

Tacoma Community Workforce Advisory Committee
DRAFT Meeting Summary For 1/9/19

MEETING ATTENDANCE					
Advisory Committee Members:					
Tim Attebery	✓	Frank Lemos		Billie Otto	✓
Yolanda Brooks	✓	Mark Martinez	✓	Loren Pease	
Martha Cerna		Michael Mirra	✓	Lyle Quasim	
James Faison	✓	Marilynn Moch	✓	Justin Satiacum	✓
Eric Frank	✓	Korbett Moseley	✓	Halene Sigmund	✓
Nathaniel Lawver	✓	Arti O'Brien	✓	Michael Tucci	✓
Darling Nava (Alt.)					
Staff and Others:					
Tadd Wille	✓	Steve Victor	✓	Reid Bennion	✓
Jeff Jenkins	✓	Martha Lantz	✓	Nick Anderson	✓
Daniel Murillo	✓	Clifford Armstrong	✓	Karen Reed	✓
Terry Ryan	✓	Patsy Best	✓	Samantha Kaauamo	

Introductions Co-Chair Tim Attebery convened the meeting at 9:33 AM. All attendees introduced themselves.

Review and Approval of Agenda. Karen Reed, committee facilitator, reviewed the mission statement for the group and the agenda for today. The meeting summary and running list of action items are not in the packet and will be brought forward at Meeting 3. Michael Mirra moved to approve agenda, seconded by Tim Attebery; the agenda was approved unanimously.

Standing Items. Karen spoke to staff responses to Committee Member questions raised at Meeting 1. Staff will print the Disparity Study pages that speak to underutilization and share them next time. Also, the Santa Anna CWA will be posted as another sample, in addition to the Seattle CWA. A link to the Committee website will be shared with all Committee members so that they can read the materials online.

Presentation/ Q&A: New Legal Challenge to Community Workforce Agreements based on National Labor Relations Act Steve Victor, deputy city attorney, explained the unfair labor complaint filed by AGC against the group of unions that have entered into a community workforce agreement with the State Dept. of Transportation. Discussion questions included:

- Is it the contractors filing on behalf of employees who may work on the project? – A: Steve cannot answer, he is not an attorney working on the case.

Presentation/ Q&A: Griffin and Strong Disparity Study Findings. Daniel Murillo introduced Dr. Vince Eagan and Sterling Johnson from Griffin & Strong joining the meeting by skype and phone respectively. Dr. Eagan noted that they will answer the questions provided by staff for this presentation.

Question 1: Who usually hires you (Griffin & Strong) to do disparity studies and why?

A: State and local governments, school boards etc. We are hired as a result of the Croson case which basically requires that if a government intends to use race and gender in public procurement then the government needs to identify a problem exists to warrant this, and that is what a disparity study is for. Cities concerned about the issue typically do a study to check out who is available in the market. Also, these studies provide benchmarks to see if there is progress over time.

Question 2: Do you also do Workforce studies? What's the difference between a disparity study and a workforce study?

A: A workforce study can be a number of things: (1) a study for governments; (2) a study for contractors—there are not many of these; (3) in City hiring – also not many of these.

Question 4: Your addendum on CWAs notes that at least anecdotally CWAs can be detrimental to enhancing employment of WMBEs. Why is that? Are the goals of enhancing workforce hiring from economically distressed communities, and enhancing hiring of WMBEs necessarily at odds? What types of actions could the City take to promote both goals?

A: CWAs can disadvantage smaller firms because they increase labor costs. Sound Transit was concerned about this and tried to address it, but small firms and WMBE firms are still complaining about the impact of the Sound Transit Project Labor Agreement.

Priority Hire Agreements are similar to the City's LEAP program. A lot of the time PLA's and CWAs do not apply to smaller contracts so they don't have as much of an effect.

Q: Does the Corson decision get overridden by more recent cases on higher educational preferences?

A: We don't know what those later cases mean for Croson. Data on students is really different from data on contractor availability.

Q: Why do CWA's normally not apply to small businesses?

A: They can apply. The LEAP program doesn't affect projects under a certain size. You could make it apply if you want to. Think of LEAP as a kind of a CWA. PLAs vary a lot in scope.

