

BOARD OF PUBLIC WORKS

FOLDER NO 4

(1973)

Unrecorded Subject File

**CENTRAL FILE**

2/21  
December 21, 1973

Honorable Board of Public Works  
City of Seattle  
Seattle, WA 98104

Gentlemen:

We compliment Betty McFarland for including in the new draft of bidding procedures our recommended changes and addressing our comments. The new additions and definitions yield the following response.

The proposed definition of ordinary maintenance has two faults:  
1) It is too limited because it does not include the concept that ordinary maintenance may be done by contract; and 2) in addition to being a definition, it includes a directive that all work other than ordinary maintenance must be by contract.

It appears to be a reflection of building maintenance practice rather than one of Public Works maintenance. Under this definition, the City could replace part of a section of sidewalk with its own forces or with day labor but would have to contract if it replaced an entire sidewalk panel. Unfortunately, it sounds very much as though it were extracted from an AGC publication.

We recommend that the definition be modified to include contracting as an option and that the directive as to how maintenance will be done be deleted. This isn't an appropriate part of a definition in the first place and, secondly, it should be up to the responsible department management as to whether maintenance of any class is done by City forces, day labor or contract, as long as its decision is legally acceptable.

Honorable Board of Public Works  
Page 2  
December 21, 1973

Under definition of "ordinary maintenance", is street area included as a part of the statement "...general upkeep of property...?"

What is meant by low monetary value?

This procedure touches on all types of work but it excludes that work done by City Light and Traffic Operations. This is a Board Policy not a State Statute that excludes electric utilities or signal operations.

The last paragraph on Page 1 is in conflict with the term definition of ordinary maintenance. The first page is correct when it states pavement panels, landing and repair of curbs is work normally done by City forces, but on Page 2 it says "When sidewalk has to be replaced...it is no longer considered ordinary maintenance."

Very truly yours,

Sgd Robert J. Gulino

ROBERT J. GULINO, P.E.  
City Engineer

PAW/WEPS:ksl

Concurrence prior to Signature	
PAW	WEP

Mr. Robert J. Gulino, P.E. ✓  
City Engineer

BPW

Board of Public Works  
Office of the Secretary

*Applications &*  
*Re: Short bid*  
*Proc.*

Betty L. McFarlane, Secretary

*12/19/73*  
(date)

DEPARTMENTAL ROUTING SLIP

*All Board Members* ✓

(referred to)

*Blm*

(referred by)

ROUTING	DATE	INITIAL
ACTION		
<i>BJG</i>		
FILE		✓
INFORMATION		
<i>WMB</i>		
<i>AFM</i>		
<i>Pa W</i>		
<i>WEG</i>		

\_\_\_\_ Please prepare reply for the Secretary's signature on office stationery.

\_\_\_\_ Please reply to the attached letter for the Secretary showing a copy to the Secretary.

Forwarded for your *review* investigation, report and recommendation.

\_\_\_\_ Forwarded for your information and files

Other: \_\_\_\_\_

\*Action requested no later than *12/8/73*

(date) *1-8-74*

DEC 21 10 29 AM '73

The term "Public Works Improvement" shall mean all construction, alteration, repair or improvement, other than ordinary maintenance, upon any property belonging to the City of Seattle, and shall be subject to the bidding requirements of Article VII, Sections 13 and 15 of the City of Seattle Charter (with the exception of nondebatable emergencies-- defined below).

The term "Purchasing Contract" shall mean any contract with a supplier for standard commercial supplies, equipment or raw materials.

The term "Day Labor" shall mean the employment of laborers on departmental payroll, hired on a day-by-day basis (not predicated on a contract unit bid or cost plus agreement). There would be no materials, supplies or product involved. Under the authority of the City Charter, improvements may be made by day labor with approval of the Board of Public Works. The City Charter requires that if public works are to be done by contract, the contract must be on a competitive bidding basis and let to the lowest bidder through the Board of Public Works.

If a department wishes to do a public works improvement by day labor, the concerned department should request approval of the Board. The department would line up cement finishers, pipe layers, etc., on a call to the union hall or otherwise and these workers would be a part of the department's work force working by day. Materials and supplies would be obtained by the department through the purchasing agent.

A department may have the need to hire contractors on an annual basis to do repair work in streets, i.e.: repairs of curbs, landings, pavement panels, trenching, backfilling and restoration in paved and unpaved areas in the public right-of-way (or work normally

SUGGESTED DEFINITIONS  
Page 2  
December 18, 1973

done by City forces, but peaks in work load would not allow). Proper procedure would be to advertise and call for bids. This would allow the department to get unit prices and deal with one or more companies under Board of Public Works contract.

The term "ordinary maintenance" shall mean work done with City's own forces or day labor for the general upkeep of property, machinery or equipment; i.e.: painting, scraping, cleaning, patching asphalt, sidewalks, roofs, replacing door latches, tile, etc.--of a low monetary value. (When sidewalk has to be replaced or entire roof renewed, walls moved, glass windows installed overall, or entire bridge painted, it is no longer considered "ordinary maintenance" but construction, alteration, repair or improvement and should be let for bid. Such work would be substantially replacing old with new.)

The term "Nondebatable Emergency" shall mean any happening caused by violence of nature, casualty, riot, insurrection, war, or other unanticipated occurrence requiring immediate preservation of order or public health, or for the restoration to a condition of usefulness any public property which has been damaged or destroyed by accident, or for public relief from calamity. The term "emergency" in this connection signifies a situation which has suddenly and unexpectedly arisen and which requires speedy action--some unexpected necessity requiring immediate, or at least quick, action. Bidding

requirements shall be waived when the work to be done in behalf of the City is determined to be a non-debatable emergency when the public interest or property of the City would suffer material injury or damage by delay. The Board of Public Works will be the authority to waive bidding requirements due to such emergency situations.

Another type of emergency may exist requiring that bidding procedures be shortened, i.e., time limit on funding, need to start work sooner due to impending bad weather, etc., but not declared a "Non-debatable Emergency" so as to waive bidding process. Some smaller projects do not require extensive review and specifications; i.e., demolitions, roof repairs, renovation of buildings, alterations which are not extensive, concrete panel replacements and those projects which would not require the same boilerplate as projects of a larger scope. Such projects may, upon approval of the Secretary of the Board of Public Works, be accomplished by shortened bidding procedures, as follows:

- 1) Plans and/or specifications may be submitted to the Board of Public Works in a simplified manner. Hand carry to each concerned department for review and recommendation prior to Board action. Exclude the detailed portions of normal specifications and boilerplate determined not to be necessary in such cases. Refer to item(s) excluded stating that they are on file for review in the office of the Secretary if they are required by law, i.e., wage rates, etc.
- 2) Some types of specifications and plans may come directly to the Board (without previous circulation) for approval, subject to modifications later, if departments deem necessary. Submit at same time, request to advertise letter.

- 3) Advertise immediately after Board meeting for normal 5 days and waiting period of 4 days prior to bid opening.
- 4) Award day of bid opening with approval of Human Rights Department.

SUMMARY:

"Non-debatable Emergency" public works, must be determined and declared as such by the Board of Public Works; then normal bidding procedures may be waived. Department, upon receiving such approval, may retain qualified contractor immediately. If Board is not due to meet, the Secretary of the Board will poll the members for a decision.

Shortened bidding procedures for other types of projects which require prompt action, time involved to go to bid and award would be approximately two weeks after approval of specifications by the Board of Public Works.

NOTE: (Purchasing Agent advised us that it would take that long to accomplish if placed through him. The above bidding procedures would, therefore, eliminate the need to place public works improvements through the Purchasing Agent.)

BLM: jy

BP 21

Board of Public Works  
Office of the Secretary

Re: *Editing Procedures*

Betty L. McFarlane, Secretary

12/19/73  
(date)

To: *Robert J. Galino,  
City Engineer*

DEPARTMENTAL ROUTING SLIP

*All BPW members*  
(referred to)

*Betty McFarlane*  
(referred by)

\_\_\_ Please prepare reply for the Secretary's signature on office stationery.

\_\_\_ Please reply to the attached letter for the Secretary showing a copy to the Secretary.

Forwarded for your *review &* investigation, report and recommendation.

\_\_\_ Forwarded for your information and files.

Other: \_\_\_\_\_

DEC 20 8 51 AM '73

ROUTING	DATE	INITIAL
ACTION		
<i>RJG</i>		
FILE	<input checked="" type="checkbox"/>	
INFORMATION		
<i>PMB</i>		
<i>AEM</i>		
<i>PAW</i>		
<i>WEPS</i>		

30

\*Action requested no later than *1/8/74*  
(date)



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SUGGESTED DEFINITIONS

Page 2

December 18, 1973

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Rough Draft

SUGGESTED DEFINITIONS -- 4

December 7, 1973

- 3) Advertise immediately after Board meeting for normal 5 days and waiting period of 4 days prior to bid opening.
- 4) Award day of bid opening with approval of Human Rights Department.

SUMMARY:

"Non-debatable Emergency" public works, must be determined and declared as such by the Board of Public Works; then normal bidding procedures may be waived. Department, upon receiving such approval, may retain qualified contractor immediately. If Board is not due to meet, the Secretary of the Board will poll the members for a decision.

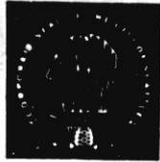
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BLM:jy

BP 21

Mr. Robert J. Gulino, P.E. ✓  
City Engineer



CITY OF SEATTLE  
BOARD OF PUBLIC WORKS

MEMORANDUM

✓ - Bids

To All Board of Public Works Members  
From Betty L. McFarlane, Secretary *Blm* Date December 10, 1973 ✓  
Subject Definitions -- Shortened Bidding Procedures (suggestions)

On November 14, 1973, the Board reviewed our suggestions for shortened bidding procedures and definitions.

The Board requested that the definition of Public Works Improvement be reworked; that emergency be defined; that more definite criteria be established outlining procedures, etc.

In accordance, therewith, we have reworked the suggested procedures and definitions. We submit same for your review and recommendations for the Board's regular session on December 19, 1973. Thanks.

BLM: jy  
att.  
cc: W. E. P. Smith

CSS 14.27

ROUTING	DATE	INITIAL
ACTION		
✓ WEPS		
FILE		✓
INFORMATION		
RJG		<i>[Signature]</i>
PMB		<i>[Signature]</i>
ATM		
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52

SEATTLE ENG. DEPT  
DEC 10 3 06 PM '73



Rough Draft

SUGGESTED DEFINITIONS

December 7, 1973

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December 7, 1973

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Rough Draft

SUGGESTED DEFINITIONS -- 3

December 7, 1973

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BLM: jy

BP 24

*Robert J. Galina, City Engineer*

Board of Public Works  
Office of the Secretary  
Betty L. McFarlane, Secretary  
*Re: Demolitions - or repair blgs unfit for human habitation*  
12/5/73  
(date)

DEPARTMENTAL ROUTING SLIP

4 - Bldg Dept  
X Corp Council

ROUTING	DATE	INITIAL
ACTION		
FILE		
INFORMATION		
BSG		
TRMB/ATM		
EWK		
DR		

39M

All Board Members  
(referred to)  
Blm  
(referred by)

Please prepare reply for the Secretary's signature on office stationery.

Please reply to the attached letter for the Secretary showing a copy to the Secretary.

Forwarded for your investigation, report and recommendation.

Forwarded for your information and files.

Other: This item will be on agenda Dec. 12 for discussion.

\*Action requested no later than \_\_\_\_\_ (date)

DEC 7 9 15 AM '73  
SEATTLE ENG DEPT





CITY OF SEATTLE  
 DEPARTMENT OF BUILDINGS  
 ALFRED PETTY, P.E. Superintendent  
 MEMBER, BOARD OF PUBLIC WORKS  
 MEMBER, PLANNING COMMISSION

Wes Uhlman, Mayor

IN RE:

December 5, 1973

RECEIVED  
 DEC 6 12 53 PM '73  
 SECRETARY  
 BOARD OF PUBLIC WORKS

Honorable Board of Public Works  
 Mrs. Betty McFarlane, Secretary  
 City of Seattle

Gentlemen:

On May 10 we wrote a letter to the Corporation Counsel asking for an opinion re "authority to contract for demolition or repair buildings unfit for human habitation". In a letter to us from the Corporation Counsel, dated November 15, 1973, they have given us their opinion, namely that these demolition contracts must not necessarily go before the Board of Public Works.

Please put this on the agenda for the meeting of December 12 for discussion by members of the Board of Public Works.

Attached are copies of the letters mentioned above.

Very truly yours,

*A. Petty*  
 ALFRED PETTY, P. E.  
 Superintendent of Buildings

rj

Att.

May 10, 1973

Authority to Contract  
for Demolition or Repair  
Buildings Unfit for Human Habitation

Honorable A. L. Newbould  
Corporation Counsel  
City of Seattle

Dear Sir:

This is to request your written opinion as to certain questions relative to Ordinance 99112 as amended (Seattle Housing Code) and Article VII, Sections 4, 13, 14 and 15 of the Charter of the City of Seattle.

Question No. 1:

Is the demolition and/or removal of a privately owned building on privately owned property, by the Superintendent of Buildings, pursuant to Section 27.32.070 (Ordinance 99112), considered as "local improvement or other improvement as prescribed by ordinance" as specified in City Charter Article VII?

Question No. 2:

Is the repair, alteration, or improvement, or vacation and closure of a privately owned building on privately owned property, by the Superintendent of Buildings pursuant to Section 27.32.070 (Ordinance 99112), considered as "local improvement or other improvement as prescribed by ordinance" as specified in City Charter Article VII?

If your answers to the foregoing questions be no, then we ask, as regards privately owned buildings on privately owned property:

Question No. 3:

Can the Superintendent of Buildings, in pursuing enforcement of the final order in accord with Section 27.32.070 (Ordinance 99112), contract directly with private demolition or construction firms for the repair, alteration or improvement, or vacation and closure, or demolition and/or removal without regard for Board of Public Works contracting authority or approval?

Honorable A. L. Hewbould  
May 10, 1973  
Page 2

Question No. 4:

Would it be possible for the Superintendent of Buildings to engage in a planned program of forced repair, alteration or improvement of privately owned buildings on privately owned property, to Housing Code standards pursuant to Housing Code procedures for buildings deemed unfit for human habitation, utilizing the housing and abatement revolving fund for costs and expenses incurred by the City for such actions, and recovering such costs and expenses by the methods prescribed in Section 27.32.070 (Ordinance 99112)? And,

Question No. 5:

Could general revenue sharing and special revenue sharing funds properly be appropriated by ordinance or deposited as a grant into the housing and abatement revolving fund for the purpose of carrying out such a program?

We request your early response to these questions since they could influence our 1974 program planning.

Very truly yours,

ALFRED PETTY, P.E.  
Superintendent of Buildings

AP:RAD:gt

ASSISTANT CORPORATION COUNSEL

JOHN P. HARRIS  
G. GRANT WILCOX  
THOMAS J. WETZEL  
ARTHUR T. LANE  
GORDON F. CRANDALL  
CHARLES R. NELSON  
JAMES M. TAYLOR  
LAWRENCE K. MCDONELL  
J. R. DEHN  
JERUEN G. RADPH  
E. NEAL KING  
JAMES B. HOWE JR.  
DONALD H. STOUT  
MYRON E. CORNELIUS  
PHILIP M. KING  
RICHARD E. MANN  
HELEN WILSON  
RICHARD S. GOTTINGER  
JAMES G. BLAIR

THE CITY OF SEATTLE  
LAW DEPARTMENT

MUNICIPAL BUILDING - SEATTLE, WASHINGTON 98104  
AREA CODE 206 TELEPHONE 583-2304

A. L. NEWBOULD, CORPORATION COUNSEL

CITY PROSECUTOR  
ROBERT M. ELIAS  
JACK B. REES  
ROBERT B. JOHNSON  
JOSEPH T. SCHLOSSER

CLAIMS MANAGER  
V. L. PORTER

November 15, 1973

RECEIVED

NOV 26 1973

RECEIVED

NOV 20 1973

Mr. Alfred Petty  
Superintendent of Buildings  
City of Seattle  
HOUSING & CONSERVATION

DEPT. of BUILDINGS

Dear Sir:

By letter dated May 10, 1973 you ask whether "repair, alteration, or improvement," "vacation and closure" or "demolition and/or removal" of substandard or unfit buildings pursuant to the Housing Code (Ordinance 99112) constitutes "local or other improvements as are prescribed by Ordinance" which under City Charter Article VII, Section 13 must be accomplished subject to the control of the Board of Public Works by contract or day labor.

In an opinion to the Director of Community Development dated November 9, 1970 (No. 5455) we advised that the term "improvement" had a wide range of meaning, depending upon the context in which it was used and while it ordinarily contemplates the construction of buildings, structures and the like, in some cases it had been held to include work such as summer fallow of agricultural land and the cleaning of land by raking and levelling and pushing stumps. We concluded in that opinion that the demolition and clearing of land as steps in the process of preparing City-owned land for redevelopment incident to the public purpose of eliminating blight constituted a "public improvement", and that contracts therefor were subject to the bidding requirements of Article VII, Section 15 of the City Charter.

Repairs or demolition ordered by the Superintendent of Buildings pursuant to his authority under Ordinance 99112, on the other hand, are not accomplished on City-owned property nor is such work necessarily done to prepare property for redevelopment, and in our opinion such work does not come within the ambit of the term "public improvement" which must be done under the control of the Board of Public Works. Demolition or repair of private structures under the Housing Code

Mr. Alfred Petty  
November 15, 1973  
Page 2

is merely an extension of the code enforcement function to protect the public health and safety, and Article VII, Section 10 of the City Charter provides that it shall be the duty of the Superintendent of Buildings "to see that all building ordinances of the City are enforced." In our opinion such function of the Superintendent is not subject to the control of the Board of Public Works.

Accordingly, the Superintendent of Buildings in our opinion may, as a part of the enforcement of his orders under Ordinance 99112 and with funds appropriated for such purpose by ordinance, contract with private demolition or construction firms for the repair, alteration or improvement, or vacation and closure, or demolition and/or removal of unfit buildings without submitting the same to the administration of the Board of Public Works. Notwithstanding such authority, however, we recommend that such contracts be let only through competitive bidding, to promote public confidence in the process and to avoid any possible inference or favoritism. In addition, a record of competitive bidding will establish that the lowest possible price was obtained for work done on private property for which the City will seek reimbursement from the owner.

RCW 39.04.020 provides as follows:

"Plans and Specifications - Estimates - Publication - Emergencies. Whenever the state, or any municipality shall determine that any public work is necessary to be done it shall cause plans and/or specifications thereof and an estimate of the cost of such work to be made and filed in the office of the director, supervisor, commissioner, trustee, board or agency having by law the authority to require such work to be done.

"If the state, or such municipality shall determine that it is necessary or advisable that such work shall be executed by any means or method other than by contract, and it shall appear by such estimate that the probable cost of executing such work will exceed the sum of twenty-five hundred dollars, then the state or such municipality shall at least fifteen days before beginning work cause such estimate, together with a description of the work, to be published at least once in a newspaper of general circulation in the county in which such work is to be done.

Mr. Alfred Petty  
November 15, 1973  
Page 3

"Provided, That when such work is to be done by the state, publication in a newspaper of general circulation throughout the state shall be equivalent to publication in the county where the work is to be done.

"And provided further, That when any emergency shall require the immediate execution of such public work, upon a finding of the existence of such emergency by the authority having power to direct such public work to be done and duly entered of record, publication of description and estimate may be made within seven days after the commencement of the work."

and "contract" is defined in RCW 39.04.010 as "a contract in writing for the execution of public work for a fixed or determinable amount duly awarded after advertisement and competitive bid."

"Public work", the term used in the foregoing statute, is clearly broader than "public improvement", the term used in the City Charter, and in our opinion includes the demolition or repair work which is contemplated in your request. We recommend, therefore, that the requirements of said statute relating to the filing and publication of estimates be followed where the work is not done by contract, and suggest also that the definition of "contract" indicates a strong public policy in favor of competitive bidding on public work, which reinforces our recommendations in such connection.

You ask also whether the Superintendent of Buildings may "engage in a planned program of forced repair, alteration or improvement of privately owned buildings on privately owned property, to Housing Code Standards pursuant to Housing Code procedures for buildings deemed unfit for human habitation, utilizing the housing and abatement revolving fund for costs and expenses incurred by the City for such actions, and recovering such costs and expenses by the methods prescribed in Section 27.32.070 [of] Ordinance 99112", and whether general or special revenue sharing funds could be appropriated for such purposes. Only the general revenue sharing proposal has been passed by Congress, and "special" revenue sharing has not been enacted into law.

Section 27.32.020 of the Housing Code (Ordinance 99112) states that

"Any building found unfit for human habitation or other use appurtenant thereto shall be ordered repaired or vacated and closed if the degree of structural deterioration of such building in relation to its repaired condition is less than

Mr. Alfred Petty  
November 15, 1973  
Page 4

fifty percent or the estimated cost of repairs will not exceed fifty percent of the market value of such repaired building; otherwise such building shall be ordered repaired or demolished.

The Superintendent of Buildings is charged with enforcement of such provision by Section 27.08.010 of said Code and he may in his discretion discharge such responsibility through any enforcement program which conforms with the provisions of Ordinance 99112.

The Housing and Abatement Revolving Fund created by Section 27.08.040 of the Housing Code (Ordinance 99112) is a fund "from which . . . shall be paid costs and expenses incurred by the City in connection with the repair, alteration, improvement, vacation and closure, removal, or demolition of any building or other structure unfit for human habitation or other use appurtenant thereto" as well as the cost of abating buildings declared by ordinance to be a public nuisance, and in our opinion such fund is a proper source of funds for such purposes.

General "revenue sharing" funds are received by The City of Seattle pursuant to the State and Local Fiscal Assistance Act of 1972 (P.L. 92-5.2) and said act contains a restriction that such funds be used for "priority expenditures," defined as "ordinary and necessary maintenance and operating expenses for [among other things] (A) public safety (including law enforcement, fire protection and building code enforcement) . . ." It is clear, therefore, that housing code enforcement to repair or demolish buildings unfit for human habitation is a matter of priority concern to the United States, and that general revenue sharing funds may lawfully be used to fund the Housing and Abatement Revolving Fund for such purpose in our opinion, and you are so advised.

Yours very truly,

A. L. NEWBOULD  
Corporation Counsel

By

*Gordon F. Crandall*  
GORDON F. CRANDALL  
Assistant

GFC:ph

BPX

12/16

December 4, 1973

Honorable Board of Public Works  
City of Seattle  
Seattle, WA 98104

Gentlemen:

We have reviewed the draft regarding Emergency Procedures for Bidding Public Works Contracts and have the following input:

1. The term emergency as used in the draft be defined.
2. A committee composed of personnel representing each Board Department be established to analyze this draft and make recommendations to the Board.
3. The two week requirement from bid to award really isn't realistic should a true large-scale emergency occur.
4. This procedure will preclude further day-labor contracts as utilized by our Operations Division. Future projects, i.e., concrete panel replacement, will be submitted to the Board similar to the present alternate paving program with a brief specification and sketch.

Very truly yours,

Sgd Robert J. Gulino  
ROBERT J. GULINO, P.E.  
City Engineer

Concurrence  
prior to  
Signature JER:kel

<i>[Signature]</i>
mpk

✓



BP 21

THE CITY OF SEATTLE  
BOARD OF PUBLIC WORKS

ROUTING	DATE	INITIAL
FILE		✓
INFORMATION		
PMB/ATM		
E.W.K.		

MEMORANDUM

To: All Board of Public Works Departments      November 29, 1973 ✓  
 From: Betty L. McFarlane, Secretary *Blw*  
 Re: Contracts -- Specification and Format Changes

The Board of Public Works requests that all changes in specifications and format be submitted to this office for review prior to placing in contract specifications.

EJH:jy

- cc: A. Madsen, Engineering  
 R. Rashkov, Water  
 D. C. Hansen, Lighting  
 R. Strang, Building  
 E. Hennebry, Building  
 G. Lorimer, Parks

NOV 30 9 10 AM '73  
SEATTLE ENG DEPT



The following is said revision to Section 8.08 of the Standard Plans and Specifications:

**FAILURE TO COMPLETE WORK ON TIME - LIQUIDATED DAMAGES**

Section 8.08 shall be amended to read:

Time for completion of the work as provided by the contract is admitted to have been sufficiently advanced to allow resulting benefit to the Contractor from earlier completion of the work. Time therefore shall be the essence of the contract.

For each and every working day that any portion of the work remains uncompleted after the time specified for completion in the contract as modified by an extension of time granted by the Owner, damage will be sustained by the Owner. Because of the difficulty in computing the actual material loss and disadvantages to the Owner, it is determined that the contractor will pay to the Owner the sums shown in the following schedule or the sums which have been modified in accordance with the particular details of the contract and specified in the special provisions, as representing the cost to the Owner caused by such delay.

<u>Original Contract Amount</u>		<u>Liquidated Damages per Working Day</u>
<u>From More than</u>	<u>To and Including</u>	
0	\$ 25,000	\$ 42
\$ 25,000	50,000	70
50,000	100,000	105
100,000	500,000	140
500,000	1,000,000	210
1,000,000	2,000,000	280
\$2,000,000 and above		420

When the project work can be determined by the City Engineer to be completed to such extent as will afford the Owner full and unrestrictive use and benefit of the facilities, but only minor and/or corrective work remain to complete the contract, the above schedule of liquidated damages shall not apply.

Liquidated damages to be assessed for completion of minor and/or corrective work shall be limited to Engineering expenses incurred.

The amount so charged, if any, shall be deducted by the Owner from any payment due or to become due the Contractor. The Contractor further agrees that any such deduction shall not in any way release him from further obligations and liabilities in respect to the fulfillment of the contract.

Liquidated damages shall not be assessed the Contractor for unworkable days caused by weather conditions, or for any other days for which any extension of time will have been granted.

BPW

*Robert J. Julius, City Engineer*

THE CITY OF SEATTLE  
BOARD OF PUBLIC WORKS

MEMORANDUM

November 28, 1973

*✓ 4 - Consultants*

TO: All Board of Public Works Members  
FROM: Betty L. McFarlane, Secretary *Blm*  
RE: Human Rights Department approval of  
Consultant Contracts

ROUTING	DATE	INITIAL
ACTION		
FILE		✓
INFORMATION		
<i>PSG</i>		
<i>WERS/REB</i>		

We wish to remind you that all Consultant Contracts should have Human Rights Department forms and approval slips attached when submitting same to the Board of Public Works for approval.

SEATTLE ENG DEPT

NOV 29 11 30 AM '73

BLM:fb

cc: Nate Sanders, Human Rights Department

BP-21

THE CITY OF SEATTLE  
BOARD OF PUBLIC WORKS

M E M O R A N D U M

✓ November 28, 1973

TO: All Board of Public Works Members  
FROM: Betty L. McFarlane, Secretary *Blm*  
RE: Board of Public Works Contracts --  
Contract Execution Time  
*✓ x-Contractors*

ROUTING	DATE	INITIAL
ACTION		
FILE		
INFORMATION		
RJG		<i>[Signature]</i>
TMB/D		
ATM		
WERS/RJB		

Ten calendar days are counted from Award of Contract when determining the date by which a contractor must sign a contract and provide the required performance bond and insurance.

The rule can be enforced if contracts are received and available in this office from your Department, ready for the contractor to sign on the day of award.

Some Departments have been sending the contracts to us 6 to 8 days after award. This does not allow a contractor 10 days from receipt of the document and is therefore unfair to him.

Your cooperation in having contracts available on the date of award or the next day thereafter will help the contractor comply with this time limit and assure a quick processing and order-to-work date.

BLM: fb

NOV 29 11 32 AM '73  
SEATTLE ENG DEPT 1

*BPW*

Mr. Robert J. Gulino, P.E.  
City Engineer

Re: Emergency Procedures for Bidding  
Public Works Contracts

Board of Public Works  
Office of the Secretary

Betty L. McFarlane, Secretary

11/14/73  
(date)

*2c  
+ att*

ROUTING	DATE	INITIAL
ACTION		
ATM		
FILE	✓	
INFORMATION		
BJG		
PMB/DR		
EWK		

*MBS*

DEPARTMENTAL ROUTING SLIP

*✓ x-Bels*

ALL BOARD OF PUBLIC WORKS MEMBERS  
(referred to)

Betty L. McFarlane, Secretary *Blm*  
(referred by)

\_\_\_\_ Please prepare reply for the Secretary's  
signature on office stationery.

\_\_\_\_ Please reply to the attached letter for  
the Secretary showing a copy to the  
Secretary.

Forwarded for your investigation, report  
and recommendation.

\_\_\_\_ Forwarded for your information and files.

Other: \_\_\_\_\_

\*Action requested no later than 11/19/73  
(date)

NOV 15 8 28 AM '73  
SEATTLE ENG DEPT



DRAFT

November 13, 1973

SUGGESTED DEFINITIONS

Definition of Public Works Improvement:

"An improvement, involving labor, upon any real property belonging to a municipal corporation including all public works belonging to or prosecuted by the City."

