



KING COUNTY

1200 King County Courthouse
516 Third Avenue
Seattle, WA 98104

Signature Report

September 27, 2011

Ordinance 17198

Proposed No. 2011-0380.2

Sponsors Phillips, Gossett, McDermott and
Ferguson

1 AN ORDINANCE creating a small business accelerator for
2 small contractors and suppliers seeking contracting
3 opportunities with King County as prime contractors, and
4 amending Ordinance 13983, Section 3, as amended, and
5 K.C.C. 4.19.030, Ordinance 13983, Section 7, as amended,
6 and K.C.C. 4.19.070, Ordinance 12138, Section 11, as
7 amended, and K.C.C. 4.16.080 and Ordinance 12138,
8 Section 22, as amended, and K.C.C. 4.16.155.

9 STATEMENT OF FACTS:

- 10 1. Small businesses represent a significant portion of all enterprises in
11 King County and employ a large segment of the workforce in the Puget
12 Sound region. King County's economic health and well being is directly
13 tied to the success of small businesses.
- 14 2. It is King County's policy to encourage the creation of new businesses,
15 support the growth of existing businesses, and promote more small
16 businesses contracting with the county.
- 17 3. King County currently certifies small businesses as small contractors
18 and suppliers under the contracting opportunities program. Over the last
19 three years, the number of certified small businesses participating as

20 subcontractors and subconsultants on county contracts has increased
21 thirty-three percent. Participation in the contracting opportunities
22 programs has helped these firms build their capacity, establish a track
23 record and improve their ability to compete.

24 4. To build on this success, the county continues to seek ways to enhance
25 the contracting opportunities program and work with the contracting
26 community to expand participation in the program and enhance certified
27 small contractors and suppliers competition for county contracts.

28 5. Establishment of a small business accelerator within the contracting
29 opportunities program will provide access to new contracting
30 opportunities for certified small contractors and suppliers to compete only
31 against other certified small contractors and suppliers to obtain county
32 contracts as prime contractors.

33 6. Establishment of a small business accelerator will further help certified
34 small contractors and suppliers grow their revenues, expand their capacity
35 and increase their competitiveness. This, in turn, helps spur investment,
36 job creation and economic growth within King County.

37 BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

38 SECTION 1. Ordinance 13983, Section 3, as amended, and K.C.C. 4.19.030 are
39 each hereby amended to read as follows:

40 The definitions in this section apply throughout this chapter unless the context
41 clearly requires otherwise.

42 A. "~~((Administrator))~~ Manager" means the ~~(([manager of the] office of))~~ manager
43 of the finance and business ~~((relations and economic development))~~ operations division.

44 B. "Small business accelerator" means a competitive procurement program that
45 allows certified small contractors and suppliers to only compete against other certified
46 small contractors and suppliers on selected county contracts.

47 C. "Small ~~((economically disadvantaged business])~~ ~~contractor and supplier))~~
48 contractor and supplier" means that a business and the person or persons who own and
49 control it are in a financial condition ~~(([that] [which]))~~ that puts the business at a
50 substantial disadvantage in attempting to compete for public contracts. In assessing these
51 financial conditions, the administrator shall substantially adopt the approach used by the
52 federal Small Business Administration, but the administrator shall adjust the Small
53 Business Administration's maximum revenue standards for various standard business
54 classifications and levels for owners' personal net worth to account for local market
55 conditions. However, the maximum revenue standard for standard business
56 classifications ~~(([may]))~~ may not be ~~(([more than]))~~ more than fifty percent of the Small
57 Business Administration's thresholds, as now existing or hereafter amended.

58 SECTION 2. Ordinance 13983, Section 7, as amended, and K.C.C. 4.19.070 are
59 hereby amended as follows:

60 A. The King County contracting opportunities program shall use one or more
61 methods to create ~~((an))~~ incentives to promote the use of businesses owned by certified
62 small contractors and suppliers. ~~((This))~~ These incentives shall be produced either
63 through a bonus system in which the increased participation of certified small contractors
64 and suppliers is a factor in the award of contracts; or through a set-aside system under

65 which contractors are required to achieve a specified level of participation by King
66 County contracting opportunities program businesses. If the bonus system is used, the
67 (~~contract~~ ~~solicitation document~~) solicitation document shall state the maximum
68 incentive available for the participation of certified small contractors and suppliers and
69 the possible methods for making use of the incentive. If a set-aside system is used, the
70 (~~contract~~ ~~solicitation document~~) solicitation document shall state a required
71 minimum utilization for participation by certified small contractors and suppliers.