Question 3: The group has had an opportunity to review your recommendations. Please provide a quick verbal overview of them and identify:

- a. *Are some of them linked—they need to be deployed together for maximum impact?*
- b. *Are some of them higher priority than others?*

A: Making recommendations in this situation is more difficult because of state Initiative 200. However, in order of important, Dr. Egan noted the following recommendations:

- #4. Small Business Reserve Program. This can have a big impact.
- #6: Have a policy to investigate possible discrimination (pre-award investigations). There is an administrative burden to this, but it impacts contractor behavior.
- #8 Vendor Rotation
- #7 Economic Development Project requirements.

Sterling Johnson reviewed the other recommendations:

- #1 –allocating resources and staffing to oversee these programs and collect data, perform outreach is also important.
- #2 Forecast opportunities for future work with the city to WMBEs
- #5 Data infrastructure
- #9 Add subcontractor goals for race and gender employment.

Sterling also noted that things like low interest loans to help small business with contracting can be important.

Q: Are you saying that under Washington State Law, even with a study the City cannot favor a contractor based on race or gender?

A: Our view is that goals aren't about preference—they are about access. Yes, I-200 exists. You can't favor less qualified individuals. We believe the State Attorney General's interpretation of I-200 supports our recommendations. It takes careful drafting to maneuver with are and gender conscious goals. Our objective is getting more access to these folks. You can do "supportive" programs, but not necessarily mandates.

Q: So, *Croson* can't really help us define what we can do?

A: Not necessarily, it still applies. You need to show a compelling government interest and narrowly crafted remedies. That's what a disparity study does.

Clifford Armstrong noted that we can have race and gender conscious programs but the goals of those programs cannot be such that the qualification bar is lower for people based on race or gender.

Q: Is there any legal barriers to keeping us from helping firms/ groups meet those barriers/ qualifications we've set, bonding capacity, etc.?

A: Federal courts are split on whether you can do this. Specifically, it's not clear whether these support programs constitute a preference. For example, Atlanta has a requirement that on large projects, they must be joint ventured with firms whose ownership is of different demographics – it is a racial classification, but not a racial preference because it applies to everyone equally. Many large cities have building capacity programs that help with bonding capacity, technical assistance. Supportive services are generally considered rate neutral.

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Q: Is there a difference between being qualified and being available?

A: *Croson* says being available is ready willing and able. That's what we use.

Q: On page 10 of the report it speaks to availability versus qualified. Does that mean *also qualified*?

A: Yes.

Question 3, parts c and d:

- What metrics should the City track to see if these recommendations are having the desired effect?*

d. Are some likely to depress hiring of persons from disadvantaged communities?

A: Our study looked at businesses, not workforce. But our recommendations should not negatively impact the workforce policy goals identified and before this committee.

Q: I am concerned about free market interference. Bonding requirements are to preserve quality.

A: Unclear how much solutions would interfere with the market.

Q: Would Griffin and Strong would have recommended different solutions if I-200 did not exist?

A: Yes; we would have encouraged more explicit preferences for WMBEs in city programs, more business support programs. Elsewhere it is ok for government to be a change agency—this, for example, can translate to back office support to businesses to increase their bonding capacity.

Q: Seattle's experience has been an increase in WMBE participation/contract awards since their CWA. Would CWA align with policy goals like poverty reduction, increasing jobs, prepping workforce, educational gap reduction, other disparate policy goals?

A: Yes, if administered carefully. You need to tailor it to your situation and needs. You must consider the existing level of diversity.

Q: Does the disparity study aim to address the goals of ending poverty, training people, providing better quality jobs, preparing folks for the work force?

A: The disparity study is not necessarily aimed at those objectives.

Q: Is there a direct correlation?

A: Maybe.

Q: Is Griffin and Strong familiar with Initiative 1000?

A: No, but we are willing to look at it if you send it to us and analyze the impact.

Comment: There is a difference between the free market and use of taxpayer dollars. Taxpayer dollars should be spent to reinforce training of community members, other goals.

Advisory Group Roundtable.

