



COMMISSION
AGENDA MEMORANDUM

Item No.

9d

BRIEFING ITEM

Date of Meeting

June 12, 2018

DATE: May 4, 2018

TO: Stephen P. Metruck, Executive Director

FROM: Teresa Delicino, Director, Small Business Development Department
Nora Huey, Director, Central Procurement Office
Dave McFadden, Managing Director, Economic Development

SUBJECT: Diversity In Contracting Program

EXECUTIVE SUMMARY

On January 9, 2018, Port Commissioners adopted a new Diversity in Contracting policy, Resolution 3737 that drives equity in Port contracting. The new policy addresses historical disparities in women and minority business enterprise (WMBE) participation in Port contracting.

The Resolution required that the Executive Director shall “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.” This briefing updates the Commission on work done to develop the program and implement Resolution 3737, the Port’s new Diversity in Contracting (DIC) policy.

Staff has taken significant steps to develop the DIC program. At the same time, there are still some challenges and issues needing resolution as we implement the new program over the next 6-12 months.

The Port Commission established utilization goals for both the amount of contracting dollars paid to WMBE firms as well as the number of WMBE firms under contract to the Port:

5 year goals:

- 1) Triple the number of WMBE firms that contract with the Port
- 2) Increase to 15% the percentage of dollars spent on WMBE contracts

This new policy also directs the establishment of:

- Executive level accountability that drives performance across the Port
- Port-wide goal setting and reporting processes, requiring Divisions/Departments to establish Annual WMBE Plans that set aspirational goals and performance targets
- Clear lines of responsibility and accountability for implementation with designated WMBE liaisons for each division

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- Enhanced compliance and tracking of key performance objectives and incorporation of WMBE goals into the Port’s Long Range Plan
- Categories of contracts where inclusion plans and other tools will be used
- Implementation and monitoring procedures to ensure prompt payment and change order processes
- Expanded technical assistance for WMBE firms, coordination with external partners, and support for internal training to Port staff

Organization and Accountability:

Clear lines of responsibility are necessary to ensure smooth and consistent implementation of the Diversity in Contracting policy. Structural alignment and articulation of job functions that support tasks and roles is necessary for the success of this effort. As these roles and responsibilities become further detailed, recommendations to organizational structure and staff resources will follow, working with executive leadership to finalize roles and responsibilities, ownership and accountability, and address budgetary needs for new resources.

Completed	Actions Remaining	Timeline
<input checked="" type="checkbox"/> Discussed alignment with broader Port equity work	<input type="checkbox"/> Organizational charts and ownership structure defined	Q3 2018
<input checked="" type="checkbox"/> Evaluated organization models at City of Seattle and other jurisdictions	<input type="checkbox"/> Identify staff and resources needed for success	Q3 2018
<input checked="" type="checkbox"/> Completed evaluation of short term staffing needs	<input type="checkbox"/> Internal training for Port leadership on program, goals and requirements	Q4 2018
	<input type="checkbox"/> Management responsibilities and accountability defined	Q4 2018

Division Goal Setting and Annual Plans:

To establish aspirational goals by Division, “divisions” needed to be clarified and a strategy developed to ensure goal setting and reporting would align systematically. By utilizing existing processes, divisions can develop their Annual Plan (spend projections and engagement strategies) during the annual budget forecasting process. Division liaisons will provide critical support in establishing aspirational goals and developing engagement strategies. Development of data tracking and dashboard tools, aggregated and disaggregated by division and for the Port overall, has been initiated (see Monitoring, Reporting and Evaluation below)

Completed	Actions Remaining	Timeline
<ul style="list-style-type: none"> <input checked="" type="checkbox"/> “Divisions” have been defined <input checked="" type="checkbox"/> Spending tables and tracking tools are aligned with Divisions <input checked="" type="checkbox"/> Initiated process to link aspirational goal setting to budget process 	<ul style="list-style-type: none"> <input type="checkbox"/> Establish standardized goal setting methods and initiate internal education <input type="checkbox"/> Identify division liaisons and resources to support goal setting and inclusion efforts <input type="checkbox"/> Divisions/Departments establish DIC goals as part of budget process <input type="checkbox"/> Annual Plans and Port-Wide goals submitted <input type="checkbox"/> 	<ul style="list-style-type: none"> July 2018 Aug. - Oct. 2018 Q3 2018 Q4 2018 Jan. – Feb. 2019

Outreach, Supplier Diversity and Technical Assistance:

Development of an improved Supplier Database and Procurement System was approved by Commission in 2017 and is currently under development. This system will enable collection of demographic data (gender, race, etc.) and business data of vendors. Searchable and accessible to internal and external audiences the system will become a vehicle for identification of available firms, providing us the means to understand and manage our suppliers. To reach diverse communities, the Small Business Development department (SBD) coordinates educational opportunities, outreach events and communications while looking to expand offerings in cooperation with public partners and community agencies. Division liaisons shall also serve to support outreach, training, technical assistance and engagement between the Port and the business community. The development of procurement forecasting tools has enabled us to make opportunities visible to the business community.

