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COMMISSION

AGENDA MEMORANDUM Item No. 11a

BRIEFING ITEM Date of Meeting April 11, 2023

DATE: April 11, 2023

TO: Stephen P. Metruck, Executive Director

FROM: Dave McFadden, Managing Director, Economic Development Division

Mian Rice, Director Diversity in Contracting

SUBJECT: Diversity in Contracting 2022 Annual Report

EXECUTIVE SUMMARY

The Diversity in Contracting Annual Report to the Commission provides the Port's division/department 2022 Woman and Minority Business Enterprise (WMBE) results, 2023 department/division WMBE goals, and affirmative efforts to assure equality of contracting opportunities.

2022 was the fourth full year of the Diversity in Contracting program operations, in which Port divisions and departments established 2022 WMBE utilization goals. On an annual basis, the Port starts from zero in its tracking of firms utilized and percent achieved.

In non-construction, 16.4% of the Port's total spend of \$269M went to WMBE firms (\$44.2M) - meeting its 15% goal for 2022 and showing a marked increase from the 14.6% WMBE utilization in 2021. This goal did not include construction projects where utilization goals are established on a project-by-project basis.

In construction, 2022 was the first year the Port established a goal. 7.5% of the Port's total spend of \$203M went to WMBE firms (\$15.1M) - short of its 12.5% goal and its 11.5% WMBE utilization in 2021.

In total spend, which includes both non-construction and construction, 12.6% of the Port's total spend of \$472.2M went to WMBE firms (\$59.3M) - making progress towards the 2023 goal of 15% utilization, and demonstrating a slight increase from the 12.1% WMBE utilization in 2021.

In addition, the Port continues to make strides towards its five-year goal of tripling the number of WMBE businesses working with the Port (354 WMBE firms by 2023) by having worked with 351 WMBE firms in 2022, an increase from 344 in 2021.

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As the Port continues to grow in its WMBE utilization, staff is continuing to make progress on the goals set forth by the Commission, including the continued focus on eliminating specific disparities in utilization for certain ethnic groups and women.

BACKGROUND AND GOALS

On January 9, 2018, the Port Commissioners adopted a new Diversity in Contracting (DC) policy directive with a supporting Resolution 3737, that drives equity in Port contracting. The policy was developed over the years of 2016-2017, using 2016 as the baseline for what was eventually passed. 2019 was the first full year the program and goals came into effect.

The purpose of this policy directive is to provide the maximum practicable opportunity for increased participation by minority and women owned and controlled businesses in Port contracting for public works, consulting services, supplies, materials, equipment, and other services to create the opportunity to leverage Port spending to increase WMBE utilization. As part of the Diversity in Contracting policy directive, 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 using 2016 baseline utilization results:

Five-Year Goals

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

The policy also directed 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 include aspirational goals and performance targets.
- Clear lines of responsibility and accountability for implementation with designated WMBE liaisons for each division.

- 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.

#### 2022 Results

2022 was the fourth year of the DC policy/program implementation.

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Per the DC policy directive, every division/department sets WMBE aspirational goals prior to the beginning of the year. The table below illustrates by division the 2022 WMBE results for nonconstruction procurements which includes P-Card spend. The Port met its 2022 non-construction goal of 15%. The Port has driven \$44.2M of work to WMBE firms for an overall utilization rate of 16.4%. The table below reflects the dollars in 2022 driven to WMBE businesses broken down by Division:

#### 2022 Non-Construction Utilization

Division Total Port Spend WMBE Spend 2022 2022

Goal % WMBE %

Aviation (AV) \$189.4M \$29.9M 15% 15.8%

Corporate \$30.9M \$8.2M 14% 26.6%

Economic Development Division (EDD) \$3.7M \$0.6M 14% 16.8%

Maritime Division (MD) \$20M \$4.5M 16% 22.4%

Northwest Seaport Alliance (NWSA) \$25.3M \$1M N/A 4%

Total \$269.2M \$44.2M 15% 16.4%

The Port of Seattle's Annual Division Goals are established on "Non-Construction" spend in Divisions' Outside Service budgets. Since the program launch in 2019, DC staff have established WMBE aspirational goals for Construction on a project-by-project basis. In 2022, we set a 12.5% Portwide Annual Construction goal for the first time. However, lower total Port spend on construction, and a large, specialized project with low WMBE availability resulted in 7.5% total WMBE utilization in construction, as shown in the table below:

#### 2022 Construction Utilization\*

2022 Construction\* Total Port Spend WMBE Spend WMBE%

Aviation (AV) \$164.6M \$9.8M 6%

Corporate \$48.7K \$1.6K 3.5%

Economic Development \$6.5M \$1.2M 18.5%

Division (EDD)

Maritime Division (MD) \$2.8M \$1.2M 43.3%

Northwest Seaport \$28.8M \$2.6M 9%

Alliance (NWSA)

Total \$203M \$15.1M 7.5%

\*WMBE Aspirational Goals for Construction are set project-by-project

The table below shows the final Port-wide WMBE attainment for 2022 per division/department, with a combined WMBE total (construction and non-construction) of 12.6%. The table also includes the number (351) of WMBE businesses utilized.

