Port’s Century Agenda goals. ~~and achieve the goal to triple the number of WMBE firms that Contract with the Port and increase to 15% the percentage of dollars spent on WMBE Contracts, within five years of program~~

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~~implementation.~~

Amendment 9 – Proposed by Gregoire and Albro

Purpose: To require staff to tie outreach to disparity gaps identified by relevant demographic data and disparity study.

Line 160, page 4, Insert “and to reduce disparity” to read:

“C. Improve inclusion and outreach to sustain and improve WMBE participation and to reduce disparity in Port contracting;” and

Line 196, page 5, Insert “and to reduce disparity” to read:

“(1) Specific measures the Contract awarding authority will undertake to increase the utilization of Women and Minority Businesses and to reduce disparity in Port contracting.” and

Line 208, page 5, Insert “and to reduce disparity” to read:

“C. Improve inclusion and outreach to sustain and improve WMBE participation and to reduce disparity in Port contracting;” and

Line 308, page 8, Insert “and to reduce disparities” to read:

“(2) Specific measures the Contract awarding authority will undertake to increase the participation of Women and Minority Businesses and to reduce disparities; including the number of events or outreach activities conducted to ensure responsiveness to bid opportunities.”

Amendment 10 – Proposed by Bowman

Purpose: To increase certification through partnerships with government entities

Line 229, Page 6, Insert:

“(5) Cooperate and establish formal and/or informal partnerships and

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mutual cooperation with the Office of Minority and Women’s Business Enterprise and other public agencies to increase WMBE certification;”

Amendment 11 – Proposed by Albro

Purpose: To create a process linked to goals for increasing certified firms contracting with the Port.

Line 298, Section F., Page 7, Insert:

“(3) The Port shall only count a self-identified WMBE towards achieving Port-wide goals for the first year of any contract received by a WMBE, except in the case that a firm cannot be certified because of citizenship status.”

Amendment 12 – Proposed by Albro

Purpose: Require that only WMBE’s certified by the State of Washington Office of Women and Minority Business Enterprise can be counted towards Port-wide goals.

Line 131, Page 4, Strike “self-reported and/or” to read:

“Relevant demographic data” is defined as characteristic information related to a business owner’s sex/gender, race, ethnicity or veteran status as ~~self-reported and/or~~ certified by another government entity.” and

Line 150, Page 4, Insert “certified” before WMBE; and

Line 151, Page 4, Insert “certified” before WMBE; to read:

“A. Within 120 days of passage of this Policy Directive, develop a Diversity in Contracting Program that identifies affirmative efforts to afford Women and Minority Businesses the maximum practicable opportunity to meaningfully participate on Port Contracts and achieve the goal to triple the number of certified WMBE firms that Contract with the Port and increase to 15% the percentage of dollars spent on certified WMBE Contracts, within five years of program implementation.” and

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Line 196, page 5, Insert “certified” before Women to read:

“(1) Specific measures the Contract awarding authority will undertake to increase the utilization of certified Women and Minority Businesses.”
and

Line 198, page 5, Insert “certified” before WMBE, to read:

“(1) Specific goals by Division for certified WMBE utilization:”

Amendment 13 – Proposed by Bowman and Gregoire

Purpose: Clarify how data will be disaggregated. Recommendation is to use disaggregation reflected in Port disparity study, which is based on Federal Disadvantaged Business Enterprise standards. Also clarifies that Port is collecting data with end goal of eliminating disparity. Adds attachment to policy with sample of how Port could display disaggregated data.

Strike Lines 130 to 132 Page 4, and Insert:

“Relevant demographic data” is defined as, but not limited to, Asian-Pacific Americans, Black Americans, Hispanic Americans, Native Americans, Asian, and Women, and other characteristic information related to a business owner’s sexual orientation, sex/gender, race, ethnicity or veteran status as self-reported and/or certified by another government entity, as deemed necessary or relevant to eliminating disparity in Port contracting” and

Add attachment (A) to Diversity in Contracting Policy Directive

Amendment 14 – Proposed by Albro

Purpose: To increase WMBE utilization in Project Labor Agreements by requiring WMBE utilization as a topic of standard language negotiations.

Line 298, Section F, page 7, Insert:

“(3) As part of the Port of Seattle Standard Language Negotiation the Port of Seattle staff shall work with Labor to seek input on best practices for increasing diversity on Port projects covered by the Project Labor Agreement.”

ATTACHMENTS TO THIS REQUEST

- (1) First Reading of Resolution No. 3737
- (2) Attachment A – Sample Data Set

PREVIOUS COMMISSION ACTIONS OR BRIEFINGS [\[For information and examples, follow this link.\]](#)

December 12, 2017 - Women and Minority Business Enterprise Policy Review
December 5, 2017 - Women and Minority Business Enterprise Policy Review
November 28, 2017 –Women and Minority Business Enterprise Policy Review
October 24, 2017 - Women and Minority Business Enterprise Policy Review
July 12, 2017 – Commission Budget Priorities, Building Economic Opportunity in Underserved Communities
March 28, 2017 – Small Business Development Update
March 22, 2016 – Small Business Utilization briefing
December 14, 2014 – Disparity Study briefing
August 19, 2014 – Small Business Utilization briefing
January 26, 2010 – Adoption of Resolution No. 3618 concerning small business utilization