Definition of Purchasing Contract:

"A contract with a supplier for standard commercial supplies, equipment or raw materials."

Definition of Day Labor:

Employment of outside contractors, laborers, etc., on departmental payroll, hired on a day-by-day basis.

Under the authority of the City Charter, improvements may be made by day labor with approval of the Board of Public Works.

City Charter requires that if public works are to be done by contract, the contract must be on a competitive bidding basis and let to the lowest bidder through the Board of Public Works.

If a department wishes to do a public works improvement by day labor, the concerned department should request approval of the Board. Then the department should assign an individual in the department to be clerk-of-the-works. This individual would line up cement finishers, pipe layers, etc., on a call to the union hall or otherwise and these workers would be a part of the department's work force working by day. Materials and supplies would be obtained by the department through the purchasing agent.

BOARD OF PUBLIC WORKS EMERGENCY  
CONTRACTING AND BIDDING PROCEDURES

On certain small projects, or those of emergency nature, if it is determined that the bidding procedures should be shortened, plans and/or specifications may be submitted to the Board of Public Works as follows:

November 13, 1973

- 1) Simplify specifications. Hand carry to each concerned department for recommendation and approval prior to Board action. Include Environmental Impact Statement. In emergency cases, some types of specifications and plans may come directly to the Board (without circulation) for approval, subject to addenda later if departments deem necessary.
- 2) Advertise immediately after Board meeting for normal 5 days and 4 days' waiting period prior to bid opening.
- 3) Award day of bid opening with approval of Human Rights Department.

Time involved in emergency procedures to go to bid and award would be approximately 2 weeks after approval of specifications by the Board.

Normal time involved in Board of Public Works procedures for bidding is approximately 4 weeks, or longer if problems exist.

If Federally funded, time would be extended as well as boilerplate involved.

BLM:fb  
11/13/73

BOARD OF PUBLIC WORKS	
Date	7/14/73
Approved	
by	
Committee of Whole	
Referred	
Other	
	BRW

BAW

THE CITY OF SEATTLE  
BOARD OF PUBLIC WORKS

MEMORANDUM

*Liquidated Damages*

November 9, 1973

ROUTING	DATE	INITIALS
<i>7/11/73 ACTION</i>		
<i>PMB/ATH/FAK</i>		
FILE		
INFORMATION		
<i>RJG</i>		
<i>DR</i>		

*ref to ATM*  
*ATM Preparing answer*

TO: Mr. Robert J. Gulino, P.E. City Engineer

FROM: Betty L. McFarlane, Secretary *Blm*

RE: Section 8.08 "Failure to Complete Work on Time - Liquidated Damages"

On July 24, 1972, you communicated with the Board of Public Works requesting consideration to place in the specifications certain requirements for charging liquidated damages for work which remains incompletd beyond the specified contract time.

Also under consideration was a provision for dividing projects into schedules, each being allotted specific workdays and penalty of forfeiture for noncompliance in completing work within the time established for each schedule.

It is my recollection that the Board has never acted on these proposals. Our records indicate that the Board has been waiting for your reply to our communication of June 6, 1973, which requested that you review the matter again in light of the Superintendent of Water's opinion (attached). Am I in error in my recollection?

It has come to my attention that your specifications for Aurora Avenue North/North 38th Street/North 46th Street, T-7101 (13), by Pedestrian Stairs and Landscape, has included a phased construction schedule and penalty of forfeiture for noncompliance. This prompted my bringing the matter up.

Please advise and if the Board has not acted on the matter I will place it on the agenda again for action upon receipt of your review of the opinion from the Superintendent of Water.

Thank you.

BLM:lm  
 Att.  
 cc: P. M. Buswell  
 D. Roletto  
 Board Members

NOV 12 8 56 AM '73  
SEATTLE ENG DEPT

MEMORANDUM

June 6, 1973

To: Mr. Robert J. Gulino, P.E., City Engineer  
From: Betty L. McFarlane, Secretary  
Re: Section 8.08 "Failure to Complete Work on Time - Liquidated Damages"

The Board of Public Works discussed proposed revisions to Section 8.08 of the City of Seattle Standard Plans and Specifications.

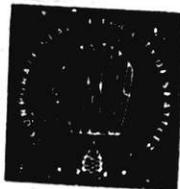
We attach a memorandum dated August 4, 1972 from the Superintendent of Water outlining his department's review and comments.

Will you please reevaluate your position in light of the Superintendent of Water's recommendations.

BLM:lm  
Att.

cc: E. W. Kortnik

NOV 2 8 57 AM '73  
SEATTLE ENG DEPT



CITY OF SEATTLE  
**WATER DEPARTMENT**

1015 THIRD AVENUE • SEATTLE, WASHINGTON 98104 • 538-5889

KENNETH M. LOWTHIAN  
SUPERINTENDENT  
MEMBER, BOARD OF PUBLIC WORKS

WES UHLMAN, MAYOR

RECEIVED

1972 AUG 7 PM 4 25

SECRETARY  
BOARD OF PUBLIC WORKS  
August 4, 1972

M E M O R A N D U M

SUBJECT: Section 8.08 "Failure to Complete Work on Time -  
Liquidated Damages"  
TO: Mrs. Betty L. McFarlane, Secretary - Board of Public Works  
FROM: Kenneth M. Lowthian - By- J. T. Rice, Assistant Superintendent

The proposed revision to Section 8.08 of the City of Seattle Standard Plans and Specifications, 9th Edition, forwarded to this department for review and comments, by your memorandum of July 5, has been studied both by the Principal Engineer, Harry L. Pratt, and myself.

It is our opinion that fixing of dollar amounts without consideration for the type of construction under consideration would not be advisable. Certainly dollar amounts alone are not necessarily a guide to the damages that could accrue. Individual contracts would need to be evaluated in view of the circumstances involved.

It is our opinion that the terminology of the State of Washington Department of Highways in this regard is sensible. This terminology is as follows:

"The contractor will pay--as liquidated damages, the actual cost to the (state) of maintaining its engineering, inspection and other forces and equipment on the work after said time for completion, together with such other damages as may be suffered by the state by reason of the contractor's failure to complete the work on time."

We hope these comments will be of some assistance.

JTR:gh



GFC:PH  
12-2-73

Board of Public Works

(13)

17921

ORDINANCE 102688

AN ORDINANCE amending Section 1 of Ordinance 99492 to increase contract administration charges of the Board of Public Works as of January 1, 1974.

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. That as of January 1, 1974, Section 1 of Ordinance 99482, as last amended by Ordinance 100181, is further amended to read as follows:

Section 1. That there is hereby imposed a charge of Four Dollars (\$4.00) per day from date of execution to date of acceptance of the work as to each and every public works contract administered by the Board of Public Works with the exception of contracts for consulting services, other service contracts, and tree or plant establishment portions of landscaping contracts. Such charge shall be computed by the Secretary of the Board of Public Works and billed to the department or fund for which such contract is administered, and the receipts therefrom shall be deposited in the General Fund.

Section 2. (30 day ending)

Approved: OCT 25 1973

BPW

ROUTING	DATE	INITIAL
ACTION		
FILE	✓	
INFORMATION		
WEPB/RSB		
ΔEM		

2c

THE CITY OF SEATTLE  
BOARD OF PUBLIC WORKS

MEMORANDUM

OCT 5 9 24 AM '73

SEATTLE ENG DEPT

To: All Board of Public Works Members      October 4, 1973 ✓  
 From: Betty L. McFarlane, Secretary *Blm*  
 Re: Administering Public Works Projects for Other City Departments

On June 4, 1973, the Board of Public Works outlined procedures for processing public works projects for non-Board Departments. In the directive, it pointed out that these projects are to be managed and supervised by the concerned Board of Public Works Department; that this administration extends to the handling of the finances of the project and that funds involved are to be transferred to the Board Department involved.

Please advise if you are encountering any particular problems to date on such projects.

BLM: jy  
att.

cc: R. Snyder, Building  
A. J. Oster, Building  
R. Strang, Building

BPW

THE CITY OF SEATTLE

WES UHLMAN, MAYOR

BOARD OF PUBLIC WORKS

BETTY L. MCFARLANE, SECRETARY

303 Seattle Municipal Building • Seattle, Washington 98104 • 583-2040

BOARD OF PUBLIC WORKS  
ALFRED PETTY, SUPT. OF BUILDINGS  
CHAIRMAN  
ROBERT J. GULINO, CITY ENGINEER  
KENNETH M. LOWTHIAN, SUPT. OF WATER  
GORDON F. VICKERY, SUPT. OF LIGHTING  
DAVID L. TOWNE, SUPT. OF PARKS  
AND RECREATION

Re: Administering Public Works Projects  
for Other City Departments

June 4, 1973

Board of Public Works Members  
City of Seattle

Honorable Members:

Regarding payments made by the Department of Community Development on the Yesler Atlantic Neighborhood Improvement Project S.O.I.C. Site Preparation, we brought to the Board of Public Works' attention the need to remind everyone of proper administration and method of making payments on public works contracts.

The Department of Community Development has made two payments on the above project without approval of the Building Department or the Board of Public Works. The vouchers were honored by the City Comptroller for payment. The vouchers were never received in this office as the billing was directed to Mr. Braman's attention on the fourth floor.

As a matter of record, we have attached a legal opinion from the Corporation Counsel dated January 12, 1971 which indicates that other than Board of Public Works' departments are not legally authorized to manage and supervise public works construction projects. We hope that in the future the City Comptroller will advise his people that if a voucher indicates public construction work is involved proper signatures of the Board of Public Works authorizing payment are required.

Aside from the legality of the matter, other City departments which have need to contract for public works projects from time to time are not implementing or operating departments. This is an activity they are not equipped for or knowledgeable about. It can only lead to increased costs, time and effort.

Outlined are procedures to follow on projects for others.

All Board departments shall follow through with such projects from beginning to end. In other words, do not divide or share administration of the project with the "other" department.

Since the Charter requires that all public works projects be administered by the Board of Public Works, the appropriate Board department involved should take over the entire responsibility for administering the project. This includes drawing up specifications and plans, advertising, performing

Board of Public Works Members

-2-

June 4, 1973

inspections, vouchering of payments, change orders, extensions of time, etc. To accomplish the above, funds for the project must be transferred from the non-Board department to the Board department involved. Work orders should be taken out by the Board department and the project handled as one of its own.

This has not been followed closely in the past as indicated by complications which have come to our attention on the Yesler Atlantic Project. With the cooperation of all concerned these projects must be accomplished in a legal manner which will also minimize problems, duplication of efforts and cost increases.

Please advise all of your people who have an involvement in contracting activities.

Yours very truly,

BOARD OF PUBLIC WORKS

*Betty L. McFarlane*

Betty L. McFarlane  
Secretary

BLM:lm  
Att.

cc: C. G. Erlandson--City Comptroller  
James Braman--Department of Community Development  
Chief George Tielsch--Police Department  
John Fearey--Seattle Center  
R. Snyder--Building Department  
R. Strang--Building Department  
A. J. Oster--Building Department  
Walter Hundley--Model Cities  
Mayor Wes Uhlman  
Councilman Liem Tuai, President of the City Council  
Office of Management and Budget

BPW

C.F. 276723  
*Finance  
Comm*

Recommendation of Mayor for amendment of Ordinance No. 100181, to increase charges to be made by the Board of Public Works for administration of public works contracts. 9-6-73

ADOPT/PREP.  
LEGIS.

*Bd. Public Works*

THE CITY OF SEATTLE



BOARD OF PUBLIC WORKS

BETTY L. MCFARLANE, SECRETARY

303 Seattle Municipal Building • Seattle, Washington 98104 • 583-2040

WEB UHLMAN, MAYOR

Mr. Robert J. Gulino, P.E.  
City Engineer

BOARD OF PUBLIC WORKS

ALFRED PETTY, SUPT. OF BUILDINGS  
CHAIRMAN  
ROBERT J. GULINO, CITY ENGINEER  
KENNETH M. LOWTHIAN, SUPT. OF WATER  
GORDON F. VICKERY, SUPT. OF LIGHTING  
DAVID L. TOWNE, SUPT. OF PARKS  
AND RECREATION

Re: Board of Public Works Department Budget

August 22, 1973

SEATTLE ENG DEPT  
AUG 24 10 59 AM '73

ROUTING	DATE	INITIALS
ACTION		
FILE		
INFORMATION		
RJG		
WEPS		

Mr. R. W. Wilkinson, Jr.  
Budget Director  
City of Seattle

Attention: Mr. Keith Kleinhen

Dear Mr. Wilkinson:

The Board of Public Works had before it, in regular session today, your communication of July 26 requesting a review be made of the Board of Public Works Department budget and proposing that all costs of the Board of Public Works budget be distributed either to projects or to the member departments directly.

This matter had been circulated previously to each Board department for comments and was discussed today at length. It was the consensus that our contract administration costs should properly be raised to \$4.00 per day instead of \$2.50 per day, from beginning of project to completion. This will involve a request to the City Council for amendment to Ordinance 100181 which provides authority for this charge.

The Board agreed that this department is a public office and as such should rightfully be supported by the General Fund. As you are aware, the project administration costs are charged against the specific project. The initial \$2.50 a day charge reimbursed the General Fund \$25,000 a year, or approximately one-half of our total budget. The increase to \$4.00 per day will bring it over one-half of our current increased budget, or \$40,000 per year. This is based on ten thousand working days.

Aside from Board of Public Works construction projects, the Board deals three-fourths of its time in matters pertaining to management and control of public street area. Under the Street Use Ordinance approximately \$246,000 per year are deposited in the General Fund to cover cost of administration, policing and inspection.

*Ord 100181 filed BPH 2-20*

*CF 276723*

Mr. R. W. Wilkinson, Jr.

2.

August 22, 1973

Our budget is the smallest of the City departments and the above reimbursements to the General Fund cover our budget in its entirety.

If you have any further questions, we will be happy to meet with you and discuss the matter in more detail.

Yours very truly,

BOARD OF PUBLIC WORKS

*Betty L. McFarlane*

Betty L. McFarlane  
Secretary

BLM:lm

cc: Board of Public Works Members ✓



BPW

THE CITY OF SEATTLE  
BOARD OF PUBLIC WORKS

MEMORANDUM

To: All Board of Public Works Departments August 6, 1973  
From: Betty L. McFarlane, Secretary *Blm*  
Re: Project Identification

The covers on some specification books for demolition projects do not show a clear identification of the specific project involved.

In the future, please list on the cover as well as the signature sheet the properties involved, or at least the first few addresses, for ease of identification. Thank you.

BLM: jy

cc: Don Beuthin, Parks  
Elmer Hennebry, Building

ROUTING	DATE	INITIAL
ACTION		
FILE		<input checked="" type="checkbox"/>
INFORMATION		
WEP	JJC	RSC
AMB	DR	
EWO		

SEATTLE ENG DEPT  
AUG 7 8 29 AM '73

BPW

Mr. Robert J. Gulino, P.E. ✓  
City Engineer

THE CITY OF SEATTLE  
BOARD OF PUBLIC WORKS

MEMORANDUM

✓ August 1, 1973

To: Board of Public Works Members ✓  
From: Betty L. McFarlane, Secretary *Blm*  
Re: Routing of Plans and Specifications

Please alert your departments that when plans and specifications are routed for approval it is imperative that all concerned divisions of your departments be included in that review.

We would further request that you have the division reviewing note their initials on the left hand side along with the department head signature.

BLM:lm

SEATTLE ENG DEPT

AUG 7 11 44 AM '73

ROUTING	DATE	INITIAL
ACTION		
FILE		
INFORMATION		
<del>RJG</del>		
<del>PAW/DA/TM/WGL</del>		
<del>EWO/JMS</del>		
<del>WERS/JUC/RSC</del>		
<del>PAW/HTT</del>		
<del>JEA</del>		





**WESTERRA, INC.**

LANDSCAPE CONTRACTORS

2210 NORTHEAST 95TH STREET  
SEATTLE, WASHINGTON 98115  
PHONE LAKEVIEW 5-3050

July 27, 1973

Board of Public Works  
Room 303  
Seattle Municipal Building  
Seattle, Washington 98104

Attention: Alvin Petty

Re: Rejected bids

Gentlemen:

As you know, we have installed several projects for the city in the past 18 months and each project was quite successful in all aspects. We are quite pleased with the amount of projects that we are able to bid on for the city and have enjoyed a fine working relationship with the various departments involved. However, as of late, we have bid on three projects that were not awarded because our bid was over the City's estimate. As a courtesy, I would like to point out that we, as our bidding record will show, have been competitive on the majority of the projects we have bid on. It is our intent when bidding a project to be the low bidder and with this intent uppermost in our minds, we spend a great deal of time and effort in preparing our bids which naturally occurs in an expenditure of money. This of course is an expected and natural occurrence with every bid. But when we make every possible effort to give the Board a fair, competitive bid and find out after the fact that the budget for the project is considerably lower and the project is rejected because of insufficient funds, it leads us to believe that whomever is preparing the estimates and budgets for these projects is not in tune with the present day costs. Now the devalued dollar and the inflated cost of labor and material is affecting the cost structure of all aspects of our bids.

It is, to say the least, very discouraging to work so hard and be low bid and not to receive an award.

RECEIVED  
JUL 30 8 15 PM '73  
SECRETARY  
BOARD OF PUBLIC WORKS

July 27, 1973  
Board of Public Works  
Page two

I would suggest, in light of the spiraling costs we are faced with, that each department take a long, hard look at the budgets set up for upcoming projects previous to advertising for bids.

My intent in writing this letter is not to give negative criticism but to point out, constructively, an area I feel requires more study and more realistic thought.

Again, I want to reiterate that my company has indeed been very appreciative of the many opportunities to bid on Board projects and that we have found each department we have dealt with to be most cooperative and amiable to work with and that your intent is the same as ours: a well constructed project for a fair price.

Sincerely,

*Everett L. Knox*

Everett L. Knox  
President

ELK/lc

BOARD OF PUBLIC WORKS	
Date	8/1/73
Approved	
Denied	
Committee of Whole	
Referred	
Other	

To: Mr. ROBERT J. GILINO, P.E. v  
City Engineer

Bd Public Works

Board of Public Works  
Office of the Secretary

Re: BPU Budget

Betty L. McFarlane, Secretary

2/1/73  
(date)

✓ X Budget

DEPARTMENTAL ROUTING SLIP

All Board Members  
(referred to)

B. McFarlane  
(referred by)

         Please prepare reply for the Secretary's  
signature on office stationery.

         Please reply to the attached letter for  
the Secretary showing a copy to the  
Secretary.

Forwarded for your investigation, report  
and recommendation.

         Forwarded for your information and files.

         Other: \_\_\_\_\_

\*Action requested no later than 2/13/73  
(date)

SEATTLE ENG DEPT

AUG 2 2 19 PM '73

ACTING	DATE	INITIAL
ACTION		
WEPs		
FILE	✓	
INFORMATION		



CITY OF SEATTLE  
 EXECUTIVE DEPARTMENT  
 OFFICE OF MANAGEMENT AND BUDGET  
 1028 MUNICIPAL BUILDING ■ 583-5792

RJG  
 PMB  
 PAW  
 AEM  
 Wes Uhlman, Mayor  
 WEPS

for M-staff  
 8-21-73

July 26, 1973

RECEIVED  
 JUL 27 9 11 AM '73  
 BOARD OF PUBLIC WORKS  
 SECRETARY

Board of Public Works  
 Al Petty, Chairman  
 City of Seattle  
 Seattle, Washington

Attn: Betty McFarlane

Dear Mr. Petty:

While reviewing the Board of Public Works budget, it was noted that the charge for contract administration has not been adjusted for a number of years. The dual factors of inflation and the increase in the Board of Public Works staff, indicate that a review is in order. Please prepare an analysis of the Board's rates and submit your recommendation for revisions by August twenty-fourth.

In addition to the current fee for contract administration, would it be feasible and reasonable to levy a charge for general services not related to specific contracts? It seems to me that all costs related to the Board of Public Works ought to be charged back either to projects or to the member department directly. The alternative is to continue to have the General Fund subsidize the Board's operations. What I am suggesting is that the difference between the Board's total budget, and what is collected from contract administration fees, should be charged directly to the member departments.

Please review and comment on this proposal.

Sincerely,

*R. W. Wilkinson, Jr.* RL 3R

R. W. Wilkinson, Jr.  
 Budget Director

RWW:kk

BOARD OF PUBLIC WORKS	
Date	7-27-73
Approved	
Denied	
Committee of Whole	
Referred	
Other	PAW



BPLW

To: Mr. Robert J. Gulino, P.E.  
City Engineer

Re: John Blair vs  
City of Seattle et al

Board of Public Works  
Office of the Secretary

Betty L. McFarlane, Secretary

7/12/73  
(date)

✓ 7-claims  
✓ Civil Service Comm

STRICTLY CONFIDENTIAL	
12-10-73	
REC	✓
IN. ORIGIN	
RTG	
DEPS/EMW	

DEPARTMENTAL ROUTING SLIP

All Board Members

(referred to)

B. McFarlane

(referred by)

\_\_\_\_ Please prepare reply for the Secretary's signature on office stationery.

\_\_\_\_ Please reply to the attached letter for the Secretary showing a copy to the Secretary.

\_\_\_\_ Forwarded for your investigation, report and recommendation.

Forwarded for your information and files.

Other: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\*Action requested no later than \_\_\_\_\_ (date)

SEATTLE ENG DEPT

7-13 Desk

JUL 12 11 35 AM '73



RECEIVED  
JUL 11 4 45 PM '73  
SECRETARY  
BOARD OF PUBLIC WORKS

THE CITY OF SEATTLE  
LAW DEPARTMENT

10TH FLOOR SEATTLE MUNICIPAL BUILDING  
A. L. NEWBOULD, CORPORATION COUNSEL

July 11, 1973

Re: John Blair v. City of Seattle  
et al., King County No. 766161.

C  
Civil Service Commission  
Seattle

Dear Commissioners:

O  
P  
Y  
The above entitled action, which was served upon the City on May 14, 1973, was brought by plaintiff against the City, the members of the Civil Service Commission, the City Comptroller, the City Treasurer, and Betty L. McFarlane, who is the Secretary of the Board of Public Works. Plaintiff, stating that he is a "resident and taxpayer of the City of Seattle," sought in said action (1) a declaratory judgment declaring that Rule 7.07 of the Civil Service Commission is invalid on the ground that it illegally delegates to the Secretary of the Civil Service authority vested in the Commission, (2) an injunction barring payment to Betty L. McFarlane of salary for the position of Secretary of the Board of Public Works, (3) a court order requiring the Civil Service Commission to forthwith "hold examinations for all positions of classified service occupied by provisionals for more than sixty days," (4) a permanent injunction barring defendants "from making any appointment to the Civil Service of the City of Seattle in violation of [Article XVI, §§ 6, 8, 9 and 22], and particularly, the provisions of Article XVI, Section 9," and (5) "For such other and further relief as the court may deem just and equitable in the premises, including a permanent injunction against the defendants ERLANDSON and ELDRED from paying any further salaries to those holding office in violation of the above quoted provisions in excess of the sixty-day period."

We filed a motion on behalf of all the defendants "for a summary judgment dismissing plaintiff's action upon the ground that

Civil Service Commission  
July 11, 1973  
Page Two

plaintiff lacks standing to bring said action and to request the relief which is sought in the complaint." Said motion came on for hearing on July 3, 1973 before the Honorable Solie Ringold and after hearing said motion Judge Ringold orally granted the same. We will report further to you when a formal order has been entered by the court.

Very truly yours,

A. L. NEWBOULD  
Corporation Counsel

By  
E. NEAL KING  
Assistant

ENK:ME  
cc--C. G. Erlandson  
P. F. Eldred  
Betty McFarlane  
Jack Withrow

BPJr.

FISCHBACH AND MOORE  
INCORPORATED

ROUTING	DATE	INITIAL
ACTION		
JHR		
EWO/THG		
F.L.E.		✓
INFORMATION		

✓ July 5, 1973

SOUTHWESTERN REGIONAL OFFICE  
11050 ABLES LANE  
POST OFFICE BOX 20692  
DALLAS, TEXAS 75220  
(214) 241-4282

Mr. Myron R. Mitchell  
City Traffic Engineer  
City of Seattle  
708 Municipal Building  
Seattle, Washington 98104

Gentlemen:

We are interested in receiving monthly notices to contractors on construction projects. We are electrical contractors and desire to submit bids on traffic signal and street lighting projects.

Would you please advise what is necessary to be placed on your mailing list for this type of service?

Very truly yours,

Jack Hulett  
Corporate Coordinator  
Traffic Signal & Highway Lighting

JH:ms

STATTLE ENG DEPT  
JUL 9 10 22 AM '73



BPW

Mr. Robert J. Gulino, P.E.  
City Engineer

THE CITY OF SEATTLE

WES UHLMAN, MAYOR

BOARD OF PUBLIC WORKS

BETTY L. MCFARLANE, SECRETARY

303 Seattle Municipal Building • Seattle, Washington 98104 • 583-2040

BOARD OF PUBLIC WORKS  
ALFRED PETTY, SUPT. OF BUILDINGS  
CHAIRMAN  
ROBERT J. GULINO, CITY ENGINEER  
KENNETH M. LOWTHAN, SUPT. OF WATER  
GORDON F. VICKERY, SUPT. OF LIGHTING  
DAVID L. TOWNE, SUPT. OF PARKS  
AND RECREATION

Re: HB515 - First class cities required to call  
for bids for construction in excess of \$10,000

ROUTING	DATE	INITIALS
ACTION	June 22	
FILE		
INFORMATION		
RJG		
WES		
DLJ		

1973  
JUN 22 1 50 PM '73  
SEATTLE ENG DEPT

Senate Local Government Committee Meeting  
Ridpath Hotel - Terrace Room C  
515 W. Sprague  
Spokane, Washington

4C

The Board of Public Works is the awarding authority for public works contracts in the City of Seattle. Five departments are represented on the Board: Water, Lighting, Parks and Recreation, Building and Engineering.

The City Charter states that all local and other improvements as are prescribed by ordinance may be made by contract to be let to the lowest bidder therefore, under the management of the Board of Public Works, or, in the Board's discretion such improvement may be done under the management of the Board by day labor, in which event the Board shall direct the purchase of the necessary materials and supplies through the Purchasing Agent, who shall secure the same in compliance with specifications prepared by the Board and subject to their acceptance.

Local Improvement District projects are contracted out with a call for bids, as are public building and Park Department construction projects.

The City of Seattle averages \$25,000,000 in public works construction each year. Ninety-five percent, plus, of that construction work is done by private contractors under a call for competitive bids.

The 5 percent, or \$1,250,000 which remains, is done with force account or "in-house" labor. It is imperative that the City maintain a nucleus work force to do emergency work and these crews cannot sit idle during the interim.

One of the jobs usually done in-house is traffic signalization. This work almost never exceeds \$15,000 for design and installation. Comparison costs indicate the economy of using the City's expert signal electricians and resultant high quality work. The State Highway Department does not often design and contract for a signal installation for less than \$20,000. The City forces are also capable of adapting standard controllers to serve special operational requirements, thus allowing a saving to the public by being able to mass order the standard controllers.

Other work done in-house from time to time are asphalt paving, patching and maintenance activities. When this type of paving work has been let for bid contractor interest has been low and bids high; some 20 to 25 percent over the estimate requiring that day labor perform the work as a means of saving public funds.

BOARD OF PUBLIC WORKS

1973

FOLDER NO 4

#2

June 22, 1973

Watermain improvements completed in the year 1972, installed by Water Department work forces and by Board of Public Works contracts, are estimated in the amount of \$1,900,000.

Watermains installed by Water Department work forces amounted to about 6 percent of the above figure and the remainder by Board of Public Works contract. Of this 6 percent, two watermain installation projects were slightly greater than \$10,000.

About 3 percent of the work force is diverted from other operational work to install watermains.

Capital improvements such as pump stations, reservoirs, transmission pipelines and relining of existing pipelines are constructed by Board of Public Works Contracts.

Pumping equipment in new pump stations and telemetering equipment in new and existing facilities are installed by the Water Department because of the expertise of their personnel.

This latter work can amount to many thousands of dollars over a period of time.

Emergency repairs or replacement of key facilities may be greater than \$10,000. They would have no choice but to do emergency work with their own readily available skilled personnel and equipment. Relying on the bid procedure would delay such repairs and be costly, cumbersome and unreasonable.

If the \$10,000 figure remains and this Bill is passed, it will mean the elimination of our emergency work forces which are 30 percent minority employees. A more realistic figure for this type of work is \$20,000 to \$25,000. If it went to bid the cost to the taxpayer would be much greater.

As we indicated, the in-house work is only 1 - 5 percent but that which falls within this area is vital to the City of Seattle and well managed and controlled by the Board of Public Works.

