



CITY OF PORTLAND

Fair Contracting Forum

Thursday, January 23, 2014

10 a.m. to 11:00 a.m.

City Hall, 3rd Floor, Rose Room
1221 SW 4th Ave., Portland, Oregon

Connie Ashbrook
Oregon Tradeswomen, Inc.

James Posey
NAMCO

Jonath Colon
*Hispanic Metropolitan Chamber of
Commerce*

Melinda Dailey
NUCA

Herb Fricke
*Oregon Native American
Chamber of Commerce*

Jorge Guerra
*Oregon Association of Minority
Entrepreneurs*

Lauren Holmes
*Natl' Association of Women in
Construction*

Pat Daniels
Constructing HOPE

Mark Matthews
Pacificmark Construction

Willy Myers
*Columbia Pacific Building Trades
Council*

Betsy Pratt
League of Women Voters

Sarah Coghill
AGC Columbia Chapter

Alando Simpson
Small Business Advisory Council

Valerie J. Solorzano
Chick of All Trades, LLC.

Shirleen Warnock
Innovative Growth Solutions

Laura Becker
Venture Portland

H.Q. LA
*Pacific Asian Chamber of
Commerce*

Wade Freitag
Oregon Remodelers Association

Meeting Notes

Meeting handouts: Meeting agenda, PDC -A Comprehensive New Equity Policy dated January 17, 2013, PDC FY 12-13 MWESB Participation, City of Portland Sick Time Administrative Rules SL1. General Provisions and Chapter 9.07 Protected Sick Time.

Welcome

Christine Moody welcomed everyone to the meeting and introduced new members to Fair Contracting Forum (FCF): H.Q. La from the Pacific Asian Chamber of Commerce, Wade Freitag of the Oregon Remodelers association, and Willy Meyers from the Columbia Pacific Building Trades Council. Next there were self-introductions around the room.

Portland Development Commission (PDC) Outlook and Issues in 2014

John Jackley, PDC's Head of Communications provided an overview of the significant changes from last year to PDC's Equity Policy. In January of 2013 the PDC Board approved changes to the policy and then they were fleshed out throughout the Spring and Summer of that year.

John explained that PDC has three types of construction projects: (1) PDC holds the contract and owns the land (this is a small part of PDC's portfolio and not typical,) (2) Most of the PDC dollars go into Inter Governmental Agreements (IGA) with different bureaus and agencies, and (3) Public/private partnerships. John indicated that 30% all their Tax Increment Financing (TIF) dollars go to the City of Portland Housing Bureau for affordable housing projects.

New Equity Policy and Procedures

John pointed out the significant changes the PDC Board made that broadly expanded the policy beyond its traditional construction area into two new areas. One, to internal activities such as recruitment, retention, and training and second, into non-construction areas such as lending, traded sector work, clustered industries support and recruitment. He acknowledged that these changes are new, not only to PDC but perhaps to the country in terms of the traded sector, lending and industry support.

John described the PDC three cornerstones to equity and construction: apprenticeship, workforce and, sub and prime contracting. He noted that in addition to construction this year there is an emphasis on professional services. Patricia Weekley, OAME, and an architectural firm called Eco Real have put together a web based platform that PDC has started requiring for use on their projects use to ensure women and people of color have equal access to contracts as small firms. Also, he noted that due to the recession many small

firms have joined larger firms and the PDC is working with private sector partners and large professional services firms to both break up contracts in ways they haven't and to give their women and people of color on staff a shot at the cutting edge projects, new technology and green projects.

FY 2012-13 results

John reported that they have made significant changes in the Equity Policy for apprenticeship workforce and contracting that have effected projects already.

- Prompt payment is required in 10-working days even for their public/private partnerships.
- Self-performed work must be pre-approved.
- Workforce requires that all subs must be signatory to a BOLI approved training program that has been in existence for 5-years and has a history of producing graduates. There are also union and non-union options with some flexibility for other trades such as landscaping that has no BOLI program.
- The 5-year apprenticeship program requirement has been extended to all projects subject to the Equity Policy.
- Disposition and Development Agreements (DDA) must now include an approved contracting plan and it must be signed and done at time of the DDA.
- On the PDC owned project Dawson Park, they received approval to do best value on the contract instead of low bid. This project was a pilot for best value and it may be used on other projects.
- Disadvantaged Business Enterprises (DBE) may be used on projects (depending on the nature of the project) even on their non-Fed projects. PDC now has the flexibility to include DBEs along with Woman Business Enterprise (WBE) and Minority Business Enterprise (MBE) in order to increase participation on its projects.
- The 20% aspirational goal is now considered the floor percentage, not ceiling, based on availability factors. They do this determination on each project.

Lessons learned

Who you select as Prime has a huge impact on who the subs will be. When PDC did their best value process for the Prime Contractor for Dawson Park a MBE was selected as the prime contractor and the results John speculated will be around eighty percent participation.

