 Procurement Services Contracting Programs/Policies Redesign Scoping Document

***This document is a draft and is subject to and intended to elicit feedback from Fair Contracting Forum and other community stakeholders.***

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# What are we doing?

* **Developing Proposals** for program expansion and optimization, delivered jointly by the Office of Management & Finance and Fair Contracting Forum, that City Council approves and funds.
* **Implementing** new programs and improvements and realignments to existing programs that achieve project objectives.

# Why is this project being initiated?

The City of Portland’s equitable contracting and construction workforce programs, authorized by City Council, promote competition, enhances opportunity, and promotes fairness in hiring among Portlanders. Yet, in nearly a decade, the City has not conducted a broad review of these contracting programs and policies. The City needs a comprehensive and coordinated approach to reevaluate, recalibrate, and improve the City’s contracting programs and policies and workforce opportunities on City-funded contracts.

In addition to the need to update the City’s contracting programs and policies, three challenging events last year inform and drive the initiation of this project. First, On March 12, 2020 the Mayor’s declared State of Emergency shutdown all nonessential businesses and limited essential business in unprecedented ways to slow the spread of the COVID-19 pandemic and save lives. The critical need to shutdown or limit business activities devastated small business, particularly those owned by people of color. According to [*A Procurement Path to Equity Report*](https://www.open-contracting.org/wp-content/uploads/2020/11/OCP-AspenCUI-2020-Pathway-to-Equity.pdf)(2020, pg 6)*,* a national analysis completed over the summer estimates that the number of actively working Black small businesses owners fell by 26%, Asian business owners by 21% and Hispanic business owners by 19%. We recognize the role that City contracting programs can have in keeping small businesses owned by people of color afloat during this challenging time.

Second, as the year progressed, the City, along with the rest of the United States, witnessed the call for racial justice grow louder, and on June 17, 2020, City Council passed [Resolution 37492](https://efiles.portlandoregon.gov/Record/13780724/File/Document/), which adopted anti-racism and equity, among four others, as part of the City’s core values. This Resolution guides all City employees to incorporate those core values into the blueprint of our work. In this light, we believe that good procurement is equitable procurement, that growing businesses owned by people of color can drive economic activity to close the wealth gap, that equitable procurement can help our City increase the local tax base that we can reinvest back into our communities, and that our City benefits through increased access to diverse vendors ([*Culture Collaboration and Capital: Leveraging Procurement for Economic Equity*](https://papers.governing.com/Improving-Procurement-Processes-to-Promote-Economic-Equity-111268.html)2019*)*.

Lastly, the Auditor’s Office published their [*Equity in Construction Contracting*](https://efiles.portlandoregon.gov/Record/13989403/File/Document/)Audit Report in September of 2020. Like previous audits of the City’s contracting programs and policies,[[1]](#footnote-2) this Audit Report identified issues, gaps, and opportunities for the City to address. Although the report acknowledged that the City’s contracting programs met or exceeded our goals, this latest Audit Report of the City’s contracting programs renewed City Council’s assessments that the City’s Social Equity in Contracting programs should achieve better outcomes. Those assessments echo similar ones made over the last 20 years by community stakeholders. In addition to those identified in the audit reports, a survey of best practice landscapes indicates many opportunities for the City to improve and expand our programs and policies.[[2]](#footnote-3)

# Project Goals - How will we know if we’ve succeeded?

Recognizing the challenges of the COVID-19 pandemic, the responsibility to answer the amplified call for racial justice, and the renewed assessments by the Auditor’s Office, City Council, and community stakeholders, we seek:

1. Improved ability to contract with a more diverse pool of contractors, consultants, and suppliers.
2. Increased opportunity for firms owned by people of color and women to successfully win City contracts.
3. Increased workforce opportunities for people of color and women on City-funded contracts, including investment in apprenticeship programs and retention.
4. Alignment of the City’s Core Values and the outcomes of City contracting and workforce on City-funded contracts.
5. Support from and confidence of City Council and community stakeholders on improving the operations and outcomes of the City’s contracting programs.