For the above reasons, we believe it is in everyone's interest to oppose this Bill or to change it to read - First class cities required to call for bids for construction in excess of \$25,000.

Yours very truly,

BOARD OF PUBLIC WORKS

*Betty L. McFarlane*

Betty L. McFarlane  
Secretary

BLM:lm

cc: Mayor Wes Uhlman  
Board of Public Works Members ✓  
Office of Management and Budget

BPO

Mr. Robert J. Gulino, P.E.  
City Engineer

THE CITY OF SEATTLE

WES UHLMAN, MAYOR

BOARD OF PUBLIC WORKS

BOARD OF PUBLIC WORKS

BETTY L. MCFARLANE, SECRETARY

303 Seattle Municipal Building • Seattle, Washington 98104 • 583-2040

ALFRED PETTY, SUPT. OF BUILDINGS  
CHAIRMAN  
ROBERT J. GULINO, CITY ENGINEER  
KENNETH M. LOWTHIAN, SUPT. OF WATER  
GORDON F. VICKERY, SUPT. OF LIGHTING  
DAVID L. TOWNE, SUPT. OF PARKS  
AND RECREATION

ROUTING	DATE	INITIAL
ACTION		
FILE	✓	
INFORMATION		
		RJG
		PMB
		WEP
		DLJ

June 22, 1973

JUN 22 1 50 PM '73  
SEATTLE ENG DEPT

The Honorable Wes Uhlman  
Mayor  
City of Seattle

Dear Mayor Uhlman:

At your request we present the following 1973 Board of Public Works Departmental Summary:

At the beginning of 1973, the Board of Public Works streamlined administration of Public Works Activities. Board time and meetings were cut in half by the elimination of informal Committee of the Whole Meetings which formerly took place before formal action at regular sessions.

Routine matters have been delegated to Board departments to act on when within Board procedure and policy. Denials may be appealed to the Board. This frees the Board for more important matters such as management and control of Public Works, policy-making decisions on lighting, water, streets, and direction of its Board departments, etc. The Board's important time is utilized on high level administrative and public matters.

The Office of the Secretary has endeavored to take some of the burden off the shoulders of the Board of Public Works in dealing with administrative matters which do not require the Board's personal attention. Close supervision and management of contracts and other Board matters have brought forth new procedures and better methods, i.e., standardization of routines, forms, specifications, etc. Savings in these areas are impossible to tabulate, however, they can only be substantial.

In 1973, the department updated and issued a new edition of procedures and policies of the Board of Public Works for better communication with all departments. Other matters have been brought to the Board's attention for action which we believed should properly be implemented.

Some of the matters which came before the Board of Public Works in 1973 were the many improvements which upgraded the Pioneer Square area; Occidental and Pioneer Square Parks, First Avenue Median Planting Project (which is in progress at this time) and requests to moor fee-exempt historic ships in the City's waterways with the hope of establishing an historic maritime museum.

The office is continually working with citizens who wish street closures for neighborhood activities, street fairs or other civic interest activities in public areas.

Mayor Wes Uhlman

2.

June 22, 1973

Ordinances and policies are reviewed regularly to make them more workable and in keeping with the times. For instance, to enable small contractors and minorities to bid on public works projects, the Board requested an Ordinance to lower bidding requirements; bonding and insurance, on demolition projects \$20,000 and under. This allows contractors just getting started in business, with little collateral, to gain background and experience necessary to go forward with larger projects later.

A great deal of time has been spent by the Board and its departments in reviewing street components with the 27+ Street Beautification Committee. The beautification and upgrading of the public right of way is an on-going concern and responsibility. In this regard, the Board in 1973 adopted a policy to prohibit all off-premise non-directional signs totally supported in public street right of way. They presently have another request before the City Council for legislation to control newsstands which have become a problem over the years with no control.

We expect to go forward with these and other endeavors in the future for the betterment of the City of Seattle.

Respectfully submitted,

BOARD OF PUBLIC WORKS

*Betty L. McFarlane*

Betty L. McFarlane  
Secretary

BLM:lm

cc: Board of Public Works Members ✓

BPW  
6/28

Betty L. McFarlane, Secretary, Board of Public Works

Robert J. Gulino, P.E.  
City Engineer

✓ June 22,

73

Cost Comparison by Contract versus Force Account

(Letter from Little Hoover Commission, May 31, 1973)

We are unfamiliar with the "Little Hoover Commission" in Spokane and just how it fits into Spokane's City government.

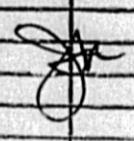
However, enclosed are two reports from Sewer Utility and Traffic Operations. You were previously given a copy of a force account justification letter to the State related to TOPICS.

We are not too knowledgeable with Spokane's problems but since we are about 95%+ contract and the remainder is small jobs we would have to recommend that parallel situation may work for Spokane -- assuming, of course, their charter and public works administration is similar to Seattle's.

It seems quite possible this inquiry is related to HB 515.

JGR:mrw

Attachments

Concurrence Prior to Signature


BPW

**ORDINANCE 102283**

AN ORDINANCE relating to the Board of Public Works; establishing minimum performance and payment bond requirements for certain demolition contracts.

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. That specifications for demolition contracts to be awarded by the Board of Public Works shall provide that when the contract amount is \$20,000 or less, exclusive of sales tax, a performance and payment bond required by RCW 39.08.010 shall be provided in an amount equal to 50% of the contract price agreed to be paid for such demolition work, and said bond shall be payable to The City of Seattle, all as recommended by the Mayor and Board of Public Works in C. F. 274400.

Section 2. This ordinance shall take effect and be in force thirty days from and after its passage and approval, if approved by the Mayor; otherwise it shall take effect at the time it shall become a law under the provisions of the city charter.

Passed by the City Council the 11th day of June, 1973, and signed by me in open session in authentication of its passage this 11th day of June, 1973.

LIEM E. TUAL,  
President of the City Council.

Approved by me this 21st day 11th day of June 1973, and signed by me in open session in authentication of its passage this 11th day of June, 1973.

WES UHLMAN,  
Mayor.

Filed by me this 21st day of June, 1973.

Attest: C. G. ERLANDSON,  
City Comptroller and  
City Clerk.

(Seal) By D. W. ALFREY,  
Deputy Clerk.

Publication ordered by C. G. ERLANDSON, Comptroller and City Clerk.

Date of Official Publication in the Daily Journal of Commerce, Seattle, June 23, 1973. (C-158)

BPW

GFC:ME  
6-6-73

17637

✓x - Demolition

ORDINANCE 102283

AN ORDINANCE relating to the Board of Public Works; establishing minimum performance and payment bond requirements for certain demolition contracts.

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

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Section 2. (39 day ending)

Approved: JUN 21 1973

*BOW*  
 To: Mr. Robert J. Gulino, P.E. ✓  
 City Engineer

Board of Public Works  
 Office of the Secretary

*Re: Departmental Agreements*

Betty L. McFarlane, Secretary

*6/20/78*  
 (date)

*✓ 2 - Agreements*

DEPARTMENTAL ROUTING SLIP

*All Board Members* ✓  
 (referred to)

*Betty L. McFarlane*  
 (referred by)

— Please prepare reply for the Secretary's signature on office stationery.

— Please reply to the attached letter for the Secretary showing a copy to the Secretary.

Forwarded for your investigation, report and recommendation.

— Forwarded for your information and files.

— Other: \_\_\_\_\_

\*Action requested no later than *6/29/78*  
 (date)

JUN 21 7 37 AM '78  
 SEATTLE ENG. DEPT

*2c*

NO.	DATE	INITIAL
<i>M</i>	<i>6/29</i>	
ACTION		
<i>PMB/ATM</i>		
FILE	<input checked="" type="checkbox"/>	
INFORMATION		
<i>RJG</i>		
<i>WES/S.D.</i>		
<i>DR</i>		
<i>EWK</i>		

*Buswell*

I have written you and Madsen a memo on this. Attach is a copy of this memo

*Dr. Paley*

SUPPLEMENTAL AGREEMENTS

Section 4.03 of the Standard Specifications for Municipal Public Works Construction states as follows:

"The Owner reserves the right to make such alterations in the plans or in the quantities of work as may be considered necessary. Such alterations shall be submitted in writing to the Contractor by the Engineer and shall not be considered as a waiver of any conditions of the contract nor to invalidate any of the provisions thereof; provided, however, that the execution of a supplemental agreement acceptable to both parties of the contract will be necessary before any alteration is made which involves (1) an extension or shortening of the length of the project by more than 25%, (2) an increase or decrease of more than 25% of the total cost of the work calculated from the original proposal quantities and the unit contract prices, or (3) an increase or decrease of more than 25% in the quantity of any one major contract item.

"For condition (3) above, a major item is defined as any item, unless otherwise indicated on the plans or designated in the special provisions, the contract price for which amounts to 5% or more of the total contract price as determined by the original quantities and the unit contract prices.

"When an alteration requires the execution of a supplemental agreement, the agreement shall be fully executed before any work on the alteration is started. Alterations involving an increase of more than 25% in the net of any one minor contract item will not require a supplemental agreement."

As the Standard Specifications require, we believe that the Board of Public Works as Owner should approve Supplemental Agreements as outlined in Items 1, 2 and 3 so that adequate insurance coverage may be maintained and payroll requirements met. It will give proper control to the total project administration and cost.

*L.M. Harrison  
6/29/73*

BOARD OF PUBLIC WORKS	
Date	6/29/73
Approved	
Denied	
Committee of Whole	
Referred	2/1/73
Other	for review and comment

6/29/73

TO: P. M. Buswell  
BY: D. Roletto  
DATE: 6/28 1973  
SUBJECT: BOARD OF PUBLIC WORKS DEPARTMENTAL ROUTING SLIP CONCERNING SUPPLEMENTAL AGREEMENTS

The Board of Public Works is requiring that Supplemental Agreements be approved by the Board of Public Works. On most supplemental agreements where time is not in essence, we have no objection to making up a supplemental agreement for major bid items and having the Board of Public Works approval prior to doing the work, provided the approval is timely and the increase or decrease in work can be recognized. The major items which are subject to change are usually earth work, removal of unsuitable material, select backfill, etc. An accurate appraisal of quantities before work is completed may be impossible.

D. ROLETTO

DR:dp  
cc: A. T. Madsen  
O. M. Conner  
H. W. Parchen

ENGINEERING OPERATIONS  
MEMORANDUM

To Paul A. Wiatrak  
By C. T. Murray *C. T. Murray* Date June 20, 19 73  
Subject Cost Comparison by Contractor vs. City Forces

Historically the City of Seattle has tooled and staffed the Traffic Operations Section to perform the traffic signal and other electrical traffic control device installations.

A considerable capital investment has been made to afford the operations of these crews such as line trucks, bucket trucks, trencher, concrete saw, air compressor, auger, reel truck, pneumagoher, and the necessary hand tools to perform the construction.

It is estimated that a three-man crew for traffic signal installation work will cost \$250 per day, thus requiring \$100,000 worth of signal work annually to justify the maintenance of a line crew on a continuous basis.

In comparing the costs between city force accounts and contracting you must consider that materials are purchased by the City on low bid taking advantage of the quantity discounts. Materials account for 50% of the project costs.

To date we do not have any actual cost comparisons for contracting a full installation by contract. The City of Seattle has joint contracting where the pole bases and undergrounding are installed as part of a street widening or improvement and the city forces have made the signal hardware installations.

CTM:mrw

BPX

Board of Public Works  
Office of the Secretary

Re: HB 515

Betty L. McFarlane, Secretary

6/18/73  
(date)

DEPARTMENTAL ROUTING SLIP

Robert J. Gulino, City Eng.  
Linnetta Lowthian, Supt. of Water  
(referred to)

B. McFarlane  
(referred by)

ROUTING	DATE	INITIAL
ACTION		
PAW		
JGR		
FILE	✓	
INFORMATION		
RIG		
Weps		

SEATTLE ENG DEPT  
JUN 18 2 13 PM '73

- Please prepare reply for the Secretary's signature on office stationery.
- Please reply to the attached letter for the Secretary showing a copy to the Secretary.
- Forwarded for your investigation, report and recommendation.
- Forwarded for your information and files.

X Other: Would you answer questions as they relate to your department so that we may have the answers  
\*Action requested no later than 6/20  
(date)  
in writing for the meeting on Friday 6/22.

OFFICE OF INTERGOVERNMENTAL AFFAIRS  
THE CITY OF SEATTLE

CS 49.1

MEMORANDUM

To Betty McFarlane, Board of Public Works

From Wally Johnson, Office of Intergov. Affairs Date June 15, 1973 1973

Subject Senate Local Government Committee; Friday, June 22, 1973; HB 515

On Thursday, June 14, I discussed with you the above described Senate committed meeting. It is my understanding that a representative of the BPW will be present in Spokane to speak to HB 515. The attached information may be helpful to the person planning to testify.

RECEIVED  
JUN 18 11 25 AM '73  
SECRETARY  
BOARD OF PUBLIC WORKS



*Washington State Senate*

SENATE LOCAL GOVERNMENT COMMITTEE

NOTICE OF MEETING

DATE: ~~Wednesday, June 27, 1973~~ *FRIDAY, JUNE 22*  
TIME: 2:00 p.m.  
PLACE: Ridpath Hotel - Terrace Room C  
515 W Sprague  
Spokane, Washington

AGENDA

HB515 - First class cities required to call  
for bids for construction in excess  
of \$10,000.00

June 12, 1973

RECEIVED 330  
EXECUTIVE POLICY CABINET

JUN 14 1973

Action.....  
Info.....  
Refer for.....

June 11, 1973

PROPOSAL FOR STUDY OF HOUSE BILL 515

Adopted by Senate Local Government

June 1, 1973

I. Amount of construction done by cities of first class

A. Percent of work done by cities

1. Administration cost
2. Break down of cost factors
3. Labor cost per hour (rates)
4. Quality standard

a. How enforced

5. State application of the law
6. Utilization of work force year round
7. Minority relationship

a. Affirmative action program

8. Scheduling of work load

- a. Lead time necessary
- b. Ability of getting work by:

1. certain date
2. availability of contractor
3. seasonal demands

9. Nature of work done
10. Percent of city work force involved in this activity

B. Percent of work done by private contractors

1. Administration cost
2. Break down of cost factors
3. Labor cost per hour (rates)
4. Quality standard

a. How enforced

5. State application of the law

6. Minority relationship
7. Scheduling of work load
  - a. Lead time necessary
  - b. Ability of getting work by:
    1. certain date
    2. availability of contractor
    3. seasonal demands

II. What percent of a total construction job is encumbered by the city when private contractors perform the work?

- A. Administrative
  1. Writing of bid specifications
  2. Letting of bids
  3. Bid not adequate
- B. Engineering Design
  1. Location of utilities
  2. Determining how construction should be completed
- C. Inspections
  1. Percent of cost
  2. Resolving differences between city and private contractor

III. Establish Figure in statute

- A. Effect of establish figures in statute
  1. Effect on permanent work force.
  2. Ability in the future of cities to respond to their own needs in event private contractors refuse job.
  3. Lack of city force to act as a deterrent to higher bids in the future because of no work force.
  4. Effects of inflation on established figures.
- B. Explore other avenues of restrictions if necessary
  1. Percent of cities construction project.
  2. Limit figure to certain type of construction (Demolition yes - Water Installation no).
  3. Attach to degree of sophistication equipment.

IV. Need for Limits

A. What is happening in other states?

1. Survey western states
2. Has there been an increase to private contractors?
3. What experience have cities had under this program?

B. What is happend in the state of Washington?

1. Counties
2. Smaller cities
3. Others

V. Less costly construction by - city - private

A. Type of Construction

1. Water main, sewer
2. Demolition
3. Building construction
4. Road repair
5. Signalization
6. Others

B. Seasonal Demands for Each

1. Water main, sewer
2. Demolition
3. Building construction
4. Road repair
5. Signalization
6. Others

C. Difficulties in performing each construction job

1. Rock soil more difficult than loam?
2. Heavy urban areas more difficult than surburan areas?
3. Assurance private contractor will bid on all jobs - difficult as well as easy.
  - a. assurance that the bids will be meaningful
  - b. assurance that cities will be fair

VI. Enforcement

A. By whom - city, state or private sector?

B. What happens in case of violation?

1. When monitary payment is involved, who is to be paid?
2. What degree of punishment should be given?

B.P.W.

THE CITY OF SEATTLE

WES UHLMAN, MAYOR



BOARD OF PUBLIC WORKS

BETTY L. MCFARLANE, SECRETARY

303 Seattle Municipal Building • Seattle, Washington 98104 • 583-2040

BOARD OF PUBLIC WORKS  
ALFRED PETTY, SUPT. OF BUILDINGS  
CHAIRMAN  
ROBERT J. GULINO, CITY ENGINEER  
KENNETH M. LOWTHIAN, SUPT. OF WATER  
GORDON F. VICKERY, SUPT. OF LIGHTING  
DAVID L. TOWNE, SUPT. OF PARKS  
AND RECREATION

June 15, 1973

ROUTING	DATE	INITIAL
	1973	ACTION
AW		
JGR		
FILE		✓
INFORMATION		
RJG		

Re: HB 515

Robert J. Gulino, P.E.  
City Engineer  
City of Seattle

Dear Mr. Gulino:

I received a telephone call from Wally Johnson of Intergovernmental Affairs regarding a meeting to be held in Spokane, Washington, Friday, June 22, 1973, 2:00 p.m. at the Ridpath Hotel - Terrace Room G, 515 West Sprague.

Wally advised me that he felt it would be wise if concerned departments had representatives present at this meeting to support their stand in the matter.

He said that several questions would be asked which these representatives should be able to answer.

1. What are differences in costs between contracting work out and using Force Account labor.
2. What is cost involved in going out to bid.
3. Records should be available to show what percentage of minorities would be involved if work is done by City and what percentage minority employment would be the case when contracting the work out.
4. Comparison of quality of work done by contractors versus that done by City forces.

Please advise Mr. Johnson if anyone in your department will be attending the meeting. His number is 583-6566.

Yours very truly,

BOARD OF PUBLIC WORKS

*Betty L. McFarlane*

Betty L. McFarlane  
Secretary

BLM:fb  
cc: Superintendent of Water  
Paul Wiatrak  
Nate Sanders

Att.

SEATTLE ENG DEPT  
JUN 15 2 16 PM '73



*Washington State Senate*

SENATE LOCAL GOVERNMENT COMMITTEE

NOTICE OF MEETING

DATE: ~~Wednesday~~ <sup>Friday</sup>, June ~~27~~ <sup>23</sup>, 1973  
TIME: 2:00 p.m.  
PLACE: Ridpath Hotel - Terrace Room C  
515 W Sprague  
Spokane, Washington

AGENDA

HB515 - First class cities required to call  
for bids for construction in excess  
of \$10,000.00

June 12, 1973

June 11, 1973

PROPOSAL FOR STUDY OF HOUSE BILL 515

Adopted by Senate Local Government

June 1, 1973

I. Amount of construction done by cities of first class

A. Percent of work done by cities

1. Administration cost
2. Break down of cost factors
3. Labor cost per hour (rates)
4. Quality standard
  - a. How enforced
5. State application of the law
6. Utilization of work force year round
7. Minority relationship
  - a. Affirmative action program
8. Scheduling of work load
  - a. Lead time necessary
  - b. Ability of getting work by:
    1. certain date
    2. availability of contractor
    3. seasonal demands
9. Nature of work done
10. Percent of city work force involved in this activity

B. Percent of work done by private contractors

1. Administration cost
2. Break down of cost factors
3. Labor cost per hour (rates)
4. Quality standard
  - a. How enforced
5. State application of the law

6. Minority relationship
7. Scheduling of work load
  - a. Lead time necessary
  - b. Ability of getting work by:
    1. certain date
    2. availability of contractor
    3. seasonal demands

II. What percent of a total construction job is encumbered by the city when private contractors perform the work?

A. Administrative

1. Writing of bid specifications
2. Letting of bids
3. Bid not adequate

B. Engineering Design

1. Location of utilities
2. Determining how construction should be completed

C. Inspections

1. Percent of cost
2. Resolving differences between city and private contractor

III. Establish Figure in statute

A. Effect of establish figures in statute

1. Effect on permanent work force.
2. Ability in the future of cities to respond to their own needs in event private contractors refuse job.
3. Lack of city force to act as a deterrent to higher bids in the future because of no work force.
4. Effects of inflation on established figures.

B. Explore other avenues of restrictions if necessary

1. Percent of cities construction project.
2. Limit figure to certain type of construction (Demolition yes - Water Installation no).
3. Attach to degree of sophistication equipment.

IV. Need for Limits

A. What is happening in other states?

1. Survey western states
2. Has there been an increase to private contractors?
3. What experience have cities had under this program?

B. What is happening in the state of Washington?

1. Counties
2. Smaller cities
3. Others

V. Less costly construction by - city - private

A. Type of Construction

1. Water main, sewer
2. Demolition
3. Building construction
4. Road repair
5. Signalization
6. Others

B. Seasonal Demands for Each

1. Water main, sewer
2. Demolition
3. Building construction
4. Road repair
5. Signalization
6. Others

C. Difficulties in performing each construction job

1. Rock soil more difficult than loam?
2. Heavy urban areas more difficult than suburban areas?
3. Assurance private contractor will bid on all jobs - difficult as well as easy.
  - a. assurance that the bids will be meaningful
  - b. assurance that cities will be fair

VI. Enforcement

A. By whom - city, state or private sector?

B. What happens in case of violation?

1. When monetary payment is involved, who is to be paid?
2. What degree of punishment should be given?

CITY OF SEATTLE  
ENGINEERING DEPARTMENT  
MEMORANDUM

To Paul A. Wiatrak, P.E., Principal Asst. City Engineer - Operations  
From Harold T. Thornquist Date June 13 19 73  
Subject Cost Comparison by Contractor vs City Forces

The City of Seattle policy relating to sewer construction has been to contract with private firms for the installation of new storm and sanitary sewer facilities.

Sewer repair work is handled by city crews except in those instances where the repair is extensive (replacing sections of line one block in length or longer).

We have one project now under contract (James Street, Contract A & B) that is for repair of isolated short sections of sewer lines. Comparison of these costs with our repair costs is not feasible because of the location and requirements of the contract job.

The James Street Project is mostly confined to the downtown area. Traffic control dictates working hours, and in certain portions of the job pipe replacement is accomplished by auguring. The majority of our repairs are in residential areas requiring one, two or possibly three shafts at each location, with the work being accomplished in the normal work day.

HTT:CH

BPW

Mr. Robert J. Gulino, P.E.  
City Engineer

THE CITY OF SEATTLE

WES UHLMAN, MAYOR

BOARD OF PUBLIC WORKS  
ALFRED PETTY, SUPT. OF BUILDINGS  
CHAIRMAN  
ROBERT J. GULINO, CITY ENGINEER  
KENNETH M. LOWTHIAN, SUPT. OF WATER  
GORDON F. VICKERY, SUPT. OF LIGHTING  
DAVID L. TOWNE, SUPT. OF PARKS  
AND RECREATION

BOARD OF PUBLIC WORKS

BETTY L. MCFARLANE, SECRETARY

303 Seattle Municipal Building • Seattle, Washington 98104 • 583-2040

Re: Board of Public Works Contracts -  
"Delays in Execution"

ROUTING	DATE	INITIAL
ACTION	June 13, 1973	
FILE		
INFORMATION		
RTG		
AMSDR		
ATM		
WERS/REB		

SEATTLE ENG. DEPT  
JUN 15 2 15 PM '73

Mr. Gordon Vickery  
Superintendent of Lighting  
City of Seattle

Dear Mr. Vickery:

Thank you for the copy of a communication you received from Mr. R. L. Skone dated May 3, 1973 regarding the above subject. Since you provided me with this copy at the Board of Public Works' regular session today and I had no previous knowledge that any contracts had been held up or delayed unduly by procedures in this office, I advised you that I would look into the matter and would certainly take action to correct the condition if it existed.

As administrative officer of this department, I will be glad to alter our procedures to make contract administration work more efficiently and promptly whenever possible. This has always been our endeavor. However, I believe that it is not necessary for departmental personnel to contact the Board of Public Works directly on such matters as conferring with me personally on the telephone or otherwise will hopefully iron out any problems. If departmental people are not satisfied with my attention to their inquiries, then at that time it would be appropriate to approach the Board itself with recommendations for changes in this department's procedures. At least afford us an opportunity to reply to questions which might come up, first, and not bother the Board with matters which can be resolved at this level.

Our staff has made a review of the scheduling which takes place in this office on contracts.

Procedures have not been modified recently, increasing time between date of award and order to begin work on projects as Mr. Skone indicated. Mr. Skone also used Magnolia No. 9 L.I.D. underground project as an example of contract delay. This example does not indicate any delay as he pointed out in the third paragraph of his letter. It reflects just the opposite; a prompt filing of the contract. Mr. Skone's figures are not accurate as to our notification to contractor. He was notified the same day as the Board awarded the contract. (See project card attached)

The general rule has been that contractors are prompt in bringing in their signed documents, even though they are allowed by City Charter 10 days to sign the contracts. There are, of course, instances when it is

Mr. Gordon Vickery

2.

June 13, 1973

Not possible for them to bring documents in immediately. If their company is out of this City, it sometimes means that contracts have to be mailed to a distant city and returned to this office. We have allowed extensions of time in this area, however, they are rare. Even though we have used working days in computing the date of execution of contract, contractors rarely use that length of time. It has not held up filing of contracts. However, we agree to use calendar days from now on. We would also be happy to telephone your department immediately after the Board's action on awarding of projects. We understand that mail does not reach your office promptly, especially since you no longer have a messenger pick-up here. We hope that your people will give us a call if they are particularly concerned about any project or procedures. We will be available to assist at all times.

Attached for your information is an outline of typical public works project development procedures which our office follows from approval of plans and specifications to final acceptance of contracts.

Also attached is a record of average time taken for City Light projects from award to ordering the contractor to begin work. As you will note, contractors have not been taking the allowed time to return the signed documents, even if one counts by calendar days. Average time from receipt of contracts in this office to filing is 13 days. The record indicates that 6 to 8 days elapse before your contracts are received in the Board office. Time could be tightened up from award to filing by having the contracts available in this office on the day of award. Some of the other Board departments do this.

If we can be of any further assistance, please let us know.

Yours very truly,

*Betty L. McFarlane*

Betty L. McFarlane  
Secretary, Board of Public Works

BLM:lm

Att.

cc: R. L. Skone  
John Hansen  
D. Sundquist  
Board of Public Works Members ✓

B.P.W. PROJECT PROGRESS CARD

Name of Project: MAGNOLIA NO. 9, ARAPAHOE PLACE WEST BY CONSTRUCTION OF UNDERGROUND

B.P.W. Project No.: 73 36 Contractor: Potelco, Inc.

BPW AWARD 4/18/73

Contracts rec'd from Department	<u>4/18/73</u>	Bond to Corporation Council	<u>4/27/73</u>
Contractor notified of contracts	<u>4-18-73</u>	Bond ret'd from C. C.	<u>"</u>
Contracts picked up by Contractor	<u>4-20-73</u>	Contracts to Chairman	<u>4/27/73</u>
Contracts ret'd by Contractor	<u>4-27-73</u>	Contracts ret'd from Chairman	<u>4/30/73</u>
Performance Bond received	<u>4-27-73</u>	Filing of Contracts	<u>5/1/73</u>
Certificate of Insurance Received	<u>4-27-73</u>	Contracts sent to Contractor	<u>5/1/73</u>
INSURANCE EXPIRATION DATE	<u>9/8/73</u>	Contractor Ordered to Begin	<u>5/3/73</u>

Comments: \_\_\_\_\_

1973

B.P.W. PROJECT NUMBER	PROJECT NAME	CONTRACT AWARDED	CONTRACT RECEIVED FROM DEPT.	CONTRACT FILED/W CITY CLERK	TIME FROM AWARD TO FILING	TIME FROM RECEIPT TO FILING
73-9	Magnolia #8	2/07/73	2/15/73	2/23/73	16	8
73-1	Leschi Undergrounding	2/14/73	2/20/73	3/07/73	21	17
73-26	North Substation	3/21/73	3/27/73	4/13/73	23	17
73-25	Aviation Heights	3/28/73	4/02/73	4/11/73	14	9
73-36	Magnolia #9	4/18/73	4/18/73	4/30/73	12	12
73-52	Boundary Dam	5/23/73	5/23/73	6/08/73	16	16
				AVERAGES :	16	13-1/6

6/15/73

THE CITY OF SEATTLE  
BOARD OF PUBLIC WORKS

OUTLINE OF TYPICAL PUBLIC WORKS PROJECT DEVELOPMENT -- AS IT PERTAINS TO THIS OFFICE:

1. Plans and/or specifications approved by Board of Public Works in regular session (having been previously circulated among and approved by all 5 Board departments).
2. Board of Public Works Department receives letter from Board department requesting advertising (call for bids) in City Official Newspaper.
3. Call for Bids appears in City Official Newspaper -- Daily Journal of Commerce. (By Charter, this period of time is at least 9 days before bid opening.)
4. Bids opened and read at regular Board session. (Bids without bid bond, not properly filled in, signed, or notarized sworn statement not read.)

