

**PORTLAND DEVELOPMENT COMMISSION**  
Portland, Oregon

**RESOLUTION NO. 6667**

**ADOPTING AN AMENDED BUSINESS AND WORKFORCE  
EQUITY POLICY AND REAUTHORIZING THE WORKFORCE  
TRAINING AND HIRING PROGRAM**

**WHEREAS**, the PDC Board of Commissioners (the "Board") adopted the Business and Workforce Equity Policy (the "Policy") on February 27, 2008 ( Resolution No. 6561), with the objective of ensuring fair and equitable opportunities to Portland's diverse populations, promoting prosperity in all segments of Portland's diverse communities, fostering economic growth, and expanding competition in the market;

**WHEREAS**, to achieve such objectives the Policy provides professional, supplier and construction contracting opportunities for small businesses that have been historically under utilized including businesses owned by People of Color and Women and Emerging Small Businesses (collectively, "M/W/ESBs") and to provide employment opportunities on projects owned or funded by PDC;

**WHEREAS**, the Policy objectives are pursued through the establishment of two separate and distinct programs: (1) the Business Equity Program (formerly the Good Faith Effort Program); (2) the Workforce Equity Program (principally, the Workforce Training and Hiring Program);

**WHEREAS**, with the applicability threshold of \$100,000 in PDC Resources and \$200,000 in Hard Construction Costs for PDC Sponsored Projects set forth in the Business Equity Program was established in 1997, and raising both thresholds to \$300,000 is appropriate;

**WHEREAS**, a determination of availability and capacity of M/W/ESBs for commercial high-rise projects in calculating the applicable Utilization Goal (as such term is defined in the Policy) is appropriate;

**WHEREAS**, The Construction Wage Policy was originally adopted by the Board on January 10, 2007 through Resolution No. 6424 and subsequently amended on April 11, 2007, through Resolution No. 6471 to, among other things, achieve a diverse workforce, and provide training opportunities for workers that have historically been excluded from the construction trades (as further amended from time to time, the "Wage Policy");

**WHEREAS**, to achieve that objective, the Wage Policy included a Workforce Diversity Strategy Component under which certain stakeholders (the "Parties") agreed to negotiate and enter into an agreement that sets forth the Parties' commitment to develop a program for the recruitment, training, employment and retention of People of Color and Women members of the Portland metropolitan area in union and non-union apprenticeship programs through graduation with the objective of achieving a permanent increase at the journey level in the participation of trained and licensed People of Color and Women in the construction trades in the Portland metropolitan area. (the "Workforce Diversity Strategy Agreement");

**WHEREAS**, the Workforce Diversity Strategy Agreement has been negotiated and was signed by the Parties on June 16, 2008;

**WHEREAS**, the Workforce Diversity Strategy Component of the Wage Policy applied to projects receiving \$750,000 or more in PDC Resources, the Workforce Equity Program under the Policy incorporating the Workforce Goals will apply to projects receiving \$300,000 in PDC Resources and having Hard Construction Costs of \$1,000,000 or more; and

**WHEREAS**, to facilitate easier administration and improve clarity of the Policy, the Workforce Equity Program of the Policy is being amended to include the Workforce Diversity Strategy Component of the Wage Policy (a separate resolution of even date herewith concerning the amendment of the Wage Policy has been submitted for the Board's adoption).

**NOW, T HEREFOR E, BE IT RESOLVED** that the Board hereby adopts an amended Business and Workforce Equity Policy, in the form attached hereto as Exhibit A;

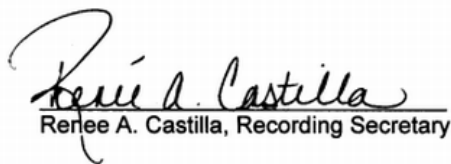
**BE IT FURTHER RESOLVED** that the Workforce Training and Hiring Program originally authorized by Resolution No. 5066 is hereby reauthorized and amended to apply to PDC-Owned Construction Contracts and PDC Sponsored Projects (as such terms are defined in the Policy) consistent with the applicability criteria set forth in the Workforce Equity Program of the Policy;

**BE IT FURTHER RESOLVED** that the Executive Director is hereby authorized to make all determinations or interpretations required in implementing the Policy, as amended, and establish such additional administrative policies, procedures and guidelines as may be necessary;

**BE IT FURTHER RESOLVED** that the Executive Director is hereby authorized to amend the Policy if such amendments are administrative or procedural in nature, and

