

INCLUSIVE CONTRACTING POLICY

Office of Management and Finance, Bureau of Revenue and Financial Services: Procurement Services

1.0 Background

The City of Portland (“City”) is committed to equity in contracting and increasing economic opportunities through inclusive contracting practices. Portland City Council (“Council”) has consistently expressed a high level of urgency to revitalize the local economy through increased contract opportunities and contract awards for firms owned by Black, Indigenous, and people of color, and women-owned firms. This urgency has presented an opportunity for Procurement Services to respond with impactful changes that benefit the communities we serve, while demonstrating the City’s Core Values of Anti-racism, Equity, Transparency, Communication, Collaboration, and Fiscal Responsibility in the work we do.

2.0 Purpose

The purpose of this policy is to invigorate change in how the City values and conducts business with firms owned by Black, Indigenous, and people of color, and women-owned firms. Work products resulting from collaborations across several focus groups committed to social equity in contracting through inclusive contracting practices, contributed directly to the development of the Procurement Services’ Strategic Plan.

The City recognizes systemic barriers and discrimination have occurred throughout history based on race and gender. The City seeks to address systemic inequities by employing race and gender-neutral (non-mandated) strategies in its procurement and contracting practices.

3.0 Definitions

“City Bureau” means an individual City of Portland bureau and all City of Portland bureaus.

“Chief Procurement Officer (CPO)” means the Chief Procurement Officer of Procurement Services, of the City of Portland.

“COBID” means the State of Oregon Certification Office for Business Inclusion and Diversity.

“COBID Certified Businesses” means all businesses which hold active certification with the State of Oregon Certification Office for Business Inclusion and Diversity (COBID).

“City Contract” means a Public Contract as defined in PCC 5.33.010.

“Disadvantaged business enterprise” means a small business concern:

- a) At least 51 percent of which one or more socially and economically disadvantaged individuals own; or

- b) At least 51 percent of the stock of which, if the small business concern is a corporation, is owned by one or more economically disadvantaged individuals who also control and manage the daily business operations of the small business concern.

“Emerging Small Business” means an independent business concern that:

- a) Has a principal place of business located in Oregon;
- b) Qualifies as a tier one firm or a tier two firm;
- c) Is properly licensed and legally registered in Oregon; and
- d) Is not a subsidiary or parent company that belongs to a group of firms that the same individuals own or control if, in the aggregate, the group of firms does not qualify as a tier one firm or a tier two firm.

“Economically disadvantaged individual” means a socially disadvantaged individual for who diminished capital and credit opportunities have impaired the individual’s ability to compete in the free enterprise system as compared to other individuals in the same business area who are not socially disadvantaged individuals.

“Inclusive Contracting Manager” means the Inclusive Contracting Manager of Procurement Services of the City of Portland.

“Minority individual” means an individual who is a citizen or lawful permanent resident of the United States and is:

- a) African American, having origins in any of the original peoples of Africa;
- b) Hispanic, having Mexican, Puerto Rican, Cuban, Central or South American or other Spanish culture or origin, regardless of race;
- c) Asian American, having origins in any of the original peoples of East Asia, Southeast Asia, the Indian subcontinent or the Pacific Islands;
- d) Portuguese, having Portuguese, Brazilian or other Portuguese culture or origin, regardless of race;
- e) American Indian or Alaskan Native, having origins in any of the original peoples of North America; or
- f) Any other individual or member of another group that the Certification Office for Business Inclusion and Diversity determines is socially and economically disadvantaged.

“Procurement Services” means Procurement Services of the City of Portland.

“Self-Identified Local Minority-owned Business” and “Self-Identified Local Women-owned Business” means as appropriate, a small business concern, a for profit business, which is not currently COBID certified, that has identified with the City as:

- a) At least 51 percent of which one or more minority individuals, women or service-disabled veterans own and control; or
- b) At least 51 percent of the stock of which, if the small business concern is a corporation, is owned by one or more minority individuals, women or service-disabled veterans who also control and manage the daily business operations of the small business concern.

Such businesses must be headquartered in Oregon, or the business owners or owner must reside in Oregon.

“Self-Identified Local Non-Profit” means a nonprofit organization (NPO), also known as a non-business entity, not-for-profit-organization, or nonprofit institution, and has active registration with the Oregon Secretary of State, and the Oregon Department of Revenue; and whose mission statement is aligned with the City’s Core Values.

“Service-disabled veteran” means a veteran who has a United States Department of Veterans Affairs disability rating of a least zero percent as a result of an injury or illness that the veteran incurred, or that was aggravated, during active military service and who received a discharge or release under other than dishonorable conditions.

