

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON
ACTING AS THE PUBLIC CONTRACT REVIEW BOARD**

RESOLUTION NO. 2018-024

Resolution Approving Amendments to Public Contract Review Board Rules Division 60 on Equal Opportunity in Public Contracting, Effective July 1, 2018.

The Multnomah County Board of Commissioners Finds:

- a) The proposed Public Contract Review Board (PCRB) Rule amendments create County policy to ensure that County construction projects support a diverse local workforce and firms certified by Oregon Certification Office for Business Inclusion and Diversity (COBID-Certified Firms). To support this policy, the County will set aside one percent (1%) of the County Construction Cost and one percent (1%) of other funds' Construction Costs (when permitted by other funding entities) into a Construction Diversity and Equity Fund (CDEF).
- b) The CDEF will support two initiatives: (1) the development of a diverse local construction workforce through support of BOLI certified pre-apprenticeship programs, as well as workforce support services and retention programs; and (2) technical assistance, mentoring and training for firms in the fields of construction-related professional services or contracting that have been certified by the Oregon Certification Office for Business Inclusion and Diversity (COBID-Certified Firms). In addition, any liquidated damages assessed by the County for Workforce Training & Hiring (WFTH) non-compliance on projects subject to the WFTH program shall be placed in the CDEF.
- c) The CDEF will be developed by Multnomah County Purchasing in consultation with a variety of County and community stakeholders. Mechanisms for collecting the fund will be developed by Purchasing and the Department of County Management. Purchasing will present annual reports to the Board of County Commissioners to include funding priorities and data on outcomes and activities supported by the CDEF.
- d) The ongoing cost of this program will vary, depending on the amount of construction done by the County. The CDEF will increase by 1 percent the cost of Construction of a new building, road, bridge or other public work where the County Construction Cost exceeds \$1 million and projects for the rehabilitation, renovation or improvement of an existing County building, road, bridge, other public work, or of premises leased by the County, where the County Construction Cost exceeds \$200,000.
- e) The County has worked to establish strong aspirational goals for our workforce and certified firm participation on County construction projects. The City of Portland, Metro, school districts and others are also establishing goals to provide economic opportunities for women, minorities and service disabled veterans. The CDEF aligns with the County's Workforce Equity Strategy and will strengthen the County's commitment to increasing diversity, equity and opportunity in our workforce and business community.

- f) Jobs in the fields of construction, professional services and contracting are stable, family wage jobs, but as a result of a history of discrimination and other barriers, jobs in these fields have not been equally available to all people. By setting aside one percent (1%) of funds on our construction projects in the CDEF, the County will have a consistent commitment to promoting and expanding a thriving, diverse, well-trained workforce in the construction trades and design and construction contractor pool.
- g) The proposed rule amendments will become effective on July 1, 2018, and the CDEF will apply to Construction Projects which are first advertised or solicited after the effective date.
- h) It is in the best interests of Multnomah County to adopt the amendments to PCRB Rule Division 60.

The Multnomah County Board of Commissioners Resolves:

- 1) The Board approves the amendments to PCRB Rule Division 60 on Equal Opportunity in Public Contracting, attached as Exhibit A, creating a Construction Diversity and Equity Fund, effective July 1, 2018.
- 2) County Purchasing is directed to present a Board Briefing by the end of FY 2019, prior to the initial funding distribution, summarizing the funding program priorities and mechanisms, and, thereafter, to present annual reports to the Board with data on outcomes and activities supported by the fund.

ADOPTED this 15th day of March, 2018.

**BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON
ACTING AS THE PUBLIC CONTRACT
REVIEW BOARD**

Deborah Kafoury

Deborah Kafoury, Chair



REVIEWED:
JENNY M. MADKOUR, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By *Kenneth M. Elliott*
Kenneth M. Elliott, Asst. County Attorney

SUBMITTED BY: Deborah Kafoury, Chair
Lori Stegmann, Commissioner, District 4

EXHIBIT A
MULTNOMAH COUNTY
PUBLIC CONTRACT REVIEW BOARD RULES

DIVISION 60 EQUAL OPPORTUNITY IN PUBLIC CONTRACTING

[New text added by this Resolution is Underlined.]

DIVISION 60 EQUAL OPPORTUNITY IN PUBLIC CONTRACTING

60-0010 Purpose

- (1) The purpose of this Division is to establish procedures to assure that Multnomah County provides adequate opportunities for Minority Individuals, Women, and MBE, WBE and ESB Contractors and subcontractors to participate and compete for business and employment opportunities provided through Contracts with Multnomah County.

60-0020 Policy

- (1) It is the intent of Multnomah County to provide opportunities for all segments of the business population to participate in Multnomah County contracting opportunities.
- (2) Multnomah County has a compelling governmental interest in prohibiting discrimination in programs, activities, services, benefits and employment whether carried out by the County itself or through a Contractor with whom the County arranges to carry out its programs and activities.
- (3) It is in the best interest of Multnomah County to promote and expand a thriving, diverse, well-trained workforce in the construction trades and to have diverse and thriving small businesses in our community.
- (4) It is the policy of the County that each Construction Project (as defined in Section 60-0060) shall benefit the growth and sustainability of a diverse local workforce and shall support the advancement of firms in the fields of construction-related professional services or contracting that have been certified by the Oregon Certification Office for Business Inclusion and Diversity (COBID-Certified Firms).

