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## 190782

Ordinance

### Authorize Chief Procurement Officer to pilot inclusive contracting policies designed to attract firms owned by Black, Indigenous, and people of color, and Women-owned firms to increase eligibility for contract opportunities, expand opportunities for business development, and foster wealth creation through inclusive contracting practices and equitable economic opportunities

Passed

The City of Portland ordains:

Section 1. The Council finds:

1. In February 1996, Resolution 35495 established the Fair Contracting and Employment Forum (FCF) to provide community input in reviewing programs and policies. Later in November of 2013 City Council reaffirmed the Fair Contracting and Employment Forum to provide support and promote accountable, transparent, fair, effective, and efficient contracting practices.
2. On July 19, 2012, City Council adopted Resolution No. 36944 to accept recommendations for a social equity contracting strategy to increase minority-owned, women-owned and emerging small business utilization in City contracting.
3. The City has developed and implemented a variety of social equity in contracting programs to increase the participation of firms owned by Black, Indigenous, and people of color, and Women-owned firms in public contracting, at both the prime and subcontractor/subconsultant level, in PCC 5.34 Public Improvement and Construction Services, and PCC 5.68 Professional Technical and Expert Services Contracts.
4. On November 20, 2013, Procurement Services reported to Council changes in Portland City Code 5.68 Professional Technical Expert Services contracting to allow for targeted contracting with Minority, Women, and Emerging Small Business (M/W/ESB) firms up to \$50,000, that would take effect January 2013. The procurement method of Direct Contract allows bureaus to contract directly with COBID certified firms.
5. In March of 2020, the Fair Contracting Forum (FCF) was later expanded (and renamed Fair Contracting Forum+ (FCF+) to include additional community stakeholders to contribute to the development of solutions

#### Introduced by

[Mayor Ted Wheeler](#)

#### Bureau

[Management and Finance;](#)  
[Revenue and Financial Services](#)

#### Contact

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#### Requested Agenda Type

Regular

Portland Policy Document

designed to remove barriers to opportunities for wealth creation experienced by firms owned by Black, Indigenous, and people of color, and women-owned firms. The FCF+ supplies the Chief Procurement Officer with qualitative data for the development of recommendations and the advocacy for substantive changes in City contracting on behalf of our stakeholder community.

6. Direct Contracts with Minority, Women, and Emerging Small Business (M/W/ESB) firms have been successfully used across City bureaus for the provision of Professional Technical and Expert Services. The Procurement Annual Report for 2020-2021 published on January 11, 2022, reported \$70.5M in Professional Services contracting in FY 2020-21.
7. On March 4, 2020, City Council authorized Ordinance No. 189878 which included the expansion of Direct Contracts into PCC 5.33 for Goods and Services. The procurement method of Direct Contract allows bureaus to contract directly with COBID certified firms without a competitive solicitation process for Goods, Services, Design Services, and Professional Technical and Expert Services with firms provided they are certified by the Business Oregon Certification Office for Business Inclusion and Diversity (COBID) program.
8. The marketplace that includes the City of Portland is regional, including Clark County, Multnomah County, Washington County and Clackamas County. Our social equity in contracting stakeholder community has expressed that some business owners report their ineligibility for the State of Oregon's Business Oregon Certification Office for Business Inclusion and Diversity (COBID) certification program because they lack residency.
9. Our stakeholder community expressed that firms owned by Black, Indigenous and people of color, women owned firms, and non-profit agencies are excluded from certain City opportunities for wealth creation because they lack Business Oregon Certification Office for Business Inclusion and Diversity (COBID) program certification, specifically; and City bureaus frequently communicate to Procurement Services the challenges they face when they are unable to directly enter into Direct Contracts with qualified firms owned by Black, Indigenous and people of color, women owned firms, and non-profit agencies when opportunities for non-competitive procurements are explored for City projects.
10. On June 17, 2020, the City of Portland approved Resolution 37492, adopting the City's Core Values of Anti-racism, Equity, Transparency, Communication, Collaboration, and Fiscal Responsibility.
11. In August 2021, Resolution 37594 was adopted, which granted the Chief Procurement Officer the authority to deviate from the social equity in contracting strategy for the Interstate Firehouse Cultural Center (IFCC) project; and modify social equity in contracting requirements to allow all disadvantaged, minority-owned, women-owned, emerging small and service-disabled veteran-owned business enterprises to be recognized toward meeting established equity in contracting goals and requirements, including recognizing other agencies' certifications in addition to the State of Oregon's Certification Office for Business Inclusion and Diversity (COBID) certifications.