Sworn Statements transmitted to Human Rights Department immediately for evaluation and approval.

Pre-Award Conference is scheduled Monday following the Bid Opening. Apparent low bidder, Human Rights representative notified to attend this conference with the Secretary of the Board.

5. Board of Public Works makes award of contract or rejects bids; customarily one week following bid opening and pre-award conference meeting. Occasionally a contract will be awarded same day bids are opened if immediate need.

a. If award is made:

1. City department handling the project is notified immediately by Board of Public Works of award.
2. Successful bidder is notified he has been awarded the contract.
3. Department of Labor and Industries is notified of award (copies of this notice is sent to Human Rights Department).

b. If all bids are rejected:

City Department handling project so notified by the Board of Public Works.

6. Contractor (successful bidder) or his bondsman picks up contracts at BPW Office.
7. Contractor returns signed contracts, certificate of insurance, contract (performance) bond. (10 Calendar Days allowed for signing)
8. Contracts sent to Chairman or Vice Chairman to be signed.

Contract Bonds sent to Corporation Counsel (Mr. Taylor) for approval and signature. Time stamped after for City Clerk.

9. Contracts returned to Board of Public Works for Secretary's signature.

Contract Bond returned from Corporation Counsel to Board of Public Works Office.

OUTLINE OF TYPICAL PUBLIC WORKS DEVELOPMENT -- continued

10. Original copy of contract, bond, and certificate of insurance filed with the City Clerk.

City department handling the contract so notified by Board Office on the same day the contract is filed.

11. City Department writes letter to contractor, notifying the contractor to proceed to work.

12. Contractor performs work.

Contractor sends in weekly certified payroll reports.

13. When contractor completes project, City department writes a letter to the Board of Public Works requesting that the project be accepted as complete.

14. Board takes official action in regular session to accept project as complete.

15. City Comptroller notified by Board of Public Works of acceptance (completion) of contract; copies of same notice to city department and Human Rights Department.

Contractor receives letter from Board of Public Works that his contract has been accepted as complete.

16. Extension of time thoroughly documented may be requested during, at completion, or after acceptance of project. Requires official Board approval.

17. Payroll reports are computed with Total Payroll Gross sent to department handling the contract.

18. \$2.50 Daily Charge computed and invoice sent to department involved.

Action on contracts is taken by this office immediately upon receipt of communications and documents from departments and contractors. The awards are scheduled without delay for Board action and notifications of action are in most instances sent out the same day.

**BOARD OF PUBLIC WORKS EMERGENCY PROCEDURE:**

Certain projects, where determined necessary to shorten time involved in bidding procedures, may be submitted to the Board of Public Works, as follows:

1. Simplify specifications whenever possible and hand carry to each Board Department for approval prior to Board action. In emergency cases some types of specifications and plans may come direct to Board for approval, subject to addenda if departments deem necessary later. (This office must approve such procedures).

BOARD OF PUBLIC WORKS EMERGENCY PROCEDURE -- continued

2. Advertise immediately after Board meeting for normal 5 days and 4 days waiting period prior to bid opening.
3. Award day of bid opening with approval of Human Rights Department.

Time involved in emergency procedure to go to bid and award, approximately 2 weeks after approval of specifications by the Board.

Normal time involved in Board of Public Works procedures for bidding is approximately 4 weeks, or longer if problem exists.

If federally funded, time would be extended as well as boilerplate involved.

BLM: jy  
6/13/73

BPM Robert D. Gulins, City Engineer

Board of Public Works  
Office of the Secretary

Re: Sandblasting

Betty L. McFarlane, Secretary 6/18/73  
(date)

Sandblasting

DEPARTMENTAL ROUTING SLIP

All Board Department

(referred to)

Blu

(referred by)

         Please prepare reply for the Secretary's signature on office stationery.

         Please reply to the attached letter for the Secretary showing a copy to the Secretary.

         Forwarded for your investigation, report and recommendation.

Forwarded for your information and files.

         Other: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\*Action requested no later than \_\_\_\_\_  
(date)

ROUTING	DATE	INITIAL
ACTION		
20 PAW/JGR		
FILE		
INFORMATION		

6/14 noans nec  
JGR per MRW

SUATILE ENG DEPT  
JUN 13 8 29 AM '73

**GOODWIN SANDBLASTING**

2006 - 8th Avenue Southeast, Puyallup, Washington 98371 TH 5-7231 UN 3-4341

6-6-73

RECEIVED  
JUN 8 10 16 AM '73  
SECRETARY  
BOARD OF PUBLIC WORKS

Dear Sirs:

We would appreciate making application to become a part of  
your Sandblasters bid list.

Sincerely,

*John F. Goodwin*  
John F. Goodwin

YOU NAME IT-WE BLAST IT

BPW

Board of Public Works  
Office of the Secretary

*Cos comparison -  
Reason - by contract  
versus force account*

Betty L. McFarlane, Secretary

*6/8/73*  
(date)

DEPARTMENTAL ROUTING SLIP

*Robert J. Gulino - City Engineer*  
(referred to)

*B. McFarlane*  
(referred by)

\_\_\_\_ Please prepare reply for the Secretary's signature on office stationery.

\_\_\_\_ Please reply to the attached letter for the Secretary showing a copy to the Secretary.

Forwarded for your investigation, report and recommendation.

\_\_\_\_ Forwarded for your information and files.

Other: \_\_\_\_\_

\*Action requested no later than \_\_\_\_\_ (date)

cc: *Paul Wiatrak*

ROUTING	DATE	INITIAL
ACTION		
<i>PAW</i>		
<i>JGR/HT/CTM</i>		
FILE	<input checked="" type="checkbox"/>	
INFORMATION		
<i>RJG</i>		<i>[Signature]</i>

JUN 11 10 21 AM '73  
SEATTLE ENG DEPT



THE CITY OF SEATTLE  
EXECUTIVE DEPARTMENT  
OFFICE OF MANAGEMENT AND BUDGET  
MEMORANDUM

TO Betty McFarlane, Secretary, Board of Public Works  
FROM Howard Embree *HE* DATE 6/6/73  
SUBJECT Attached letter

As all the items questioned are under the jurisdiction of the Board of Public Works, I am sending this to you for answer.

Attachment  
HE/gm

RECEIVED  
JUN 6 3 28 PM '73  
BOARD OF PUBLIC WORKS  
SECRETARY

CITY OF SPOKANE, WASHINGTON



LITTLE HOOVER COMMISSION

May 31, 1973

City Manager  
City of Seattle  
City Hall  
Seattle, Washington

Dear Sir:

The Little Hoover Commission in Spokane has been charged with determining whether the City of Spokane should use contractors or city maintenance employees for the construction of water lines, sewer lines and electrical work for installation of electric traffic signals.

We would appreciate your policy on this, and if available, a cost comparison by contract versus force account with city employees. Any information you might have or suggestions pertaining to this would be most helpful. Thank you.

Sincerely,

Little Hoover Commission  
c/o Charles J. Tonani  
N. 1014 Division  
Spokane, Washington 99202

35

CITY ENGINEER

THE CITY OF SEATTLE  
BOARD OF PUBLIC WORKS

*[Handwritten signature]*

ROUTING	DATE	INITIAL
ACTION		
	1973	
	FILE	
INFORMATION		
RJG		
PMG	ATM	
WEP	REB	WPP

To: All Board of Public Works Members  
 From: Betty L. McFarlane, Secretary *Blm*  
 Re: All Federally Funded Contract Provisions

June 7, 1973

*x added* *[Handwritten initials]*

This is a reminder that bid conditions on all federally funded public works projects in Seattle have an established uniform set of specifications (a copy is attached) that should not be varied without prior review and approval by this office.

Please do not include in such specifications the supplement to federal Bid Conditions and "Certification" of Equal Employment Report which it refers to. It does not apply to projects within King County and confuses the contractor as well as causing problems to the Board when bids are opened. The above referenced document is contradictory to the "Seattle Imposed Plan" which the City works under.

All bidders on federally funded projects must submit in writing on company stationery, replying specifically to Subsection 2, A thru P of the Affirmative Action Program, and setting forth Goals and Timetables of minority manpower utilization as defined in the "Seattle Imposed Plan" under Section B, or the bid will be considered nonresponsive. When bidders see the "Certification" document they believe they don't have to answer A thru P.

The only way the Board can be confident of successful bid openings is for all Board Departments to be consistent and uniform in preparation and assembly of contract documents.

BLM:jy

- cc: A. Madsen, Engineering
- R. Strang, Building
- J. Hansen, Lighting
- L. Hume, Lighting
- G. Lorimer, Parks
- E. Larsen, Parks
- W. Rashkov, Water
- W. Brown, Engineering

JUN 13 2 52 PM '73  
SEATTLE ENG DEPT

DEPARTMENT OF HOUSING & URBAN DEVELOPMENT

BID CONDITIONS

AFFIRMATIVE ACTION REQUIREMENTS

EQUAL EMPLOYMENT OPPORTUNITY

For All Non-Exempt Federal and Federally-Assisted  
Construction Contracts to be Awarded in  
King County, Washington

A. Coverage. The provisions of these Bid Conditions shall be applicable to those bidders, contractors and subcontractors in regard to all construction trades to be used on the project.

B. Requirement -- An Affirmative Action Plan. Bidders, contractors and subcontractors will not be eligible for the award of a contract under this Invitation for Bids, unless such bidder has submitted as part of its bid, and has had approved by the Department of Housing & Urban Development a written affirmative action plan, embodying both (1) goals and timetables of minority manpower utilization,<sup>1/</sup> and (2) specific affirmative action steps directed at increasing minority manpower utilization by means of applying good faith efforts to carry out such steps. Both the goals and

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<sup>1/</sup> "Minority" is defined as including Negroes, Spanish Surnamed Americans, Orientals and American Indians.

timetables, and the affirmative action steps must meet the requirements of these Bid Conditions as set forth below for all trades which are to be utilized on the project, irrespective of whether the work to be performed by them has been subcontracted.

1. Goals and Timetables. The Plan must set forth goals of minority manpower utilization for the bidder and all contractors and subcontractors for all trades to be used on the project, upon which the bidder is bidding in King County, Washington. The goals shall be expressed in terms of manhours, within at least the following ranges, for the corresponding time periods listed below.

Until 12/31/71

3.2% - 6.5%

From 1/1/72 Until 12/31/72

6.5% - 9.7%

From 1/1/73 Until 12/31/73

9.7% - 13.0%

In the event that under a contract which is subject to these Bid Conditions any work is performed in a year later than the latest year for which acceptable ranges of minority manpower utilization have been determined herein, the ranges for 1973 shall be applicable to such work.

Whenever a contractor or subcontractor, who at the time of bidding is eligible under these Bid Conditions, uses trades not contemplated at the time he submits his bid, he shall be deemed to be committed to these Bid Conditions with respect to those trades. Whenever a contractor or subcontractor is so deemed to be committed to these Bid Conditions, he shall be considered to be committed to a manpower utilization goal of the minimum percentage range for that trade for the appropriate year.

The above percentages of minority manpower utilization are expressed in terms of manhours of training and employment as a proportion of the total manhours to be worked by the bidder's, contractor's and subcontractor's entire work force in that trade on all projects in King County, Washington, including all non-Federally involved construction projects, during the performance of its contract or subcontract. The manhours for minority work and training must be

substantially uniform throughout the length of the contract for all projects and for each of the trades. Further, the transfer of minority employees or trainees from employer-to-employer and from project-to-project for the sole purpose of meeting the contractor's or subcontractor's goal(s) shall be a violation of these conditions.

The goals of minority manpower utilization required of bidders pursuant to these Bid Conditions may be satisfied by the enrollment of minority in pre-apprenticeship, apprenticeship and journeyman training or similar programs, but such utilization of minority manpower shall be apportioned as equally as possible to all such programs used or available for use. In order that the nonworking training hours of trainees may be counted in meeting the goals, such trainees must be employed by the contractor during the training period. Journeymen, however, may be employed in lieu of a like number or percentage of minority trainees or apprentices otherwise to be employed and/or trained in accordance with the contractor's or subcontractor's goals.

A contractor or subcontractor shall be deemed to be in compliance with the terms and requirements of these Bid

Conditions by the employment and training of minorities in the appropriate percentage of his aggregate work force in King County, Washington, for each trade for which it is committed to a goal under the Bid Conditions.

However, no contractor or subcontractor shall be found to be in noncompliance solely on account of its failure to meet its goals within its timetables, but such contractor shall be given the opportunity to demonstrate that it has instituted all of the specific affirmative action steps specified in section 2 of these Bid Conditions and has made every good faith effort to make these steps work toward the attainment of its goals within its timetables, all to the purpose of expanding minority manpower utilization on all of its projects in King County, Washington.

In all cases, the compliance of a bidder, contractor or subcontractor will be determined in accordance with its respective obligations under the terms of these Bid Conditions. Therefore, contractors or subcontractors who are governed by the provisions thereof shall be subject to its requirements regardless of the obligations of its prime contractor or lower tier subcontractors should they in any

way be different.

All bidders, prime contractors and subcontractors shall include in all bid invitations or other prebid communications, written or otherwise, with respect to their prospective subcontractors, the goals, as applicable, which are required under this order. Whenever a prime contractor or subcontractor subcontracts a portion of the work in any trade designated herein, he shall include in such subcontract his commitment made under this order, as applicable, which shall be adopted by his subcontractor, who shall be bound thereby and by this order to the full extent as if he were the prime contractor. The prime contractor shall not be accountable for the failure of the subcontractor to fulfill his requirements, however, the prime contractor or subcontractor shall give notice to the Area Coordinator of the Office of Federal Contract Compliance of the Department of Labor and the contracting agency, of the refusal or failure of any subcontractor to fulfill his obligations under this order. Failure of compliance by any subcontractor will be treated in the same manner as such failure by the prime contractor.

Bidders, contractors and subcontractors hereby agree

to refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who is determined not to be a "responsible" bidder for, Government contracts and federally-assisted construction contracts pursuant to the Executive Order. The bidder, contractor or subcontractor shall carry out such sanctions and penalties for violation of the equal opportunity clause including suspension, termination and cancellation of existing subcontracts as may be imposed or ordered by the administering agency, the contracting agency or the Office of Federal Contract Compliance pursuant to the Executive Order. Any bidder, contractor or subcontractor who shall fail to carry out such sanctions and penalties shall be deemed to be in noncompliance with these Bid Conditions and Executive Order 11246.

2. Specific Affirmative Action Steps. The plans for the bidders, contractors and subcontractors must set forth specific affirmative action steps directed at increasing minority manpower utilization, which steps must be at least as extensive and as specific as the following:

- a. The contractor shall notify community

organizations that the contractor has employment opportunities available and shall maintain records of the organizations' response.

b. The contractor shall maintain a file of the names and addresses of each minority worker referred to him and what action was taken with respect to each such referred worker, and if the worker was not employed, the reasons therefor. If such worker was not sent to the union hiring hall for referral or if such worker was not employed by the contractor, the contractor's file should document this and the reasons therefor.

c. The contractor shall promptly notify the Department of Housing & Urban Dev. when the union or unions with whom the contractor has a collective bargaining agreement has not referred to the contractor a minority worker sent by the contractor or the contractor has other information that the union referral process has impeded him in his efforts to meet his goal.

d. The contractor shall participate in training programs in the area, especially those funded by the Department of Labor.

e. The contractor shall disseminate his EEO policy within his own organization by including it in any policy manual; by publicizing it in company newspapers, annual report, etc.; by conducting staff, employee and union representatives' meetings to explain and discuss the policy; by posting of the policy; and by specific review of the policy with minority employees.

f. The contractor shall disseminate his EEO policy externally by informing and discussing it with all recruitment sources; by advertising in news media, specifically including minority news media; and by notifying and discussing it with all subcontractors and suppliers.

g. The contractor shall make specific and constant personal (both written and oral) recruitment efforts directed at all minority organizations, schools with minority students, minority recruitment organizations and minority training organizations, within the contractor's recruitment area.

h. The contractor shall make specific efforts to encourage present minority employees to recruit their friends and relatives.

- i. The contractor shall validate all man specifications, selection requirements, tests, etc.
- j. The contractor shall make every effort to provide after-school, summer and vacation employment to minority youths.
- k. The contractor shall develop on-the-job training opportunities and participate and assist in any association or employer-group training programs relevant to the contractor's employee needs consistent with its obligations under this Part II.
  1. The contractor shall continually inventory and evaluate all minority personnel for promotion opportunities and encourage minority employees to seek such opportunities.
- m. The contractor shall make sure that seniority practices, job classifications, etc., do not have a discriminatory effect.
- n. The contractor shall make certain that all facilities and company activities are non-segregated.
- o. The contractor shall continually monitor all personnel activities to ensure that his EEO policy is being carried out.

P. The contractor shall solicit bids for subcontracts from available minority subcontractors engaged in the trades covered by these Bid Conditions, including circulation of minority contractor associations.

3. Certain Contractors and Subcontractors Not Required to Submit Goals and Timetables. The following labor organizations and joint apprenticeship committees appeared as defendants in the case of United States v. Local 8, Int. Ass'n. of Bridge, S., O & R.I., 315 F.Supp. 1202 (W.D. Wash. 1970) and have been ordered to ascribe to and implement an affirmative action program designed to increase the utilization of Negro employees in these trades.

Ironworkers Local Union No. 86; Ironworkers Joint Apprenticeship Training Committee; International Brotherhood of Electrical Workers Local Union No. 46; Plumbers and Pipefitters Local Union No. 32; Plumbers and Pipefitters Joint Apprenticeship Committee; Sheetmetal Workers Union No. 99; and Sheetmetal Workers Joint Apprenticeship Committee.

By Orders of the Court dated June 16, 1970, the above-designated labor organizations were directed to

develop, maintain and implement affirmative action programs designed to increase the utilization of Negroes within these trades. Specific goals and timetables for their achievement were ordered by the court. Additionally, the Operating Engineers Local Union No. 302, originally named as a defendant in the court action, was removed from that action pursuant to a Consent Decree by which it is committed to maintain and implement an affirmative action program for the increased utilization of minorities in the trade.<sup>2/</sup>

Bidders, contractors or subcontractors who are by contract or otherwise, dependent upon labor organizations covered by the Court's order, or the Consent Decree, for the supply of employees, shall not be required to submit the goals and timetables for the trades covered by such order or decree. However, such bidders, contractors or subcontractors shall be subject to the other requirements of these Bid Conditions (including the submission of written affirmative action plans containing specific affirmative action steps required by section 2 above) and all other requirements of Executive Order 11246 and the

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<sup>2/</sup> Training programs under the Court's orders and the Consent Decree are currently being funded, separately, by the United States Department of Labor.

implementing rules, regulations and orders issued thereunder.

4. Non-Discrimination. In no event may a contractor or subcontractor utilize the goals, timetables, or affirmative action steps required by these Bid Conditions in such a manner as to cause or result in discrimination against any person on account of race, color, religion, sex or national origin.

5. Contractors and Subcontractors Bound. The affirmative action plan required by these Bid Conditions shall be deemed a part of the resulting contract specifications. A successful bidder as to whom these Bid Conditions are applicable, shall cause the affirmative action plan as established and approved, to be a part of all subcontracts, where necessary, regardless of tier, under his contract. No subcontract shall be executed until an authorized representative of the Department of Housing & Urban Development has determined, in writing, that the affirmative action plan required by these Bid Conditions, as applicable, has been incorporated into such subcontract, regardless of tier. Any subcontract executed without such written approval shall be void. Any equal employment opportunity submission required to be made by the prospective contractor pursuant to these

Bid Conditions which is material and which will govern the contractor's performance on the project shall be made a part of his bid. Failure to submit an affirmative action plan, as required, will render the bid nonresponsive.

6. Compliance and Enforcement. Bidders, contractors and subcontractors are responsible for informing their subcontractors (regardless of tier) as to their respective obligations under these Bid Conditions (as applicable). Bidders, contractors and subcontractors hereby agree to refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who is determined not to be a "responsible" bidder for, Government contracts and federally-assisted construction contracts pursuant to the Executive Order. The bidder, contractor or subcontractor shall carry out such sanctions and penalties for violation of the equal opportunity clause including suspension, termination and cancellation of existing subcontracts as may be imposed or ordered by the administering agency, the contracting agency or the Office of Federal Contract Compliance pursuant to the Executive Order. Any bidder,

contractor or subcontractor who shall fail to carry out such sanctions and penalties shall be deemed to be in non-compliance with these Bid Conditions and Executive Order 11246.

Nothing herein is intended to relieve any contractor or subcontractor during the term of its contract on this project from compliance with Executive Order 11246 and the Equal Employment Opportunity Clause of its contract, with respect to matters not covered in the Court's Orders, the Consent Decree or in these Bid Conditions.

Each agency shall review its contractors' and subcontractors' employment practices during the performance of the contract. In regard to these Bid Conditions, if the contractor or subcontractor meets its goals or if the contractor or subcontractor can demonstrate that it has made every good faith effort to meet those goals, the contractor shall be presumed to be in compliance with Executive Order 11246, the implementing regulations and its obligations under these Bid Conditions and no formal sanctions or proceedings leading toward sanctions shall be instituted unless the agency otherwise determines that the contractor or subcontractor is not providing equal employment opportunities.

In judging whether a contractor or subcontractor has met its goals, the agency will consider each contractor's and subcontractor's minority manpower utilization and will not take into consideration the minority manpower utilization of its subcontractors. Where the agency finds that the contractor or subcontractor has failed to comply with the requirements of Executive Order 11246, the implementing regulations and its obligations under these Bid Conditions, the agency shall take such action and impose such sanctions as may be appropriate under the Executive Order and the regulations. When the agency proceeds with such formal action, it has the burden of proving that the contractor has not met the requirements of these Bid Conditions, but the contractor's failure to meet his goals, shall shift to him the requirement to come forward with evidence to show that he has met the "good faith" requirements of these Bid Conditions by instituting at least the Specific Affirmative Action steps listed above and by making every good faith effort to make those steps work toward the attainment of its goals within its timetables. Such noncompliance by the contractor or subcontractor shall be taken into consideration

by Federal agencies in determining whether such contractor or subcontractor can comply with the requirements of Executive Order 11246 and is therefore a "responsible prospective contractor" within the meaning of the Federal procurement regulations.

It shall be no excuse for a contractor's or subcontractor's failure to comply with its obligations under these Bid Conditions that the union with which it has a collective bargaining agreement providing for the exclusive referral of employees has failed to refer minority employees.

The procedures set forth in these conditions shall not apply to any contract when the head of the contracting or administering agency determines that such contract is essential to the national security and that its award without following such procedures is necessary to the national security. Upon making such a determination, the agency head will notify, in writing, the Director of the Office of Federal Contract Compliance within thirty days.

Requests for exemptions from these Bid Conditions must be made in writing, with justification, to the Director, Office of Federal Contract Compliance, U. S. Department of Labor, Washington, D. C. 20210, and shall be forwarded

through and with the endorsement of the agency head.

Contractors and subcontractors must keep such records and file such reports relating to the provisions of these conditions as shall be required by the contracting or administering agency or the Office of Federal Contract Compliance.

For information of bidders, a copy of the Seattle Plan may be obtained from the contracting officer.

These Bid Conditions are issued pursuant to Executive Order 11246 (30 FR 12319, September 28, 1965) Parts II and III; Executive Order 11375 (32 FR 14303, October 17, 1967); and 41 CFR Chapter 60.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
Reprinted from Federal Register, 30 F.R. 12319-25  
September 28, 1965

### Title 3—THE PRESIDENT

Executive Order 11246

#### EQUAL EMPLOYMENT OPPORTUNITY

Under and by virtue of the authority vested in me as President of the United States by the Constitution and statutes of the United States, it is ordered as follows:

#### PART I—NONDISCRIMINATION IN GOVERNMENT EMPLOYMENT

SECTION 101. It is the policy of the Government of the United States to provide equal opportunity in Federal employment for all qualified persons, to prohibit discrimination in employment because of race, creed, color, or national origin, and to promote a full realization of equal employment opportunity through a positive, continuing program in each executive department and agency. The policy of equal opportunity applies to every aspect of Federal employment policy and practice.

Sec. 102. The head of each executive department and agency shall establish and maintain a positive program of equal employment opportunity for all civilian employees and applicants for employment within his jurisdiction in accordance with the policy set forth in Section 101.

Sec. 103. The Civil Service Commission shall supervise and provide leadership and guidance in the conduct of equal employment opportunity programs for the civilian employees of and applications for employment within the executive departments and agencies and shall review agency program accomplishments periodically. In order to facilitate the achievement of a model program for equal employment opportunity in the Federal service, the Commission may consult from time to time with such individuals, groups, or organizations as may be of assistance in improving the Federal program and realizing the objectives of this Part.

Sec. 104. The Civil Service Commission shall provide for the prompt, fair, and impartial consideration of all complaints of discrimination in Federal employment on the basis of race, creed, color, or national origin. Procedures for the consideration of complaints shall include at least one impartial review within the executive department or agency and shall provide for appeal to the Civil Service Commission.

Sec. 105. The Civil Service Commission shall issue such regulations, orders, and instructions as it deems necessary and appropriate to carry out its responsibilities under this Part, and the head of each executive department and agency shall comply with the regulations, orders, and instructions issued by the Commission under this Part.

#### PART II—NONDISCRIMINATION IN EMPLOYMENT BY GOVERNMENT CONTRACTORS AND SUBCONTRACTORS

##### SUBPART A—DUTIES OF THE SECRETARY OF LABOR

Sec. 201. The Secretary of Labor shall be responsible for the administration of Parts II and III of this Order and shall adopt such rules and regulations and issue such orders as he deems necessary and appropriate to achieve the purposes thereof.

SUBPART B - CONTRACTORS' AGREEMENTS

**Sec. 202.** Except in contracts exempted in accordance with Section 204 of this Order, all Government contracting agencies shall include in every Government contract hereafter entered into the following provisions:

"During the performance of this contract, the contractor agrees as follows:

"(1) The contractor will not discriminate against any employee or applicant for employment because of race, creed, color, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, color, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

"(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, creed, color, or national origin.

"(3) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under Section 202 of Executive Order No. 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

"(4) The contractor will comply with all provisions of Executive Order No. 11246 of Sept. 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

"(5) The contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

"(6) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be cancelled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order No. 11246 of Sept. 24, 1965, and such other sanctions may be imposed and remedies invoked\* as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

"(7) The contractor will include the provisions of Paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of Sept. 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the contracting agency may direct as a means of enforcing such provisions including sanctions for noncompliance: *Provided, however,* that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States."

**Sec. 203.** (a) Each contractor having a contract containing the provisions prescribed in Section 202 shall file, and shall cause each of his subcontractors to file, Compliance Reports with the contracting agency or the Secretary of Labor as may be directed. Compliance Reports shall be filed within such times and shall contain such information as to the practices, policies, programs, and employment policies, programs, and employment statistics of the contractor and each subcontractor, and shall be in such form, as the Secretary of Labor may prescribe.

(b) Bidders or prospective contractors or subcontractors may be required to state whether they have participated in any previous contract subject to the provisions of this Order, or any preceding similar Executive order, and in that event to submit, on behalf of themselves and their proposed subcontractors, Compliance Reports prior to or as an initial part of their bid or negotiation of a contract.

(c) Whenever the contractor or subcontractor has a collective bargaining agreement or other contract or understanding with a labor union or an agency referring workers or providing or supervising

\*Corrected to read "invoked". In the original text the word "involved" was printed in error.

apprenticeship or training for such workers, the Compliance Report shall include such information as to such labor union's or agency's practices and policies affecting compliance as the Secretary of Labor may prescribe: *Provided*, That to the extent such information is within the exclusive possession of a labor union or an agency referring workers or providing or supervising apprenticeship or training and such labor union or agency shall refuse to furnish such information to the contractor, the contractor shall so certify to the contracting agency as part of its Compliance Report and shall set forth what efforts he has made to obtain such information.

(d) The contracting agency or the Secretary of Labor may direct that any bidder or prospective contractor or subcontractor shall submit, as part of his Compliance Report, a statement in writing, signed by an authorized officer or agent on behalf of any labor union or any agency referring workers or providing or supervising apprenticeship or other training, with which the bidder or prospective contractor deals, with supporting information, to the effect that the signer's practices and policies do not discriminate on the grounds of race, color, creed, or national origin, and that the signer either will affirmatively cooperate in the implementation of the policy and provisions of this Order or that it consents and agrees that recruitment, employment, and the terms and conditions of employment under the proposed contract shall be in accordance with the purposes and provisions of the Order. In the event that the union, or the agency shall refuse to execute such a statement, the Compliance Report shall so certify and set forth what efforts have been made to secure such a statement and such additional factual material as the contracting agency or the Secretary of Labor may require.