- What is the basis of qualification? At what point does price come into the picture? Price determines if I get a job. I support the goals. But how can I get work? I have to assume risks for my subcontractors who can rarely meet the requirements. I rarely requires bonding for my subs because a lot of them cannot meet it. (M. Tucci)

- I'm still trying to digest what I've heard today. Mike Tucci can't hire me on these projects because I'm an open shop and POLA's require closed shop. PLAs, CWAs will exclude me. (H. Sigmund)
 - Query in response: Why not just have the non-union shop sign a one-off agreement?
- Seattle has a point system, I like it but I don't understand why the unions have not challenged it. **Staff will provide information on Seattle's point system.** (M. Moch)
- Many agencies are going to "best value" award processes which means point systems. I'm now a union shop and was previously non-union. I did one-time agreements. It was the same money. (J. Faison)
- City funded projects should help end poverty in this town. I don't care about the business side of it. I want a PLO to gain points from hiring locals. (K. Moseley)
- I am focused on the work around to I-200, which is I-1000. I talk to a lot of people around the state. Small business concerns with PLAs are the 3 person cap per job – that is a problem that should be addressed. But as a 30 year resident, I want to see jobs for locals. And I think we should include private projects in our hiring goals when the City is giving them benefits. (Y. Brooks)
- I am hearing an abundance of caution from attorneys here—that is interesting. WE have to find away around it at this table. (N. Lawyer)
- I disagree with the consultants. I think the biggest problem right now is lack of qualified workers. The workforce should reflect the community, and union jobs are better jobs. The unions are doing a majority of the training of apprentices. Statewide, unions have 12,000 apprentices in training, way more than Helen's firm. There is not enough skilled people. The disparity shows that the status quo is not acceptable. (M. Martinez)
- The tribe has 20000 workers and we try to connect them with Unions. How can we help our local area Natives looking for work? (J. Satiacum)
- I feel like we are being boxed in to having no meaningful recommendations. If the object is what it is, we should have 3-5 use cases that folks are speaking to and how they are impacted—we can't meet these objectives and why? What is it we are up against? (B. Otto)
- I didn't hear enough from the consultants about Croson and I-200. I don't understand the connection between qualifications and availability. The City will need to gauge their own legal risk. I think the consultant recommendations are tame. We can identify more robust solutions. (M. Mirra)
- I am new to the group and catching up. There is a lot of room for improvement. We need to get more to SBE hiring (E. Frank)

- I want to ensure there are no losers. And Arti and Eric would be losers under a PLA or CWA. (T. Attebery)

Karen asked Tim if he thinks we are having a “means” or “ends” conflict? Tim responded that we need to see things in writing before he can answer that . He is passionate about the goals, but see need exlusions for some folks; I do not want there to be losers, and with a PLA/CWA the SBE's that are open shop they would lose.

- I support the City in various ways, but have issues with the red tape. (A. O'Brien)
- A lot of people don't know what opportunities are out there. I believe in the union agreement but there are issues in there that hurt small business. TI can't find people in the Union halls and if I have to hire outside I have to pay more. (J. Faison)
- Things need to change. Unions focus on priority hire. I feel the apprenticeship program should be strengthened. In a way, that doesn't exclude the minority, small firms. I quit trying to engage in places where there was a PLA. We need exlusions. (M. Moch)
- I've been doing recruiting to get people into the trades. Community members want local people to get access to the training that will ultimately get them a livable wage. It's not just the unions. Again, I'm interested in the LEAP program and who is being helped by this and how it could be better. ON a CWA, we need roster that could meet the goals. (K. Moselely)

Clifford noted that ratepayers are contributing half the money to public works, it's not just tax payers.

Follow up questions from the round-table:

- Economically distressed zip codes what are they? A: They include areas outside the city limits where the City provides services or has infrastructure.
- A member of the audience in attendance,, Eric ALozie offered he is an SBE contractor, utilization of SBE's is low, and he thinks the City could do more to encourage the utilization of SBE's.
- Please provide information on the City's Section 3 program. What is it and could it be a tool to address these issues?
- Please provide a written summary I-200, Croson and I-1000.
- We should find out from, the minority community how they feel a PLA would work.
- Look at the Tacoma School District and what have they been able to do with their MWBE programs.

Approval of Committee Charter. Karen recapped the terms of the proposed committee charter. The Charter was unanimously approved.*

Next Meeting. Karen reviewed the proposed agenda items for the next meeting, including follow up items. There was discussion about times that will work for most people on calendaring future committee meetings. Korbett Mosely reiterated his interest in hearing about the Section 3 program.

Adjourn. The meeting was adjourned at 11:50 AM.