### To achieve our goals, we need to consider the following:

* Identify opportunities to contract with people of color and women and hire people of color and women on City-funded projects.
	+ **Universe of Options.** Compile and explore suggested solutions and opportunities from community stakeholders, past Audit Reports, the two disparity studies that the City authorized and funded, and from the best practice landscape.
		- Low-barrier options are vetted and moved immediately to implementation phase.
		- High-barrier options are vetted and prioritized to determine the focus of the first year, which City Council will approve and fund.
	+ **Comprehensive Approach.** Those opportunities should span across the continuum of the City’s contracting processes, across various industries and trades, at both subcontracting and prime contracting levels, and across Construction, Professional Services and Goods + Services procurement teams.
	+ **Streamline Procurement process.** Those opportunities should include streamlining procurement processes and program requirements to minimize unnecessary burdens on contractors, consultants, and suppliers to reduce administration costs (e.g., contract-specific insurance requirements).
* **Decentralization & Bureau Responsibility.** City Bureaus own much of the contracting process, and the City’s decentralized procurement process limits Procurement’s authority to broadly oversee and accomplish the project objectives. Thus, we need to re-align and re-think roles, responsibilities, and program design, particularly PCDP and COEP, to include Bureaus across the City.
* Determine what **regional partnerships** can be established, strengthened, and leveraged to achieve broader and deeper impacts through regional coordination.
* Establish and refine **measurable outcomes** that are clear.
* Allocate **City resources** (staff and budget) to maximize outcomes. Resources currently available are limited. We need City Council to prioritize funding for these programs, and the City budget process allows for funding requests at three main points in the year.
	+ Fall Budget Monitoring Process (BMP) proposals are due at end of August.
	+ Annual Budget Cycle kicks off in November, and proposals are due in December.
	+ Spring Budget Monitoring Process (BMP) proposals are due in early March.
* Account for **legal restrictions**. Legal barriers are a constraint to some options that could be available to us.
	+ The law limits the City’s ability to set hard numerical goals for contractors, consultants, and suppliers by race and gender without a Disparity Study. If the City conducts a Disparity Study, the results of the Study may not support a program with race- and gender-specific goals. When conducted, Disparity Studies have a five-year shelf life ([*Contracting for Equity*](https://belonging.berkeley.edu/sites/default/files/gare-contract_for_equity_0.pdf) 2015, pg. 9).
	+ State law and public policy strongly preference lowest cost procurements, which may limit the City’s ability to pursue equity initiatives through its contracts.

# Scoping Timeline and Key Milestones

|  |  |
| --- | --- |
| **May 2021** | 1. Compile “Universe of Options” document, detailing all the ideas on the table for equity contracting program expansion and optimization.
 |
| 1. Prioritize “Universe of Options” determining what this process will explore first, and subsequently thereafter.
	1. Low-barrier options are vetted and moved immediately to implementation phase.
	2. High-barrier options are vetted and prioritized to determine the focus of the first year, which City Council will approve and fund.
2. Develop and finalize Stakeholder Engagement Plan.
 |
| **June and July 2021** | 1. Fair Contracting Forum workgroups complete detailed analyses of contracting program expansion and optimization.
	1. Scope, staff, and assign responsibility for specific proposals
	2. Realign, restructure, and consolidate programs and community oversight bodies.
	3. Renew collaboration with regional partners in implementing regional approaches to equitable contracting.
	4. Deeper engagement and ownership of equitable outcomes in contracting by City Bureaus, including Bureau Directors and City Council members leading those Bureaus.
 |
| 1. Fair Contracting Forum workgroups deliver analyses of first-year proposals.
	1. Analyses of first-year proposals are vetted by all stakeholders.
 |
| **August to December 2021**  | 1. Deliver recommendations to City Council. Fall Budget Monitoring Process (BMP) may be ideal time to deliver first year recommendations, so as to introduce the concepts, potentially achieve one-time funding in Fall BMP, and to be well positioned to include proposals for ongoing funding in the annual budget cycle kicking off in November.
	1. City Council renders policy and funding decisions for first-year proposals.
	2. City Council-approved and -funded proposals are moved to implementation phase.
 |
| 1. After City Council approves and funds the first-year recommendations, we return to the “Universe of Options” document to determine the focus of the second year and begin the review and analysis process again.
 |
| **January 2022** | 1. Implement first year proposals that Council approved and funded.
 |

# Questions about Stakeholder Engagement

These are questions that we need to answer to develop a community stakeholder engagement plan.

