



**COMMISSION
AGENDA MEMORANDUM**

Item No. 10a

ACTION ITEM

Date of Meeting March 8, 2022

DATE : March 8, 2022

TO: Stephen P. Metruck, Executive Director

FROM: Sarah Cox, Senior Manager, AV Environment & Sustainability
Megan King, Senior Program Manager, AV Environment & Sustainability

SUBJECT: Contract to Provide Consulting Services for PFAS Investigation and Remediation Support

Amount of this request: \$10,000,000

ACTION REQUESTED

Request Commission authorization for the Executive Director to advertise and award a Professional Services Contract to provide investigation, remediation, and strategic support to address per- and polyfluoroalkyl substances (PFAS) on Port of Seattle (Port) properties and facilities.

EXECUTIVE SUMMARY

This contract will provide consulting support for investigations, assessments, remediation actions, and firefighting foam transition tasks associated with the presence of an emerging chemical group, Per- and Polyfluoroalkyl Substances (PFAS), at Port facilities. The Federal Aviation Administration (FAA) requires the use of PFAS- containing firefighting foam, known as aqueous film-forming foam (AFFF) for airport certification. Environmental impacts may be associated with historical use and release of AFFF. New PFAS regulations are in development at both the state and federal levels. Sufficient data has been collected to date to indicate actions may be required for compliance with new state and/or federal regulations following their finalization. This contract is required to provide Port Environmental staff with resources to address these forthcoming regulations. Funding is expected to be provided through a combination of options. Due to the number of unknowns around regulation and contamination extent, the long-term costs associated with investigation and cleanup cannot yet be reasonably estimated. This authorization will provide the contracting authority for up to \$10,000,000 however the Port is under no obligation to spend the authorized funds. Work will be scoped, negotiated, and funded as it becomes known, on a Service Directive basis. Environmental Remediation Liabilities are anticipated to be triggered in the next few years following an obligating event, such as a cleanup order from the Washington State Department of Ecology.

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JUSTIFICATION

PFAS are a group of man-made chemicals that have been in use in industrial and commercial products since the 1940s. PFAS are often referred to as “forever chemicals” because they break down very slowly, if at all. One product known to contain PFAS is aqueous film-forming foam (AFFF). AFFF is used for firefighting, primarily to extinguish fuel-based fires. All AFFFs contain PFAS. The Federal Aviation Administration (FAA) requires certified airports to use AFFF for firefighting (the Department of Defense (DOD) similarly requires use of AFFF at military installations). Over the past few years, AFFF at airports and military bases has been identified as the source of soil and/or groundwater contamination in communities near airports and military bases throughout the United States.

Over the past few years, regulatory agencies at the state and federal level have progressed with planning and rulemaking to address PFAS. Although progress is being made, there are still few states with laws in place, and there are no current federal standards or regulation of PFAS. Additionally, the FAA and DOD still require use of AFFF, and do not allow for use of fluorine-free foams that do not contain PFAS. In 2021, the US Environmental Protection Agency (EPA) released their PFAS Strategic Roadmap, which outlines the ‘whole-of-agency’ approach to address PFAS. This document includes their strategic plan for regulation of PFAS from manufacture, to use in products, to cleanup. Similarly, in 2021, the State of Washington Department of Ecology (Ecology) finalized a PFAS Chemical Action Plan, outlining the State’s proposed plan for elimination of PFAS from commercial products, and regulation of PFAS in the environment. The FAA and DOD are in the process of revising their regulations to allow for use of fluorine-free firefighting foam alternatives to AFFF that do not contain PFAS. These revisions are expected in 2023.

The EPA has initiated the process to designate two PFAS chemicals (PFOS and PFOA) as hazardous substances under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), also known as the Superfund law. This designation could be complete as early as late 2022. EPA has also initiated multiple regulation changes to the Clean Water Act, National Pollution Discharge Elimination System (NPDES), and others that will directly impact environmental permits, and compliance at SEA. The State set acceptable levels of PFAS in drinking water in 2021. These criteria set the stage for Ecology to develop cleanup standards for regulation and cleanup of PFAS chemicals under the state’s Model Toxics Control Act (MTCA). Although these regulations and cleanup standards are not yet in place, it is important for SEA to remain proactive in the characterization of PFAS at SEA. Continued PFAS characterization will also assist capital project teams in their efforts to identify PFAS contaminated soils within project footprints and will assist assessment of environmental projects such as stormwater infiltration siting and permitting of backup emergency drinking water wells.