“Woman” means a person of the female gender who is a citizen or lawful permanent resident of the United States. [1987 c.893 §2; 1989 c.1043 §1; 1991 c.517 §9; 2001 c.104 §71; 2003 c.794 §213; 2005 c.22 §§150,151; 2005 c.683 §§4,5; 2015 c.565 §1]

4.0 Business Certification and Registration

4.1 The City shall accept alternative agency certifications, as a supplement to the Business Oregon Certification Office for Business Inclusion and Diversity (COBID) program.

To attract firms owned by Black, Indigenous, and people of color, and women-owned firms to City contract opportunities, the City shall accept alternative agency certifications in addition to COBID certification toward meeting established equity in contracting goals and requirements. This policy is intended to provide firms with additional options for business certification programs to develop their business, increase capacity, and seek out new contract opportunities. Table 1 below offers a sample list of alternative certification agencies to supplement the Business Oregon Certification Office for Business Inclusion and Diversity (COBID) program:

Table 1

Alternative Certification Agency	Number of Minority Business Enterprises (MBE)
National Minority Supplier Development Council (MSDC)	13,000 total MBEs
WBENC	18,000 total WBEs <ul style="list-style-type: none"> • 13% Construction • 13% Manufacturing • 53% Goods and Services, including Professional Services
Washington State Office of Minority and Women Business Enterprises (OMWBE)	1,541 Federal Certified firms 2,480 State Certified firms

4.2 The City shall recognize State of Oregon COBID Certified Businesses, as well as Self-Identified Local Minority-owned Businesses, Self-Identified Local Women-owned Businesses, and businesses holding the above alternate agency certifications for purposes of tracking and reporting minority-owned, women-owned, service-disabled

veteran and emerging small business contracting and subcontracting and how that compares to the City's contracting as a whole.

5.0 City Bureau Responsibilities

5.1 Bureaus shall work with Procurement Services to adopt a plan of inclusive and equitable contracting practices to afford Black, Indigenous, and people of color, and women-owned firms the maximum practicable opportunity to participate on City Contracts directly and meaningfully at both the prime and subcontractor/subconsultant level. Plans will be updated on an annual basis and Bureaus will provide the Inclusive Contracting Manager an annual report capturing their supplier diversity results for that year.

5.2 Bureaus shall create internal payment procedures and refine their invoice payment process to facilitate timely payments made to all firms, particularly those firms owned by Black, Indigenous, and people of color, and women-owned firms who may struggle with access to capital.

5.3 Bureaus shall maximize use of PCC 5.33.190 Intermediate Procurements and Direct Contract procurements under PCC 5.33 Goods and Services and PCC 5.68 Professional, Technical, and Expert Services to attract firms owned by Black, Indigenous, and people of color, and women-owned firms to contract opportunities.

Direct Contracts are widely used across Bureaus for the provision of Professional, Technical, and Expert Services. On March 4, 2020, Ordinance No. 189878 expanded Direct Contracting into Portland City Code 5.33 for Goods and Services.

To increase visibility of contract opportunities available in goods and services and attract firms owned by Black, Indigenous, and people of color, and women-owned firms to opportunities that lead to awarded contracts, Bureaus shall implement internal procedures to adhere to the following:

- A. For Direct Contracts up to \$150,000, procured under PCC 5.33, Goods and Services, and 5.68 Professional, Technical, and Expert Services:
 - i. Bureaus are strongly encouraged to first seek firms owned by Black, Indigenous, and people of color, and women-owned firms that are COBID certified as Emerging Small Business (ESB) for inclusion in non-competitive contract opportunities.
 - ii. Bureaus may enter into up to a total of up to four (4) Direct Contracts with COBID certified firms.
- B. For Small and Intermediate Procurements estimated at \$50,000 or less:
 - i. Bureaus are strongly encouraged to first seek out opportunities to engage and do business with firms owned by Black, Indigenous, and people of color, and women-owned firms, COBID certified firms, alternative agency certified firms, Self-Identified Local

Minority-owned Business, Self-Identified Local Women-owned Business, Self-Identified Local Non-Profit.

- ii. Bureaus may use discretion in the use of a Purchase Order contract type for Intermediate Procurements under PCC 5.33 Goods and Services, estimated at \$50,000 or less, to be combined with a complete Statement of Work, for the provision of goods and services. Purchase Orders awarded using this method may not: a) exceed \$50,000, and b) may not include software, outside of the review and approval of a Goods and Services Procurement Supervisor, or the Goods and Services Procurement Manager.
- iii. Insurance required for the contract shall be collected and retained by the Bureau.

6.0 Procurement Services' Responsibilities

6.1 Dedicate the Inclusive Contracting Manager as the City's primary point of contact within Procurement Services to support City Bureaus in the development of a plan to implement inclusive and equitable contracting practices.

6.2 Procurement Services shall provide tools, resources, and data analysis services to help Bureaus implement their plan of inclusive and equitable contracting practices. The Inclusive Contracting Manager will review the Bureau's plan of inclusive and equitable contracting practices.

