

DRAFT
RESOLUTION No. 3618 (draft 12.16.09)

A RESOLUTION of the Port Commission of the Port of Seattle to establish a program that will develop mutually advantageous business relationships with small businesses including those owned and operated by people of color, women, people with disabilities, veterans, and the socio-economically disadvantaged.

WHEREAS, port districts have authority to engage in economic development programs; and

WHEREAS, it is in the Port's economic interest and social responsibility to encourage competition within the supply chain to increase the pool of qualified vendors; and

WHEREAS, the Port is committed to increase the utilization of small businesses through enhanced transparency, accountability, and to protect equal opportunity in all areas of business; and

WHEREAS, the Port established the Office of Social Responsibility ("OSR") in 2008, with one of its main objectives to assist small businesses;

NOW, THEREFORE, BE IT RESOLVED, by the Port Commission of the Port of Seattle, to update the Port's Small Business Initiative and rename it the Small Contractor and Supplier ("SCS") Program ("Program") as follows:

Section 1. SMALL CONTRACTOR AND SUPPLIER PROGRAM PURPOSE AND GOALS

The intent of the Program is to provide guidance and create a formal method for the Port and its contractors to expand opportunities to utilize Port-certified small businesses as prime contractors, sub-contractors and suppliers. The Program shall be conducted in compliance with federal and state statutes and grant requirements, and shall be consistent with all other Port policies and procedures.

The Program further seeks to encourage competition within the supply chain and to increase the pool of SCS firms utilized in Port procurements. The Program shall achieve these goals by expanding the Port's outreach efforts, providing opportunities to a broader pool of SCS firms, and supporting initiatives and programs that will enhance the growth and strengthen the capacity of SCS firms to work with the Port. OSR shall work with Port departments and external partners to promote inclusive practices and activities such as technical assistance and targeted outreach events.

All competitive processes shall be conducted in a manner that is consistent, fair, transparent and conducive to providing equal opportunities to SCS firms in Port procurements. In accordance with Initiative 200 (RCW 49.60.400), the Port shall not discriminate against, or grant preferential treatment to, any individual or group on the basis of race, sex, color, ethnicity, or national origin in the operation of public contracting. Initiative 200 prohibits awarding of contracts based on race or gender preference, therefore the Port shall establish voluntary goals for Minority and Women Business Enterprises (M/WBEs) in public contracting. In addition, the Port is committed to diversity and strongly encourages the use of SCS firms to include other socio-economically disadvantaged and diverse groups such as people with disabilities, veteran, veteran service disabled, lesbian, gay, bisexual, and transgender-owned businesses.

Specific goals of the Program will be to:

- a. Increase opportunity and utilization of SCS firms in Port procurements;
- b. Identify and reduce barriers to equal opportunity and participation by SCS firms in Port procurements and contracts;
- c. Develop comprehensive outreach and communication strategies to provide SCS firms an opportunity to participate in Port procurements and contracts;
- d. Engage and partner with other public and private entities to enhance resources and gather best practices;
- e. Develop, implement, and operate a system of data collection for the Program.

Section 2. PROGRAM ELEMENTS

- a. Pricing Incentive for Goods and Purchased Services:

The CEO shall develop a tool to give a 5% pricing incentive and to authorize a contract award to a SCS firm that is within 5% of the lowest price submitted by a non-SCS firm. This pricing incentive shall apply to goods and purchased services only where price is the determining factor. The incentive shall begin at the time the new Port SCS certification program is established, which is estimated to be first quarter of 2011.

- b. Small Contractor and Supplier Utilization Requirement:

The CEO shall be authorized to establish mandatory utilization requirements on major construction projects, professional and personal service, and purchased service contracts for SCS firms. The mandatory SCS utilization requirement may be used after careful review by OSR in collaboration with the requesting department representative and the Central Procurement Office (CPO), to determine if a small business utilization requirement is appropriate for a specific procurement. The factors to consider include whether there are sufficient subcontracting opportunities and a sufficient number of SCS firms available in the specific categories. The decision whether to apply small business utilization requirements for a specific procurement should be made as part of the acquisition planning for each project. This requirement shall be considered part of responsible bidder criteria rather than part of the responsiveness criteria. OSR shall monitor and ensure ongoing compliance with the small business utilization requirement throughout the duration of the contract.

- c. Evaluation Criteria for Utilization of Small Contractors and Suppliers

When using a proposal evaluation selection process (as opposed to low bid), the Port may make evaluation points available for proposals that commit to use SCS firms to perform work or meet SCS goals. This criterion may apply to purchased services and personal and professional services. OSR and the requesting department representative shall determine when to use evaluation points on a case-by-case basis.

- d. Utilization Procedures for Small Businesses in Personal and Professional Services Procurements (Category I only)

For procurements that follow Category I process (see Port Procedures, CPO-1), the Port shall select a small business provided there are at least three qualified and interested small businesses identified in the selected category or categories of work. If there are fewer than three qualified

and interested small firms in the appropriate category or categories of work, the Port does not require a small business to be selected. CPO requires the selection decision to be documented.

e. Small Business Size Standard and Port Certification:

Many of the national Small Business Administration (SBA) revenue size limits for small businesses are quite large and do not accurately reflect the actual revenue size range of our local small businesses. The Port hereby establishes a small business revenue size standard based on 50% of the current SBA size standard and a limit on personal net worth of \$750,000 of the business owner. (See SBA size standards as set forth in Title 13, Code of Federal Regulations, and Part 121.)