Since 2018, the Aviation Environment & Sustainability team has been conducting preliminary sampling of the soil and groundwater at SEA to confirm the presence or absence of PFAS in the environment, starting with the areas of greatest potential for exposure: areas with the potential for groundwater to migrate away from the airport, and into surrounding communities. These priority areas include the Airport Fire Station, the Fuel Farm, the Former Fire Training Area

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located in the southern portion of the airfield, and the Industrial Wastewater Treatment Plant. These investigations and sampling have confirmed the presence of PFAS in soil and groundwater at SEA, however based on the data collected, the investigations have also determined that there are currently no known risks of exposure to the surrounding community.

Since PFAS has been detected in soil and groundwater, Site listing under MTCA is anticipated. The initial phases of site identification, investigation, and remedy feasibility assessment that is likely to be required for compliance with MTCA is on average, a 5–7 year process. Given this, the initial contract term has been set for 5-years. If the process requires additional time due to site complexity, agency coordination, or a delay in regulation development, the contract may be extended for additional years, to meet the needs of the Port. Similarly, follow-on phases of work in the MTCA process, such as development of a cleanup action plan, and conceptual engineering design may be authorized by the Port under this contract. A typical Cleanup Action Plan and Engineering Design process under MTCA can require on average 2–4 years. With the unknowns in the timeframe for regulation development, and the duration of the MTCA process to address PFAS, the initial contract duration of 5 years, with option to extend additional years as desired by the Port was selected. The Contracting mechanism of a Project-specific Professional Services Contract was selected over an Indefinite Delivery/Indefinite Quantity (IDIQ) contract structure to allow for greater flexibility in duration, as an IDIQ contract requires a fixed timeframe. To ensure the Port's expectations are met for consultant performance over time, and throughout the project, work will be scoped and funded on a service directive basis, as work is determined necessary. This provides the Port an opportunity to review, assess, and negotiate both scope and expense throughout the lifetime of the contract. Additionally, the contract allows for termination by the Port at any time, should Port expectations not be met.

This contract will provide Port Environmental staff with technical resources to assess and respond to forthcoming regulations. It will also provide the vehicle for the Port to be one of the first airports in the United States to transition away from AFFF to a fluorine-free alternative and address any environmental impacts in an expedited fashion. This is in direct alignment with the Century Agenda goal to be the greenest Port in North America. To be prepared to transition away from PFAS-containing firefighting foam as soon as allowed by FAA certification requirements, planning the transition process must begin in earnest now. Additionally, with the speed of federal and state regulation development underway, our ability to respond quickly to new regulations and initiate site remediation programs is significantly supported by implementation of this contract. Port representatives are participating in multiple national working groups and advisory panels to ensure that our actions remain consistent with progress being made at other national airports and organizations and help to guide progress at a national level.

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Diversity in Contracting

The breadth of environmental services included in this contract, from strategic planning to remediation investigation and design, will provide strong opportunities for women- and minority-owned business enterprise (WMBE) participation. The contract includes an 18% aspirational goal for WMBE participation, and Inclusion Plans will be a key component of candidate screening and evaluation.

DETAILS

As described in the previous section, preliminary steps have been taken to understand potential risks to human health and the environment at identified locations of past and current AFFF use and storage. These preliminary investigations confirmed there is no known immediate risk to human health or the environment; however, PFAS is present in soil and groundwater in select areas. The general scope of work anticipated to be conducted in response to these preliminary findings under this contract is listed below.

The requested action is primarily for Aviation Division as there is a known demand for this service at the SEA. At this time, Maritime does not anticipate a need for support services, however, to provide flexibility, Maritime has been identified as a potential user. The total request is for contracting authority up to \$10,000,000. Expenditure of this contracting authority will be approved annually as part of the operating expense budget, or Environmental Remediation Liabilities. The initial contract period will be 5 years, with an anticipated 5-year option to extend, based on the schedule, and needs of the Port over time.

Scope of Work

Scope will be managed by the Port through development of Service Directives as required actions are determined. The work anticipated to be conducted under this contract is categorized into the following major activities:

(1) Contaminated Site Investigation and Remediation

- a. Support for the Site listing process with the State (development of the Agreed Order site definition, findings of fact, scope of work, and schedule)
- b. Determination of the nature and extent of contamination (Remedial Investigation)
- c. Evaluation of options for cleanup (Feasibility Study, Cleanup Action Plan)
- d. Development of plans for the cleanup (Engineering Design Report, Contract Documents)
- e. Agency negotiation and communication in support of the above activities
- f. Development of reports associated with the above activities

(2) Airport Operations and Capital Projects Support Services

- a. Waste disposal coordination and planning
- b. AFFF inventorying and reporting to the State as required by new regulation
- c. Support with planning and strategy for construction projects that may encounter PFAS-impacted areas

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- d. Evaluation of worker safety policies, procedures, and practices related to PFAS exposure

(3) AFFF Transition Planning

- a. Evaluation of alternative foam options
- b. Assessment of cost and compatibility of alternative foam options
- c. Development of cleaning procedures and criteria for systems to be cleaned and reused
- d. Support for strategic planning for timing and sequence of foam transition at Port and Tenant facilities

