

# Final Review of Proposed Changes to Resolution No. 3605

Second Reading  
and Final Passage  
of  
Resolution No. 3628  
November 3, 2009

# Follow-up to First Reading

- Sent draft version of Resolution No. 3605 out to stakeholders – Century Agenda panelists, Associated General Contractors, Municipal League, League of Women Voters, Port of Seattle major tenants and customers, and other interested parties. Received favorable feedback from stakeholders, though little substantive comment.
- Posted draft version to the Port of Seattle Internet for extended public comment period from September 17 to October 26, 2009.
- Received Commission and Executive final feedback on proposed changes to Resolution No. 3605.
- Made final edits to Resolution No. 3605.

- Revising language on a Resolution review period
- Replacing and clarifying the term “Authorized Budget Limits”
- Requiring changes in law that affect Resolution No. 3605 to be reviewed and approved by Commission before implementation
- Raising Commission authorization levels on most contracting from \$200,000 to \$300,000



- Revising notification procedures for change orders on contracts over \$300,000
- Adding new language on approving Competition Waivers
- Adding new language to Section 7.1., Personal Services
- Raising Commission authorization levels on purchased goods from \$200,000 to \$300,000
- Adding language for Section 7.3: Goods and Purchased Services, to address a possible “Critical Work” situation

## Resolution No. 3605 Changes for Review

- Setting Commission authorization levels for maintenance work at \$300,000
- Adding language on retaining legal counsel
- Editing language for clarity
  - Section 4.2.3.3: Project Changes
  - Section 4.2.3.8.: Change Orders and Section 4.4., Small Works Change Orders.
  - Section 20.2.: “Best Bid” definition
  - Section 7.7.4.: Audit and Accounting Services
  - Section 16: Equal Employment Opportunity

## Raising most authorization levels for Commission approval to \$300,000

- \$200,000 level was holdover from Resolution No. 3181, passed in 1994
- Based on the past year, relatively few projects or contracts in the \$200,000 to \$300,000 range
- Beneficial to have a consistent level of \$300,000 for all contracts
- Dollar amount for Small Works contracts raised from \$200,000 to \$300,000 during the 2009 Legislative session



- Gives CEO authority to procure “Goods and Purchased Services” up to \$300,000, raised from current amount of \$200,000
- Reflects periodic necessity to make major bulk purchases of materials for the day-to-day operation of the Port
- Allows Port to buy in bulk the goods and services it needs for day-to-day operations and provides cost-savings

# Goods and Purchased Services

Year	2007	2008	2009 (Jul)
Total Purchases	3286	3895	2894
>\$200k	22	27	18
>\$300k	14	17	14
>\$500k	7	10	4



## Authorizing maintenance work up to \$300,000

- Gives CEO authority for expense maintenance work, whether performed by Port crews or by contract, that is not a public work or non-public work project, up to \$300,000
- Provides consistency for maintenance work that can't be considered as a capital project or does not fall under the state statute of maintenance
- No public or non-public work, including projects, included under this section

## Removal/replacement of “within Authorized Budget Limits”

- Section 1.5: Removal and replacement of “within Authorized Budget Limits” passage. Term was a undefined holdover from Resolution No. 3181
- New Section 1.8: Grants CEO authority “in a manner consistent with the Port’s Annual Operating Budget, Annually Approved Capital Budget and Annually Approved Capital Improvement Plan.”
- Grants CEO authority to reallocate amounts and incur variances from the Annual Operating Budget

## Removal/replacement of “within Authorized Budget Limits”

- Quarterly reports to Commission on actual results versus budgeted amounts for both revenues and expenses
- More frequently if “a material, negative variance from the Annual Operating Budget, Annually Approved Capital Budget or Annually Approved Capital Improvement Plan.”
- When seeking project approval, staff indicates whether project is within Annually Approved Capital Budget and Annually Approved Capital Improvement Plan and, if not, what is funding source



- Adding language for Section 7.3: Goods & Purchased Services to address a possible “Critical Work” situation
- Delegating authority to CEO to commit up to \$500,000 if Commission unavailable
- Consistent with Sections 4 and 5 (public and non-public work projects)

- CEO authorized to approve competition waivers
  - Precedent: State laws authorize agencies to waive competition requirements under defined circumstances
  - Only one source for the service or product, or
  - Only source for the service or product is proprietary in nature, or
  - Only one source for the service or product that is compatible with existing Port infrastructure, or required for inter-operability, or

- Waiver is necessary to authorize work with a contractor or service provider who has exclusive knowledge provided during a prior phase of the contract or project.
- Notification of all such waivers shall be provided to the Commission prior to the proposed starting date of the contract or purchase, and will include the exact justification for the waiver.
- Commission would still approve sole source contracts above \$300,000



# Section 7.1 Personal Services

- Adds and re-writes language
  - The POS procurement policy, in accordance with RCW 53.19.090., promotes full and open competition, transparent procurement practices, opportunities for small businesses, and compliance with all laws
  - The CEO authorized to amend service agreements if fee increase associated with the amendment is less than or equal to \$300,000. All amendments over that amount require Commission approval.
  - The Commission must be notified of any amendment or amendments to personal service contracts prior to the proposed starting date of service if the value of the amendment(s) exceeds 50% of the original contract.

# Retention of legal counsel

- Allows, but not mandates, CEO to retain counsel for Port officers and employees without Commission approval
- Allows Commission, CEO, and other managers and employees right to individual counsel
- Not applicable to matters alleging fraud or criminal behavior

# Review period

- Commission assigned an original review period of 12 to 18 months after passage of Resolution
- No subsequent review assigned
- Review “within two years or sooner if Legislative changes in contracting practices or related matters require Commission review.”



- Section 5: Non-public Work Projects
- Change Orders and Small Works Change Orders
- “Best Bid” definition

- Project Changes
- Audit and Accounting Services
- Affirmative Action – Protected categories broadened and renamed