An unfortunate experience on a downtown project. John expressed that they set up policies making the assumption that they are working with cooperative partners. However, they received a "wake up call" on a project which had a person who was absolutely and adamantly against their equity policy. To remedy the situation Pat Weekly went through the loan policy line by line and

is working to update the language so that in the future once a loan is made the recipient must comply with the policy.

Action: Pat will update the FCF on the finalized language when it's done and approved.

Upcoming projects

John spoke about the increased project activity in Lents and some others are coming online in the Gateway area. Also, PDC is starting to fund more public projects than they have in the last four to five years. They have done street projects in Lents, Gateway and Interstate Urban Renewal Areas.

John announced that big projects are coming up, for example, the Daimler Head Quarters Expansion and Garage projects on Swan Island. PDC funding is going into the garage project. They successfully negotiated the application of their equity policy, including apprenticeship training on the entire project worth 120 million. John added that the subcontracts on this project will be as big as most prime contracts.

John reported they have seen an increase in small business expansions, for example: Bridgetown Foods Expansion project in Lents. Bridgetown took advantage of the State Enterprise Zone program that PDC administers. Next, Patricia Weekly identified another project, federally funded Union Station. PDC is doing the engineering review and taking the lead in setting the DBE goals. She spoke about lesson learned the importance of contractors having a business plan for business development.

Herb Fricke asked John if Developers have embraced equity goals and are they written into PDC's agreements. Patricia acknowledged that they do and are written into its agreements and updates.

James Posey praised John for doing such a great job putting things together over the past couple of years and wondered how they came up with all the pieces? John responded that they listened to people and talked to the Unions about apprenticeship and training and, by picking the brains of people like, Bruce Watt and James, himself. Also, they stay open to new ideas and remain flexible. The other thing, he said, is that it helps to have the PDC leadership making it a priority.

Sick Leave Policy

Franco Lucchin, Deputy City Attorney began with a caveat, what he is presenting today should not be taken as legal advice but will be about what the City of Portland has adopted as its sick time ordinance, policy, code and administrative rules. He referred to the handouts one on City Code and one on, the administrative rules (see meeting handouts) that apply to it. He cautioned members that in the future if anyone would like to refer to these documents it is best to access them online by going to Portlandoregon.gov/fritz then click on the sick time tab where the most current versions can be found. He said that the Bureau of Labor and Industries (BOLI) has been contracted by the City to enforce and support this new ordinance.

Franco went over some of the main features of the sick time policy and rules:

- The notice of requirements that qualifying employers will need to provide (posters and notices are available online.)
- Which employees the policy applies to:(see attachment section 901.030)
- Employers with six or more employees will need to provide 1 hour of sick time for every 30 hours of worked perform by an employee within the geographical area of the City of Portland.
- Provisions detailed in the administrative rules regarding how the sick time can be used by the employees.
- The three categories of employers: 1) Six or more employees, 2) Employers already doing this, should still referred to the administrative rules and code, 3) Five or fewer employees – this category of employers must still follow the same accrual calculations as an employer having six or more employees only sick time when taken is unpaid.

After highlighting some big picture items Franco suggested that he would be accepting questions but his answers would be limited in the short-term and that he wouldn't be answering legal questions, but, at a minimum he would take the questions and compile them for consideration going forward.

Q: Do notices go to just the employees that are working in this geographic area and what if some employees work outside of the area or does it apply all employees in the firm.

A: The best practice would be to provide them to everybody and to post notices in areas the majority of employees are or tend to gather.

Franco advised that as people have questions they should use BOLI as a resource. Ultimately using BOLI for technical questions and support should help employers and this system should it evolve.

Q: There are some industries that seem to take advantage of independent contractor status so employees people hired appear as contractors in order for the employer to avoid certain requirements. Is that something the City is involved in regulating?

A: Franco referred to the code that says it excludes independent contractors among others, that the determination is one that BOLI will have enforcement on and BOLI will also has authority through an IGA that the City has with them to interpret the code and the administrative rules.

Q: There is an issue around employees that move to another location does accrued sick leave transfer? Look at the construction and hospitality industries for example. When they move do they get a check or does their sick time accrual follow them? If so, who tracks it?

A: Franco referred technical questions like this to BOLI.

There was a brief discussion on “use it or lose it” and how the policy addresses carry over up front versus accrual based sick time.

Follow up on Action Items & Wrap Up

Christine announced that the FCF webpage is located under City's Procurement Services webpage is up and running. Also, the City Procurement Annual Report will be done in the middle of February and it will be posted to the website. Christine offered to send out to the FCF when it is ready. She indicated that the report card template requested by Connie last time has been reworked so that it is not specific to any one contractor. It will be posted to our website as well.

Christine announced they held a meeting with NUCA to discuss the trucking apprenticeship program and how it may work on City projects. She indicated there were no conclusions from that meeting but there was meaningful discussion on the program. A training was scheduled as a follow up with Connie Ashbrook and Pat Daniels presenting the Building in Construction Program

There were no further announcements. Meeting adjourned.

Next Meeting

March 27, 2014

10:00 to 11:00 a.m., Portland City Hall

3rd Floor - Rose Room