72 B. As a matter of policy, opportunities for certified small contractors and
73 suppliers to act as prime contractors will be identified on an ongoing basis.

74 C. The specific methods used to provide incentives to certified small contractors
75 and suppliers and for them to be prime contractors, as opportunities arise, shall be fully
76 addressed in the rule-making process.

77 D.1. The contracting opportunities program is authorized to use a small business
78 accelerator to solicit and award contracts for all county departments and offices in the
79 following areas, as defined in K.C.C. 4.16.010: services, professional and technical
80 services, except contracts for architecture and engineering services, as well as tangible
81 personal property acquired in furtherance of metropolitan functions. The small business
82 accelerator shall be available for contracts having an estimated value of twenty-five
83 thousand dollars or more, where sufficient certified small contractors and suppliers are
84 available, and allow businesses certified as small contractors or suppliers under K.C.C.
85 4.19.040 to compete against other certified small contractors and suppliers for those
86 county contracts.

- 87 2. The manager shall ensure the following actions are taken in selecting
88 contracts for the small business accelerator:
- 89 a. development of specifications or a project description in the form of a
90 request for proposal or invitation to bid in concert with the requesting department or
91 office;
- 92 b. the conduct by the business development and contract compliance section of
93 an analysis to determine the availability of at least three or more certified small
94 contractors and/or suppliers to provide the goods or services requested; and
- 95 c. if at least three or more certified small contractors or suppliers, or both are
96 determined to be available, and the manager determines it is in the best interest of the
97 county, the solicitation may be conducted under the small business accelerator among the
98 certified small contractors and suppliers;
- 99 3. The manager shall develop written criteria for use in determining which
100 written proposals or bids the county shall accept as the basis for recommending contract
101 award in consultation with the requesting department or office.
- 102 4. The manager shall advertise publicly at least once, the purpose, scheduled
103 date, location and time of a preconference, if applicable, or the name of a contact person
104 from whom the specifications or project description shall be available. The purposes of
105 the notification are to distribute and discuss the specifications in the form of a request for
106 proposal or invitation to bid to certified small contractors and suppliers, and to inform of
107 the time and due date for the submission of proposal or bid.
- 108 5. If the county does not receive any responsive and responsible proposals or
109 bids from small contractors and suppliers, the manager may cancel the procurement and

110 conduct the solicitation again in accordance with the procedures for tangible personal
111 property, services, professional or technical services, as described in K.C.C. chapter 4.16.

112 6. The manager may reject any or all bids for good cause or request for proposal
113 if it is in the best interest of the county.

114 E. ((Beginning in 2008, t))The administrator shall by June 30 of every year, file,
115 in the form of a paper original and an electronic copy with the clerk of the council, who
116 shall retain the original and provide an electronic copy to all council members and the
117 lead staff for the government accountability and oversight committee or its successor, a
118 report to council on the progress of the King County contracting opportunities program
119 during the previous year, January through December. The report shall include:

- 120 1. The total amounts awarded by contract category;
- 121 2. The total amount awarded by contract category for which an incentive was
122 available;
- 123 3. The total amounts awarded to certified small contractors and suppliers
124 reported by contract category and by race and gender, to the extent businesses voluntarily
125 provide this race and gender information;
- 126 4. For goods and services contracts, the total amount awarded to certified small
127 contractors and suppliers by race and gender to the extent businesses voluntarily provide
128 this race and gender information, for those contractors for which the certified small
129 contractor or supplier was not the low bidder;
- 130 5. For goods and services, the total amount paid by the county((-));
- 131 6. A listing of all participating certified small contractors and suppliers by
132 contract category, race and gender to the extent businesses voluntarily provide this race

133 and gender information, their location by city and ((zip)) ZIP code, and the specific
134 contracts including dollar amounts awarded;

135 7. A listing of the number of certified small contractors and suppliers by race
136 and gender, to the extent businesses voluntarily provide this race and gender information,
137 in each of the following revenue categories that was certified in the program:

138 a. for goods and services:

139 (1) zero to five hundred thousand dollars;

140 (2) five hundred thousand to one million dollars;

141 (3) one million to two million dollars; and

142 (4) two million dollars to the maximum revenue amount allowed by the
143 program rules;