Sec. 204. The Secretary of Labor may, when he deems that special circumstances in the national interest so require, exempt a contracting agency from the requirement of including any or all of the provisions of Section 202 of this Order in any specific contract, subcontract, or purchase order. The Secretary of Labor may, by rule or regulation, also exempt certain classes of contracts, subcontracts, or purchase orders (1) whenever work is to be or has been performed outside the United States and no recruitment of workers within the limits of the United States is involved; (2) for standard commercial supplies or raw materials; (3) involving less than specified amounts of money or specified numbers of workers; or (4) to the extent that they involve subcontracts below a specified tier. The Secretary of Labor may also provide, by rule, regulation, or order, for the exemption of facilities of a contractor which are in all respects separate and distinct from activities of the contractor related to the performance of the contract: *Provided*, That such an exemption will not interfere with or impede the effectuation of the purposes of this Order: *And provided further*, That in the absence of such an exemption all facilities shall be covered by the provisions of this Order.

**SUBPART C—POWERS AND DUTIES OF THE SECRETARY OF LABOR AND THE CONTRACTING AGENCIES**

Sec. 205. Each contracting agency shall be primarily responsible for obtaining compliance with the rules, regulations, and orders of the Secretary of Labor with respect to contracts entered into by such agency or its contractors. All contracting agencies shall comply with the rules of the Secretary of Labor in discharging their primary responsibility for securing compliance with the provisions of contracts and otherwise with the terms of this Order and of the rules, regulations, and orders of the Secretary of Labor issued pursuant to this Order. They are directed to cooperate with the Secretary of Labor and to furnish the Secretary of Labor such information and assistance as he may require in the performance of his functions under this Order. They are further directed to appoint or designate, from among the agency's personnel, compliance officers. It shall be the duty of such officers to seek compliance with the objectives of this Order by conference, conciliation, mediation, or persuasion.

Sec. 206. (a) The Secretary of Labor may investigate the employment practices of any Government contractor or subcontractor,

or initiate such investigation by the appropriate contracting agency, to determine whether or not the contractual provisions specified in Section 202 of this Order have been violated. Such investigation shall be conducted in accordance with the procedures established by the Secretary of Labor and the investigating agency shall report to the Secretary of Labor any action taken or recommended.

(b) The Secretary of Labor may receive and investigate or cause to be investigated complaints by employees or prospective employees of a Government contractor or subcontractor which allege discrimination contrary to the contractual provisions specified in Section 202 of this Order. If this investigation is conducted for the Secretary of Labor by a contracting agency, that agency shall report to the Secretary what action has been taken or is recommended with regard to such complaints.

Sec. 207. The Secretary of Labor shall use his best efforts, directly and through contracting agencies, other interested Federal, State, and local agencies, contractors, and all other available instrumentalities to cause any labor union engaged in work under Government contracts or any agency referring workers or providing or supervising apprenticeship or training for or in the course of such work to cooperate in the implementation of the purposes of this Order. The Secretary of Labor shall, in appropriate cases, notify the Equal Employment Opportunity Commission, the Department of Justice, or other appropriate Federal agencies whenever it has reason to believe that the practices of any such labor organization or agency violate Title VI or Title VII of the Civil Rights Act of 1964 or other provision of Federal law.

Sec. 208. (a) The Secretary of Labor, or any agency, officer, or employee in the executive branch of the Government designated by rule, regulation, or order of the Secretary, may hold such hearings, public or private, as the Secretary may deem advisable for compliance, enforcement, or educational purposes.

(b) The Secretary of Labor may hold, or cause to be held, hearings in accordance with Subsection (a) of this Section prior to imposing, ordering, or recommending the imposition of penalties and sanctions under this Order. No order for debarment of any contractor from further Government contracts under Section 209(a)(6) shall be made without affording the contractor an opportunity for a hearing.

#### SUBPART D SANCTIONS AND PENALTIES

Sec. 209. (a) In accordance with such rules, regulations, or orders as the Secretary of Labor may issue or adopt, the Secretary or the appropriate contracting agency may:

(1) Publish, or cause to be published, the names of contractors or unions which it has concluded have complied or have failed to comply with the provisions of this Order or of the rules, regulations, and orders of the Secretary of Labor.

(2) Recommend to the Department of Justice that, in cases in which there is substantial or material violation or the threat of substantial or material violation of the contractual provisions set forth in Section 202 of this Order, appropriate proceedings be brought to enforce those provisions, including the enjoining, within the limitations of applicable law, of organizations, individuals, or groups who prevent directly or indirectly, or seek to prevent directly or indirectly, compliance with the provisions of this Order.

(3) Recommend to the Equal Employment Opportunity Commission or the Department of Justice that appropriate proceedings be instituted under Title VII of the Civil Rights Act of 1964.

(4) Recommend to the Department of Justice that criminal proceedings be brought for the furnishing of false information to any contracting agency or to the Secretary of Labor as the case may be.

(5) Cancel, terminate, suspend, or cause to be cancelled, terminated, or suspended, any contract, or any portion or portions thereof, for failure of the contractor or subcontractor to comply with the non-

discrimination provisions of the contract. Contracts may be cancelled, terminated, or suspended absolutely or continuance of contracts may be conditioned upon a program for future compliance approved by the contracting agency.

(6) Provide that any contracting agency shall refrain from entering into further contracts, or extensions or other modifications of existing contracts, with any noncomplying contractor, until such contractor has satisfied the Secretary of Labor that such contractor has established and will carry out personnel and employment policies in compliance with the provisions of this Order.

(b) Under rules and regulations prescribed by the Secretary of Labor, each contracting agency shall make reasonable efforts within a reasonable time limitation to secure compliance with the contract provisions of this Order by methods of conference, conciliation, mediation, and persuasion before proceedings shall be instituted under Subsection (a)(2) of this Section, or before a contract shall be cancelled or terminated in whole or in part under Subsection (a)(5) of this Section for failure of a contractor or subcontractor to comply with the contract provisions of this Order.

Sec. 210. Any contracting agency taking any action authorized by this Subpart, whether on its own motion, or as directed by the Secretary of Labor, or under the rules and regulations of the Secretary, shall promptly notify the Secretary of such action. Whenever the Secretary of Labor makes a determination under this Section, he shall promptly notify the appropriate contracting agency of the action recommended. The agency shall take such action and shall report the results thereof to the Secretary of Labor within such time as the Secretary shall specify.

Sec. 211. If the Secretary shall so direct, contracting agencies shall not enter into contracts with any bidder or prospective contractor unless the bidder or prospective contractor has satisfactorily complied with the provisions of this Order or submits a program for compliance acceptable to the Secretary of Labor or, if the Secretary so authorizes, to the contracting agency.

Sec. 212. Whenever a contracting agency cancels or terminates a contract, or whenever a contractor has been debarred from further Government contracts, under Section 209(a)(6) because of noncompliance with the contract provisions with regard to nondiscrimination, the Secretary of Labor, or the contracting agency involved, shall promptly notify the Comptroller General of the United States. Any such debarment may be rescinded by the Secretary of Labor or by the contracting agency which imposed the sanction.

#### SUBPART E - CERTIFICATES OF MERIT

Sec. 213. The Secretary of Labor may provide for issuance of a United States Government Certificate of Merit to employers or labor unions, or other agencies which are or may hereafter be engaged in work under Government contracts, if the Secretary is satisfied that the personnel and employment practices of the employer, or that the personnel, training, apprenticeship, membership, grievance and representation, upgrading, and other practices and policies of the labor union or other agency conform to the purposes and provisions of this Order.

Sec. 214. Any Certificate of Merit may at any time be suspended or revoked by the Secretary of Labor if the holder thereof, in the judgment of the Secretary, has failed to comply with the provisions of this Order.

Sec. 215. The Secretary of Labor may provide for the exemption of any employer, labor union, or other agency from any reporting requirements imposed under or pursuant to this Order if such employer, labor union, or other agency has been awarded a Certificate of Merit which has not been suspended or revoked.

**PART III—NONDISCRIMINATION PROVISIONS IN FEDERALLY ASSISTED  
CONSTRUCTION CONTRACTS**

**Sec. 301.** Each executive department and agency which administers a program involving Federal financial assistance shall require as a condition for the approval of any grant, contract, loan, insurance, or guarantee thereunder, which may involve a construction contract, that the applicant for Federal assistance undertake and agree to incorporate, or cause to be incorporated, into all construction contracts paid for in whole or in part with funds obtained from the Federal Government or borrowed on the credit of the Federal Government pursuant to such grant, contract, loan, insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, the provisions prescribed for Government contracts by Section 202<sup>\*</sup> of this Order or such modification thereof, preserving in substance the contractor's obligations thereunder, as may be approved by the Secretary of Labor, together with such additional provisions as the Secretary deems appropriate to establish and protect the interest of the United States in the enforcement of those obligations. Each such applicant shall also undertake and agree (1) to assist and cooperate actively with the administering department or agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with those contract provisions and with the rules, regulations, and relevant orders of the Secretary, (2) to obtain and to furnish to the administering department or agency and to the Secretary of Labor such information as they may require for the supervision of such compliance, (3) to carry out sanctions and penalties for violation of such obligations imposed upon contractors and subcontractors by the Secretary of Labor or the administering department or agency pursuant to Part II, Subpart D, of this Order, and (4) to refrain from entering into any contract subject to this Order, or extension or other modification of such a contract with a contractor debarred from Government contracts under Part II, Subpart D, of this Order.

**Sec. 302. (a)** "Construction contract" as used in this Order means any contract for the construction, rehabilitation, alteration, conversion, extension, or repair of buildings, highways, or other improvements to real property.

(b) The provisions of Part II of this Order shall apply to such construction contracts, and for purposes of such application the administering department or agency shall be considered the contracting agency referred to therein.

(c) The term "applicant" as used in this Order means an applicant for Federal assistance or, as determined by agency regulation, other program participant, with respect to whom an application for any grant, contract, loan, insurance, or guarantee is not finally acted upon prior to the effective date of this Part, and it includes such an applicant after he becomes a recipient of such Federal assistance.

**Sec. 303. (a)** Each administering department and agency shall be responsible for obtaining the compliance of such applicants with their undertakings under this Order. Each administering department and agency is directed to cooperate with the Secretary of Labor, and to furnish the Secretary such information and assistance as he may require in the performance of his functions under this Order.

(b) In the event an applicant fails and refuses to comply with his undertakings, the administering department or agency may take any or all of the following actions: (1) cancel, terminate, or suspend in whole or in part the agreement, contract, or other arrangement with such applicant with respect to which the failure and refusal occurred; (2) refrain from extending any further assistance to the applicant under the program with respect to which the failure or refusal occurred until satisfactory assurance of future compliance has been received from such applicant; and (3) refer the case to the Department of Justice for appropriate legal proceedings.

\* Corrected to read "Section 202". In the original text "Section 203" was printed in error.

(c) Any action with respect to an applicant pursuant to Subsection (b) shall be taken in conformity with Section 602 of the Civil Rights Act of 1964 (and the regulations of the administering department or agency issued thereunder), to the extent applicable. In no case shall action be taken with respect to an applicant pursuant to Clause (1) or (2) of Subsection (b) without notice and opportunity for hearing before the administering department or agency.

Sec. 304. Any executive department or agency which imposes by rule, regulation, or order requirements of nondiscrimination in employment, other than requirements imposed pursuant to this Order, may delegate to the Secretary of Labor by agreement such responsibilities with respect to compliance standards, reports, and procedures as would tend to bring the administration of such requirements into conformity with the administration of requirements imposed under this Order: *Provided*, That actions to effect compliance by recipients of Federal financial assistance with requirements imposed pursuant to Title VI of the Civil Rights Act of 1964 shall be taken in conformity with the procedures and limitations prescribed in Section 602 thereof and the regulations of the administering department or agency issued thereunder.

#### PART IV--MISCELLANEOUS

Sec. 401. The Secretary of Labor may delegate to any officer, agency, or employee in the Executive branch of the Government, any function or duty of the Secretary under Parts II and III of this Order, except authority to promulgate rules and regulations of a general nature.

Sec. 402. The Secretary of Labor shall provide administrative support for the execution of the program known as the "Plans for Progress."

Sec. 403. (a) Executive Orders Nos. 10590 (January 19, 1955), 10722 (August 5, 1957), 10925 (March 6, 1961), 11114 (June 22, 1963), and 11162 (July 28, 1964), are hereby superseded and the President's Committee on Equal Employment Opportunity established by Executive Order No. 10925 is hereby abolished. All records and property in the custody of the Committee shall be transferred to the Civil Service Commission and the Secretary of Labor, as appropriate.

(b) Nothing in this Order shall be deemed to relieve any person of any obligation assumed or imposed under or pursuant to any Executive Order superseded by this Order. All rules, regulations, orders, instructions, designations, and other directives issued by the President's Committee on Equal Employment Opportunity and those issued by the heads of various departments or agencies under or pursuant to any of the Executive orders superseded by this Order, shall, to the extent that they are not inconsistent with this Order, remain in full force and effect unless and until revoked or superseded by appropriate authority. References in such directives to provisions of the superseded orders shall be deemed to be references to the comparable provisions of this Order.

Sec. 404. The General Services Administration shall take appropriate action to revise the standard Government contract forms to accord with the provisions of this Order and of the rules and regulations of the Secretary of Labor.

Sec. 405. This Order shall become effective thirty days after the date of this Order.

THE WHITE HOUSE,  
September 24, 1965.

LYNDON B. JOHNSON

BOARD OF PUBLIC WORKS

FOLDER NO 4

#3

1073

# Proposed Rule Making

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[24 CFR Part 76]

[Docket No. R-71-100]

### EMPLOYMENT OPPORTUNITIES FOR LOWER INCOME PERSONS IN CONNECTION WITH ASSISTED PROJECTS

#### Notice of Proposed Rule Making

The Department of Housing and Urban Development is considering amending Title 24 of the Code of Federal Regulations to include a new Part 76 entitled "Employment Opportunities for Lower Income Persons in Connection with Assisted Projects." The proposed amendment, issued pursuant to section 3 of the Housing and Urban Development Act of 1968, 12 U.S.C. 1701u, would establish procedures to encourage the employment on assisted projects of lower income persons residing in the project locale, and the award of project-related contracts to businesses similarly located.

The proposed regulations, the purpose of which is more fully set forth under § 76.1, relate to public property, loans, grants, benefits, or contracts, and are not subject to the rule making requirements of 5 U.S.C. 553. However, recently announced Department policy provides that rules and regulations, as broadly defined by the promulgating notice, 36 F.R. 4291, will be published for proposed rule making. Accordingly, interested persons are invited to participate in the making of the proposed rule by submitting written data, views, or statements with regard to the proposed regulations. Communications should identify the proposed rule by the above docket number and title and should be filed in triplicate with the Assistant Secretary for Equal Opportunity, Department of Housing and Urban Development, Washington, D.C. 20410. All relevant material received on or before July 19, 1971, will be considered by the Assistant Secretary before taking action on the proposal. Copies of comments submitted will be available during business hours, both before and after the specified closing date, at the above address, for examination by interested persons.

The proposed rule is issued pursuant to section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

The proposed Part 76 reads as follows:

#### PART 76—EMPLOYMENT OPPORTUNITIES FOR BUSINESSES AND LOWER INCOME PERSONS WITHIN THE PROJECT LOCALE

##### Subpart A—General

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|-----------|---|
| Sec. 76.1 | Purpose and scope of part.                                |
| 76.5      | Definitions.  |
| 76.10     | Delegation to Assistant Secretary for Equal Opportunity.  |
| 76.15     | Determination of the area of a section 3 covered project. |

- |            |   |
|------------|---|
| Sec. 76.20 | Assurance of compliance with regulations.                                   |
| 76.25      | Bidding and negotiation requirements.                                       |
| 76.30      | Other applicant and recipient obligations.                                  |
| 76.35      | Effectuation of applicant obligations in direct and indirect relationships. |

##### Subpart B—Utilization of Lower Income Area Residents as Trainees

- |       |                                  |
|-------|----------------------------------|
| 76.40 | General.                         |
| 76.45 | Establishing number of trainees. |
| 76.50 | Good faith effort.               |

##### Subpart C—Utilization of Lower Income Area Residents as Employees

- |       |                    |
|-------|--------------------|
| 76.55 | General.           |
| 76.60 | Good faith effort. |

##### Subpart D—Utilization of Business Located in or Owned in Substantial Part by Persons Residing in the Area

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|-------|--|
| 76.65 | General.                                   |
| 76.70 | Development of an affirmative action plan. |

##### Subpart E—Participation in Approved Programs

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|-------|--|
| 76.75 | Participation as evidence of compliance with section 3 requirements. |
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##### Subpart F—Grievance and Compliance Review

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| 76.80  | Who may file grievance.            |
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**AUTHORITY:** The provisions of this Part 76 are issued under section 3 of the Housing and Urban Development Act of 1968, 12 U.S.C. 1701u, and sec. 7(d), Department of HUD Act, 42 U.S.C. 3535(d).

##### Subpart A—General

###### § 76.1 Purpose and scope of part.

(a) The regulations set forth in this part contain the procedures established by the Secretary of Housing and Urban Development for carrying out his responsibilities under section 3 of the Housing and Urban Development Act of 1968, 12 U.S.C. 1701u. That section requires that:

In the administration by the Secretary of Housing and Urban Development of programs providing direct financial assistance in aid of housing, urban planning, development, redevelopment, or renewal, public or community facilities, and new community development, the Secretary shall—

(1) Require, in consultation with the Secretary of Labor, that to the greatest extent feasible opportunities for training and employment arising in connection with the planning and carrying out of any project assisted under any such program be given to lower income persons residing in the area of such project; and

(2) Require, in consultation with the Administrator of the Small Business Administration, that to the greatest extent feasible contracts for work to be performed in connection with any such project be awarded to business concerns, including but not limited to individuals or firms doing business in the field of planning, consulting, design, architecture, building construction, rehabilitation, maintenance, or repair, which are located in or owned in substantial part by persons residing in the area of such project.

(b) In the development of these regulations the Secretary has consulted with the Secretary of Labor and the Administrator of the Small Business Administration and mutual agreement has been reached with respect to the coordination of employment and training efforts and contracts awards under these regulations by the Department of Housing and Urban Development, the Department of Labor, and the Small Business Administration.

(c) The Secretary will issue such further regulations in connection with his responsibilities under section 3 of the Housing and Urban Development Act of 1968, as he finds appropriate and may, as needed, amplify any regulations issued pursuant to section 3, through guidelines, handbooks, circulars, or other means.

§ 76.5 Definitions.

As used in this part—

(a) "Applicant" means any entity seeking assistance for a section 3 covered project including, but not limited to, mortgagors, developers, local public bodies, nonprofit or limited dividend sponsors, builders, or property managers.

(b) "Business concerns located within the section 3 covered project area" means those individuals or firms located within the relevant section 3 covered project area as determined pursuant to § 76.15 which are small and owned by persons considered by the Small Business Administration to be socially or economically disadvantaged.

(c) "Business concerns owned in substantial part by persons residing in the section 3 covered project area" means these business concerns which are 51 percent or more owned by persons residing within the relevant section 3 covered project as determined pursuant to § 76.15 and which are small and owned by persons considered by the Small Business Administration to be socially or economically disadvantaged.

(d) "Contracting party" means any entity which contracts with a contractor for the performance of work in connection with a section 3 covered project.

(e) "Contractor" means any entity which performs work in connection with a section 3 covered project.

(f) "Department" means the Department of Housing and Urban Development.

(g) "Lower income resident of the area" means any individual who resides within the area of a section 3 covered project and whose family income does not exceed 80 percent of the median income in the Standard Metropolitan Statistical Area (or the county, if not within an SMSA) in which the section 3 covered project is located.

(h) "Political jurisdiction" means a politically organized community with a

governing body having general governmental powers.

(l) "Recipient" means any entity who received assistance for a section 3 covered project including, but not limited to, mortgagors, developers, local public bodies, nonprofit or limited dividend sponsors, builders or property managers.

(j) "Secretary" means the Secretary of Housing and Urban Development.

(k) "Section 3" means section 3 of the Housing and Urban Development Act of 1968, 12 U.S.C. 1701u.

(i) "Section 3 clause" means the contract provisions set forth in § 76.20(b).

(m) "Section 3 covered project" means any project assisted by any program administered by the Secretary in which loans, grants, subsidies, or other financial assistance are provided in aid of housing, urban planning, development, redevelopment, or renewal, public or community facilities, and new community development (except where the financial assistance available under such program is solely in the form of insurance or guaranty).

(n) "Subcontractor" means any entity (other than a person who is an employee of the contractor) which has agreed or arranged with a contractor to undertake a portion of the contractor's obligation or the performance of work in connection with a section 3 covered project.

**§ 76.10 Delegation to Assistant Secretary for Equal Opportunity.**

Except as otherwise provided in this part, the functions of the Secretary referred to herein will be delegated to the Assistant Secretary for Equal Opportunity.

**§ 76.15 Determination of the area of a section 3 covered project.**

(a) The area of a section 3 covered project shall be determined as follows:

(1) The boundaries of a section 3 covered project located within a geographic area designated pursuant to the provisions of title I of the Housing Act of 1949, 42 U.S.C. 1450, or pursuant to the provisions of title I of the Demonstration Cities and Metropolitan Development Act of 1966, 42 U.S.C. 3301, shall be coextensive with the boundaries of that geographic area.

(2) The boundaries of a section 3 covered project not located within a geographic area designated pursuant to title I of the Housing Act of 1949, or title I of the Demonstration Cities and Metropolitan Development Act of 1966 shall be coextensive with the boundaries of the smallest political jurisdiction in which the project is located.

(3) To the extent that goals (established pursuant to Subparts B, C, and D of this part) cannot be met within a section 3 covered project area as determined pursuant to subparagraph (1) of this paragraph, the boundaries of the smallest political jurisdiction in which the section 3 covered project is located shall be designated as the relevant section 3 covered project area.

(b) The Department's Regional Administrator, Area Office Director, or FHA Insuring Office Director, as appropriate,

shall determine the boundaries of each section 3 covered project; develop a "Project Area Map" if the project area is determined pursuant to paragraph (a) (1) of this section, showing the section 3 covered project area, and the smallest political jurisdiction in which it is located, except where the project area is a Model Cities area which is coextensive with the city itself; and publish the "Project Area Map" in a newspaper serving the community in which the section 3 covered project area is located.

**§ 76.20 Assurance of compliance with regulations.**

(a) Every contract or agreement for a grant, loan, subsidy, or other direct financial assistance in aid of housing, urban planning, development, redevelopment, or renewal, public or community facilities, and new community development, entered into by the Department of Housing and Urban Development shall contain provisions requiring the applicant or recipient to carry out the provisions of section 3, the regulations set forth in this part, and any applicable rules and orders of the Department issued thereunder prior to approval of its application for assistance for a section 3 covered project.

(b) Every applicant, recipient, contracting party, contractor, and subcontractor shall incorporate, or cause to be incorporated, in all contracts for work in connection with a section 3 covered project, the following clause (referred to as a section 3 clause):

A. The work to be performed under this contract is on a project assisted under a program providing direct Federal financial assistance from the Department of Housing and Urban Development and is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u. Section 3 requires that to the greatest extent feasible opportunities for training and employment be given lower income residents of the project area and contracts for work in connection with the project be awarded to business concerns which are located in, or owned in substantial part by persons residing in the area of the project.

B. The parties to this contract will comply with the provisions of said section 3 and the regulations issued pursuant thereto by the Secretary of Housing and Urban Development set forth in 24 CFR \_\_\_\_\_ and all applicable rules and orders of the Department issued thereunder prior to the execution of this contract. The parties to this contract certify and agree that they are under no contractual or other disability which would prevent them from complying with these requirements.

C. The contractor will send to each labor organization or representative of workers with which he has a collective bargaining agreement or other contract or understanding, if any, a notice advising the said labor organization or workers' representative of his commitments under this section 3 clause and shall post copies of the notice in conspicuous place, available to employees and applicants for employment or training.

D. The contractor will include this section 3 clause in every subcontract for work in connection with the project and will, at the direction of the applicant for or recipient of Federal financial assistance, take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation

of regulations issued by the Secretary of Housing and Urban Development, 24 CFR \_\_\_\_\_. The contractor will not subcontract with any subcontractor where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR \_\_\_\_\_ and will not let any subcontract unless the subcontractor has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

E. Compliance with the provisions of section 3, the regulations set forth in 24 CFR \_\_\_\_\_ and all applicable rules and orders of the Department issued thereunder prior to the execution of the contract, shall be a condition of the Federal financial assistance provided to the project, binding upon the applicant or recipient for such assistance, its successors, and assigns. Failure to fulfill these requirements shall subject the applicant or recipient, its successors, and assigns to those sanctions specified by the grant or loan agreement or contract through which Federal assistance is provided, and to such sanctions as are specified by rules, regulations, or applicable policy of the Department of Housing and Urban Development governing the program under which Federal assistance to the project is provided.

**§ 76.25 Bidding and negotiation requirements.**

(a) Every applicant and recipient shall require prospective contractors for work in connection with section 3 covered projects to provide, prior to the signing of the contract, a preliminary statement of work force needs (skilled, semiskilled, unskilled labor and trainees by category) where known; where not known, such information shall be supplied prior to the signing of any contract between contractors and their subcontractors.

(b) When a bidding procedure is used to let the contract, the invitation or solicitation for bids shall advise prospective contractors of the requirements of these regulations. When the contract is let pursuant to negotiation or methods other than formal bidding procedures, prospective contractors shall be advised by the contracting party of the requirements of these regulations as part of the contract specifications.

**§ 76.30 Other applicant and recipient obligations.**

Every applicant and recipient shall assist and actively cooperate with the Secretary in obtaining the compliance of their contractors and subcontractors with the requirements of these regulations, including cooperation and assistance in distributing and collecting forms and information, and in notifying contracting parties and contractors of violations of these regulations, and shall refrain from entering into any contract with any contractor after notification by the Department that the contractor has been found in violation of these regulations pursuant to § 76.110(j).

**§ 76.35 Effectuation of applicant obligations in direct and indirect relationships.**

(a) Where the applicant for assistance under a section 3 covered project and the recipient of such assistance are not one and the same, the recipient shall be regarded as the successor in interest of

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the applicant and shall have the same obligations as the applicant with respect to compliance with these regulations. These obligations shall be incorporated specifically or by reference in the lease or grant agreement or other contract or agreement through which the assistance is provided to the recipient.

(b) Where the applicant or recipient itself will perform all or part of the work in connection with a section 3 covered project within the meaning of these regulations, with either permanent or temporary staff by force account or will provide the Department with all terms and assurances required of a contractor or subcontractor by these regulations, prior to the execution of any lease or grant agreement or other contract or agreement through which a contract is provided.

(c) Where the applicant or recipient or contractor sells, leases, transfers or otherwise conveys land upon which work in connection with a section 3 covered project within the meaning of these regulations is to be performed (for example, under the Urban Renewal or Neighborhood Development program), it shall include in each contract or subcontract for work on such land a clause requiring the purchaser, lessee, or redeveloper to assume the same obligations as a contractor for work under section 3 of these regulations (including the incorporation of the Assurance of Compliance language specified in § 76.20).

(d) Each such purchaser, lessee, or redeveloper shall be relieved of such obligations upon satisfactory completion of all work to be performed under the terms of the redevelopment contract.

#### Subpart B—Utilization of Lower Income Area Residents as Trainees

##### § 76.40 General.

Each applicant, recipient, contractor or subcontractor undertaking work in connection with a section 3 covered project shall fulfill his obligation to utilize lower income project area residents as trainees to the greatest extent feasible by:

(a) Utilizing the maximum number of persons in the various training categories in all phases of the work to be performed under the section 3 covered project; and

(b) Filling all vacant training positions with lower income project area residents except for those training positions which remain unfilled after a good faith effort has been made to fill them with eligible lower income project area residents.

##### § 76.45 Establishing number of trainees.

(a) For the building construction occupations, the number of trainees or apprentices for each occupation shall be determined pursuant to regulations issued by the Secretary of Labor.

(b) For nonconstruction occupations or for any building construction occupations for which ratios are not determined pursuant to regulations of the Secretary of Labor, the number of trainees for each occupation shall be that

number which can reasonably be utilized in each occupation on each phase of a section 3 covered project. The applicant, recipient, contractor, or subcontractor shall initially determine the maximum number of trainees for each occupation and submit that determination along with its justification to the Department.