**BE IT FURTHER RESOLVED** that this Resolution shall become effective immediately after its adoption.

**Adopted by the Portland Development Commission on January 29, 2009.**

  
Rereee A. Castilla, Recording Secretary

**Business and Workforce Equity Policy (Amended \_\_\_\_\_)**

**A. OBJECTIVES OF THE POLICY**

The objective of the **Business and Workforce Equity Policy** (the “Policy”) is to:

- Ensure that the Portland Development Commission’s (“PDC’s) work provides professional, supplier and construction contracting opportunities to small businesses that have been historically under utilized including businesses owned by People of Color, Women and Emerging Small Businesses (collectively, “M/W/ESBs”) and to encourage the participation of businesses owned by veterans on Direct Contracting, Land Transactions and on work utilizing PDC Resources including Interagency and Intergovernmental Agreements; and
- Maximize apprenticeship opportunities in the construction trades and ensure employment opportunities for People of Color and Women and encourage the employment of people with disabilities and veterans on Direct Contracting, Land Transactions and on work utilizing PDC Resources.

In this way, it is PDC’s aim to ensure fair and equitable opportunities to Portland’s diverse populations, promote prosperity in all segments of Portland’s diverse communities, foster economic growth, and expand competition in the market.

The Policy replaces the existing policy adopted by the Board on December 18, 1997 (Resolution No. 5066) that authorized implementation of the Disparity Study Implementation Plan and policies concerning fair contracting and workforce training, including the Good Faith Effort Program and Workforce Training and Hiring Program.

The Policy objectives are pursued through the establishment of two separate and distinct programs.

- **The Business Equity Program;** and
- **The Workforce Equity Program.**

**B. DEFINITIONS**

1. **“Board”** means the PDC Board of Commissioners.
2. **“Business Financial Resource Tools”** means certain PDC business financial assistance programs including, but not limited to, the Quality Jobs Program, the Economic Opportunity Fund, the Direct Tax Increment Loan, and the EDA Revolving Loan and Real Estate Fund.
3. **“Certified Firms”** include M/W/ESB firms that have been certified by the State of Oregon as a Minority-owned business, a Women-owned business or an emerging small business.
4. **“DA” or “DDA”** means, respectively, a Development Agreement or a Disposition and Development Agreement that is typically entered into by and between a developer and PDC that sets forth the terms and conditions of property conveyance, if any, and the requirements for redevelopment of the property.

5. **“Direct Contracting”** included all professional, supplier and construction services purchased directly by PDC.
6. **“Enterprise Zone”** is a 5-year, 100% tax abatement program designed to encourage existing and new industrial firms to invest in new capital outlays in certain designated areas. Participating firms are required to create or retain quality jobs while maximizing the economic benefits for residents of Portland who are currently earning at or below 80% Median Family Income.
7. **“Flexible Service Contract”** is a contract for services that has repetitive requirements on an as-needed basis and may include Personal Services Contracts that have such repetitive requirements.
8. **“Hard Construction Costs”** is the cost to build improvements on a property, including all related construction labor and materials, including fixed and built-in equipment costs. Costs not directly related to the construction of an improvement, such as entity overhead, administration or taxes, or other professional services including architectural or engineering, shall not be considered a part of the Hard Construction Costs.
9. **“Land Transactions”** is the sale of real property by PDC at any price for the purpose of a private or public project through a DDA.
10. **“PDC-Owned Construction Contracts”** include contracts where PDC has a direct contractual relationship with the contractor and where PDC is the owner of the project.
11. **“PDC Resources”** include:
  - (i) PDC funds in the form of grants, loans or payments. For purposes of calculating PDC Resources, any PDC funds used by a single entity for a single project in the form of grants, loans or payments shall be combined to determine the total amount of PDC Resources; and
  - (ii) The value of a Land Transaction. For purposes of calculating the value of a Land Transaction the value shall be that specified in the DDA.
12. **“PDC Sponsored Projects”** include all projects that are privately owned and constructed involving a Disposition and Development Agreement, Development Agreement, loan agreement, or other type of financial assistance agreement with PDC.
13. **“People of Color”** as used in this Policy includes persons who self identify as being other than Caucasian.
14. **“Personal Services Contract”** is a contract for specialized skills, knowledge or unique resources in the application of highly-technical or scientific expertise, or the exercise of professional, artistic or management discretion or judgment. Such services include, but are not limited to the services of architects, engineers, surveyors, attorneys, auditors and other licensed professionals, artists, designers, computer programmers, performers, consultants and property managers.
15. **“Utilization Goal”** shall mean the percentage goals set for Certified Firms and workforce utilization on contracts and projects subject to the Policy.