144 b. for consulting:

145 (1) zero to two hundred fifty thousand dollars;

146 (2) two hundred fifty to five hundred thousand dollars;

147 (3) five hundred thousand to one million dollars; and

148 (4) one million dollars to the maximum revenue amount allowed under the
149 program rules;

150 c. for construction:

151 (1) zero to five hundred thousand dollars;

152 (2) five hundred thousand to three million dollars;

153 (3) three million to eight million dollars; and

154 (4) eight million to the maximum revenue amount allowed under the program
155 rules((-));

156 8. A listing of the number of small contractors and suppliers by race and gender,
157 to the extent businesses voluntarily provide this race and gender information, in each of
158 the following revenue categories that was awarded a contract:

159 a. for goods and services:

160 (1) zero to five hundred thousand dollars;

161 (2) five hundred thousand to one million dollars;

162 (3) one million to two million dollars; and

163 (4) two million dollars to the maximum revenue amount allowed by the

164 program rules;

165 b. for consulting:

166 (1) zero to two hundred fifty thousand dollars;

167 (2) two hundred fifty thousand to five hundred thousand dollars;

168 (3) five hundred thousand to one million dollars;

169 (4) one million dollars to the maximum revenue amount allowed under the

170 program rules;

171 c. for construction:

172 (1) zero to five hundred thousand dollars;

173 (2) five hundred thousand to three million dollars;

174 (3) three million to eight million dollars; and

175 (4) eight million to the maximum revenue amount allowed under the program

176 rules; and

177 9. A listing of the number and firm name of certified small contractors and

178 suppliers by race and gender, to the extent businesses voluntarily provide this race and

179 gender information, awarded contracts through the small business accelerator program
180 under subsection D. of this section, by contract category, their location by city and ZIP
181 code and the specific contracts including dollar amounts awarded.

182 SECTION 3. Ordinance 12138, Section 11, as amended, and K.C.C. 4.16.080 are
183 hereby amended as follows:

184 A. The rules and regulations stipulated in this section shall apply only to
185 professional or technical service contracts.

186 B. Consultant contracts for preparation of environmental documents prepared as
187 required by the state Environmental Policy Act, chapter 43.21C RCW, are exempt from
188 the requirements of this chapter.

189 C. Contracts for architect and engineering services shall be let in accordance with
190 the requirements of chapter 39.80 RCW.

191 D. In soliciting and recommending award of a professional or technical services
192 contract having a value to the contractor in excess of twenty-five thousand dollars, the
193 manager shall have the operational authority and responsibility to:

194 1. Determine when it is in the best interest of the county to designate a contract
195 for procurement under the small business accelerator authorized in K.C.C. chapter 4.19;

196 2. Develop proposal specifications or a project description in the form of a
197 request for proposal in concert with the requesting department or office~~((-))~~;

198 ~~((2-))~~ 3. Develop, with the requesting department or office, the written criteria
199 ~~((which))~~ that will be used to determine which written proposal~~((s))~~ or proposals shall
200 be accepted as the basis for recommending contract award. ~~((Such))~~ The determination at
201 a minimum shall include:

202 a. quality;

203 b. known and documented expertise of the applicant;

204 c. documentation, as required, and demonstration of the financial capability of

205 the party to perform specified work;

206 d. special consideration of the impact of ~~((affirmative action))~~equal

207 employment opportunity efforts, including certified small contractors and suppliers and

208 minority and women's business enterprise participation~~((-))~~;

209 ~~((3-))~~ 4. Publicly advertise at least once the purpose, scheduled date,

210 location~~((,))~~ and time of a preproposal conference if applicable, or the name of a contact

211 person from whom the project specifications shall be available. The purposes of prior

212 notification shall be to distribute and discuss the project specifications in the form of a

213 request for proposal to interested parties, and inform applicants of the stated time frame

214 for submission~~((-))~~;

215 ~~((4-))~~ 5. Recommend to the executive which proposal or proposals should be

216 awarded a contract~~((s))~~ or contracts as being in the best interests of the county~~((-))~~;

217 ~~((5-))~~ 6. Be responsible to address all necessary comments to other proposers,

218 interested parties or the general public regarding the decision by the county to contract

219 for services from a party to the exclusion of other proposers ~~((-))~~; and

220 ~~((6-))~~ 7. Include in contracts that provide for reimbursement of contractor travel

221 and meal expenses a provision that limits such reimbursements to eligible costs based on

222 the rates and criteria established in K.C.C. chapter 3.24.