Section 3. IMPLEMENTATION ROLES AND RESPONSIBILITIES

The following individuals, divisions and departments of the Port will participate in the execution of the Program as follows:

- a. CEO - The CEO, or his/her designee, is authorized to execute, administer, and enforce the Program. The CEO will develop new procedures or amend existing procedures and goals to implement this Program. Procedures will include the process for investigating complaints or violations of the Program. The CEO may direct Port staff to develop and implement initiatives to expand opportunities for SCS firms when he or she determines it is in the Port's best interest to do so.
- b. Senior Executive Team – The Senior Executive Team shall take all necessary steps to educate Port staff about policies and procedures of the Program and shall ensure compliance through accountability measures. Each Senior Executive Team member shall use his/her best efforts to meet the goals of the Program.
- c. Office of Social Responsibility (“OSR”) – The CEO shall designate OSR to manage, execute, and monitor the Program. OSR shall work with the Port Divisions during the acquisition planning stage to establish appropriate strategies for competitive Port procurements for goods and purchased services, professional and personal services, and construction. OSR shall set annual Port-wide SCS participation goals and work with Divisions to set division-level goals and shall conduct education and training for Port managers and staff. OSR shall administer a Port certification process for SCS firms based on the size standard established by the CEO. OSR shall collaborate with community-based programs on business development and initiatives, technical assistance, outreach, and related policy issues.
- d. Capital Development Division (“CDD”) – The CDD, which includes the Central Procurement Office (CPO), Engineering, Port Construction Services, Aviation Project Management, and Seaport Project Management, shall work collaboratively with OSR to promote the SCS Program in Port procurement activities. CPO shall work collaboratively with OSR in developing and implementing specific procedures to carry out the intent of the Program.
- e. Divisions: All Port directors, managers, and procurement staff shall participate in education and training related to the Program. All Divisions shall work collaboratively with OSR to promote the Program in all Port procurement activities and shall work together to identify specific project SCS goals and/or utilization requirements and voluntary M/WBE goals.

Section 4. MONITORING AND REPORTING

- a. Monitoring and Reporting: The CEO shall require OSR to create the necessary tools to monitor and report activities associated with the Program.
- b. Annual Goal Setting: OSR shall assist Divisions in establishing SCS annual goals for each Division and shall monitor and track annual Port-wide goals.
- c. Annual Reports to the Port Commission and the CEO: OSR shall report annually to the Port Commission and the CEO about the Program's annual goal setting, monitoring and reporting of the Program. Reports on the Program's progress and results shall include results from outreach, programming, and community partnering efforts.
- d. Tracking: The Port currently tracks small businesses and certified M/WBEs and Disadvantaged Business Enterprises (DBE) participation as prime contractors and sub-contractors on major construction contracts and prime contractor participation only on professional/personal services and good/purchased services. Beginning in 2010, the OSR will take lead responsibility, work with the CPO and work with the requesting department representatives, for sub-contractor tracking on professional/personal services and goods/purchased services. In the future, the Port may track contract participation by ethnic group as well as collect data on other diverse and socio-economically disadvantaged groups such as veterans, veteran service disabled, persons with disabilities, lesbian, gay bisexual, and transgender individuals.

Section 5: VOLUNTARY GOALS FOR CERTIFIED MINORITY AND WOMEN BUSINESS ENTERPRISES (M/WBE)

The Port strongly encourages the utilization of diverse suppliers in all Port procurements and contracts which includes the participation of certified M/WBE.

Voluntary Goals for Certified M/WBE Who Are SCS Firms:

The CEO shall be authorized to establish voluntary M/WBE goals on major construction projects, professional and personal service contracts, and goods and purchased services. Because these M/WBE goals are purely voluntary, the success or failure of any particular project or procurement to reach the M/WBE goals shall not result in any benefit or penalties to the bidder or awarded firms.

Section 6. DEFINITIONS

- a. Small Contractor and Supplier (SCS) – Small businesses certified by the Port or King County that fall within a revenue size cap of 50% of SBA's national size standards as well as owner's personal net worth cap of \$750,000 (three year average).
- b. Minority Business Enterprise (MBE) – Businesses that are certified as Minority Business Enterprises as defined by the Washington State Office of Minority and Women Enterprises (OMWBE) as set forth in WAC 326-02-030(24).
- c. Women Business Enterprise (WBE) – Businesses that are certified as Women Business Enterprises as defined by OMWBE as set forth in WAC 326-020-030(41).

- d. Disadvantaged Business Enterprise (DBE) – DBEs are for-profit small businesses where socially and economically disadvantaged individuals own at least a 51% interest in the business and also control management and daily business operations. African Americans, Hispanics, Native Americans, Asian-Pacific, Subcontinent Asian Americans, and women are groups considered socially and economically disadvantaged. Other individuals can qualify as socially and economically disadvantaged on a case-by-case basis through the state Uniform Certification Program (UCP). In order to qualify as a DBE, a business must first be certified by the state through the state Uniform Certification Program (UCP).
- e. Small Business: The SBA 8(a) certification for socially and economically disadvantaged businesses is based on 100% of SBA’s size standards, which is used only in federal procurements. The Port’s current practice is to allow firms to ‘self-identify’ on all Port rosters that they are small businesses using 100% of the SBA’s size standards.
- f. Certification: The Port shall develop a SCS certification process to verify revenue size of the small business and the personal net worth of the small business owner. SCS firms that are certified M/WBEs will be counted for this Program, however, those firms whose revenues exceed the 50% size standard and whose personal net worth exceeds \$750,000, will not be included in the SCS Program. The Port may recognize other national certifications primarily for identification purposes (ex: NW Minority Business Council, National Women Business Enterprise Council, National Lesbian and Gay Chamber of Commerce’ Lesbian, Gay, Bisexual, Transgender Business Enterprise (LGBTBE) Certification).

ADOPTED by the Port Commission of the Port of Seattle this _____ day of 2010, and duly authenticated in open session by the signatures of the Commissioners voting in favor thereof and the Seal of the Commission duly affixed.

Port Commission