#### 2022 Total Port Spend (Construction & Non-Construction Combined)

Division Total Port Spend WMBE Spend WMBE %

Aviation (AV) \$354M \$39.6M 11.2%

Corporate \$30.9M \$8.2M 26.6%

Economic Development Division (EDD) \$10.2M \$1.8M 17.9%

Maritime Division (MD) \$22.7M \$5.7M 24.9%

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Northwest Seaport Alliance (NWSA) \$54.1M \$3.6M 6.7%

Total Port Spend \$472.2M \$59.3M 12.6%

Total Number of WMBE Firms Utilized 351

The table below illustrates the Port's WMBE percentages and number of firms utilized from one year to the next. Since 2016, the Port has steadily increased WMBE participation in both measurements.

Port WMBE Utilization 2016-2022

WMBE 2016 2017 2018\* 2019 2020 2021 2022 Policy

Utilization Goal

Percentage 5.3% 8.8% 8.9% 10% 10.9% 12.1% 12.6% 15%

Number of 118 200 258 296 325 344 351 354

Firms

2023 DIVISION/DEPARTMENT GOALS

The table below provides the 2023 WMBE aspirational percent goals per division/departments with a combined total goal of 15% utilization for non-construction procurements on outside services.

2023 Non-Construction Goals

Division Projected Total 2023 WMBE Projected 2023 WMBE Goal

Outside Services Spend

Spend

Aviation Division (AV) \$112.3M \$15.7M 14%

Corporate \$40.9M \$6.5M 16%

Economic Development \$3.9M \$0.6M 14%

Division (EDD)

Maritime Division (MD) \$5.9M \$1.2M 20%

Total \$163M \$24M 15%

Construction Annual WMBE Goal

For 2023, the construction WMBE goal is 13%. This goal is based on historical WMBE utilization over the past three years (average percent utilization between 2020-2022 was 9.93%). Despite ending 2022 with 7.5% WMBE Utilization on construction, we anticipate more projects to be in the construction phase in 2023 and believe 13% WMBE Utilization is a stretch goal for 2023. Achieving 13% in construction utilization is necessary to reach the Port-wide (construction and non-construction) 5-year goal of 15% WMBE utilization.

Issues/Challenges

Under the Diversity in Contracting (DC) Policy Directive, the Port's efforts in setting annual nonconstruction goals by division have been successful. The percent utilization of WMBE firms in nonconstruction continues to follow an upward trajectory. This includes the number of total (construction and non-construction) WMBE firms utilized, which in 2022 was 351 firms. By the year 2023, the Port's

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five-year goal is utilization of 354 WMBE firms. On an annual basis, the Port starts at zero in its quest to achieve its 5-year WMBE goals.

However, under Washington State's construction procurement laws and policies, in conjunction with the State's anti-affirmative action clauses, government entities have far less control over WMBE utilization on low-bid lump sum procurements. As a result, WMBE participation may be impacted regardless of their overall availability to work on Port projects.

The Port currently sets WMBE aspirational goals on a project-by-project basis, based upon project scope and WMBE availability. We have been averaging between 8% to 10% on our construction projects thus far. These averages will need to increase to achieve the set DC goals.

2023 is the last and final year of the 5-year goal for Diversity in Contracting Policy Directive to try to achieve the 15% utilization goal. Although we may run short of the 15% utilization goal, the Port has made tremendous progress in increasing the utilization of WMBE businesses and will continue to strive to achieve the 15% goal in its final year. The number of WMBE businesses utilized on an annual basis has continued to grow and appears likely, if the upward trend continues, to reach the 5-year goal of tripling the number of WMBE firms we partner with.

Recommendations

The Port continues to set WMBE Divisional goals while exploring additional ways to increase the utilization of WMBE firms on construction projects. This would be done by:

- Leveraging more alternative delivery methods like Design/Build (D/B) or General Contractor/Construction Management (GC/CM) procurements. Alternative delivery methods such as these may allow Port staff to continue to push the construction contracting limits to not only achieve, but perhaps exceed project WMBE goals.
- Evaluating opportunities for unbundling projects.

- Continuing to breakdown project scopes of work.
- Establishing better tie-ins with PortGen training participants within consulting and A&E.
- Continuing to outreach and conduct workshops/trainings.
- Continuing to partner with community and trade organizations.
- Continuing to partner with industry primes.

The Port is completing a WMBE analysis study in 2023 to identify barriers to WMBE utilization which will also help inform additional policy or program refinements that will enable the Port to achieve its current and future Diversity in Contracting Policy Directive goals. Once the initial 5-year cycle of the DC Program concludes at the end of 2023, the Port will reassess future goals informed by past WMBE data collected and studies conducted.

**ATTACHMENTS TO THIS BRIEFING**

- (1) Video
- (2) Presentation slides

**PREVIOUS COMMISSION ACTIONS OR BRIEFINGS**

April 12, 2022 – Diversity in Contracting Annual Report

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April 13, 2021 – Diversity in Contracting Annual Report

March 26, 2019 – Diversity in Contracting Annual Report

June 12, 2018 – Commission briefing on Diversity in Contracting program development

January 8, 2018 – Diversity in Contracting 2nd reading policy and passage of resolution 3737

December 19, 2017 – Diversity in Contracting Policy Review

December 12, 2017 - Women and Minority Business Enterprise Policy Review – Resolution 3737 (first reading)

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

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