16. **“Workforce Goals”** means the goals covering construction trades to utilize People of Color and Women as a percentage of total construction hours worked in a PDC Project.
17. **“Workforce Training and Hiring Program”** means the Workforce Training and Hiring Program originally authorized by the Board on December 18, 1997 (Resolution No. 5066) and further amended on September 16, 1998 (Resolution No. 5171) and reauthorized on February 27, 2008 (Resolution No. 6561) that pertains to apprentice utilization.

### C. THE BUSINESS EQUITY PROGRAM

1. **Purpose of the Business Equity Program.** To ensure PDC provides professional, supplier and construction contracting opportunities to Certified Firms and to encourage the participation of businesses owned by veterans on Direct Contracting, Land Transactions and on work utilizing PDC Resources.
2. **Applicability.** Direct Contracting entities, entities involved in a Land Transaction or entities receiving PDC Resources shall be obligated to comply with the Business Equity Program, upon meeting any one of the following criteria:
  - a) A PDC Personal Services Contract for any amount;
  - b) A PDC-Owned Construction Contract greater than \$200,000;
  - c) A PDC Sponsored Project receiving more than \$300,000 of PDC Resources to finance a project with Hard Construction Costs greater than \$300,000; or
  - d) An Interagency or Intergovernmental Agreement with Hard Construction Costs greater than \$200,000 and more than \$100,000 in PDC Resources, whether performed by PDC or another agency.
3. **Utilization Goals for Certified Firms.** The following Utilization Goals are established upon the initial adoption of the Policy. The Executive Director is responsible thereafter for annually reviewing the Utilization Goals, and is authorized to modify them based on such annual analysis:
  - a) Personal Services Contracts: 25 percent of the payments made under such contracts;
  - b) PDC-Owned Construction Contracts: 20 percent of Hard Construction Costs;
  - c) PDC Sponsored Projects: 20 percent of Hard Construction Costs for residential low-rise construction and 20 percent of the Hard Construction Costs for commercial high-rise construction as calculated by an analysis of availability and capacity of Certified Firms for the specific project;
  - d) Interagency and Intergovernmental Agreements: the greater of the appropriate Utilization Goal for PDC or the other agency’s goal; and
  - e) Flexible Service Contracts:
    - (i) 30 percent of the total number of contracts in any fiscal year; AND

(ii) 25 percent of the payments made under such contracts.

- 4. Notice and Timing.** Should a party receive PDC Resources after it has expended funds on a project, started construction, or taken other action that would impair its ability to comply with the Business Equity Program, PDC (the project manager, with assistance from the M/W/ESB Coordinator) may negotiate a Certified Firm participation level that is reasonable and may provide technical assistance to achieve that negotiated Utilization Goal.

#### **D. THE PDC WORKFORCE EQUITY PROGRAM**

##### **1. Purpose of the Workforce Equity Program.**

- a) To maximize apprenticeship opportunities in the construction trades and ensure employment opportunities for People of Color and Women on Direct Contracting, Land Transactions and on work utilizing PDC Resources; and
- b) To encourage the employment of people with disabilities and veterans on Direct Contracting, Land Transactions and on work utilizing PDC Resources.

##### **2. Applicability.** Direct Contracting entities, entities entering into a DA or DDA or entities receiving PDC Resources shall be obligated to comply with the Workforce Equity Program upon meeting any one of the following criteria:

- a) On a **PDC-Owned Construction Contract** greater than \$200,000, the Workforce Equity Program shall apply to:
  - (i) The prime contract; and
  - (ii) Any subcontract greater than \$100,000.
- b) On a **PDC Sponsored Project** the Workforce Equity Program shall apply if the project receives \$300,000 or more of PDC Resources to finance a project with a Hard Construction Cost greater than \$1,000,000 and shall apply to:
  - (i) The prime contract; and
  - (ii) Any subcontract greater than \$100,000.

##### **3. Requirements.**

- a) Projects subject to the Workforce Equity Program shall:
  - (i) Comply with the Workforce Training and Hiring Program to, among other things, ensure that a minimum of twenty percent (20%) of labor hours in each apprenticeable trade performed by the contractor and subcontractors are worked by state-registered apprentices, as such requirements are further described therein; and
  - (ii) Work toward achieving the Workforce Goals phased over a ten-year period as outlined in the table below. The percentage of hours set forth below includes both apprenticeship hours and journey level hours.