Completed	Actions Remaining	Timeline
<ul style="list-style-type: none"> <input checked="" type="checkbox"/> Contact database and communications platform established <input checked="" type="checkbox"/> Expanded engagement with external agencies to support supplier diversity and outreach <input checked="" type="checkbox"/> Continued development of PortGen offerings <input checked="" type="checkbox"/> Current and future procurement opportunities have been made visible <input checked="" type="checkbox"/> Supplier/Vendor database in progress 	<ul style="list-style-type: none"> <input type="checkbox"/> Expand messaging and outreach <input type="checkbox"/> Develop collaborative offerings with resource partners <input type="checkbox"/> Establish quarterly community engagement (small business group) <input type="checkbox"/> Searchable database accessible internally and externally 	<ul style="list-style-type: none"> Q3 2018 Q3 - Q4 2018 Q4 2018 Q1 2019

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Monitoring, Reporting and Evaluation:

Staff has made significant strides to improve data integrity. Dashboard development for measuring utilization by division is underway which will enable quick assessment of progress toward goals, both aggregated and disaggregated by division and for the Port overall. Aspects of the Diversity in Contracting policy have been fully tied to the Long Range Plan as a reporting instrument. Human Resources has identified methods to support performance and accountability through existing tools such as EPerformance. Internal Audit is prepared to assess program efforts in their 2019 work plan.

Completed	Actions Remaining	Timeline
<input checked="" type="checkbox"/> Spending tables and tracking tools by Department/Division have been initiated	<input type="checkbox"/> Data dashboard and monitoring tools to be further developed	Q2-Q3 2018
<input checked="" type="checkbox"/> Process defined for ePerformance alignment to support accountability	<input type="checkbox"/> Compliance mechanisms, prompt pay and change order processes and roles to be further defined	Q2 – Q3 2018
<input checked="" type="checkbox"/> Diversity in Contracting elements have been tied to the Long Range Plan	<input type="checkbox"/> Internal and external visibility mechanisms to be developed to show progress	Q3 2018
	<input type="checkbox"/> Internal Audit to conduct programmatic assessment	Q4 2019

Contracting and Inclusion Plans:

The Central Procurement Office (CPO), working with Small Business, Legal, Capital Development and others, has developed a program that will implement Diversity in Contracting into construction, consulting, and purchasing procurements. The Port has good faith belief that the program described below is legal but recognizes there is risk that it may be challenged. This is a completely new approach for the Port that requires development of new systems and processes for implementation and compliance monitoring.

1. Major Construction Low Bid Procurements: As part of Contractor responsibility, Contractors must submit an acceptable inclusion plan or they will be rejected as not responsible. For each construction procurement, the Port will establish aspirational goals for MWBE utilization. The Contractor’s inclusion plan may either commit to meeting the aspirational goal or provide evidence of its affirmative efforts to use MWBE firms. Affirmative efforts mean that the bidder has taken necessary and reasonable steps to achieve the aspirational goal; mere pro forma efforts are not affirmative efforts. Commitment to the aspirational goal may be evidenced by commitment to utilize certain MWBE firms for specified work and/or commitment to a percentage of MWBE engagement in the performance of the contract. The inclusion plan will

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also identify a company representative who will address affirmative efforts during contract performance and issues such as prompt payment to all subcontractors.

2. Consulting & Other Service Type Procurements: The Port will establish aspirational goals for MWBE utilization on contracts where there is a reasonable expectation of subconsulting. Consultant will submit an inclusion plan with its proposal demonstrating commitment to meeting the aspirational goal. Commitment to the aspirational goal may be evidenced by commitment to utilize certain MWBE firms for specified work and/or commitment to a percentage of MWBE engagement in the performance of the contract. The inclusion plan will also identify a company representative who will address affirmative efforts during contract performance and issues such as prompt payment to all subcontractors. During the evaluation process, the Port will have the ability to discuss the inclusion plan and consultant may be given opportunity to provide revised inclusion plan.

3. Purchasing Card (P-Card) Procurements & Direct Buys: The port has a P-Card program for purchasing items less than \$5,000. P-Card purchases are decentralized and made by individuals throughout the Port. Direct Buys are procurements for less than \$50,000. CPO is responsible for all direct buys.

The Port will encourage P-Card Holders and CPO Buyers to purchase items from MWBE vendors directly. P-Card purchases and direct buy purchases are meant to be quick efficient means to buy low dollar value items. The Port does not mandate multiple quotes; however, the port may seek multiple quotes as a means to validate price reasonableness and maintain fiscal responsibility. In those circumstances, the Port must buy from the lowest priced vendor, provided items are similar quality and delivery. The Port cannot give an MWBE vendor priority over a lower prices non-MWBE firm.

4. Purchases Less Than \$150,000. Port policy directs CPO to seek three quotes for goods and services with a cost less than \$150,000. This type of purchase is often referred to as Three Quotes process. CPO will include MWBE vendors in the three quote process when we are aware of qualified MWBE vendors.

Completed	Actions Remaining	Timeline
<input checked="" type="checkbox"/> Inclusion plans for Construction and Service Agreements have been drafted	<input type="checkbox"/> Internal training on Procurement processes	Q3 2018
<input checked="" type="checkbox"/> A roll-out plan for inclusion plans has been defined	<input type="checkbox"/> Internal process education on inclusion plans	Q3 2018
<input checked="" type="checkbox"/> Payments for Category 1 procurements (under \$50,000) have been set to automatically pay upon receipt	<input type="checkbox"/> Community outreach and education	Q3 2018
	<input type="checkbox"/> Small and large procurements identified for pilot projects	Q3 2018

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ATTACHMENTS TO THIS BRIEFING

- (1) Presentation slides

PREVIOUS COMMISSION ACTIONS OR BRIEFINGS

January 9, 2018 – Diversity in Contracting 2nd reading policy & passage of resolution 3737
December 19, 2017 – Diversity in Contracting Policy Review
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