223 SECTION 4. Ordinance 12138, Section 19, as amended, and K.C.C. 4.16.155 are

224 hereby amended as follows:

225 A. ~~((The provisions of t))~~This section ~~((shall apply))~~ applies to contracts or
226 procurements for services and professional or technical services for departments and
227 offices. In addition, ~~((the provisions of))~~ this section ~~((shall apply))~~ applies to contracts
228 or procurements for tangible personal property acquired in furtherance of metropolitan
229 functions. Unless otherwise provided ~~((herein))~~ in this section, all other ordinances
230 relating to procurement, bidding or contract procedures shall apply to contracts or
231 procurements which are in furtherance of metropolitan functions. In the event there are
232 inconsistencies between this section and any other ordinance, this section shall control.

233 B. For tangible personal property in furtherance of metropolitan functions, the
234 estimated cost of which is twenty-five thousand dollars or more, the manager may use the
235 small business accelerator established in K.C.C. chapter 4.19 to solicit and obtain
236 competitive sealed bids or proposals from only certified small contractors and suppliers.

237 C. For tangible personal property and services other than public works, the
238 estimated cost of which is twenty-five thousand dollars or more, ((F))if the manager
239 determines that soliciting competitive sealed bids is not in the best interest of the county,
240 ~~((tangible personal property and services other than public works, the estimated cost of~~
241 ~~which is in excess of twenty-five thousand dollars,)) the contract shall be let ((by~~
242 ~~contract)) under the following competitive sealed proposals procedures((-):~~

243 1. The manager shall cause a notice inviting statements of qualifications or
244 statements of proposals to be published in a newspaper of general circulation throughout
245 King County. The notice shall state generally the tangible personal property or services
246 to be purchased and shall call for statements of qualifications or statements of proposals
247 to be submitted to the county on or before the day and hour named ~~((therein))~~ in the

248 notice. The notice may be published in such additional newspapers or magazines and for
249 such additional period of time as the manager shall deem to be in the best interest of the
250 county. The request for statements of qualifications or statements of proposals shall state
251 the relative importance of price and all other evaluation factors~~((-))~~;

252 2. Discussions may be conducted with responsible offerors to determine which
253 proposals should be evaluated in more detail or which offerors should be requested to
254 enter into negotiations, or both. Negotiations may be conducted concurrently or
255 sequentially. The county may request clarifications and consider minor adjustments in
256 the proposals in order to better understand the proposals and to qualify them for further
257 consideration~~((; provided, that))~~, though information discussed or obtained from one
258 offeror shall not be disclosed to competing offerors during the discussions and
259 negotiations. Except to the extent protected by either or both state and~~((/or))~~ federal laws
260 and regulations, proposals shall be considered public documents and available for review
261 and copying by the public after a decision to award the contract is made~~((-))~~; and

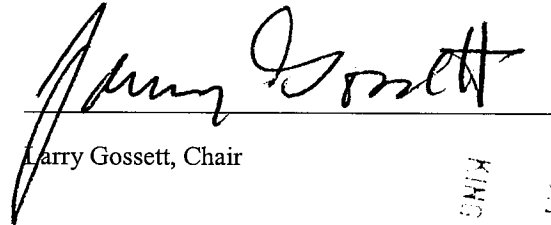
262 3. Award shall be made, if at all, to a responsible offeror or offerors whose

263 proposal or proposals are determined to be the most advantageous to the county, taking
264 into consideration price and the other established evaluation factors.
265


Ordinance 17198 was introduced on 9/19/2011 and passed by the Metropolitan King County Council on 9/26/2011, by the following vote:

Yes: 8 - Mr. Phillips, Mr. von Reichbauer, Mr. Gossett, Ms. Patterson,
Ms. Lambert, Mr. Ferguson, Mr. Dunn and Mr. McDermott
No: 0
Excused: 1 - Ms. Hague


KING COUNTY COUNCIL
KING COUNTY, WASHINGTON


Larry Gossett, Chair

ATTEST:


Anne Noris, Clerk of the Council

APPROVED this 6 day of OCTOBER, 2011.


Dow Constantine, County Executive

Attachments: None

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KING COUNTY COUNCIL
CLERK