

PORT OF SEATTLE
MEMORANDUM

COMMISSION AGENDA

Item No. 6a

CORRECTED COPY - TYPOS

Date of Meeting December 15, 2009

DATE: December 9, 2009

TO: Tay Yoshitani, Chief Executive Officer

FROM: Ralph Graves, Managing Director, Capital Development
Elaine Ko, Director, Office of Social Responsibility

SUBJECT: 2010 Contracts for "Port Jobs"

AMOUNT OF THIS REQUEST: \$607,000

SOURCE OF FUNDS: Tax Levy, general operating funds and 20 cent contractor payment

ACTION REQUESTED:

Request that the Commission 1) exercise its authority under State law (RCW 53.19.202(5)) to exempt from competition procurement of certain services from the 501(c)(3) non-profit organization Port Jobs (PJ) for calendar year 2010 and 2) authorize the Chief Executive Officer to enter into two new or amended one-year contracts with Port Jobs for 2010, at an approximate cost of \$607,000.

SYNOPSIS:

The Commission can A) Make a determination that a competitive solicitation process is not appropriate or cost effective in accordance with RCW 53.19.020 (5), thereby exempting procurement of certain services provided by (PJ) from the requirements of Chapter 53.19 RCW and B) Delegate authority to the Chief Executive Officer (CEO) to enter into two one-year new or amended service contracts with PJ by January 1, 2010, for the calendar year 2010 to perform: (1) operational and program support for the Airport Jobs at the Seattle-Tacoma International Airport valued at \$165,000; (2) specific workforce and research programs directly related to Port-specific economic development objectives, including special outreach and training programs, case management, and applied research and policy support. valued at an estimated \$200,000, plus the 20 cent per labor hour pre-apprentice receipts on Port construction contracts (estimated at \$120,000); and (3) provision in the contracts of in-kind support for PJ's use of Port office space, computers and office equipment valued at \$122,000 per year. The total value of the two contracts is estimated at approximately \$607,000, including the 20 cents per hour pre-apprentice receipts and in-kind support. The tax levy will fund \$46,000 of this contract with the remainder funded by general operating funds and the 20 cent contractor payment.

BACKGROUND:

In 1993, the Port spearheaded the creation of Port Jobs (PJ), a 501(c)(3) nonprofit organization, and we are the organization's single largest funding source. The Port provides 30 to 35 percent of PJ's annual revenue, as well as significant in-kind support in the form of office space, supplies and equipment. The Port's funding also leverages other funding and assistance provided by public and private donors. Port Jobs was created to develop strategies to employ more skilled workers in Port-related businesses and to create opportunities for those under-represented in such jobs. The Commission has always

COMMISSION AGENDA

Tay Yoshitani, Chief Executive Officer

December 9, 2009

Page 2 of 4

viewed Port Jobs as an investment that supports the creation of family-wage industrial jobs and workforce training in the aviation and maritime sectors in King County and as a program that promotes economic development.

In 2008, the Commission made a reasoned determination to exempt competitive solicitation requirements in accordance with RCW 53.19.020 (5) for the services related to the PJ contracts. This exemption covered 2008 and 2009, and the Commission directed reconsideration of this determination beyond 2009. The current PJ contracts expire on December 31, 2009, and require the Commission's consideration before the end of the year to be amended or replaced.

The State Auditor's Office (SAO) reviewed the Port's contracts with Port Jobs as part of the 2009 compliance audit. The SAO's finding and recommendations have not been publicly released yet.

SERVICES PROVIDED BY THE NON-PROFIT ORGANIZATION PORT JOBS:

Port Jobs, as it is currently structured, is comprised of four distinct services:

1. Airport Jobs;
2. Educational, outreach and training programs;
3. Apprenticeship Opportunities Project and
4. Policy and applied research.

Airport Jobs includes: (a) Outreach and direct employment services to match job seekers and airport employers at a central location in the airport, development and maintenance of a public website and database, participation in outreach events and job fairs, and specialized recruitment for target employers with extraordinary and unique needs and (b) Training instruction on airport functions, operations, and safety for English-as-a-Second-Language individuals (English Language Learners) who are required to complete/pass badge-related training courses¹. This program serves 7,000 – 10,000 visitors annually and provides assistance to 100 Sea-Tac Airport-related employers.

Education, outreach and training programs (not related to Airport Jobs) include administrative support for a wide variety of educational and training programs funded by other donors, including but not limited to Airport University, Financial Tools for the Trades, career-workplace exploration in the skilled trades, free income tax preparation, C-West for high school students, and college scholarship support.