Schedule

Although many regulatory drivers are not yet promulgated, there are a few regulations that are known, and they affect the schedule for completion of the Scope of Work. Known and anticipated regulatory drivers are listed below, with *anticipated milestones shown in italics*:

Competitive Procurement Process	
Advertisement	<i>3/10/2022</i>
<i>Contract Kick-off</i>	<i>June 2022</i>
Contaminated Site Investigation and Remediation	
<i>Cleanup Level development by the State, initiating process for Cleanup Site Identification</i>	<i>3-4Q 2022</i>
<i>Commission authorization for Agreed Order with State for Contaminated Site Investigation and Remediation</i>	<i>1Q 2023</i>
<i>Cleanup Process: Investigation & Remediation (multiple points of Commission authorization)</i>	<i>2023 - 2032</i>
Airport Operations and Capital Projects Support	2022 – 2032
AFFF Transition Planning	
AFFF alternatives evaluations	2022-2023
AFFF transition at Fire Department	2023
<i>AFFF transition at Fuel Farm</i>	<i>2024</i>
<i>AFFF transition at Tenant facilities</i>	<i>2024-2026</i>

ALTERNATIVES AND IMPLICATIONS CONSIDERED

Alternative 1 – Wait Until Regulations Are in Place to Contract Support Services

For this alternative, monitoring of regulation development, and planning for AFFF transition would be conducted by internal Port Staff.

Cost Implications: Potential delay in spending but would not eliminate or reduce overall costs.

Pros:

- (1) Avoids need to contract with outside services at this time.
- (2) Allows SEA to ‘wait and see,’ and follow the lead of other commercial airports with AFFF transition

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Cons:

- (1) Does not allow AFFF transition to fluorine-free products to occur as soon as allowed by the FAA (would require a pause for contracting and planning following the anticipated FAA approval for alternative foams).
- (2) Does not support Century Agenda Goals 4, 5, and 6 for SEA to be the greenest port in North America, to become a model for equity, diversity and inclusion or to be a highly effective public agency fostering an environment of leadership. Alternative 1 does not allow SEA to be an early adopter of PFAS-elimination from commercial airports, utilizing expertise of environmental professionals from WMBE/DBE businesses, or advancing the Port's dedication to employee safety.
- (3) Does not allow for collection of sufficient environmental data for the Port to proactively lead site definition conversations with Ecology and would instead put the Port in a reactive/responsive role to regulators.

This is not the recommended alternative.

Alternative 2 – Contract PFAS Support Services Now

For this alternative, consulting services would provide Port staff with support to the scope bullets listed above, beginning in 2022.

Cost Implications: Scope will be authorized through Service Directives and budgeted as expense items in the Aviation Environment & Sustainability budget, until the ERL process is triggered by an obligating event (cleanup order, legal action, or permit violation).

Pros:

- (1) Supports Century Agenda Goals 4, 5, and 6 by allowing SEA to be an early adopter of PFAS-elimination from commercial airports, utilizing expertise of environmental professionals from WMBE/DBE businesses, and advancing the Port's dedication to employee safety.
- (2) Allows for collection of sufficient environmental data for the Port to proactively lead site definition conversations with Ecology, putting the Port in a driving role in conversations with regulators.
- (3) Provides an efficient, cost-effective program to address PFAS at multiple areas across Port facilities.
- (4) Provides needed professional expertise and support to Port staff.
- (5) Provides access to industry expertise for PFAS-related issues to multiple Port divisions including Environment & Sustainability, Fire Department, Health & Safety, Operations, and others.
- (6) Allows the Port to make progress on PFAS-related projects as regulations evolve and are finalized, to be an industry leader.

Cons:

- (1) Since the full scope of work is not yet determined, the total costs cannot be fully determined. Future modifications or amendments to the contract may be required as regulations and the subsequent project scope are finalized.

This is the recommended alternative.

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FINANCIAL IMPLICATIONS

Annual Budget Status and Source of Funds

The annual costs associated with this contract will be included in the Aviation Division operating budget. The funding source will be the Airport Development Fund. Environmental Remediation Liabilities are anticipated to be triggered in the next few years following an obligating event, such as a cleanup order from the Washington State Department of Ecology. Environmental Remediation Liabilities are not currently required. For 2022, \$60,000 was approved for this contract in the Aviation Environment & Sustainability annual operating budget for ongoing preliminary monitoring activities. Scope and budget are expected to increase following finalization of state and federal regulations expected in the next few years.

ATTACHMENTS TO THIS REQUEST

- (1) Presentation slides

PREVIOUS COMMISSION ACTIONS OR BRIEFINGS

None