##### § 76.50 Good faith effort.

(a) Each applicant, recipient, contractor or subcontractor seeking to establish that a good faith effort as required by § 76.40 has been made to fill all training positions with lower income area residents shall, as a minimum, set forth evidence acceptable to the Secretary that it has:

(1) Obtained from the Department's Regional Administrator, Area Office Director, or FIA Insuring Office Director having jurisdiction over the section 3 covered project, the "Section 3 Project Area Map", if available; and

(2) Attempted to recruit from the appropriate areas the necessary number of lower income residents through local advertising media, signs placed at the proposed site for the project, and community organizations and public or private institutions operating within or serving the project area such as Service Employment and Redevelopment (SER), Opportunities Industrialization Center (OIC), Urban League, Concentrated Employment Program, or the U.S. Employment Service.

(3) Maintain a list of all lower income area residents who have applied either on their own or on referral from any source, and employ such persons, if otherwise eligible and if a training vacancy exists. If the contractor has no vacancies, the applicant, if otherwise eligible, shall be listed for the first available vacancy.

(b) Any applicant, recipient, contractor, or subcontractor which fills vacant apprentice or trainee positions in its organization from sources other than those specified in paragraph (a), subparagraph (2) of this section immediately prior to undertaking work pursuant to a section 3 covered project shall set forth evidence acceptable to the Secretary that its actions were not an attempt to circumvent these regulations.

#### Subpart C—Utilization of Lower Income Area Residents as Employees

##### § 76.55 General.

Each applicant, recipient, contractor or subcontractor undertaking work in connection with a section 3 covered project shall fulfill his obligation to utilize lower income project area residents as employees to the greatest extent feasible by:

(a) Identifying the number of positions in the various occupational categories including skilled, semiskilled, and unskilled labor, needed to perform each phase of the section 3 covered project;

(b) Identifying, of the positions identified in paragraph (a) of this section, the number of positions in the various occupational categories which are currently occupied by regular, permanent employees;

(c) Identifying, of the positions identified in paragraph (a) of this section, the number of positions in the various occupational categories which are not currently occupied by regular, permanent employees;

(d) Establishing, of the positions identified in paragraph (c) of this section, a goal which is consistent with the purpose of this subpart within each occupational category of the number of positions to be filled by lower income residents of the section 3 covered project area; and

(e) Making a good faith effort to fill all of the positions identified in paragraph (d) of this section with lower income project area residents.

##### § 76.60 Good faith effort.

(a) Each applicant, recipient, contractor or subcontractor seeking to establish that a good faith effort as required by paragraph (e) of § 76.55 has been made to fill all employment positions identified in paragraph (d) of § 76.55 with lower income project area residents shall, as a minimum, set forth evidence acceptable to the Secretary that it has:

(1) Obtained from the Department's Regional Administrator, Area Office Director, or FIA Insuring Office Director having jurisdiction over the section 3 covered project, the "Section 3 Project Area Map", if available; and

(2) Attempted to recruit from the appropriate areas the necessary number of lower income residents through local advertising media, signs placed at the proposed site for the project, and community organizations and public or private institutions operating within or serving the project area such as Project Area Committees (PAC) in urban renewal areas, Model Cities citizen advisory boards, Service Employment and Redevelopment (SER), Opportunities Industrialization Center (OIC), Urban League, Concentrated Employment Program, or the U.S. Employment Service.

(b) Any applicant, recipient, contractor, or subcontractor which fills vacant § 76.55(d) employment positions in its organization immediately prior to undertaking work pursuant to a section 3 covered contract shall set forth evidence acceptable to the Secretary that its actions were not an attempt to circumvent these regulations.

(c) When lower income resident workers apply, either on their own initiative or on referral from any source, the recipient, contractor, or subcontractor shall determine the qualifications of such persons and shall employ such persons if their qualifications are satisfactory and the contractor has openings. If the recipient, contractor, or subcontractor is unable to employ the workers, such persons shall be listed for the first available opening.

#### Subpart D—Utilization of Business Located in or Owned in Substantial Part by Persons Residing in the Area

##### § 76.65 General.

Each applicant, recipient, contractor, or subcontractor undertaking work on a

the applicant and shall have the same obligations as the applicant with respect to compliance with these regulations. These obligations shall be incorporated, specifically or by reference in the loan or grant agreement or other contract or agreement through which the assistance is provided to the recipient.

(b) Where the applicant or recipient itself will perform all or part of the work in connection with a section 3 covered project within the meaning of these regulations, with either permanent or temporary staff by force account, it will provide the Department with all forms and assurances required of a contractor or subcontractor by these regulations prior to the execution of any loan or grant agreement or other contract or agreement through which assistance is provided.

(c) Where the applicant, recipient or contractor sells, leases, transfers or otherwise conveys land upon which work in connection with a section 3 covered project within the meaning of these regulations is to be performed (for example, under the Urban Renewal or Neighborhood Development program), it shall include in each contract or subcontract for work on such land a clause requiring the purchaser, lessee, or redeveloper to assume the same obligations as a contractor for work under section 3 of these regulations (including the incorporation of the Assurance of Compliance language specified in § 76.20).

(d) Each such purchaser, lessee, or redeveloper shall be relieved of such obligations upon satisfactory completion of all work to be performed under the terms of the redevelopment contract.

#### Subpart B—Utilization of Lower Income Area Residents as Trainees

##### § 76.40 General.

Each applicant, recipient, contractor or subcontractor undertaking work in connection with a section 3 covered project shall fulfill his obligation to utilize lower income project area residents as trainees to the greatest extent feasible by:

(a) Utilizing the maximum number of persons in the various training categories in all phases of the work to be performed under the section 3 covered project; and

(b) Filling all vacant training positions with lower income project area residents except for those training positions which remain unfilled after a good faith effort has been made to fill them with eligible lower income project area residents.

##### § 76.45 Establishing number of trainees.

(a) For the building construction occupations, the number of trainees or apprentices for each occupation shall be determined pursuant to regulations issued by the Secretary of Labor.

(b) For nonconstruction occupations or for any building construction occupations for which ratios are not determined pursuant to regulations of the Secretary of Labor, the number of trainees for each occupation shall be that

number which can reasonably be utilized in each occupation on each phase of a section 3 covered project. The applicant, recipient, contractor, or subcontractor shall initially determine the maximum number of trainees for each occupation and submit that determination along with its justification to the Department.

##### § 76.50 Good faith effort.

(a) Each applicant, recipient, contractor, or subcontractor seeking to establish that a good faith effort as required by § 76.40 has been made to fill all training positions with lower income area residents shall, as a minimum, set forth evidence acceptable to the Secretary that it has:

(1) Obtained from the Department's Regional Administrator, Area Office Director, or FHA Insuring Office Director having jurisdiction over the section 3 covered project, the "Section 3 Project Area Map," if available; and

(2) Attempted to recruit from the appropriate areas the necessary number of lower income residents through: Local advertising media, signs placed at the proposed site for the project, and community organizations and public or private institutions operating within or serving the project area such as Service Employment and Redevelopment (SER), Opportunities Industrialization Center (OIC), Urban League, Concentrated Employment Program, or the U.S. Employment Service.

(3) Maintain a list of all lower income area residents who have applied either on their own or on referral from any source, and employ such persons, if otherwise eligible and if a trainee vacancy exists. If the contractor has no vacancies, the applicant, if otherwise eligible, shall be listed for the first available vacancy.

(b) Any applicant, recipient, contractor, or subcontractor which fills vacant apprentice or trainee positions in its organization from sources other than those specified in paragraph (a), subparagraph (2) of this section immediately prior to undertaking work pursuant to a section 3 covered project shall set forth evidence acceptable to the Secretary that its actions were not an attempt to circumvent these regulations.

#### Subpart C—Utilization of Lower Income Area Residents as Employees

##### § 76.55 General.

Each applicant, recipient, contractor or subcontractor undertaking work in connection with a section 3 covered project shall fulfill his obligation to utilize lower income project area residents as employees to the greatest extent feasible by:

(a) Identifying the number of positions in the various occupational categories including skilled, semiskilled, and unskilled labor, needed to perform each phase of the section 3 covered project;

(b) Identifying, of the positions identified in paragraph (a) of this section, the number of positions in the various occupational categories which are currently occupied by regular, permanent employees;

(c) Identifying, of the positions identified in paragraph (a) of this section, the number of positions in the various occupational categories which are not currently occupied by regular, permanent employees;

(d) Establishing, of the positions identified in paragraph (c) of this section, a goal which is consistent with the purpose of this subpart within each occupational category of the number of positions to be filled by lower income residents of the section 3 covered project area; and

(e) Making a good faith effort to fill all of the positions identified in paragraph (d) of this section with lower income project area residents.

##### § 76.60 Good faith effort.

(a) Each applicant, recipient, contractor, or subcontractor seeking to establish that a good faith effort as required by paragraph (e) of § 76.55 has been made to fill all employment positions identified in paragraph (d) of § 76.55 with lower income project area residents shall, as a minimum, set forth evidence acceptable to the Secretary that it has:

(1) Obtained from the Department's Regional Administrator, Area Office Director, or FHA Insuring Office Director having jurisdiction over the section 3 covered project, the "Section 3 Project Area Map," if available; and

(2) Attempted to recruit from the appropriate areas the necessary number of lower income residents through: Local advertising media, signs placed at the proposed site for the project, and community organizations and public or private institutions operating within or serving the project area such as Project Area Committees (PAC) in urban renewal areas, Model Cities citizen advisory boards, Service Employment and Redevelopment (SER), Opportunities Industrialization Center (OIC), Urban League, Concentrated Employment Program, or the U.S. Employment Service.

(b) Any applicant, recipient, contractor, or subcontractor which fills vacant § 76.55(d) employment positions in its organization immediately prior to undertaking work pursuant to a section 3 covered contract shall set forth evidence acceptable to the Secretary that its actions were not an attempt to circumvent these regulations.

(c) When lower income resident workers apply, either on their own initiative or on referral from any source, the recipient, contractor, or subcontractor shall determine the qualifications of such persons and shall employ such persons if their qualifications are satisfactory and the contractor has openings. If the recipient, contractor, or subcontractor is unable to employ the workers, such persons shall be listed for the first available opening.

#### Subpart D—Utilization of Business Located in or Owned in Substantial Part by Persons Residing in the Area

##### § 76.65 General.

Each applicant, recipient, contractor, or subcontractor undertaking work on a

section 3 covered project shall assure that to the greatest extent feasible, contracts for work to be performed in connection with the project are awarded to business concerns located within the section 3 covered project area or business concerns owned in substantial part by persons residing in the section 3 covered area. The Department, in consultation with the Small Business Administration will establish for the section 3 covered project area a registry of business concerns which meet the definition contained in § 76.5 (b) and (c) of these regulations. Each applicant, recipient, contractor, or subcontractor undertaking work in connection with a section 3 covered project shall fulfill his obligations to utilize business concerns located within or owned in substantial part by persons residing in the section 3 covered project area by developing and implementing an affirmative action plan.

**§ 76.70 Development of an affirmative action plan.**

In developing an affirmative action plan, each applicant, recipient, contractor, and subcontractor preparing to undertake work pursuant to a section 3 covered contract shall:

(a) Set forth the approximate number and dollar value of all contracts proposed to be awarded to all businesses within each category (type or profession) over the duration of the section 3 covered project in question.

(b) Analyze the information set forth in paragraph (a) of this section and the availability of eligible business concerns within the project area doing business in professions or occupations identified as needed in paragraph (a), of this section, and set forth a goal or target number and estimated dollar amount of contracts to be awarded to the eligible businesses and entrepreneurs within each category over the duration of the section 3 covered project.

(c) Outline the anticipated program to be used to achieve the goals for each business and/or professional category identified. This program should include but not be limited to the following actions:

(1) Insertion in the bid documents, if any, of the affirmative action plan of the applicant, recipient, contractor, or subcontractor letting the contract; and

(2) Identification within the bid document, if any, of the applicable section 3 project area.

(d) Indicate the anticipated process and steps which have been taken and/or will be taken to secure the cooperation of contractors, subcontractors, and unions in meeting the goals and carrying out the affirmative action plan developed pursuant to this subpart.

(e) Take steps to insure that the appropriate business concerns included in the Department's registry for the section 3 covered project area are notified of pending contractual opportunities either personally or through locally utilized media.

(f) Take steps to insure that contracts which are typically let on a negotiated rather than a bid basis in areas other than section 3 covered project areas, are also let on a negotiated basis, whenever feasible, when let in a section 3 covered project area.

(g) Where competitive bids are solicited, require the bidders to submit their utilization goals, and their affirmative action plans for accomplishing their goals, and in evaluating each bid, to determine its responsiveness, carefully evaluate the bidders' submission to determine whether the affirmative action plan proposed will accomplish the stated goals.

(h) Where advantageous, seek the assistance of local officials of the Department in preparing and implementing the affirmative action plan.

**Subpart E—Participation in Approved Programs**

**§ 76.75 Participation as evidence of compliance with section 3 requirements.**

Any applicant, recipient, contractor, or subcontractor may fulfill his obligations under Subparts B, C, and D of this part, respectively, to utilize lower income project area residents as trainees or employees on section 3 covered projects and to award contracts to business concerns located in, or owned in substantial part by residents of, section 3 covered project areas by presenting evidence satisfactory to the Secretary that he is a cooperating participant in a federally assisted or other public program approved by the Department of Housing and Urban Development which provides training, employment, and/or business opportunities to lower income persons and business concerns which meet the definition in § 76.5 (b) and (c). The Secretary shall, from time to time, make public a list of those training, employment, and/or business opportunity programs approved by the Department.

**Subpart F—Grievance and Compliance Review**

**§ 76.80 Who may file grievance.**

Any lower income resident of the project area, for himself or as a representative of persons similarly situated, seeking employment or training opportunities with an applicant, recipient, contractor, or subcontractor, or any business concern located in, or owned in substantial part by persons residing within a project area seeking contract opportunities from any applicant, recipient, contractor, or subcontractor, for itself or as a representative of persons or firms similarly situated, may personally or by an authorized representative file a grievance alleging noncompliance with section 3, these regulations, or obligations undertaken pursuant thereto.

**§ 76.85 Content of grievance filings.**

(a) The grievance should include: (1) The name and address of the grievant,

(2) the name and address of the grievant's business, if applicable, (3) the name and address of the applicant, recipient, contractor, or subcontractor (in this subpart called "respondent"), (4) a description of the acts or omissions giving rise to the grievance, and (5) the corrective action sought.

(b) Where a grievance contains incomplete information, the Secretary shall seek promptly the needed information from the grievant. In the event such information is not furnished to the Secretary within sixty (60) days of the date of such request, the grievance may be closed.

**§ 76.90 Form of grievance filings.**

Each grievance shall be in writing and signed.

**§ 76.95 Place of filing.**

A grievance may be filed by mailing it to the Assistant Secretary for Equal Opportunity, Department of Housing and Urban Development, Washington, D.C. 20410, or by presenting it at any Regional Office, Area Office, or FHA Insuring Office of the Department. Any employee of the Department receiving a grievance shall forward the same directly to the Assistant Secretary for Equal Opportunity.

**§ 76.100 Time of filing.**

A grievance must be filed not later than ninety (90) days from the date of the action (or omission) upon which the grievance is based, unless the time for filing is extended by the Secretary upon good cause shown.

**§ 76.105 Processing of grievance filings.**

(a) Upon receipt of a grievance a copy thereof shall be furnished the respondent by certified mail or through personal service.

(b) The Secretary shall conduct an investigation of each grievance filed, and shall give notice in writing to the grievant and the respondent as to whether he intends to resolve it.

(c) Notwithstanding paragraphs (a) and (b) of this section, where the allegations of a grievance on their face, or as amplified by the statements of the grievant, disclose that the grievance is not timely filed or otherwise fails to state a valid claim for relief under these regulations or any other authority within the jurisdiction of the Department, the Secretary may dismiss the grievance without further action. To the extent that Executive Order 11246 relating to Equal Opportunity in Employment applies to the subject matter of the grievance, the procedures required by applicable regulations implementing that order shall be followed.

(d) If the Secretary decides not to resolve a grievance, or to dismiss it under paragraph (c) of this section, he shall advise the grievant of the disposition of his grievance. Respondent shall also be notified in any case where he has been served with a copy of the grievance.

(e) Any party adversely affected by a determination under paragraph (b) or

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(c) of this section may, within 5 days of receipt of a notice of determination, request that the Secretary reconsider his action. Such request for reconsideration will be granted only on the basis of additional material evidence not previously available to the party requesting reconsideration or for other good cause shown.

(f) If the Secretary decides to resolve a grievance, he shall endeavor to eliminate or correct the matters complained of in the grievance by informal methods of conference, conciliation, and persuasion.

(g) In conciliating a grievance, the Secretary shall attempt to achieve a just resolution of the grievance including: (1) specific relief for the grievant, (2) affirmative actions by the respondent to relieve the effects of past violation and preclude the occurrence of future violation, and (3) appropriate reporting requirements. Notice of a proposed disposition of a grievance and of the terms of a proposed settlement, if any, shall be given to the parties, or their representatives by the Secretary, in writing. If satisfactory, the proposed settlement shall be signed by the grievant and the respondent, or their representatives, and approved by the Secretary. The Secretary may, from time to time, review compliance with the terms of any settlement agreement and may, upon a finding of noncompliance, reopen the grievance or take such enforcement action as is provided for under the settlement agreement or as may otherwise be appropriate.

(h) Should a respondent fail or refuse to confer with the Secretary or fail or refuse to make a good faith effort to resolve the grievance, or should the Secretary find for any other reason that voluntary agreement is not likely to result, the Secretary may terminate his efforts to conciliate the dispute. In the latter event the parties shall be notified promptly, in writing, that such efforts have been unsuccessful.

(i) If the Department is unable to obtain voluntary compliance, the Secretary shall advise the parties in writing of his proposed resolution of the grievance. Such resolution shall become final and binding on the parties, unless within 15 days after the receipt of notification, either party files with the Secretary a written request for a hearing on the matter.

#### § 76.110 Hearings.

(a) Whenever a hearing is requested, reasonable notice shall be given by registered or certified mail, return receipt requested, to the parties. This notice shall advise the parties of the action proposed to be taken, the specific provision under which the proposed action is to be taken, and the matters of fact or law asserted as the basis for this action. In addition, it shall either (1) fix a date not less than 20 days after the date of such notice within which the parties may request of the Secretary that the matter be scheduled for hearing or (2) advise the parties that the matter in question has been set down for hearing at a stated time and place. The time and

place so fixed shall be subject to change for cause. The requesting party may waive a hearing and in lieu thereof submit written information and argument for the record. The failure of the requesting party to appear at a hearing for which a date has been set shall be deemed to be a waiver of the right to a hearing and consent to the making of a decision on the basis of such information as is available.

(b) Hearings shall be held in or near the section 3 covered project area in question, or at such other location as will serve the convenience of parties and witnesses, at a time fixed by the Secretary. Hearings shall be held before the Secretary or, at his discretion, before a hearing examiner designated in accordance with 5 U.S.C. 3105 and 3344.

(c) In all proceedings under this section, the respondent and grievant, if any, shall have the right to be represented by counsel.

(d) The hearing, decision, and any administrative review thereof shall be conducted in conformity with 5 U.S.C. 554-557, and in accordance with such rules of procedure issued by HUD as are proper relating to the conduct of the hearing, the issuance of notice except that provided in paragraph (a) of this section, the taking of testimony, exhibits, arguments, and briefs, requests for findings, and other related matters. HUD, the respondent, and the grievant, if any, shall be entitled to introduce all relevant evidence on the issues as stated in the notice of hearing or as determined by the officer conducting the hearing at the outset of or during the hearing.

(e) Technical rules of evidence shall not apply to hearings conducted pursuant to this paragraph but rules or principles designed to assure production of the most credible evidence available and to subject testimony to test by cross-examination shall be applied where deemed reasonably necessary by the officer conducting the hearing. The hearing officer may exclude irrelevant, immaterial, or unduly repetitious evidence. All documents and other evidence offered or taken for the record shall be open to examination by the Department of Housing and Urban Development, the respondent, and the grievant, if any, and opportunity shall be given to refute facts and arguments advanced on either side of the issues. A transcript shall be made of the oral evidence except to the extent the substance thereof is stipulated for the record. All decisions shall be based upon the hearing record and written findings shall be made.

(f) If the hearing is held by a hearing examiner, he shall either render an initial decision, if so authorized, or certify the entire record, including his recommended findings and proposed decision to the Secretary for a final decision. A copy of such initial decision or certification shall be mailed to the respondent and the grievant, or their representative, by certified or registered mail, return receipt requested. Where the initial decision is made by the hearing examiner, the re-

spondent or grievant may within 30 days of the mailing of such notice of initial decision file with the Secretary exceptions to the initial decision, with reasons therefor. In the absence of exception, the Secretary may on his own motion, within 45 days after the initial decision, serve on the respondent and grievant, a notice that he will review the decision. Upon the filing of such exceptions or of such notice of review, the Secretary shall review the initial decision and issue his own decision thereon including the reasons therefor. If no exception is taken or notice of review issued, the initial decision shall constitute the final decision of the Secretary.

(g) Whenever a record is certified to the Secretary for decision or he reviews the decision of a hearing examiner pursuant to paragraph (f) of this section, or whenever the Secretary conducts the hearing, the respondent and grievant shall be given reasonable opportunity to file briefs or other written statements of their contentions, and a copy of the final decision of the Secretary shall be given in writing to the respondent, and to the grievant by certified or registered mail, return receipt requested.

(h) Whenever a hearing is waived pursuant to paragraph (a) of this section, a decision shall be made by the Secretary on the record and a copy of such decision shall be given in writing to the respondent, and to the grievant, by certified or registered mail, return receipt requested.

(i) Each decision of a hearing examiner or the Secretary shall set forth his ruling on each finding, conclusion, or exception presented, and shall identify the requirement or requirements of section 3 of the Housing and Urban Development Act of 1968 or the regulations which the respondent has not complied with.

(j) The final decision may contain such terms, conditions, and other provisions as are consistent with, and will effectuate the purposes of section 3 and these regulations. The decision may also include provisions designed to assure that no contract will thereafter be entered into with a respondent determined by such decision to be in default in its performance of its contractual obligations or to have otherwise failed to comply with these regulations, unless the respondent corrects its noncompliance and satisfies the Secretary that it will fully comply with section 3 and these regulations.

(k) The General Counsel shall represent the Department at all hearings and shall receive copies of all notices, decisions and other documents which are forwarded to the parties.

(l) The applicant or recipient, if not a party, shall be invited to participate in the hearing and shall receive copies of all notices, decisions, and other documents which are forwarded to the parties.

#### § 76.115 Compliance reviews and procedures.

In order to determine whether the responsibilities imposed upon him by section 3 and these regulations are being properly carried out, the Secretary shall periodically conduct section 3 compliance

PROPOSED RULE MAKING

11719

reviews of selected applicants, recipients, contractors, and subcontractors. A compliance review shall consist of a comprehensive analysis and evaluation of each aspect of the aforementioned section 3 policies, and conditions resulting therefrom. Where deficiencies are found to exist, reasonable efforts shall be made to secure compliance through the conciliation process set forth in § 76.105(g). Compliance reviews may be conducted prior to award of contracts in any case where the Secretary has reasonable grounds, based on a substantiated grievance, the Department's own investigation, or other substantial evidence, to believe that the applicant, recipient, contractor, or subcontractor or will be unable or unwilling to comply with section 3 and the provisions of this part.

tractors, and subcontractors pursuant to section 3.

GEORGE ROMNEY,  
Secretary of Housing and  
Urban Development.

[FR Doc 71-8818 Filed 6-17-71; 8:51 am]

**Subpart G—Miscellaneous**

**§ 76.120 Reporting and recordkeeping.**

In order to insure that the Secretary is kept informed of the progress being made by the applicant, recipient, contractor, and subcontractor in meeting their obligations under these regulations, each applicant, recipient, contractor, and subcontractor is required to:

(a) Maintain such records and accounts and furnish such information and reports as are required by the Secretary under these regulations or pursuant thereto and permit the Secretary access to books, records and premises for purposes of investigation in connection with a grievance or to ascertain compliance with these regulations, or the rules and orders of the Department issued thereunder.

(b) Advise the Secretary within 15 days of the award of any contract under a section 3 covered project of the steps which have been and will be taken to comply with the requirements of Subparts B, C, and D of this part.

**§ 76.125 Implementing procedures and instructions.**

Assistant Secretaries of the Department administering programs subject to this regulation may issue such procedures and instructions as are necessary to implement the provisions of section 3 and this part. A copy of such procedures and instructions shall be forwarded to the Secretary for approval prior to issuance.

**§ 76.130 Labor standards.**

All labor standards applicable by statute, regulations, or other administrative issuance shall apply to section 3 covered projects.

**§ 76.135 Effective date.**

This part shall become effective on [ ] 1971 for all applications for assistance under section 3 covered by projects which are made after such date within the meaning of the program in question. However, nothing in this part shall effect requirements already imposed on applicants, recipients, and con-

OPTIONAL FORM 66 Revised April 1971 As prescribed by the Dept. of Labor (DFCC)				MONTHLY MANPOWER UTILIZATION REPORT (See reverse for instructions)						
To: (Name and location of Compliance Agency)				From: (Name and location of prime contractor)						
1. Name of Project				2. Reporting Period		3. Project				
				a. Number	b. Percent Completed	c. Date Completed				
4. Company's Name	5. Percent of work completed	6. Trade	7. Man-hours of Employment					8. Percent minority manhours of total manhours	9. Total No. of minority Employees	10. Total Number of Employees
			Classification (see reverse)	a. Total	b. Negro	c. Span - Amer.	d. Amer. - Indian			
			J							
			H							
			Ap							
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			Ap							
			Jr							

11. Company Official's Signature and Title      12. Date Signed      13. Telephone No

### INSTRUCTIONS FOR FILING MANPOWER UTILIZATION REPORT

The Manpower Utilization Report is to be completed by the prime contractor and signed by a responsible official of the company. The Reports are to be filed on the day required, each month, during the term of the contract, and they shall include the total man-hours worked for each employee level in each designated trade for the entire reporting period. Send one copy of the completed Report to the Federal Compliance Agency and a duplicate copy to:

Mr. \_\_\_\_\_  
Area Coordinator

Office of Federal Contract Compliance Address:  
\_\_\_\_\_  
\_\_\_\_\_

- |   |  |
|---|--|
| Compliance Agency .....                                   | U.S. Government contracting or administering agency responsible for equal employment opportunity on the project.   |
| Prime Contractor .....                                    | Any contractor who has a construction contract with the U.S. Government or Applicant (See OFCC Regs. 60-1.3).  |
| 1. Name of project .....                                  | Name given in the invitation for bids.   |
| 2. Self-explanatory                                       |  |
| 3a. Project number .....                                  | Number assigned in the invitation for bids.  |
| 3b. Percent project completed .....                       | Percent of total work completed.   |
| 3c. Date project completed .....                          | Date of estimated completion.  |
| 4. Name of company .....                                  | Any contractor or subcontractor who employ the trades enumerated in paragraph _____ of the (date) _____.   |
| 5. % of project work completed .....                      | % project work contractor or subcontractor has completed.  |
| 6. Trade .....  | Only those crafts enumerated in paragraph _____ of the (date) order.   |
| 7. - Man-hours of employment .....                        | The total number of hours worked by all employees in each classification; and the total number of hours worked by each minority group (Negro, Spanish American, American Indian, and Oriental) in each classification. |
| - Classification .....                                    | The level of accomplishment or status of the worker in the trade. (J - Journeymen, H - Helper, Ap - Apprentice, Tr - Trainee)  |
| 8. Percent of minority man-hours of total man-hours ..... | The percentage of total minority man-hours worked of all man-hours worked.   |
| 9. Total no. of minority employees .....                  | Number of minority employees working on job during reporting period.   |
| 10. Total no. of employees .....                          | Number of all employees working on job during reporting period.  |

*Standard Plans*  
*BPM*

THE CITY OF SEATTLE  
BOARD OF PUBLIC WORKS

MEMORANDUM

June 6, 1973

ROUTING	DATE	INITIAL
ACTION		
FILE		
INFORMATION		

To: Mr. Robert J. Gulino, P.E., City Engineer

From: Betty L. McFarlane, Secretary *Blm*

Re: Section 8.08 "Failure to Complete Work on Time - Liquidated Damages" *X'*

The Board of Public Works discussed proposed revisions to Section 8.08 of the City of Seattle Standard Plans and Specifications.

We attach a memorandum dated August 4, 1972 from the Superintendent of Water outlining his department's review and comments.

Will you please reevaluate your position in light of the Superintendent of Water's recommendations.

BLM:lm  
Att.

cc: E. W. Kortnik

SEATTLE ENG DEPT 1  
JUN 11 2 15 PM '73

*Orig - Std Plans + Specs*

*10-18*



CITY OF SEATTLE  
**WATER DEPARTMENT**

1015 THIRD AVENUE • SEATTLE, WASHINGTON 98104

KENNETH M. LOWTHIAN  
SUPERINTENDENT  
MEMBER, BOARD OF PUBLIC WORKS

WEHLMAN, MAYOR

RECEIVED  
AUG 5 1972

AUG 4 1972

M E M O R A N D U M

August 4, 1972

SUBJECT: Section 8.08 "Failure to Complete Work on Time -  
Liquidated Damages"  
TO: Mrs. Betty L. McFarlane, Secretary - Board of Public Works  
FROM: Kenneth M. Lowthian - By- J. T. Rice, Assistant Superintendent

The proposed revision to Section 8.08 of the City of Seattle Standard Plans and Specifications, 9th Edition, forwarded to this department for review and comments, by your memorandum of July 5, has been studied both by the Principal Engineer, Harry L. Pratt, and myself.