The Apprenticeship Opportunities Project is a program which is funded through Port construction contractors whose contracts are valued at more than \$1 million dollars or whose contracts are covered by the Project Labor Agreement. These contractors pay the non-profit organization Port Jobs twenty cents per labor hour, and PJ directs this funding into the Apprenticeship Opportunities Project. The program provides support services, such as tools, work boots, tuition support, career exploration, and job placement assistance, to aspiring low-income apprentices. Currently, PJ contracts with the non-profit agency "Apprenticeships and Non-Traditional Employment for Women" (ANEW) for these services. ANEW provides these services to both men and women.

¹ These requirements relate to Security Identification Display Areas (SIDA), Airport Operations Area (AOA), and Airport Movement Area (AMA).

COMMISSION AGENDA

Tay Yoshitani, Chief Executive Officer

December 9, 2009

Page 3 of 4

Applied research and policy includes research related to Port and/or Airport employment, i.e., “green economy” jobs; identification of growth industries, occupations and retention strategies; and recommendations for pathways to earning living wage jobs.

JUSTIFICATION FOR THE EXEMPTION FROM COMPETITIVE SOLICITATION (RCW 53.19.202(5)):

The contracts with PJ described in this memo are subject to Chapter 53.19 RCW, which requires “open competition for all personal service contracts entered into by port districts unless specifically exempted under this Chapter [53.19].” Unless these contracts, which expire on December 31, 2009, fall under one of the five exemptions in RCW 53.19.020, they are be subject to “competitive solicitation” – defined as “a documented formal process providing an equal and open opportunity to qualified parties and culminating in a selection based on criteria, in which criteria other than price may be the primary basis for consideration.”

RCW 53.19.020 lists five exemptions from competitive solicitation. The fifth exemption is for “[o]ther contracts or classes or groups of contracts exempted from the competitive solicitation process by the commission when it has been determined that a competitive solicitation process is not appropriate or cost-effective.” RCW 53.19.020(5).

For PJ’s contracts to fall under the exemption in RCW 53.19.020(5), the Commission must make a reasoned determination that the competitive solicitation process would not be appropriate or cost effective to obtain the services that PJ currently provides. In making the determination as to whether the contracts are exempt from competitive solicitation requirements, the Commission can avoid acting arbitrarily and capriciously by noting and discussing relevant facts and circumstances.

In accordance with RCW 53.19.020(5), to justify a competition exemption, the Commission will need to determine that “a competitive process is not appropriate or cost effective.” In reviewing this issue, the Commission may establish that a reasonable basis exists in its discussion and evaluation of all of the relevant facts and circumstances, including wider policy considerations, to exempt the contracts with the non-profit organization Port Jobs from competition in 2010.

Such considerations could include: a) the Commission’s commitment to continuing support of workforce development and job creation as a core mission of the Port during 2010, bearing in mind that these services will be even more essential in 2010, especially as the economy recovers; b) the Commission’s desire to consider the findings and respond to the SAO’s recommendations about the Port’s contracts with non-profit organization Port Jobs when the compliance audit is released; c) the Commission’s determination that the entire workforce development program should be reviewed for effectiveness and relevance in light of current economic conditions and apprenticeship opportunities; d) the Commission’s preference not to disrupt the current programs until the complete programmatic review is finished; and e) the Commission’s recognition that a Request for Proposal (RFP) can be issued by mid-2010 for the programs the Port wishes to continue to fund under its workforce development program.

COMMISSION AGENDA

Tay Yoshitani, Chief Executive Officer

December 9, 2009

Page 4 of 4

OTHER CONSIDERATIONS:

If the recommended contracts are authorized for 2010, the Port will carefully review the scope of services required by the contracts to ensure that the deliverables are specific, as was done in 2009, and will continue to ensure that adequate documentation of services provided is presented prior to payment under the contracts. The contracts will also state that 1) any policy and applied research not specifically listed as a deliverable in the contract will be approved in advance by the Office of Social Responsibility (OSR); 2) the 20 cent per hour contractor payment will be broken out by program component and included in the quarterly reports PJ provides to the Port; and 3) OSR and the non-profit organization Port Jobs will brief the Commission in public session during the first quarter of 2010, specifically reviewing the 2009 program and program results. These three requirements will be added to the 2010 Port Jobs contracts.

PROJECT SCHEDULE:

The current PJ contracts expire December 31, 2009. There must be new or amended contracts in place by January 1, 2010, for the non-profit organization Port Jobs to continue to receive funding and to occupy office space and use equipment and supplies provided by the Port.

If a competitive procurement process is undertaken for Airport Employment Services, it is estimated to take six months to allow sufficient time for proposal development, evaluations, selection, negotiation and a transition period.