

## SOUND TRANSIT

### RESOLUTION NO. R98-39

#### Small Business Support Program BACKGROUND AND COMMENTS

Meeting:	Date:	Type of Action:	Staff Contact:	Phone:
Finance Committee	7/16/98	Discussion	Jan Hendrickson	(206) 689-3148
Finance Committee	1/7/99	Recommend Board Approval	Alec Stephens	(206) 689-3762
Board of Directors	1/14/99	Approval	Dale Wydman	(206) 689-7434

#### ACTION:

Authorize the development and implementation of a multi-faceted Business Support Program for small businesses/contractors which include minority-and-women-owned businesses and businesses owned by persons with disabilities. The purpose of this program is to provide mentoring, accounting, legal, financial advice and technical assistance to small, local and disadvantaged businesses and contractors involved in or desiring to be involved in ST construction contracts.

#### BACKGROUND:

A recurring problem identified by small businesses as barriers to participation in construction projects is bonding and working capital financing.

On February 10, 1995 the Board of Directors of Sound Transit (ST) approved Resolution No. 52 which adopted for the design and construction of the Phase I System of the Regional Transit System Master Plan a policy goal of maximizing opportunities for the participation of local and DBE contractors. In the same Resolution, the board directed the Executive Director "to review for inclusion within the plan a Business Support Program to assist small or DBE contractors and subcontractors involved in RTA construction contracts in securing bonding and technical and business management support."

On January 29, 1995, Resolution No. 54 was approved. This resolution established a work program related to M/W/DBE as well as reinforced the Board's directive to the Executive Director "to continue to explore innovative methods and/or programs that contribute to the success of the RTA's M/W/DBE program."

In the time since the adoption of Resolution No. 54, Sound Transit has taken the following actions:

- Hired an M/W/DBE Program Supervisor (now Diversity Program Manager) to develop and establish a federal DBE program and goal.

- Adopted Guiding Principles for Employment and Contracting (Motion No. 17), and Policies to Implement the Guiding Principles for Employment and Contracting (Motion No. 29).

Preliminary A&E contracts have been and will continue to be let over the next several years. In conjunction, several construction projects have already been approved and started by Regional Express in partnership with various governmental agencies. Light Rail and Commuter Rail will start several major construction projects in the next year, which would enable significant participation by small businesses.

#### **RELEVANT BOARD POLICIES AND PREVIOUS ACTIONS TAKEN:**

- Resolution No. 52 (February 10, 1995) establishes a policy to maximize construction contract opportunities for local and disadvantaged contractors.
- Resolution No. 54 (January 29, 1995) establishes a work program related to (M/W/DBE) Minority/Women/Disadvantaged Business Enterprises.
- Resolution No. 59 (February 10, 1995) establishes a draft Federal Disadvantage Business Enterprises (DBE) goal for public review.
- Resolution No. 60 (February 24, 1995) establishes a policy promoting a fair work environment for local labor.
- Resolution No. 66 (May 12, 1995) establishes submittal of the inaugural DBE Program and Goal to the Federal Transit Administration.
- Adoption of *Sound Move* (May 31, 1996)
- Motion No. 17 (November 1, 1996) adopts guiding principles for employment and contracting.
- Motion No. 29 (May 22, 1997) adopts policies to implement guiding principles for employment and contracting on consultant and professional services contracts, and goods and services (purchasing) contracts.
- Motion No. M98-75 (October 22, 1998) Sound Transit's Economic Development Program.

#### **KEY FEATURES:**

This program will allow small firms to gain the education and experience through technical assistance and business support mentoring that is necessary to address the bonding requirements in contracts as well as obtaining working capital. It does not guarantee that all contractors going through the program will be bondable or financially, only that they will be given a fair review based on their own abilities and qualifications.

Sound Transit, through its program, will seek bonding and financial institutions to work with participating firms to enhance their access to bonding and working capital.

Sound Transit will not use locally generated tax revenues to guarantee repayment of obligations by participating firms.

## **FUNDING:**

Measuring participation levels and needs at this point is difficult at best. A \$270,000 per year budget provides for the services of accountants, attorneys, business consultants, construction management and project management consultants, and financial consultants to assist up to 120 small businesses a year. It is estimated that in the first 2-3 years, the program will have the capacity to work with an average of 40 – 60 firms in providing technical assistance and business advice.

Service providers will be retained to provide the necessary expertise and support to insure the proposed program is administered fairly and equitably, and that the program provide quality services to each small business which include minority-and-women-owned businesses and businesses owned by persons with disabilities, (expected to be 120 or less per year) to make the program a success. Sound Transit currently has a team of consultants providing insurance broker services who have assisted in the preparation of this proposal. Sound Transit will, in developing the details of the program, determine the best method to operate and administer the program and engage service providers.

To avoid duplication of services, Sound Transit will also serve as a clearinghouse to refer firms to other appropriate technical assistance programs such as the U.S. Small Business Administration, the Washington State DOT or University of Washington.

Funding for this program has been included in the 1999 budget, under Economic Development.

## **ALTERNATIVES:**

Contracts could be let to the area's major general contractors and make them responsible for meeting the small business objectives of ST. This approach is the simplest, but does not offer the most desirable opportunity to encourage small business growth and development. This approach will not respond to the continuing issue of lack of bonding as a barrier to small businesses. Such small businesses may participate as subcontractors on Sound Transit contracts (and prime contractors can elect to waive subcontractor bonding requirements), but their ability to pursue prime contracts would be severely limited. Sound Transit would, as have other public agencies, be able to meet its federal DBE goal using this approach.