It is our opinion that fixing of dollar amounts without consideration for the type of construction under consideration would not be advisable. Certainly dollar amounts alone are not necessarily a guide to the damages that could accrue. Individual contracts would need to be evaluated in view of the circumstances involved.

It is our opinion that the terminology of the State of Washington Department of Highways in this regard is sensible. This terminology is as follows:

"The contractor will pay--as liquidated damages, the actual cost to the (state) of maintaining its engineering, inspection and other forces and equipment on the work after said time for completion, together with such other damages as may be suffered by the state by reason of the contractor's failure to complete the work on time."

We hope these comments will be of some assistance.

JTR:gh



CITY OF SEATTLE  
 DEPARTMENT OF ENGINEERING  
 ROBERT J. GULINO, CITY ENGINEER  
 MEMBER, BOARD OF PUBLIC WORKS

Wes Uhlman, Mayor

Seattle Municipal Building, Room 910  
 600 Fourth Avenue, Seattle, Washington 98101

Re: Section 8.08 "Failure to  
 Complete Work on Time -  
 Liquidated Damages"

July 24, 1972  
 RECEIVED

Honorable Board of Public Works  
 City of Seattle  
 Seattle, Washington

112  
 BOARD OF PUBLIC WORKS

Gentlemen:

Submitted herewith for your approval is a proposed revision to Section 8.08 of the City of Seattle Standard Plans and Specifications, 9th Edition. Section 8.08 "Failure to Complete Work on Time - Liquidated Damages", as currently written in the Standard Specifications, does not clearly define the amount of liquidated damages to be charged the Contractor for days the work remains incompleted beyond the specified contract time, nor does it clearly define the nature of the charges.

The above named section, with your approval, would be revised as follows:

Section 8.08 "Failure to Complete Work on time - Liquidated Damages".

This section is deleted in its entirety and the following substituted in lieu thereof:

"Time shall be of the essence of the contract. Any delay in the prosecution of the work will inconvenience and be expensive to the property owners, the traveling public and to the City of Seattle by obstructing traffic, interfering with and delaying business, causing increased risks to property owners and persons using the streets and public rights-of-way and would also deprive the public the use of the improvement for a period when the public had reason to expect it would be using and benefiting from the completed project. Such actual damages are difficult and impractical to determine, therefore the Contractor agrees to pay and authorizes and directs the City of Seattle to deduct from any moneys due or to become due the Contractor, the sums shown on the following schedule for each working day, as designated in the Special Provisions, following the established completion date of the contract:

Honorable Board of Public Works 2

July 24, 1972

ORIGINAL CONTRACT AMOUNT

LIQUIDATED DAMAGES

From More Than	To and including	Per Working Day
0	25,000	\$ 42
25,000	50,000	70
50,000	100,000	105
100,000	500,000	140
500,000	1,000,000	210
1,000,000	2,000,000	280
2,000,000 and more		420

Liquidated damages will not be assessed the Contractor for unworkable days caused by weather conditions or for any other days for which an extension of time will be granted.

The Contractor further agrees that any such payment or deduction of liquidated damages shall not in any degree release the Contractor from further obligations and liabilities in respect to the fulfillment of the entire contract."

Very truly yours,

ROBERT J. GULINO, P.E.  
City Engineer

EWK:hld

By *Philip M Baswell*

BOARD OF PUBLIC WORKS  
 Date *7-25-72*  
 Approved \_\_\_\_\_  
 Committee of Whole \_\_\_\_\_  
 Referred \_\_\_\_\_  
 Other *W. H. ...*

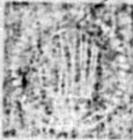
BOARD OF PUBLIC WORKS  
 Date *7-25-72*  
 Approved \_\_\_\_\_  
 Committee of Whole \_\_\_\_\_  
 Referred \_\_\_\_\_  
 Other *W. H. ...*

BPW

Mr. Robert J. Gulino, P.E.  
City Engineer

THE CITY OF SEATTLE

WEB UHLMAN, MAYOR



BOARD OF PUBLIC WORKS

BETTY L. MCFARLANE, SECRETARY

303 Seattle Municipal Building • Seattle, Washington 98104 • 583-2040

BOARD OF PUBLIC WORKS  
ALFRED PETTY, SUPT. OF BUILDINGS  
CHAIRMAN  
ROBERT J. GULINO, CITY ENGINEER  
KENNETH M. LOWTHIAN, SUPT. OF WATER  
GORDON F. VICKERY, SUPT. OF LIGHTING  
DAVID L. TOWNE, SUPT. OF PARKS  
AND RECREATION

Re: Administering Public Works Projects  
for Other City Departments

June 4, 1973

ROUTING	DATE	INITIAL
ACTION		
FILE		
INFORMATION		
RTG		
WEP	6/7/73	
WEP		
ATM		

X - Corp Counsel  
X - Bills Payable

Board of Public Works Members  
City of Seattle

Honorable Members:

Regarding payments made by the Department of Community Development on the Yesler Atlantic Neighborhood Improvement Project S.O.I.C. Site Preparation, we brought to the Board of Public Works' attention the need to remind everyone of proper administration and method of making payments on public works contracts.

DR  
EWO  
JFA } 6/7/73  
WGU

The Department of Community Development has made two payments on the above project without approval of the Building Department or the Board of Public Works. The vouchers were honored by the City Comptroller for payment. The vouchers were never received in this office as the billing was directed to Mr. Braman's attention on the fourth floor.

As a matter of record, we have attached a legal opinion from the Corporation Counsel dated January 12, 1971 which indicates that other than Board of Public Works' departments are not legally authorized to manage and supervise public works construction projects. We hope that in the future the City Comptroller will advise his people that if a voucher indicates public construction work is involved proper signatures of the Board of Public Works authorizing payment are required.

Aside from the legality of the matter, other City departments which have need to contract for public works projects from time to time are not implementing or operating departments. This is an activity they are not equipped for or knowledgeable about. It can only lead to increased costs, time and effort.

Outlined are procedures to follow on projects for others.

All Board departments shall follow through with such projects from beginning to end. In other words, do not divide or share administration of the project with the "other" department.

Since the Charter requires that all public works projects be administered by the Board of Public Works, the appropriate Board department involved should take over the entire responsibility for administering the project. This includes drawing up specifications and plans, advertising, performing

JUN 5 8 30 AM '73  
SEATTLE ENG DEPT

Board of Public Works Members

-2-

June 4, 1973

inspections, vouchering of payments, change orders, extensions of time, etc. To accomplish the above, funds for the project must be transferred from the non-Board department to the Board department involved. Work orders should be taken out by the Board department and the project handled as one of its own.

This has not been followed closely in the past as indicated by complications which have come to our attention on the Yesler Atlantic Project. With the cooperation of all concerned these projects must be accomplished in a legal manner which will also minimize problems, duplication of efforts and cost increases.

Please advise all of your people who have an involvement in contracting activities.

Yours very truly,

BOARD OF PUBLIC WORKS

*Betty L. McFarlane*

Betty L. McFarlane  
Secretary

BLM:lm  
Att.

cc: C. G. Erlandson--City Comptroller  
James Braman--Department of Community Development  
Chief George Tielsch--Police Department  
John Fearey--Seattle Center  
R. Snyder--Building Department  
R. Strang--Building Department  
A. J. Oster--Building Department  
Walter Hundley--Model Cities

5470

January 12, 1971

Board of Public Works  
The City of Seattle  
Seattle

Honorable Members:

By letter dated November 10, 1970, you refer to the City's Application to the United States for a Grant for a Code Enforcement Program in the Garfield and Jefferson neighborhoods (C.F. 269175), directing our attention particularly to the following paragraph:

Administration

The Department of Community Development will schedule and coordinate public improvements in the Code Enforcement Program as the City's authorized local public agency. The Board of Public Works, in accordance with the provisions of the City Charter of Seattle will be responsible for the design and construction of necessary public improvements, including:

Sewer Separation,  
Pedestrian Overpasses,  
Utilities undergrounding,  
Traffic signals,  
Sidewalk Repair,  
Survey Work."

(C.F. 258775, CE 500, page 103)

The City Charter (Article VII Section 4) provides that the Board of Public Works is "authorized and empowered:

"Third. TO MANAGE AND SUPERVISE PUBLIC WORKS, BUILDINGS, STRUCTURES, STREETS, UTILITIES AND EQUIPMENT: To manage and control the water and light and power systems; public buildings, public wharves, docks, bridges and viaducts; streets, sewers and public places and grounds, and all public utility facilities in the streets, except as otherwise in this charter provided. To manage and control the transportation system, subject to Section 11 of this article." ("See Article XXIII.)

Article VII, Section 13 provides that all local and other improvements authorized by ordinance may be made by contract to be let to the lowest bidder, or by day labor, under the management of the Board of Public Works.

In view of such Charter provisions the City Engineer proposed that the paragraph in question be rewritten to read as follows:

"Public improvement administration, while an integral part of the code enforcement program, is the responsibility of the Board of Public Works by City of Seattle Charter. The public works improvements will be coordinated with other segments of the federally assisted code enforcement program and will be administered by the various responsible agencies of the Board of Public Works. Types of public improvements will be sewer separation, pedestrian overpasses, utility undergrounding, traffic signals, sidewalk repairs and survey work."

The Application, amidst its plethora of statistics, maps and exhibits, outlines a coordinated action program involving private property (CE 300, pages 38-42) and public places (CR 500, pages 102-109). Activities by the City with respect to private property fall into these three phases: (1) Reconnaissance: organizing, explaining the program to residents and then making an inspection of every dwelling for building and housing code violations; (2) Resolution: assisting residents in understanding shortcomings found, in drawing plans for repairs, and in applying for available loans and grants; and (3) Rehabilitation: aiding residents with repairing and rebuilding, fecalifting the neighborhood, and when necessary, demolishing dwellings and relocating residents. In public places, the City will construct the improvements outlined in the paragraph quoted, and "uplift the area" by planting trees along sidewalks, laying out an Urban Trail, and developing play-recreation areas in blocked-off streets. The Application seeks a total grant of about two million dollars.

With reference to the Application, your letter inquired as follows:

"1. Are federally assisted Code Enforcement Projects, as contemplated by Comptroller's File No. 268175 (for) the Garfield and Jefferson neighborhoods, Urban Renewal Projects . . . ?

Board of Public Works  
March 22, 1971

In our opinion, the powers reserved include the actual "enforcement of state and local laws, codes, and regulations relating to the use of land and the use and occupancy of buildings and improvements and to the compulsory repair, rehabilitation, demolition, or removal of buildings and improvements," (emphasis supplied).

The applicable general rule is that state statutes, including the Urban Renewal Law, must be applied consistent with applicable Charter provisions of the City unless said provisions are directly superseded by the statute in question and based upon our analysis of the provisions of the Urban Renewal Law referred to above and of applicable provisions of the Seattle Charter in light of such general rule, we advise as follows:

- (1) The City Council may, but need not, by ordinance entrust to the Department of Community Development the disseminating of blight clearance information (RCW 35.81.150(f)), the carrying out of a program of voluntary repair and rehabilitation (RCW 35.81.150(k)); RCW 35.81.070(6)(c); planning and studying activities expediting the performance of duties by other departments (RCW 35.81.150(-)). In the Garfield and Jefferson neighborhood programs, such duties could include conduct of the public information program; planning, study and evaluation; the assisting of residents in drawing plans for repairs and applying for loans and grants; aiding residents in making repairs, and assistance with voluntary demolition, and in relocation;
- (2) Article VII of the City Charter provides that the Board of Public Works, through its members is responsible for the design and construction of all public improvements in the City as well as the management and control of public places and we advise that such powers may not be delegated or transferred by the City Council or otherwise to other departments or officers.
- (3) Article VII, Section 10 of the City Charter provides that the Superintendent of Buildings has the "duty to see that all building ordinances of the city are enforced." Such duty, which includes enforcement of the Building, Housing and Electrical Codes --- including the making of inspections, reporting and interpreting reports, certifying compliance, abatement, and administrative decisions involving citations and criminal proceedings, is not among the powers that may be delegated or transferred to other departments or officers by the City Council pursuant to RCW 35.81.150(2) or otherwise, and you are so advised.

Board of Public Works  
March 22, 1971

In our opinion, the powers reserved include the actual "enforcement of state and local laws, codes, and regulations relating to the use of land and the use and occupancy of buildings and improvements and to the compulsory repair, rehabilitation, demolition, or removal of buildings and improvements," (emphasis supplied).

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- (2) Article VII of the City Charter provides that the Board of Public Works, through its members is responsible for the design and construction of all public improvements in the City as well as the management and control of public places and we advise that such powers may not be delegated or transferred by the City Council or otherwise to other departments or officers.
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In RCW 35.81.150(1) the Urban Renewal Law empowers the City to vest in "a department or other officers of the municipality" eighteen "urban renewal powers" that are set forth in RCW 35.81.150(2). Most of the powers pertain to urban renewal projects, but the following are not so limited:

"(f) To disseminate blight clearance and urban renewal information.

\*\*\*

"(k) To effectuate the plans provided for in RCW 35.81.070(b).

\*\*\*

"(m) To prepare plans for carrying out a program of voluntary or compulsory repair and rehabilitation of buildings and improvements.

\*\*\*

"(p) To study the closing, vacating, planning, or replanning of streets, roads, sidewalks, ways, or other places and to make recommendations with respect thereto.

\*\*\*

"(r) To . . . make the necessary arrangements for the exercise of the powers and the performance of the duties and responsibilities entrusted to the local governing body."

RCW 35.81.150 concludes with the restriction that all other powers . . . may only be exercised by the local governing body or other officers, boards, and commissions as provided under existing law."

RCW 35.81.150(2) permits the delegation to "a department or other officers of the municipality" of the powers enumerated in subsections (f), (k), (m), and (p), and of the ancillary powers enumerated in subsection (r) (i.e. "To . . . make the necessary arrangements") while reserving from delegation, through subsection (r), ". . . the exercise of the powers and the performance of the duties and responsibilities entrusted to the local governing body."

Board of Public Works  
January 12, 1971

With regard to your second question we first note that, to prevent and combat blight, the Urban Renewal Law not only confers authority upon cities to establish "urban renewal projects" in "urban renewal areas" but also confers authority to undertake certain activities outside such confines.

Some of the City activities authorized by the Urban Renewal Law outside urban renewal areas were outlined in our Opinion # 5315, dated February 20, 1969, as follows:

"RCW 35.81.070(6) authorizes the municipality . . . to develop, test and report methods and techniques, and carry out demonstrations and other activities for the prevention and elimination of urban blight and to apply for, accept, and utilize grants of funds from the federal government for such purposes," and "within the municipality" to make and carry out plans, including the following:

- (a) A comprehensive plan or parts thereof for the locality as a whole;
- (b) urban renewal plans;
- (c) plans for carrying out a program of voluntary or compulsory repair and rehabilitation of buildings and improvements;
- (d) plans for the enforcement of state and local laws, codes, and regulations relating to the use of land and the use and occupancy of buildings and improvements and to the compulsory repair, rehabilitation, demolition, or removal of buildings and improvements;
- (e) appraisals, title searches, surveys, studies, and other preliminary plans and work necessary to prepare for the undertaking of "urban renewal projects."

Sub-sections (b) and (e) are preliminary to Urban Renewal projects; Sub-sections (a) and (d) rely on inherent governmental powers, and pertain through the City.

"Test and demonstration programs referred to above and plans for assistance to voluntary rehabilitation that do not require ownership of property authorized by sub-section (c) as well as programs for the 'compulsory repair and rehabilitation' referred to in (c), may only be used in 'blighted areas.' However, since acquisition of property or coercive displacement of occupants is not involved, such voluntary rehabilitative programs are not confined to 'urban renewal areas.' . . ."

Board of Public Works  
January 12, 1971  
Page: 7-ee

"2. If federally assisted Code Enforcement Projects are not Urban Renewal Projects can they be administered and managed by any department or agency other than the Building Department under the control and direction of the Board of Public Works?"

If our response to the second question be affirmative, you have further orally requested that we explain our answer with particular reference to C.F. 268175.

The Garfield and Jefferson Neighborhood Code Enforcement Project is not an Urban Renewal Project, as defined by the Urban Renewal Law (RCW Chapter 35.81). RCW 35.81.010(18) defines an "Urban Renewal Project" as follows:

"Urban renewal project" may include undertakings or activities of a municipality in an urban renewal area for the elimination and for the prevention of the development or spread of blight, and may involve redevelopment in an urban renewal area, or rehabilitation in an urban renewal area, or any combination or part thereof in accordance with an urban renewal plan." (Emphasis supplied.)

An "Urban Renewal Area", as defined by RCW 35.81.010(16) means a "blighted area" as defined by RCW 35.81.010(2) which the City Council designates as appropriate for an urban renewal project, after preparation and approval of an "urban renewal plan" (RCW 35.81.060(2)), notice and public hearing (RCW 35.81.050(3)), and certain findings (RCW 35.81.050(4)). A federally assisted Code Enforcement Program undertaken in accordance with an "urban renewal plan" may be a part of an "urban renewal project" in an "urban renewal area." However, the Garfield and Jefferson neighborhoods have not been made the subject of such an "urban renewal plan", nor have the necessary notices been given, public hearings held, or findings made to establish these neighborhoods as an "urban renewal area" for an "urban renewal project."

Our two prior opinions cited in your letter (# 4885, dated February 15, 1961 and # 5022, dated February 20, 1963) concern powers and duties of the Urban Renewal Division of the Executive Department generally and in relation to urban renewal projects and areas. This opinion pertains to functions outside such project areas.

Board of Public Works  
July 2, 1971  
Seattle, Wash.

- (4) The City Council may by ordinance assign to the Department of Community Development the general duty of coordinating with the United States, and of expediting the Code Enforcement Program, insofar as such activities do not infringe the Charter responsibilities of the Board of Public Works and its members as pointed out above.

Accordingly, it is our view that, to clarify the reference to program administration contained in the paragraph entitled "Administration" at the bottom of page 103 of the Code Enforcement application, said paragraph should be reworded to read as follows:

"The Department of Community Development as the City's authorized local public agency will work with and assist the Board of Public Works to schedule and coordinate public improvements in the Code Enforcement Program.

"The Board of Public Works, in accordance with the provisions of the City Charter of Seattle, will be responsible for the design and construction of necessary public improvements, including:

Sewer separation,  
Pedestrian overpass,  
Utilities undergrounding,  
Traffic signals,  
Sidewalk repair,  
Survey work.

"All project activities which commit the City to code enforcement in specific areas and for particular violations are subject to the approval of the Charter Administrative officer."

Yours very truly,

A. L. NEWBOULD  
Corporation Counsel

By JORGEN G. BADER  
Assistant

JGB:w



BPW

*RJG*

CS 7.11

MEMORANDUM

To P. M. Buswell  
By D. Roletto Date May 10 1973  
Subject New Project Plans Requiring a Building Permit

*x Bldg Dept ✓*

On May 2, 1973, the Board of Public Works forwarded to this Department for investigation, report and recommendation a recommendation submitted to the Board by Alfred Petty, Superintendent of Buildings, which concerns itself with deficiencies in the present method of obtaining building permits on Board of Public Works contracts.

We heartily concur with Mr. Petty's recommendation that would require all designers of City projects to make formal application for a building permit prior to circulation for approval of Board of Public Works projects. Corrections can then be made prior to bidding to take advantage of competitive bidding.

We do not agree with Mr. Petty's recommendation, "Picking up the permit and paying for it can be the responsibility of the contractor who is awarded the contract." We strongly suggest that on jobs under the jurisdiction of the City Engineer that the City Engineer pick up the permit and pay for it from job funds.

*D. Roletto*  
D. ROLETTO

DR:ew  
cc: E. W. Ott  
A. T. Madsen

*[Handwritten signature]*

*Re 5/4 fm BPW*

B.P.W.

THE CITY OF SEATTLE  
BOARD OF PUBLIC WORKS

MEMORANDUM

April 27, 1973

TO: All Board Departments  
FROM: Betty L. McFarlane, Secretary *BLM*  
RE: Board Procedures

*x - Policy*

For further clarification of new Board of Public Works procedures, we list a number of subjects which each Department concerned would normally handle without sending to the Board for action:

- Sale of property
- Transfer of jurisdiction and Lease agreements

It is understood that the Department head will act on such matters; however, he may at any time elect to send same to the Board for action.

All major policy matters pertaining to rates on utilities, power policy, etc., should come to the Board for consideration and support.

Please feel free to call this office if further information is desired.

BLM:fb  
4/27/73

ROUTING	DATE	INITIAL
ACTION		
FILE		✓
INFORMATION		
		<i>RJG</i>
		<i>PMB</i>
		<i>WEPB/EMW</i>

SEATTLE ENG DEPT  
APR 27 12 11 PM '73

BPW

THE CITY OF SEATTLE



BOARD OF PUBLIC WORKS

BETTY L. MCFARLANE, SECRETARY

303 Seattle Municipal Building • Seattle, Washington 98104 • 583-2040

WES UHLMAN, MAYOR

BOARD OF PUBLIC WORKS  
ALFRED PETTY, SUPT. OF BUILDINGS  
CHAIRMAN  
ROBERT J. GULINO, CITY ENGINEER  
KENNETH M. LOWTHIAN, SUPT. OF WATER  
GORDON F. VICKERY, SUPT. OF LIGHTING  
DAVID L. TOWNE, SUPT. OF PARKS  
AND RECREATION

✓ April 25, 1973

Re: Prime Contractor Markup ...

ROUTING	DATE	INITIAL
ACTION		
FILE		✓
INFORMATION		
RJG		DM
PMB/ER		
ATM/EWK		

Mr. Robert J. Gulino, P.E.  
City Engineer  
City of Seattle

*PMB*  
*5/3*

Dear Mr. Gulino:

The Board of Public Works had before it, in regular session today, your communication of November 20, 1972 relative to prime contractors' markup on force account work performed by subcontractors.

The Board has studied this matter for some time. After due deliberation, they concurred in the recommendations of the Superintendents of Water and Lighting that such be approved and include adopting same for "extra work" Section 9.03 as well as "force account" Section 9.04 under Standard Specifications.

The Superintendent of Lighting submitted suggested wording which we attach. The appropriate wording may be inserted as a requirement of the contract specifications on public works projects.

Yours very truly,

BOARD OF PUBLIC WORKS

*Betty L. McFarlane*

Betty L. McFarlane  
Secretary

BLM:lm  
Att.

cc: Board of Public Works Members

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CITY OF SEATTLE

DEPARTMENT OF LIGHTING



CITY LIGHT BUILDING 1015 THIRD AVENUE SEATTLE, WASHINGTON 98104 TELEPHONE 623-7600

GORDON VICKERY  
Superintendent

December 18, 1972

RECEIVED

1972 DEC 21 10 5 27

SECRETARY  
BOARD OF PUBLIC WORKS

Board of Public Works  
City of Seattle  
303 Municipal Building  
Seattle, Washington 98104

Honorable Members:

Reference is made to the Board of Public Works December 7, memorandum forwarding for investigation, report and recommendation, a letter from Mr. R. J. Gulino on the subject of General Contractor markups for overhead and profit on their sub-contractors force account work.

We concur that it would be beneficial to establish such a policy as proposed but recommend certain modifications to the proposed draft for reasons as noted below.

It is our opinion that an acceptable markup for overhead and profit should be established for all extra work, not only extra work to be paid for by force account.

In accordance with the Standard Plans and Specifications Section 9.03, extra work can be paid for by one of three methods.

- a) Lump sum
- b) Mutually agreeable unit prices
- c) Force account

In order to establish and approve either a lump sum or unit price for extra work, an estimate has to be prepared which includes overhead and profit markups for General Contractors as well as sub-contractors. Therefore, it would be an advantage to have an established, undisputed allowable maximum markup to be used as a guide when approving extra work payment by these two methods.

Our proposed draft is as follows:

"Payment for extra work on a force account basis will be made as provided in Section 9.04 of the Standard Plans and Specifications.

CITY OF SEATTLE—DEPARTMENT OF LIGHTING

Board of Public Works

12-18-72

-2-

When extra work is performed and paid for by lump sum or mutually agreed unit price, the Contractor, or sub-contractor will be limited to a 10% overhead plus 10% profit markup on cost for labor, material and equipment when determining lump sum or unit price.

When extra work is performed by approved sub-contractors, the Contractor will be allowed an additional markup regardless of the method of payment based on the following schedule:

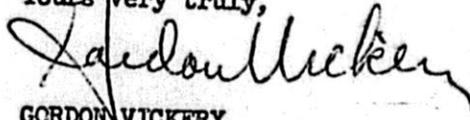
First \$10,000.00 of work done by sub-contractors (less their markups for overhead and profit) allow ten percent (10%) supplemental markup.

All work in excess of \$10,000.00 done by sub-contractors (less their markups for overhead and profit) allow five percent (5%) supplemental markup.

The ten percent supplemental markup shall apply to the first \$10,000.00 accumulated total of all extra work performed by sub-contractors for any and all extra work added to the contract."

We request that the Engineering Department proposal be modified as above and request Board of Public Works approval of these modifications for insertion in our Contract Specifications.

Yours very truly,



GORDON VICKERY  
Superintendent of Lighting

DCS:ljh

cc: Mr. R. J. Gulino

BPW

THE CITY OF SEATTLE  
BOARD OF PUBLIC WORKS

MEMORANDUM

April 25, 1973

To: Mr. Robert J. Gulino, P.E., City Engineer  
From: Betty L. McFarlane, Secretary *BLM* \* - Liquidated Damages  
Re: Proposed Specifications for Construction Projects \* - Landsc

The Board of Public Works, in regular session today, referred the above matter to you for re-evaluation and report.

The question arose as to whether or not you desire this procedure on all construction contracts and landscaping or just certain contracts at this point.

Are liquidated damages to be assessed for noncompletion as well as default action?

Please reword your recommendation to clarify.

BLM:lm  
Att.

cc: P. M. Buswell  
A. T. Madsen

ROUTING	DATE	INITIAL
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ATM		
FILE		
INFORMATION		
RTG		<i>BLM</i>

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att. thru to BPW  
NLH as far as  
I could find  
*BLM*



CITY OF SEATTLE  
 DEPARTMENT OF ENGINEERING  
 ROBERT J. GULINO, CITY ENGINEER  
 MEMBER, BOARD OF PUBLIC WORKS

Wes Uhlman, Mayor

Seattle Municipal Building, Room 910  
 600 Fourth Avenue, Seattle, Washington 98104

Re: Proposed specification for  
 construction projects

June 7, 1972

RECEIVED  
 JUN 7 1972

Honorable Board of Public Works  
 City of Seattle  
 Seattle, Washington

BOARD OF PUBLIC WORKS

Gentlemen:

As a result of meetings within the Engineering Department, we wish to incorporate the following provisions into the special provisions and later into the Standard Specifications for selected Board of Public Works projects.

This provision calls for dividing projects into schedules, each being allotted specific workdays and the penalty for non-compliance in completing work within the time established for each schedule. We believe this provision will be especially helpful in landscape contracts when planting time is of the essence and the contract time can slip away until it is too late to finish planting during the planting season.

The division of construction projects into schedules with the stipulation of forfeiture of the contract for non-compliance is a new procedure and is called to your attention prior to making it a part of the Specifications where it may not be noticed.

Very truly yours,

*Robert J. Gulino*  
 ROBERT J. GULINO, P.E.  
 City Engineer

PMB/ATM:nt  
 Atts.

BOARD OF PUBLIC WORKS  
 Date 6/14/72  
 Approved \_\_\_\_\_  
 Denied \_\_\_\_\_  
 Com. At. ee of Whole \_\_\_\_\_  
 Re. used \_\_\_\_\_  
 Other \_\_\_\_\_

BOARD OF PUBLIC WORKS  
 Date 4/10/73  
 Approved \_\_\_\_\_  
 Denied \_\_\_\_\_  
 Com. At. ee of Whole \_\_\_\_\_  
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 Other \_\_\_\_\_

BOARD OF PUBLIC WORKS  
 Date 6/14/72  
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 Denied \_\_\_\_\_  
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 Other \_\_\_\_\_



Mr. Robert J. Gulino, P.E.  
City Engineer

**THE CITY OF SEATTLE  
BOARD OF PUBLIC WORKS**

MEMORANDUM

✓ March 28, 1973

To: All Board of Public Works Members  
From: Betty L. McFarlane, Secretary *Blm*  
Re: Appraisers' Contracts

x- Policy  
x- appraisers

The Board, in regular session today, adopted a policy regarding appraisers' contracts. Appraisers' contracts which are over \$1,000 shall go before the Board of Public Works.