1. **How will community stakeholders be involved?**
	1. Fair Contracting Forum+ (vetting, analysis, development of proposal)
		1. Who else should participate in this Stakeholder Engagement hosted by the Fair Contracting Forum?
			1. Community Equity & Inclusion Committee (CEIC)
			2. City Council Chiefs of Staff
			3. Bureau Liaisons
	2. Broader community engagement
2. **How does Fair Contracting Forum want to participate?** For example:
	1. Based on timeline (short-term and long-term wins)
	2. Based on topic areas, for example:
		1. Workforce
		2. Contracting
			1. Prime
			2. Subcontracting
	3. Based focus of the work, for example:
		1. Accountability structure
		2. Data
		3. Outreach
3. **How do we document, communicate, and share information about this process to stakeholders? What’s missing from the list?**We could publish the following on Portland.gov:
	1. Project goals and timeline
	2. Fair Contracting Forum+ Vision & Values
	3. Document process
		1. Meeting Minutes
			1. Record decisions made
			2. Record reasoning for decisions
	4. Copies of Presentations
	5. Data analyzed
	6. Input collected from broader community engagement
	7. Final Recommendations (with staff comments)
		1. Majority Report
		2. Minority Report
4. **What resources do we need to develop our Stakeholder Engagement Plan?** For example:
	1. Meeting Facilitation
	2. Communication (e.g., Recording minutes, communicating updates, creating reports and visuals)
	3. Data Collection, Analysis, Interpretation
	4. Logistics
	5. Design
		1. For the final report
		2. Website

# Framework for the Relationship between the Scoping Project, Performance Accountability, and Population Accountability

This framework uses the Results Based Accountability (RBA) model. The content provided in this section is meant to be an example of how the model could be applied to vet the “Universe of Options,” develop the Stakeholder Engagement Plan, and set group expectations of impact.

**I. Population Accountability** is not the responsibility of any one agency or program. For instance, if we talk about “closing the wealth gap,” who are some of the partners who have a role to play? City of Portland’s contracting programs play a role, but the City and its contracting programs cannot do it alone.

**II. Performance Accountability** is about the City of Portland’s contracting projects and programs and making sure that our programs work well.

**III.** **Scoping Project** goals include presenting a list of proposals for projects, programs, and policies that City Council approves and funds. ***This is where we are.***

### **Scoping Project Result**

* Create a list of proposals for program expansion and optimization, delivered jointly by the Office of Management & Finance and Fair Contracting Forum, that City Council approves and funds.
* Respond to the Audit.

|  |  |  |
| --- | --- | --- |
|   | QuantityHow much did we do? | QualityHow well did we do it? |
| Effort (Input/Means)How hard did we try? | * # of recommendations vetted
* # of people engaged
 | * ***Goal 4:*** Did we use an anti-racist framework + other City Core values of equity, transparency, collaboration, fiscal responsibility?
	+ Is it trauma-informed?
* ***Goal 5:*** Did we do it with the support from and confidence of City Council and community stakeholders, especially those most impacted?
 |
| Effect (Output/Ends)Is the project better off? | How much change did we produce? * # of recommendations that Council funds
* $# of the proposed budget that Council funds
* # of Fair Contracting Forum+ members who support the plan
 | What quality of change/effect did we produce? * % of recommendations that Council funds
* $% of recommendations that Council funds
* % of Fair Contracting Forum+ members who support the plan
 |

### **Performance Accountability Result**

1. ***Goal 1:*** Improved ability to contract with a more diverse pool of contractors, consultants, and suppliers.
2. ***Goal 2:*** Increased opportunity for firms owned by people of color and women to successfully win City contracts.
3. ***Goal 3:*** Increased workforce opportunities for people of color and women on City-funded contracts, including investment in apprenticeship programs and retention.
4. ***We need a project evaluation process to measure outcomes for Goals 4 (i.e., City’s Core Values) and 5 (i.e., Confidence of and support from City Council and Community Stakeholders).***

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| --- | --- | --- |
|   | QuantityHow much did we do? | QualityHow well did we do it? |
| Effort (Input/Means)How hard did we try? | * # of firms certified
* # of people outreached to
* # of reduced barriers in the City procurement process
* # of bids & quotes from POC and women contractors, consultants, and suppliers
* [# worker-related indicator]
 | * % of firms with certification times within 48 hours of beginning the process
* % of people who engaged after outreach
* % increase in contractors, consultants, and suppliers surveyed who rate their registration/application process favorably
* % increase from [point in time]
* [% of work-related indicator]
 |
| Effect (Output/Ends)Is anyone better off? | How much change did we produce? * # of POC and women contractors, consultants, and suppliers who win contracts
* $# payments made to POC and women contractors, consultants, and suppliers
* # of POC and women workers on contracts
* $# of wages of POC and women workers on contracts
 | What quality of change/effect did we produce? * % of POC and women contractors, consultants, and suppliers who win contracts
* $% of payments made to POC and women contractors, consultants and suppliers
* % of POC and women workers on contracts
* $% of wages of POC and women workers on contracts
 |