**Workforce Goals**

<b>Fiscal Year</b>	<b>2008/ 2009</b>	<b>2009/ 2010</b>	<b>2010/ 2011</b>	<b>2011/ 2012</b>	<b>2012/ 2013</b>	<b>2013/ 2014</b>	<b>2014/ 2015</b>	<b>2015/ 2016</b>	<b>2016/ 2017</b>	<b>2017/ 2018</b>
<b>Female</b>	6%	7%	8%	9%	10%	11%	12%	13%	14%	15%
<b>People of Color</b>	25.5%	26%	26.5%	27%	27.5%	28%	28.5%	29%	29.5%	30%

(iii) Make all reasonable and necessary efforts to employ a workforce that reflects the diversity of the City of Portland, including recruitment of a diverse workforce through the unions, the apprenticeship programs and other community resources.

b) Projects subject to the Workforce Equity Program are encouraged to employ people with disabilities and veterans.

c) Project Apprenticeship and Equity Agreement:

Prior to the commencement of a PDC Sponsored Project that receives \$300,000 or more in PDC Resources and \$1,000,000 or more in Hard Construction costs, PDC, the developer and the general contractor (collectively the “Contracting Parties”) shall enter into an agreement that sets forth, among other things, a process to achieve the Workforce Goals and a plan for compliance with the Business Equity Program. Elements of the Project Apprenticeship and Equity Agreement shall include:

- (i) A commitment to comply with the process set forth in the Project Apprenticeship and Equity Agreement to achieve the Workforce Goals.
- (ii) An acknowledgement that failure to comply with Project Apprenticeship and Equity Agreement process may result in an assessment of damages against the general contractor for each day of non-compliance.
- (iii) A commitment to comply with the Policy.
- (iv) An acknowledgement that failure to comply with the Policy may result in an assessment of damages against the general contractor for each day of non-compliance.

**4. Notice and Timing.** Should a party receive PDC Resources after it has expended funds on a project, started construction, or taken other action that would impair its ability to comply with the Workforce Equity Program, PDC (the Project Manager, with assistance from the M/W/ESB Coordinator) may negotiate a level of compliance that is reasonable and may provide technical assistance to achieve that negotiated Workforce Goal.

**E. Equal Employment Opportunity Certification.** Contractors and subcontractors subject to the Policy must be certified by the City of Portland as an Equal Employment Opportunity Employer.

**F. Damages.** The procedural requirements of the Policy are contractual obligations. In the event that PDC determines, in its sole and absolute discretion, that the procedural

requirements of the Policy have not been complied with, then PDC's finding may result in one or more of the following:

1. A finding of breach of contract.
2. Disqualification of the developer, contractor or subcontractor to receive future PDC Resources or bid on future PDC solicitations.
3. A claim for liquidated damages.
4. Withholding of progress payments.

**G. Administration.** The Executive Director shall develop and administer administrative procedures and/or guidelines, and make any determinations necessary, to implement and manage the Policy.

**H. Exemptions.**

1. The Policy shall not apply to projects within an Enterprise Zone or PDC Resources derived from Business Financial Resource Tools that are intended to be used for working capital or property acquisition.
2. Any other exemption or waiver of requirements of the Policy shall require approval of the Board.



# PDC

PORTLAND DEVELOPMENT COMMISSION

## Resolution Number 6667

Title:

**ADOPTING AN AMENDED BUSINESS AND WORKFORCE  
EQUITY POLICY AND REAUTHORIZING THE WORKFORCE  
TRAINING AND HIRING PROGRAM**


Adopted by the Portland Development Commission on January 29, 2009.

PRESENT FOR VOTE	COMMISSIONERS	VOTE		
		Yea	Nay	Abstain
<input checked="" type="checkbox"/>	Charles Wilhoite, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	Scott Andrews	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	Bertha Ferrán	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	John Mohlis	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	Vacant	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Consent Agenda		<input checked="" type="checkbox"/> Regular Agenda		

### Certification

The undersigned hereby certifies that:

*The attached resolution is a true and correct copy of the resolution as finally adopted at a Board Meeting of the Portland Development Commission and duly recorded in the official minutes of the meeting.*

  
Renee A. Castilla, Recording Secretary

Date: February 20, 2009