

RESOLUTION NO. 3376

A RESOLUTION of the Port Commission of the Port of Seattle establishing a program to promote the use of small economically disadvantaged business in competing for Port of Seattle contracting opportunities.

WHEREAS, the success of small economically disadvantaged businesses is important to the region's overall economy, including the development of job opportunities and social mobility in the Port District; and

WHEREAS, economic justice is served by enhancing opportunities for small economically disadvantaged business owners who pursue relevant technical and entrepreneurial training to become more skilled competitors and business who locate and remain in economically distressed areas help to strengthen those areas by stimulating economic activity and revitalizing neighborhoods; and

WHEREAS, through its contracting activities, the Port is in a position to create important economic incentives to use small economically disadvantaged business; and

WHEREAS, it is in the Ports economic interest to provide incentives to encourage small economically disadvantaged businesses to locate and remain within the Port District; and

NOW, THEREFORE, BE IT RESOLVED by the Port Commission of the Port of Seattle that:

Section 1. Boost Program. The Executive Director shall implement a "Boost" Program under which the Port and its contractors have an incentive to make use of small economically disadvantaged businesses as prime contractors, subcontractors, and suppliers on Port contracts; provided, the Executive Director shall brief the Commission on the procedures and incentives to be adopted under this Resolution before implementation.

Section 2. Scope. The Boost Program shall apply to Port of Seattle contracting, consulting and procurement contracts. The Boost Program shall not, however, apply to projects that are, in whole or in part, federally funded and which impose specific requirements for Disadvantaged Business Enterprise (DBE) or Women/Minority Business Enterprise (W/MBE) participation.

Section 3. Definitions.

a. "Economically distressed area" means a geographic area determined by the City of Seattle Council and/or the King County Council to require the use of incentives in order to stimulate economic activity and revitalize declining neighborhoods.

b. "Executive Director" means the Executive Director of the Port of Seattle or his designee.

c. "Located within" the Port District or an economically distressed area means that a business at least:

- (i) has its primary offices or distribution points (other than residential or post office box) physically within the relevant boundaries; and
- (ii) lists the address on a valid business permit as being within the relevant boundaries; and
- (iii) has been doing business within the relevant boundaries for at least 12 months; and
- (iv) submits other proof as required by the Executive Director.

d. “Small Economically Disadvantaged Business” means that a business and the person or persons who own and control it are in a financial condition which puts the business at a substantial disadvantage in attempting to compete for public contracts. In assessing these financial conditions, the Executive Director shall substantially adopt the approach used by the Federal Small Business Administration (“SBA”) provided that the SBA dollar ceiling for various standard business classification and levels for owners’ personal net worth may be adjusted by the Port of Seattle to account for local market conditions

Section 4. Criteria for Participation. To be certified for the Boost Program, a business must be a Small Economically Disadvantaged Business serving a commercial useful function and must meet at least one of the following criteria:

a. Located within the Port District. A business located within the Port District, as defined above, may meet this criterion as a means to offset the competitive disadvantages experienced by Small Economically Disadvantaged Businesses and to encourage other such businesses to locate and remain within the Port District.

b. Business Development. A Small Economically Disadvantaged Business can meet and maintain this criterion by having the person(s) who owns and controls the business annually complete at least fifteen hours of business-related training in a program approved by the Executive Director. In establishing a procedure for the approval of any such training, the Executive Director shall look for one or more of the following indications of the program's value: (i) the programs historical use or support from within the relevant industry, (ii) any affiliation the program has with established schools, if any, and (iii) accreditation by an established association.

c. Located within an Economically Distressed Area. A Small Economically Disadvantaged Business may meet this criterion by being located within an economically distressed area as defined by either the City of Seattle or King County for purposes of compatible programs.

Section 5. Certification. The Executive Director is authorized to develop a process for certifying business for participation in the Boost Program. If feasible, the Executive Director shall arrange, or contract for, a coordinated certification agency in cooperation with other agencies that may adopt compatible programs.

Section 6. Limitation of Certification. In order to provide significant opportunities and incentive for Boost businesses to prove themselves competitive within the market, the certification of such businesses shall be limited to five (5) years or a specified contract and dollar volume of participation.

Section 7. Methods of Providing Incentive. The Boost Program shall use one or more methods to create an incentive to promote the use of Boost businesses. This incentive shall be produced either through a bonus system in which the increased participation of Boost businesses is a factor in the award of contracts or through a set-aside system under which contractors are required to achieve a specified level of participation by Boost businesses.

Where the bonus

system is used, the contract shall state the maximum incentive available for Boost participation and the possible methods of making use of the incentive. Where a set-aside system is used, the contract shall state a required minimum utilization.

The program may provide additional incentives for Boost businesses meeting two or more of the additional criteria for certification.

Section 8. Monitoring. The Executive Director shall be responsible for monitoring compliance with the provisions of this Resolution by the Port and by all persons doing business with the Port. The Executive Director is hereby authorized to require all persons to provide any records, information and documents deemed relevant for such monitoring activities. In order to ensure compliance with the provisions of this Resolution, the Executive Director may issue rules and procedures for the monitoring and reporting related to this Resolution as well as contracts awarded by the Port or in which funds from the Port are involved.

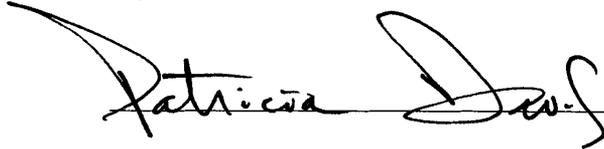
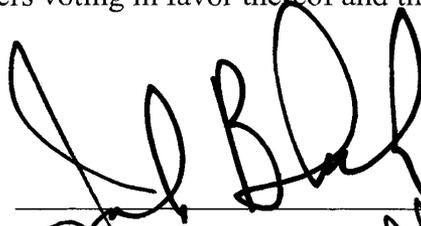
Section 9. Enforcement. Upon receipt of a written and signed allegation that any person has violated any provision of this Resolution, or if an apparent violation is discovered

from information gained through compliance monitoring, the Executive Director shall conduct an investigation. If, based on such investigation, the Executive Director determines that a violation may have occurred, then the person shall be notified of the circumstances and provided an opportunity to rebut the determination that a violation has occurred, according to procedures established by the Executive Director. Contract payments may be suspended or withheld pending the final determination that a violation has occurred. If the Executive Director finally determines that a violation has occurred, one or more of the sanctions set forth in Section 10 of this Resolution may be imposed.

Section 10. Violations and Sanctions. A person who violates any provision of this Resolution or any rules or procedures developed under its authority or who fails to comply with representations or commitments made to receive a benefit or qualify for an incentive under the Boost program shall be subject to sanctions, including but not limited to: (a) refusal to award a contract, (b) suspension of a contract, (c) withholding of funds, (d) rescission of a contract, (e) termination of the contract, (f) liquidated damages, (g) disqualification from eligibility for bidding on or entering into or participating, as a subcontractor or in any other manner, in a contract with the Port of Seattle for a period not to exceed five (5) years. The Executive Director shall set forth the sanctions and/or liquidated damages to be imposed and the reasons therefor in a written order and shall promptly furnish a copy of the order to the contract awarding or administering authority, and shall mail a copy by certified mail, return receipt requested, to the person being sanctioned.

Section 11. Effective Date. The provisions of this Resolution shall be effective on January 1, 2000.

ADOPTED by the Port Commission of the Port of Seattle at a regular meeting thereof, held this 8th day of February, 2000, and duly authenticated in open session by the signatures of the Commissioners voting in favor thereof and the seal of the Commission.



Port Commission