BLM:lm

ROUTING	DATE	INITIAL
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WES/EMW		
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SEATTLE ENG DEPT

BPW

Mr. Robert J. Gulino, P.E.  
City Engineer

THE CITY OF SEATTLE  
BOARD OF PUBLIC WORKS  
MEMORANDUM

March 28, 1973

To: All Board of Public Works Members  
From: Betty L. McFarlane, Secretary *Blm*  
Re: Deposits on Plans and Specifications

The Board of Public Works discussed the above matter and decided that it should be left up to each department to determine if deposits on plans and specifications would be required.

A department may decide to require deposits only on certain projects or on all as it sees fit, and you are so advised.

BLM:lm

ROUTING	DATE	INITIAL
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INFORMATION		
<i>RJG</i>		
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<i>PMB</i>		

*lanet*

SEATTLE ENG DEPT  
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BPW

3/22

✓ March 19, 1973

Honorable Board of Public Works  
Seattle, Washington

✓x Policy  
✓x Capitol Hill

Gentlemen:

We have received a request for the services of the Engineering Department's arboriculturist from City Light (telephone call March 9, Paul Kenworthy to Marvin Black). Permission for pruning certain trees on Capitol Hill was being withheld by the private property owner, a Mrs. Bullitt (?), "unless Marvin Black inspects the pruning." Neither we nor City Light are certain how the property owner got Marvin Black's name; we have been told that tree trimming on this property two or three years ago was the subject of a lawsuit involving City Light.

The Engineering Department has no objection to Mr. Black being available on a limited time basis to other City departments for matters of this kind, subject to the first priority of his Engineering Department work load. Since our budgeted funding allows him only to work with Engineering Department landscape and street tree projects, it will be necessary that other departments desiring his services have funding available to pay for them.

May we have a policy direction from the Board of Public Works on this matter?

Very truly yours,

sgd Robert J. Gulino  
ROBERT J. GULINO, P.E.  
City Engineer

Concurrence prior to Signature	
PAW	<i>[Signature]</i>
JGR	<i>[Signature]</i>
MRW	<i>[Signature]</i>

MRW

- cc: W. E. P. Smith
- P. M. Buswell
- L. W. Johnson
- D. L. Jonas

BPW

*Robert J. Galois, City Engineer*

THE CITY OF SEATTLE  
BOARD OF PUBLIC WORKS

MEMORANDUM

March 14, 1973

TO: ALL BOARD OF PUBLIC WORKS MEMBERS  
FROM: Betty L. McFarlane, Secretary *Blm*  
RE: Information on Plan Holders

The Board of Public Works in regular session March 14, 1973, adopted the following policy:

As a general rule, information on plan holders will be available, but in the event that a Department feels that it would be detrimental to the bidding process, it may be withheld.

BLM:fb

- cc: Loaha Hume
- Dean Sundquist
- John Hansen
- F. B. Finnegan
- J. H. Brokenshire
- Robert Strang
- Robert Snyder
- Gordon Lorimer
- Evelyn Larson
- W. Rashkov
- E. Hennebry
- 8th Floor Information Counter - Engineering
- Associated General Contractors

ROUTING	DATE	INITIAL
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BPW.

THE CITY OF SEATTLE

WES UHLMAN, MAYOR

BOARD OF PUBLIC WORKS



BOARD OF PUBLIC WORKS

BETTY L. MCFARLANE, SECRETARY

303 Seattle Municipal Building • Seattle, Washington 98104 • 583-2040

ALFRED PETTY, SUPT. OF BUILDINGS  
CHAIRMAN  
ROBERT J. GULINO, CITY ENGINEER  
KENNETH M. LOWTHIAN, SUPT. OF WATER  
GORDON F. VICKERY, SUPT. OF LIGHTING  
HANS A. THOMPSON, SUPT. OF PARKS  
AND RECREATION

March 7, 1973

Re: Procedure for approval  
of subcontractors

ROUTING	DATE	INITIAL
ACTION		
FILE		
INFORM		
✓		PMB
		DR

Mr. Robert J. Gulino, P.E.  
City Engineer  
City of Seattle

Dear Mr. Gulino:

The Board of Public Works had before it, in regular session today, your communication dated March 2, 1973, regarding Board procedure on the approval of subcontractors for public works contracts.

Since this is a City Charter responsibility, the Board of Public Works will officially act on all requests for subcontractors.

The Board office is happy, however, to use the suggested form to streamline the process, as modified.

Yours very truly,

BOARD OF PUBLIC WORKS

Betty L. McFarlane  
Secretary

BLM:fb

att.

cc: D. Roletto

SEATTLE ENG DEPT  
MAR 12 11 15 AM '73

DATE \_\_\_\_\_

Re: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

ROBERT J. GULINO, P. E.  
City Engineer  
Seattle Engineering Department  
9th Floor, Municipal Building  
Seattle, Washington 98104

Dear Sir:

We respectfully request approval of the following sub-contractors on the above-referenced project.

Name & Address of Sub-Contractor	Type of Work	State License No.
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

CONTRACTOR:

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)

We recommend approval of following:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

We recommend rejection of following:

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Principal Construction Engineer

\_\_\_\_\_  
Date

Approved as noted above by:

\_\_\_\_\_  
Chairman, Board of Public Works

\_\_\_\_\_  
Date

\_\_\_\_\_  
Secretary, Board of Public Works

\_\_\_\_\_  
Date

*app. as  
Modified →  
3/7/73 Blm*



DATE \_\_\_\_\_

Re: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

ROBERT J. GULINO, P. E.  
City Engineer  
Seattle Engineering Department  
9th Floor, Municipal Building  
Seattle, Washington 98104

Dear Sir:

We respectfully request approval of the following sub-contractors on the above-referenced project.

Name & Address of Sub-Contractor	Type of Work	State License No.
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

CONTRACTOR \_\_\_\_\_ (Signature) \_\_\_\_\_ (Date)

We recommend approval of following:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

We recommend rejection of following:

\_\_\_\_\_  
\_\_\_\_\_

Approved as noted above by: \_\_\_\_\_  
Principal Construction Engineer \_\_\_\_\_ Date \_\_\_\_\_  
Board of Public Works \_\_\_\_\_ Date \_\_\_\_\_

BPW

THE CITY OF SEATTLE  
BOARD OF PUBLIC WORKS

MEMORANDUM

March 2, 1973

TO: All Board of Public Works Members  
FROM: Betty L. McFarlane, Secretary *Blm*  
RE: Release of Plan Holder Information -- Public Works Projects

In regard to our memorandum issued on February 21, 1973 requesting that no information as to number of plan holders be provided on public works projects, we wish to advise the following:

It has been brought to our attention that suppliers and others need to know the names of plan holders in order to submit bids to prime contractors on public works contracts. Therefore, the Board of Public Works determined that each department should provide this information.

Please note, however, that instructions restricting release of information as to estimates prior to bidding have not changed.

BLM:jy

- cc: R. Strang, Building
- D. Sundquist, Lighting
- A. Madsen, Engineering
- E. Hennebry, Building
- R. Rashkov, Water
- G. Lorimer, Parks
- W. Dawson, A.G.C.
- L. Demattea, A.G.C.

ROUTING	DATE	INITIAL
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INFORMATION		
<i>PMB</i>		
<i>ATM</i>		

added by PMB: JEA, EWD, DR  
3/14/73 WGV

SEATTLE ENG DEPT  
MAR 5 12 55 PM '73

**CITY OF SEATTLE  
BOARD OF PUBLIC WORKS**

MEMORANDUM

February 21, 1973

To: All Board of Public Works Members *x Instructions*  
From: Betty L. McFarlane, Secretary *Blm*  
Re: Estimates - Deposits - Plan Holders - Public Works Projects

The Board of Public Works in regular session today determined that each Board department should not provide information to contractors, or the public in general, as to number of plan holders or estimate on a project prior to bid opening.

They further decided that each department shall not require a bid deposit by contractors picking up plans and specifications on public works projects.

Please advise your people of this directive.

BLM:lm

cc: Richard L. Hedeon, AGC  
Earl E. Bell, Mountain Pacific Chapter, AGC

ROUTING	DATE	INITIAL
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INFORMATION		
RJG		

FEB 23 10 31 AM '73

SEATTLE ENG DEPT

BPW

Mr. Robert J. Gulino, P.E.  
City Engineer

THE CITY OF SEATTLE  
BOARD OF PUBLIC WORKS

MEMORANDUM

February 21, 1973

To: All Board of Public Works Members  
From: Betty L. McFarlane, Secretary *Blm*  
Re: Estimates - Deposits - Plan Holders - Public Works Projects

✓ x Instructions

The Board of Public Works in regular session today determined that each Board department should not provide information to contractors, or the public in general, as to number of plan holders or estimate on a project prior to bid opening.

They further decided that each department shall not require a bid deposit by contractors picking up plans and specifications on public works projects.

Please advise your people of this directive.

BLM:lm

cc: Richard L. Hedeem, AGC  
Earl E. Bell, Mountain Pacific Chapter, AGC

ROUTING	DATE	INITIAL
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RJG		

SEATTLE ENG DEPT  
FEB 23 10 31 AM '73

BPW

THE CITY OF SEATTLE

WES UHLMAN, MAYOR

BOARD OF PUBLIC WORKS

BETTY L. MCFARLANE, SECRETARY

303 Seattle Municipal Building • Seattle, Washington 98104 • 583-2040

BOARD OF PUBLIC WORKS  
ALFRED PETTY, SUPT. OF BUILDINGS  
CHAIRMAN  
ROBERT J. GULINO, CITY ENGINEER  
KENNETH M. LOWTHIAN, SUPT. OF WATER  
GORDON F. VICKERY, SUPT. OF LIGHTING  
HANS A. THOMPSON, SUPT. OF PARKS  
AND RECREATION

MEMORANDUM

February 9, 1973

TO: All City Departments  
FROM: Betty L. McFarlane, Secretary - Board of Public Works *Blm*  
RE: Correspondence directed to Board of Public Works

As of January 1, 1973 the Mayor appointed Alfred Petty, Supt. of Buildings, as Chairman of the Board of Public Works. All consulting agreements, contracts, permits, etc. should bear the name of the new chairman when requesting Board approval.

All requests and recommendations from departments to the Board should be made in writing to the Secretary of the Board for presentation to the Board. All communications should be in duplicate and be in the hands of the secretary no later than 5:00 p.m. of the Monday preceding the Wednesday 9:30 a.m. Board session. If mail is directed to the chairman's office, it will delay matters since he will have to direct it from his office to the secretary's office. We bring this to your attention as mail is presently going in three directions-- to the former chairman, the new chairman and the secretary of the Board.

Your cooperation will enable the Board to give more prompt attention to your communications. Thank you.

BLM:lm

10C

ROUTING	DATE	INITIAL
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FILE		✓
INFORMATION		
PMB	J&A	WGV, EWO, AM
PAW		DR
DLJ		
WEPS		

FEB 15 1 08 PM '73

SEATTLE ENG DEPT

BPW

**City of Seattle**  
**Board of Public Works**  
**Change in Time for Submitting**  
**Bids**

In regular session Wednesday, January 17, 1973, the Board approved a new bid submittal date and time.

During a trial period and until further notice, bids will be received by the Secretary of the Board of Public Works in Room 302, up to 4:30 p. m., the day preceding the Wednesday regular session at which the bids are scheduled to be opened.

The Board's regular sessions and bid openings remain Wednesdays, at 9:30 a. m.

Bids will be kept overnight in the Treasurer's office safe.

All advertising on projects to be bid after February 7 shall bear the Tuesday 4:30 bid submittal time. (C-525-B)

BPW

THE CITY OF SEATTLE

WES UHLMAN, MAYOR

BOARD OF PUBLIC WORKS

BOARD OF PUBLIC WORKS

BETTY L. MCFARLANE, SECRETARY

303 Seattle Municipal Building • Seattle, Washington 98104 • 583-2040

ALFRED PETTY, SUPT. OF BUILDINGS  
CHAIRMAN  
ROBERT J. GULIND, CITY ENGINEER  
KENNETH M. LOWTHIAN, SUPT. OF WATER  
GORDON F. VICKERY, SUPT. OF LIGHTING  
HANS A. THOMPSON, SUPT. OF PARKS  
AND RECREATION

Re: Revised Bid Opening Time

February 7, 1973

Associated General Contractors  
Mountain Pacific Chapter  
1200 Westlake Avenue North  
Seattle, Washington 98109

Attention: Earl Bell

Dear Mr. Bell:

The Board of Public Works in regular session, Wednesday, February 7, 1973, revised the time for receiving and opening bids.

Effective immediately, sealed bids on Board of Public Works projects, including those presently being advertised, will be received in the Office of the Secretary of the Board until 11:00 a.m., Wednesday. Bids will be opened and read by the Board of Public Works in regular session at that time (11:00 a.m.). Bids received after 11:00 a.m. will not be accepted or read.

Notice of change affecting projects presently being advertised will be published in the City Official Newspaper, the Daily Journal of Commerce, and all parties who have been issued copies of plans and/or specifications will be notified.

Yours very truly,

BOARD OF PUBLIC WORKS

*Betty L. McFarlane*

Betty L. McFarlane  
Secretary

ROUTING	DATE	INITIAL
ACTION		
FILE		✓
INFORMATION		
ATM		PM

BLM:jj

cc: B.P.W. Members  
O. R. Alia  
Frank Coluccio  
Gary Merlino

SEATTLE ENG DEPT  
FEB 13 12 15 PM '73

BPW

THE CITY OF SEATTLE

BOARD OF PUBLIC WORKS

BETTY L. MCFARLANE, SECRETARY

303 Seattle Municipal Building • Seattle, Washington 98104 • 583-2040

WES UHLMAN, MAYOR

*Robert J. Gulino*

BOARD OF PUBLIC WORKS

ALFRED PETTY, SUPT. OF BUILDINGS  
CHAIRMAN  
ROBERT J. GULINO, CITY ENGINEER  
KENNETH M. LOWTHIAN, SUPT. OF WATER  
GORDON F. VICKERY, SUPT. OF LIGHTING  
HANS A. THOMPSON, SUPT. OF PARKS  
AND RECREATION

TO: All Board of Public Works Members

February 7, 1973

FROM: Betty L. McFarlane, Secretary *Blm*

RE: "Records Committee"

*\* Committees ✓  
\* Record Retention*

The Board of Public Works, in regular session today, determined that a "records committee" should be established to decide what should be done with Board departments' records in case of disaster, naming a suitable safe place for storage. The Board believes that each department should have same routine.

The following Board of Public Works departmental representatives were named to the committee:

- Engineering Department - Douglas L. Jonas, Chairman - Records Committee
- Lighting Department - Janet Shockey
- Building Department - Lester Gillis
- Water Department - Harry Pratt
- Parks & Recreation Department - Harold Johnston

The Chairman, Records Committee, will notify everyone of meeting time and place. A report is due back in Board office on March 16, 1973.

BLM:fb

cc: above committee designees

ROUTING	DATE	INITIAL
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RECORDS		DL

SEATTLE ENG DEPT  
FEB 13 12 14 PM '73

*Copy: Record Retention*

BPW

Mr. Robert J. Gulino, P. E.  
City Engineer

THE CITY OF SEATTLE  
BOARD OF PUBLIC WORKS

MEMORANDUM

To: All Board of Public Works Departments  
From: Betty L. McFarlane, Secretary *Blm* Date: January 25, 1973  
Subject: Change in Bid Submittal Time

In regular session Wednesday, January 17, 1973, the Board approved a new bid submittal date and time.

During a trial period and until further notice, bids will be received by the Secretary of the Board of Public Works in Room 303, up to 4:30 p.m., the day preceding the Wednesday regular session at which the bids are scheduled to be opened.

The Board's regular sessions and bid openings remain Wednesdays, at 9:30 a.m.

Bids will be kept overnight in the Treasurer's office safe.

All advertising on projects to be bid after February 7 shall bear the Tuesday 4:30 bid submittal time.

BLM:lm

- cc: Arnold Madsen--Engineering Department
- Gordon Lorimer--Department of Parks and Recreation
- Loaha Hume--Lighting Department
- Robert Strang--Building Department
- William Rashkov--Water Department
- John Hansen--Lighting Department

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JAN 29 1 32 PM '73

BPW

THE CITY OF SEATTLE  
BOARD OF PUBLIC WORKS

January 17, 1973

To: All Board of Public Works Members  
From: Betty L. McFarlane, Secretary *Blm*  
Re: Contractor Registration and License Numbers

All prime contractors are presently required to provide registration and license numbers in contracts when bidding on City of Seattle Public Works projects. To achieve this goal uniformly the proposal page of contracts, showing the name, address and phone number of Contractors is to be modified to include a specific line for the license and registration number.

BLM: jy

- cc: W. Rashkov, Water
- Bob Strang, Building
- L. Hume, Lighting
- G. Lorimer, Parks
- A. Madsen, Engineering
- E. Hennebrey, Building

ROUTING	DATE	INITIAL
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<i>INFO</i>		<i>INFO</i>
<i>RSG</i>		<i>RSG</i>
<i>DR</i>		<i>DR</i>

JAN 18 12 30 PM '73

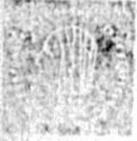
SEATTLE ENG DEPT

BPW

THE CITY OF SEATTLE

WEB UHLMAN, MAYOR

BOARD OF PUBLIC WORKS



BOARD OF PUBLIC WORKS

BETTY L. MCFARLANE, SECRETARY

303 Seattle Municipal Building • Seattle, Washington 98104 • 583-2040

KENNETH M. LOWTHIAN, SUPT. OF WATER.  
HANS A. THOMPSON, SUPT. OF PARKS AND RECREATION  
ALFRED PETTY, SUPT. OF BUILDINGS Chr.  
ROBERT J. GULING, CITY ENGINEER  
GORDON F. VICKERY, SUPT. OF LIGHTING

Re: Bids on Public Works Projects  
City of Seattle

January 17, 1973

Mr. Richard L. Hedeem, Executive Director  
The Associated General Contractors of America, Inc.  
1200 Westlake Avenue North  
Seattle, Washington 98109

X-Bids

Dear Mr. Hedeem:

The Board of Public Works had before it, in regular session today, your communication of January 11, 1973 regarding the Board's new policy of accepting bids on public works construction projects at 9:30 a.m.

The Board discussed the matter with Mr. Andy Wick of Wick Construction and Mr. Bob Burfitt of Master Builders. They felt that a change in bid submittal time (not bid opening time) would resolve the concerns and difficulties you mentioned in your letter. The Board therefore adopted a new bid submittal time of Tuesday, no later than 4:30 p.m., before the 9:30 a.m. Wednesday bid opening. In other words, no bids will be accepted in this office on Wednesday if scheduled for bid opening that day. The new policy will be effective after February 7, 1973.

If you have further questions, please do not hesitate to call us.

Yours very truly,

BOARD OF PUBLIC WORKS

*Betty L. McFarlane*

Betty L. McFarlane  
Secretary

BLM:fb

cc: All Board Departments

ROUTING	DATE	INITIAL
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JAN 23 12 54 PM '73

SEATTLE ENG DEPT

PW

To: *Richard L. Hedeem, City Engineer*

THE CITY OF SEATTLE

WES UHLMAN MAYOR

BOARD OF PUBLIC WORKS

BOARD OF PUBLIC WORKS

BETTY L. MCFARLANE, SECRETARY

303 Seattle Municipal Building • Seattle, Washington 98104 • 583-2040

KENNETH M. LOWTHIAN, SUPT. OF WATER,  
~~WORKS~~  
HANS A. THOMPSON, SUPT. OF PARKS  
AND RECREATION  
ALFRED PETTY, SUPT. OF BUILDINGS, Chrm  
ROBERT J. GULINO, CITY ENGINEER  
GORDON F. VICKERY, SUPT. OF LIGHTING

Re: Opening of Bids on Public Works Projects  
at 9:30 a.m.

✓ January 15, 1973

Mr. Richard L. Hedeem, Executive Director  
The Associated General Contractors of America, Inc.  
1200 Westlake Avenue North  
Seattle, Washington 98109

Dear Mr. Hedeem:

The Board of Public Works will have before it, in regular session  
Wednesday, January 17, 1973 at 9:30 a.m. in Room 304 of the Seattle  
Municipal Building, your communication regarding the Board's new meeting  
time. You stated that you disapprove of morning bid openings.

We would appreciate your attendance at that time to discuss the matter  
with the Board. Please advise this office if you can attend.

Yours very truly,

BOARD OF PUBLIC WORKS

*Betty L. McFarlane*

Betty L. McFarlane  
Secretary

BLM:fb

cc: Board of Public Works Members

ROUTING	DATE	INITIAL
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JAN 15 3 13 PM '73  
SEATTLE ENG. DEPT

-1-BPW

*Robert J. Phillips  
City Engineer*

Board of Public Works  
Office of the Secretary

Betty L. McFarlane, Secretary

*B. Er* *is in*  
*Bidding*

*1/10/73*  
(date)

DEPARTMENTAL ROUTING SLIP

*All Board Departments*  
(referred to)

*B. McFarlane*  
(referred by)

\_\_\_\_ Please prepare reply for the Secretary's signature on office stationery.

\_\_\_\_ Please reply to the attached letter for the Secretary showing a copy to the Secretary.

Forwarded for your investigation, report and recommendation.

\_\_\_\_ Forwarded for your information and files.

Other: *Item No. 3 -*

*Please comment*

\*Action requested no later than \_\_\_\_\_ (date)

SEATTLE ENG DEPT  
JAN 12 11 40 AM '73

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INFORMATION		
DR		

Forward to BDWK

Gutman

MOUNTAIN PACIFIC CHAPTER, A.G.C.  
COMMITTEE MINUTES

Committee: City Committee and Seattle Engineering Department

Date & Time: December 21, 1972, 10:30 A.M.

Location: A.G.C. Conference Room

Attending:

Louis Demattea, Chairman - Pacific Paving Company  
Terry Deeny - Deeny Construction Company  
Bob Currie - Western Bridge Company  
John Arnberg - Seattle Engineering Department  
Arne Madsen - Seattle Engineering Department  
Dominic Roletto - Seattle Engineering Department  
Bill Parchen - Seattle Engineering Department  
Elwood Ott - Seattle Engineering Department  
Phil Buswell - Seattle Engineering Department  
Earl Bell - Staff  
Bull Dawson - Staff

Discussion:

1. Clean-up and retainage:  
The Construction Division will be tough on enforcing the specifications that require the contractor to keep-up with his clean-up.
2. Joint City, County, A.G.C. meeting:  
The Engineering Department has no strong feeling either way. The current Industry feeling is that the differences in engineering practices between the City and the County make such a meeting impractical.
3. Claimed errors in bidding:  
A.G.C. submitted the following recommendations:
  - a. The Board of Public Works may allow a bidder on a contract to withdraw his bid from consideration if the price bid is substantially lower than the other bids, providing the reason for the price bid being substantially lower was a clerical mistake. Notice of a claim of right to withdraw such a bid must be made in writing within twenty-four (24) hours after the conclusion of the bid opening procedure.
  - b. Concur in the present practice that the Board of Public Works award a contract to the lowest and most responsive bidder.

Betty -  
Let's talk about  
this at our  
Jan 10th Mtg.  
[Signature]

4. Bill Parchen proposed that the City Specifications be amended to require that a contractor be provided with a telephone number where a person responsible to the contractor may be reached at all times. This will be an agenda item for the next meeting.

Date of Next Meeting:

February 1, 1973 - Thursday - 10:00 A.M.  
Mountain Pacific Chapter Conference Room.

W. F. Dawson

BPW

Robert J. Gulino, City Engineer

THE CITY OF SEATTLE  
BOARD OF PUBLIC WORKS

ROUTING	DATE	INITIAL
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MEMORANDUM

✓ January 10, 1973

JAN 11 12 02 PM '73

SEATTLE ENG DEPT

To: Monte Brown, Daily Journal of Commerce  
 From: Betty L. McFarlane, Secretary *Blm*  
 Re: New Billing Procedures

Invoices resulting from new billing procedures effective January 1, 1973 should be distributed as follows:

- Engineering Department: Robert J. Gulino, City Engineer  
910 Seattle Municipal Building
- Building Department: Alfred Petty, Supt. of Buildings  
503 Seattle Municipal Building
- Parks & Recreation Department: Hans A. Thompson, Supt. of Parks  
610 Seattle Municipal Building
- Lighting Department: Gordon F. Vickery, Supt. of Lighting  
1015 Third Avenue, City Light Building
- Water Department: Kenneth M. Lowthian, Supt. of Water  
1015 Third Avenue, City Light Building

Any advertisements for these departments started in 1972 should be invoiced to the Board of Public Works, 303 Seattle Municipal Building.

BLM:jy

cc: Kit Campbell, Daily Journal of Commerce  
Board of Public Works Members

BPW

C.F. 274525  
H R J Comm  
1-9-73

Appointment and Oath of Office of Alfred Petty as Chair- CONFIRM  
man, Board of Public Works.

BPW ?  
prev #

To: Mr. Robert J. Gulino, P.E. ✓  
City Engineer

Re: Proposed  
Board of Public Works  
Office of the Secretary  
Bonding require-  
ments  
on demolitions  
1/6/73  
(date)  
Betty L. McFarlane, Secretary

DEPARTMENTAL ROUTING SLIP

All Board Departments ✓  
(referred to)  
B. McFarlane  
(referred by)

X Contractors  
X Policy

ROUTING	DATE	INITIAL
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DR		
WEPS		JJC

SEATTLE ENG DEPT

JAN 8 11 49 AM '73

- Please prepare reply for the Secretary's signature on office stationery.
- Please reply to the attached letter for the Secretary showing a copy to the Secretary.
- Forwarded for your investigation, report and recommendation.
- Forwarded for your information and files.
- Other: \_\_\_\_\_

\*Action requested no later than \_\_\_\_\_ (date)

cc: W. E. P. Smith  
D. Rolatto  
R. A. Strang

to



THE CITY OF SEATTLE

WEB UHLMAN, MAYOR

BOARD OF PUBLIC WORKS

BETTY L. MCFARLANE, SECRETARY

303 Seattle Municipal Building • Seattle, Washington 98104 • 583-2040

BOARD OF PUBLIC WORKS

KENNETH M. LOWTHIAN, SUPT. OF WATER,  
CHAIRMAN

HANS A. THOMPSON, SUPT. OF PARKS  
AND RECREATION

ALFRED PETTY, SUPT. OF BUILDINGS

ROBERT J. GULINO, CITY ENGINEER

GORDON F. VICKERY, SUPT. OF LIGHTING

November 22, 1972

Via Mayor Wes Uhlman

City Council  
City of Seattle

Honorable Members:

The Board of Public Works is concerned with the problems minority contractors and small contractors just getting started in the business are having when attempting to bid on public works projects for the City of Seattle. The areas of concern are present requirements which stipulate a performance bond in 100% of the project cost, and insurance, naming the City of Seattle as additional insured, in the following amounts:

Bodily injury liability coverage with limits of not less than \$500,000 for bodily injury, including accidental death, to any one person, and subject to that limit for each person in an amount not less than \$1,000,000 for each accident; and property damage coverage in an amount of not less than \$100,000 for each accident.

These requirements have been difficult and in many cases impossible for such contractors to meet.

It is apparent from the number of complaints received from concerned contractors that the bidding and insurance requirements should be lowered in certain cases to rectify the situation which exists for some contractors who have little collateral and documented experience to allow them to obtain the usual 100% bond and insurance.

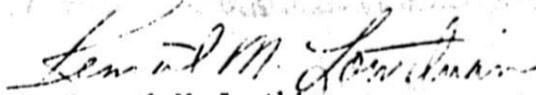
Therefore, the Board of Public Works, in regular session today, adopted a policy which would lower bonding and insurance requirements on demolition contracts of \$20,000 or less. The Board will require a 50% performance bond and insurance with limits of not less than \$100,000 for bodily injury, including accidental death, to any one person; and subject to that limit for each person in an amount of not less than \$200,000 for each accident; and property damage coverage in an amount of not less than \$50,000 for each accident, naming the City of Seattle as additional insured.

City Council  
November 22, 1972  
Page 2

Since RCW 39.08.030 states that cities and towns may set terms, other than those outlined in RCW 39.08.010, by general ordinance, we hereby request that your Honorable Body consider this matter and adopt the necessary legislation to lower the bond and insurance requirements as outlined above to enable small contractors to obtain bonding and gain experience on public works demolition projects for the City of Seattle.

Respectfully submitted,

BOARD OF PUBLIC WORKS



Kenneth M. Lowthian  
Chairman

BLM:klt

RECEIVED

NOV 28 1972

OFFICE OF MANAGEMENT  
& BUDGET