6.3 The Inclusive Contracting Manager will meet with Bureaus throughout the year to revisit and assess their plan of inclusive and equitable contracting practices, offer assistance, if needed, and provide Bureau progress reports to the Chief Procurement Officer.

6.4 The Inclusive Contracting Manager will provide and direct support services to Bureaus through project consultations and provide additional services which may include developing a project specific vendor list of available firms with capacity who are prepared for work, collaboration on project specific outreach, offering assistance with outreach efforts, coordinating vendor introductions to Bureaus, and offering technical assistance.

6.5 The City shall continue to advocate for the support of firms owned by Black, Indigenous, and people of color, and women-owned firms who seek certification through the State's Business Oregon Certification Office for Business Inclusion and Diversity (COBID) program.

6.6 The Inclusive Contracting Manager shall engage a diverse pool of qualified community partners, including those that serve tribal communities and Latino communities where English may be a second language, for the purpose of establishing agreements for the provision of technical assistance to firms owned by Black, Indigenous, and people of color, and women-owned firms who seek to attain Oregon COBID certification, and also provide assistance to non-profit community based organizations who also seek to do business with the City.

The Inclusive Contracting Manager will manage, assess the performance, and measure the effectiveness of all resulting community partner agreements.

6.7 Procurement Services is committed to providing valuable feedback to the Business Oregon Certification Office for Business Inclusion and Diversity (COBID) program.

6.8 The Inclusive Contracting Manager will identify, research, and evaluate agencies for the Chief Procurement Officers approval of alternative agency certifications, to supplement the Business Oregon Certification Office for Business Inclusion and Diversity (COBID) certification program.

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IMPACT STATEMENT

Legislation title: Authorize the 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 equitable opportunities for wealth creation in PCC 5.33, Goods and Services, 5.34, Public Improvement and Construction Services, and PCC 5.68, Professional, Technical, and Expert Services Contracts. (Ordinance)

Contact name: Biko Taylor, Chief Procurement Officer

Contact phone: 503.823.1095

Presenter name: Biko Taylor, Chief Procurement Officer

Purpose of proposed legislation and background information:

The purpose of this legislation is to adopt inclusive contracting policies designed to attract firms owned by Black, Indigenous, and people of color, and women-owned firms to participate in business certification programs, increase eligibility for contract opportunities under PCC 5.33 Goods and Services, expand opportunities for business development, and foster wealth creation through inclusive contracting practices and equitable economic opportunities.

Procurement Services intends to invigorate change in how the City of Portland conducts business with firms owned by Black, Indigenous, and people of color, and women-owned firms, and values their work on City projects.

The City recognizes systemic barriers and discrimination have occurred throughout the United States based on race and gender. The City seeks to address systemic inequities by employing race and gender-neutral (non-mandated) strategies in its procurement and contracting practices.

Financial and budgetary impacts:

The estimated cost is \$300,000. The cost estimate is at a high confidence level. These resources are appropriated in the FY 2021-22 budget; no further allocation of funding is required by Council. (In the Spring BMP, however, Procurement Services is requesting Council approval to reallocate these funds from existing appropriations.)

Community impacts and community involvement:

In February 1996, Resolution 35495 established the Fair Contracting and Employment Forum 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.

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 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.

Work resulting from collaborations across several focus groups convened to address social equity in contracting and inclusive contracting practices have contributed directly to the development of the Chief Procurement Officer’s Strategic Plan. While there is no single solution to removing barriers that will increase participation of firms owned by Black, Indigenous, and people of color, and women-owned firms on City contract opportunities, Procurement Services is recommending a suite of innovative and encouraging strategies designed to foster wealth creation through the City’s social equity in contracting goals.

Community partnerships include: National Association of Minority Contractors (NAMC), Metropolitan Alliance for Workshop Equity (MAWE), LatinoBuilt, Design Build Institute of America (DBIA) Northwest, Associated General Contractors (AGC) Center, Portland Business Development Group (PBDG), Oregon Tradeswomen Inc. (OTI), Oregon Association of Minority Entrepreneurs (OAME), Oregon Small Business Development Center (SBDC) Network, Portland Community College (PCC), Constructing Hope, Urban League of Portland, Verde, Works Systems, Portland Public Schools, and Prosper Portland. This is by no means an exhaustive list but gives an indication of the City’s many community partners who are committed to social equity in contracting and inclusive contracting practices.

100% Renewable Goal:

This action does not affect the City’s total energy use. This action does not affect the City’s renewable energy use.

Budgetary Impact Worksheet

Does this action change appropriations?

YES: Please complete the information below.

NO: Skip this section

Fund	Fund Center	Commitment Item	Functional Area	Funded Program	Grant	Sponsored Program	Amount