12. The Chief Procurement Officer through components of Procurement's Strategic Plan is instituting a campaign to increase awareness of the opportunities created upon Council's authorization of Ordinance No. 189878; and through the Inclusive Contracting Manager, will actively demonstrate to firms owned by Black, Indigenous, and people of color, and women owned firms who seek to do business with the City, that opportunities to create wealth exist in Goods and Services contracting.
13. The Procurement Annual Report for 2020-2021 reported \$613.7M in Goods and Services contracting in FY 2020-21 and reported \$113.4M in Construction contracting during the same period.

NOW, THEREFORE, the Council directs:

- A. The Chief Procurement Officer shall pilot inclusive contracting policies to increase City contract opportunities for firms owned by Black, Indigenous, and people of color, and women-owned firms in accordance with Attachment 1, Inclusive Contracting Policy for a period of no more than 24 months.
- B. Attachment 1, Inclusive Contracting Policy is binding City policy for a for a period of no more than 24 months.
- C. Notwithstanding anything to the contrary in Portland City Code, the Chief Procurement Officer shall temporarily deviate from current City Code provisions to carry out the directives of this Ordinance, including but not limited to sections 5.33.010, 5.34.010, 5.34.040, 5.33.075, 5.33.540, 5.34.535, 5.68.030, and the Professional Technical Expert Services Manual, for the duration of the pilot program.
- D. The Chief Procurement Officer may temporarily amend any relative Administrative Rules to advance the purpose of this Ordinance for the duration of the pilot.
- E. The Chief Procurement Officer shall report back to Council no later than 18 months after the adoption of this Ordinance to report the effectiveness of the pilot and recommend a path forward to further promote economic vitality in the communities we serve.

## Documents and Exhibits


 [Attachment 1](#) (54.91 Kb)

An ordinance when passed by the Council shall be signed by the Auditor. It shall be carefully filed and preserved in the custody of the Auditor (City Charter Chapter 2 Article 1 Section 2-122)

Passed by Council  
April 20, 2022

Auditor of the City of Portland  
Mary Hull Caballero

## Impact Statement

 [Impact Statement](#) (27.11 Kb)

### Budget Office Financial Impact Analysis

The Chief Procurement Officer (CPO) shall pilot the new inclusive contracting policies for a period of no more than 24 months. The CPO shall report back to Council no later than 18 months after the adoption of this Ordinance to report the effectiveness of the pilot and recommend a path forward. The high level confidence estimated cost is \$300,000, already appropriated in the FY 2021-22 budget; no further allocation of funding is required by Council. \$150,000 of the amount was repurposed funds from an existing contract for which Procurement carried forward budget during the Fall BMP, with the other \$150,000 in PBEM's budget from a General Fund allocation that bureau received, also in the Fall BMP, in part, to provide technical assistance to community-based organizations and BIPOC entrepreneurs to get COBID certified and get registered in the City's Procurement system. The amount in PBEM's budget has been requested to be carried over into the Special Appropriations budget next year.

### Agenda Items

#### 276 Regular Agenda in [April 13-14, 2022 Council Agenda](#)

Passed to second reading

Passed to second reading April 20, 2022 at 9:30 a.m.

#### 305 Regular Agenda in [April 20-21, 2022 Council Agenda](#)

Passed

Commissioner Dan Ryan Yea

Commissioner Jo Ann Hardesty Yea

Commissioner Mingus Mapps Yea

Commissioner Carmen Rubio Yea

Mayor Ted Wheeler Yea