

Review of Proposed Changes to Resolution No. 3605

First Reading

September 17, 2009

- Raising Commission authorization levels on most contracting from \$200,000 to \$300,000
- Raising Commission authorization levels on purchased goods from \$200,000 to \$500,000
- Setting Commission authorization levels for maintenance work at \$500,000
- Replacing and clarifying the term “Authorized Budget Limits”

- Adding language for Section 7.3: Goods and Purchased Services, to address a possible “Critical Work” situation
- Adding language on approving competition waivers
- Retaining legal counsel
- Providing review period
- Editing language for clarity

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.
- Changes in RCWs by the Washington State Legislature that affect Small Works contracting would be reviewed and approved by Commission

- Gives CEO authority to procure “Goods and Purchased Services” up to \$500,000, 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 \$500,000

- 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 \$500,000
- 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)

Approving competition waivers

- CEO authorized to approve competition waivers consistent with applicable laws
 - Precedent: State laws authorize agencies to waive competition requirements or specify brand-name products under defined circumstances
 - Detailed technical nature and lack of advance warning of these actions argues for delegation of authority to CEO
 - Use authority sparingly, adhere to the letter and intent of the law, develop procedures and document such decisions thoroughly

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 three years or sooner if Legislative changes in contracting practices or related matters require Commission review.”

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

- Project Changes
- Personal Services
- Audit and Accounting Services
- Affirmative Action

Next steps

- Send draft version of Resolution No. 3605 out to stakeholders – Century Agenda panelists, Association of General Contractors, Municipal League
- Post draft version to the Port of Seattle Internet for 30-day comment period from September 17 to October 19, 2009
- Receive Commission, Executive and stakeholder final feedback on proposed changes to Resolution No. 3605
- Make final edits to Resolution No. 3605
- Return sometime in October for Second Reading/Final Passage of the amended Resolution No. 3605