60-0030 Contract Clauses Required

- (1) In order to assure opportunity, every County Contract shall include a provision barring discrimination against MBEs, WBEs and ESBs by Contractor and all subcontractors.
- (2) Every County Contract shall contain a provision prohibiting discrimination by Contractor and all subcontractors based on race, religion, color, sex, marital status, familial status, national origin, age, mental or physical disability, sexual orientation, gender identity or source of income.

60-0031 Good Faith Effort Program

- (1) The activities described in ORS 200.045 are standards for Good Faith Efforts to provide equitable opportunities for MBEs, WBEs, and ESBs to participate in subcontract opportunities created through Multnomah County Contracts.

- (2) The PURCHASING Manager shall implement a Good Faith Effort program utilizing the standards described in ORS 200.045 that are determined to be effective to achieve the purpose of this section together with such other standards as are appropriate to such a program. Bid or Proposal Specifications for Contracts requiring Good Faith Effort shall state the requirements necessary to show that a Good Faith Effort has been made and shall require documentation of such effort. The PURCHASING Manager shall cooperate with other municipal and state agencies to design, to the maximum extent possible, a program that is uniform between agencies.
- (3) The PURCHASING Manager shall determine if the Offer complies with requirements for Good Faith Effort in the Solicitation Document.
- (4) If the Good Faith Effort documentation submitted by the Offeror fails to substantially comply with the requirements of the Solicitation Document, the Offer shall be deemed non-responsive and shall be rejected by the PURCHASING Manager.

60-0040 Requirement for Certification as Equal Employment Opportunity Employer

- (1) No Department shall enter into a contract for an amount in excess of \$75,000 unless the Contractor agrees to meet the full requirements of Title VII of the Civil Rights Act of 1964 as described in ORS 659A.001 et al. with regard to Unlawful Discrimination in Employment.
- (2) Contractors without employees at the time of Contracting who later add employees during the period of performance of any County Contract must meet the full requirements of Title VII of the Civil Rights Act of 1964 as described in ORS 659A.001 et al.
- (3) County may terminate all existing contracts with Contractors who fail to meet the requirements above.

60-0050 Workforce Requirements in Construction Contracts

- (1) For all Contracts designated by the PURCHASING Manager as being appropriate for such a program, the PURCHASING Manager shall establish Specifications to be included in the Solicitation Document which require for such Contracts that Contractors make reasonable efforts to increase apprenticeship training and work opportunities for Women and Minority Individuals, and, to ensure that their workforce reflects the diversity of Multnomah County and is reasonably consistent with the availability of qualified Women and Minority Individuals. The Specifications shall state the requirements necessary to show that a reasonable effort has been made, shall require documentation of such effort, and shall provide for remedies to the County for failure to comply with any of the specified requirements.

60-0060 Construction Diversity and Equity Fund

- (1) **Purpose.** Multnomah County is committed to increasing diversity, equity and opportunity in the skilled construction trades. The Construction Diversity and Equity Fund (CDEF) aligns with Multnomah County's Workforce Equity Strategy and reflects Multnomah County's commitment to increasing diversity, equity and opportunity in our workforce and business community.
- (2) **Definitions.** For purposes of this Section 60-0060, the following definitions shall apply unless the context requires a different meaning:

CONSTRUCTION PROJECT. Construction of a new building, road, bridge or other public work where the County Construction Cost exceeds \$1 million and projects for the

rehabilitation, renovation or improvement of an existing County building, road, bridge, other public work, or of premises leased by the County, where the County Construction Cost exceeds \$200,000.

COUNTY CONSTRUCTION COST. The actual hard construction and professional services cost to the County of a new building, road, bridge or other public work, or a rehabilitation, renovation or improvement of an existing County building, road, bridge, other public work, or of premises leased by the County. County Construction Cost does not include administrative costs, costs for fees, permits, testing, inspections, interest paid during construction, advertising and legal fees and all other indirect costs. County Construction Cost does not include the cost of furnishings or equipment for the new or renovated building or other public work.

- (3) **Funding.** One percent of the general fund County Construction Cost of each Construction Project, and one percent of other funds' Construction Cost, when permitted by other funding entities participating in funding the Construction Project, shall be set aside in the CDEF to support two initiatives: (1) the development of a diverse local construction workforce through support of BOLI certified pre-apprenticeship programs, as well as workforce support services and retention programs; and (2) technical assistance, mentoring and training for COBID-Certified Firms. The CDEF will apply to Construction Projects which are first advertised or solicited after July 1, 2018. In addition, any liquidated damages assessed by the County for Workforce Training & Hiring (WFTH) non-compliance on projects subject to the WFTH program shall be placed in the CDEF.
- (4) **Administration.** The CDEF program will be developed by Multnomah County Purchasing in consultation with the Department of County Assets, the Department of Community Services, and stakeholders representing workforce, professional services firms, and contracting organizations to develop funding priorities for the use of CDEF funding to support low-income, disadvantaged, minority, women and disabled veteran workers in the construction trades and the development and growth of COBID-Certified Firms. The Department of County Management will establish mechanisms for collecting funds for the CDEF. County PURCHASING will present annual reports to the Board with data on outcomes and activities supported by the fund.