### **Population Accountability Result**

1. Meaningfully decrease the BIPOC wealth gap and address disparities.
2. Increase more people of color- and women-owned businesses.
3. Grow the economy.

|  |  |  |
| --- | --- | --- |
|   | QuantityHow much did we do? | QualityHow well did we do it? |
| Effort (Input/Means)How hard did we try? |  |  |
| Effect (Output/Ends)Is anyone better off? |  |  |

# Team Roles and Responsibilities

|  |  |
| --- | --- |
| **Who?** | **What does involvement look like?** |
| **Sponsors**Tom Rinehart, Michelle Kirby | Mayor, Chief Administrative Officer, and Chief Financial Officer will serve as executive level sponsors and champions. Core project team members will brief them regularly, and they will amplify specific messages and drive priority actions as necessary. Their priorities and perspectives will shape design and management of the project. |
| **Core Project Team**Kathleen Brenes-Morua, Shoshanah Oppenheim, John Cardenas, Cathleen Massier, Gennie Nguyen, Paul Stewart, Judith Mowry, and Mac Mahoney | Core Project team will design and manage the process and plan for the Social Equity in Contracting project. Members will have central role in facilitating development of policy/program proposals. Members will also serve as “communications spokes”, relaying information back and forth between project team and the other parties listed here. |
| **City Council**Mayor and City Commissioners, Council Office Liaisons and Council Chiefs of Staff | Council will be briefed and consulted on regular basis in individual check-ins and/or at Council Execs meeting. Council perspectives, concerns and priorities will be incorporated into the proposals developed and delivered Council to the maximum extent possible. City Council will ultimately approve or deny policy and program recommendations made by Fair Contracting Forum. |
| **Fair Contracting Forum**Forum at-largeSubcommittees/workgroups | Forum meets monthly and serves as primary public venue for review and vetting of proposals. Workgroups will form to develop proposals for review by Fair Contracting Forum and will meet as often as necessary to move the work forward. Attendance at Fair Contracting Forum meetings will be open to non-members (e.g., Community Equity & Inclusion Committee, Council staff). Fair Contracting Forum will ultimately deliver formal policy and program recommendations to City Council. |
| **Bureau Directors**  | Bureau directors will be briefed periodically at monthly Bureau Directors meeting. Their perspectives, concerns and priorities will be considered and incorporated into the proposals developed and delivered to City Council to the maximum extent possible. They will also serve to promote project communications, involvement, and accountability within their organizations. |
| **External Stakeholders**CEIC, culturally specific chambers & trade organizations, minority-owned trades, workforce development organizations, agency partners, trades more broadly, Contractor Prequalification Board, C2P2 (Construction Careers Pathways Project) **Internal Stakeholders**OEHR, City Attorney’s Office, Prosper Portland, Bureau Liaisons (Contracting Customer Group), Equity Managers, CBO, OMF Bus Ops, Procurement Division | Core project team members will keep both external and internal stakeholders informed of project progress and will solicit feedback regarding proposals being considered. These stakeholders’ perspectives, concerns and priorities will be considered and incorporated into the proposals developed and delivered to Council to the maximum extent possible. Engagement will occur through discussions at existing meetings as well as at convenings that bring together multiple stakeholder groups. Some individual stakeholders may serve on Fair Contracting Forum subcommittees or workgroups. The Core Project Team will ensure that we recruit equity managers and project managers from the five infrastructure bureaus and other bureaus who spend significantly in Goods + Services.  |

1. See [*The City’s Consultant Contracting Procedures Need to Be Strengthened*](https://efiles.portlandoregon.gov/Record/8310846/File/Document/)*,* [*Sheltered Market Program*](https://efiles.portlandoregon.gov/Record/3755956/File/Document/)*,* and[*City Procurement: Contracting process needs Council intervention*](https://www.portlandoregon.gov/auditservices/article/535050)*.*  [↑](#footnote-ref-2)
2. Watch the video the [Social Equity in Contracting City Council Work Session](https://www.portland.gov/omf/brfs/procurement/events/2021/2/25/city-council-work-session-february-25-2021) on February 25, 2021 and access pre- and Post-Work Session resources. [↑](#footnote-ref-3)