ST could actively encourage general contractors to waive subcontractor bonding requirements. This would encourage more small contractor participation because they would then be competing on just their qualifications and estimating skills. This could however have an adverse effect on the general contractors, by reducing their protection from subcontractor default. By encouraging waiver of subcontractor bonding small businesses may participate as subcontractors on Sound Transit contracts, but their ability to pursue prime contracts would be severely limited. Sound Transit would, as have other public agencies, be able to meet its federal DBE goal using this approach.

ST could adopt an unfunded mentoring program. An unfunded mentoring program is subject to finding volunteers (legal, banking, and business) who can and will devote sufficient time, effort

and resources into providing tangible assistance to the contractors. The disadvantage of this approach is these programs provide limited assistance because of limited volunteer time.

Finally, although state law provides that all prime contractors provide bonding (for contracts in excess of \$25,000), Sound Transit could mandate that bonding not be required of subcontractors, thus leveling the playing field for subcontractors (access to bonding not a factor). This, however, would not encourage the growth or development of firms, would not allow any difference in the ability for such firms to pursue relatively small construction contracts, and would not provide any additional protection to Sound Transit. In addition, this approach may expose Sound Transit to higher costs or liability from prime contractors who no longer could elect to waive subcontractor bonding requirements as a business decision within their control.

**RECOMMENDATION:**

Authorize the development and implementation of a multi-faceted business support program. This facilitates pre-qualification of small businesses (including minority-and-women-owned businesses and businesses owned by persons with disabilities) by enabling them to upgrade the quality of their financial statements, estimating abilities and internal controls. Such a program, with participation from financial and bonding institutions, along with internal controls, is targeted to increase the number of small firms having access to bonding and capital. The utilization of the funds administrator ensures proper and timely payment of job obligations by an independent source, thus making participating firms more attractive to bonding and financial institutions.

**CONSEQUENCES OF DELAY:**

Sound Transit may appear non-responsive to the concerns of the small business community, as measured against previous Board policy commitments.

If program is not started, there will not be as many qualified small business bidding on Sound Transit projects, which lessens competition and potentially increases cost.

**LEGAL REVIEW:**

The Background and Comments and Resolution have been reviewed and approved by the Legal Department.

## **SOUND TRANSIT**

### **RESOLUTION NO. R98-39**

A RESOLUTION of the Board of the Central Puget Sound Regional Transit Authority authorizing the development and implementation of a Business Support Program for small businesses and contractors to provide mentoring, accounting, management, and financial advice and technical assistance for such businesses and contractors involved in or desiring to be involved in a construction contract with Sound Transit.

WHEREAS, a regional transit authority ("Sound Transit") has been created for the Pierce, King, and Snohomish County region by action of their respective county councils pursuant to RCW 81.112.030; and

WHEREAS, on November 5, 1996, Central Puget Sound area voters approved local funding for *Sound Move*, the ten-year plan for regional high-capacity transit in the Central Puget Sound Region; and

WHEREAS, on January 29, 1995, Sound Transit adopted Resolution No. 54 establishing a work program related to Minority/Women/ and Disadvantaged Business Enterprise ("M/W/DBE"); and

WHEREAS, Resolution No. 54 further directed that Sound Transit continue to explore innovative methods and/or programs that contribute to the success of Sound Transit's M/W/DBE program; and

WHEREAS, on February 10, 1995, Sound Transit adopted Resolution No. 52, for the design and construction of the Phase I System of the Regional Transit System Master ("Master Plan") a policy goal of maximizing participation of small, local and disadvantaged business enterprise ("DBE") contractors; and

WHEREAS, Resolution No. 52 also directed the Executive Director to review for inclusion within the Master Plan a "Surety Support Program" to assist small or DBE contractors and

subcontractors involved in Sound Transit construction contracts in securing bonding and technical and business management support; and

WHEREAS, small contractors have identified bonding as a recurring barrier to participation in construction projects; and

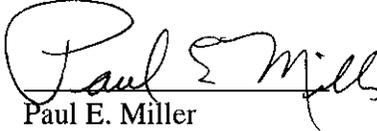
WHEREAS, Sound Transit finds that it is in the public interest to implement a Business Support Program for small businesses and contractors.

NOW, THEREFORE, BE IT RESOLVED by the Board of the Central Puget Sound Regional Transit Authority that it hereby authorizes the development and implementation of a Business Support Program for small businesses and contractors, which include minority-and-women-owned businesses, and businesses owned by person with disabilities to provide mentoring, accounting, legal, construction management, project management and financial advice and technical assistance for such businesses and contractors involved in a construction contract or desiring to be involved in a contract with Sound Transit.

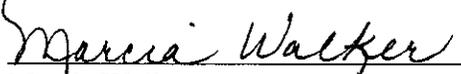
BE IT FURTHER RESOLVED, that staff will return to the Finance Committee to report on the final development of the Business Support Program, and will make subsequent reports on program implementation in six-month intervals.

Approved by the Executive Committee on January 15, 1999 and ratified by the Board of the Central Puget Sound Regional Transit Authority at a regular meeting thereof held on the

28<sup>th</sup> day of January 1999.

  
Paul E. Miller  
Board Chair

ATTEST:

  
Marcia Walker