

CLEAN AIR CONSTRUCTION STANDARD

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Prepared by: Tracy Fisher, x7596,

tracy.fisher@oregonmetro.gov;

Jenna Garmon, x1649,

jenna.garmon@oregonmetro.gov

Presenter(s) Tracy Fisher, Jenna Garmon

Length: 45 min.

ISSUE STATEMENT

Pollution from diesel exhaust poses a threat to the health of people living and working in the greater Portland area, with a disproportionate impact on people of color. In some areas, diesel pollution levels are over 10 times higher than state health benchmarks. In addition, diesel exhaust is a significant source of black carbon, a potent global warming pollutant. The majority of diesel pollution in the Metro region comes from nonroad construction equipment. Although newer diesel engines have pollution controls that minimize diesel emissions, older dirty diesel engines are still prevalent due to their long lifespan.

To address this issue, Metro has been participating in a regional Clean Air Construction Collaborative with the City of Portland, Multnomah County, Washington County, Clackamas County, Port of Portland and TriMet. The Collaborative has developed a common Clean Air Construction Standard that will require cleaner equipment and vehicles to be used on public construction projects. To date, the City of Portland and Multnomah County have adopted the Standard. The Collaborative is developing a [Clean Air Construction \(CAC\) Regional Program](#) to support participating agencies in administering the Standard, with the City of Portland serving as the lead agency.

ACTION REQUESTED

Staff requests Council direction on adoption of a Clean Air Construction Standard for Metro projects. At this work session, staff will present options and recommendations to address key issues identified by Council at its July 16, 2019 work session.

If Council provides direction to proceed with adoption of the Standard, staff will bring to Council a resolution to amend the Sustainable Procurement Administrative Procedure to add the Clean Air Construction Standard at the February 6, 2020 Council meeting. Staff would then continue to develop an implementation plan for the Standard and return to Council with an update on that plan prior to January 2021, if desired.

IDENTIFIED POLICY OUTCOMES

Council provided the following direction on the Standard at the July 16, 2019 work session:

- Proceed with developing a comprehensive Standard at a lower dollar threshold, with the following conditions:

- Provide support for firms certified by the Certification Office for Business Inclusion and Diversity (COBID) and small firms to comply with the Standard
- Have a contingency plan in case no bids are received on lower value projects
- Address potential barriers to COBID and small firms in competing for bids

Based on that direction, staff has developed a few adoption scenarios that represent low dollar thresholds and support for COBID firms, as well as outlined strategies for addressing the other conditions described above.

POLICY QUESTION(S), POLICY OPTIONS FOR COUNCIL TO CONSIDER

1. Which threshold does Council prefer for Metro adoption of the Clean Air Construction Standard?
2. What level of support would Council like to provide to COBID and small firms to help with compliance?

Adoption scenarios

Following are some adoption scenarios that pair a dollar threshold with recommended levels of support for COBID firms.

Program adoption scenarios and resource implications

| Program Element | Scenario A | Scenario B | Notes |
|--|---|---|---|
| Threshold | Formal procurement thresholds <i>\$100,000 for public improvement; \$150,000 for other construction services</i> | \$500,000 <i>(consistent with Multnomah and Washington Counties)</i> | Council policy question |
| Estimated # of Projects <i>(past 3 FYs)</i> | 29/year average Average value: \$600,000 | 8/year average Average value: \$1.5 million | |
| <i>Base Program costs</i> | | | |
| CAC regional program cost share | \$46,000 | \$46,000 | Annual |
| <i>Program implementation</i> | | | |
| Project management for internal implementation | \$25,000 | \$25,000 | Requested for 1 st year only |
| <i>Direct COBID support</i> | | | |
| COBID technical support | \$50,000 | \$30,000 | |
| Levels of support for equipment upgrades | Medium to High <i>See table below</i> | Basic to Medium <i>See table below</i> | Need to identify funds in budgeting process |

Metro COBID support options

Some support for COBID firms are built into the CAC regional program, including certain exemptions and technical support. In addition, there are City of Portland, state and federal grant programs that firms could access to help with equipment upgrades. (Note that not all funding sources will be available at the time the Standard goes into effect.)

Based on Council direction and input received from COBID firms to date, staff has proposed additional types of support that Metro could provide to assist COBID firms with compliance. These are summarized below and described in more detail in Attachment B.

Direct support to COBID firms – allocate funds in the FY21 budget for both equipment upgrades and technical assistance.

- *Funding for equipment upgrades:* Metro could provide funding to assist with equipment and vehicle upgrades, both within and outside of the active contract process. The following estimates are provided for a sense of scale of what equipment upgrades could be achieved through various levels of funding support. Actual costs and number of upgrades would depend on the type of equipment, remaining useful life and other factors. The estimates below are based on surveys of equipment owned by COBID firms and reflect the types of upgrades available for the different tiers of equipment. EPA uses tiers to describe the emissions profile of diesel equipment. Tiers 0-1 are the oldest equipment with minimal pollution controls and can be upgraded with a diesel oxidation catalyst (DOC) at an average cost of \$5,000; Tiers 2-3 have better pollution controls and can be significantly upgraded with a diesel particulate filter (DPF) at an average cost of \$18,000. The estimates assume that Metro would provide 50% matching funds to a firm to cover the cost of upgrades.

Levels of support for equipment upgrades

| | | Level of support | | |
|---------------|---------------|------------------|------------------|------------------|
| Threshold | Projects/year | Basic | Medium | High |
| Formal | 30 | \$104,550 | \$313,650 | \$522,750 |
| | <i>DOC</i> | 5 | 15 | 26 |
| | <i>DPF</i> | 10 | 31 | 51 |
| \$500k | 10 | \$34,850 | \$104,550 | \$174,250 |
| | <i>DOC</i> | 2 | 5 | 9 |
| | <i>DPF</i> | 3 | 10 | 17 |

- *One-on-one technical assistance:* Metro would contract with a diesel equipment expert to provide one-on-one technical assistance to COBID firms to develop compliance plans. Assistance would include identifying equipment/vehicle retrofit, repower or replacement needs, identifying the costs of upgrade options, and help with preparation of grant applications.

Procurement rule changes – this would entail working with procurement staff and OMA to review and update the procurement rules and procedures to minimize negative impacts on

COBID firms. These options could be implemented with or without direct support to COBID firms.

- *Additive alternative for low bid*: provide a mechanism for firms to seek funding to comply with the Standard during the low bid process by identifying upgrade costs separate from the base bid.
- *Special class exemption from low bid*: create a special class of public improvement projects that are exempt from low bid requirements. This would provide an avenue for procuring these projects through a request for proposals process, which would allow more flexibility in how projects are awarded.
- *Exemption*: provide blanket or hardship exemptions for COBID firms.
- *Contingency plan for no bid scenario*: in the case that no bids are received on a project subject to the Standard, Metro staff would evaluate the procurement to determine if the Standard served as a barrier in the process or if other factors were at play. In the case of the former, Metro would have the option to exempt the project from the Standard and put the project out for bid again. This should be considered only after consideration of other options, such as modifying the project scope, timeline or budget.

No immediate changes – do not create any new programs or change rules for the first year and monitor the effectiveness of the Standard. This would provide time to determine if the assistance offered by the other organizations is effective and if there are gaps for COBID firms. If changes are needed, staff would submit them as part of the FY22 budget process.

Advantages and disadvantages of types of support

| Option | Advantages | Disadvantages |
|--------------------------|---|--|
| Direct support | <ul style="list-style-type: none"> • Is proactive in reducing negative impact to COBID firms • Allows upgrade costs to be passed through to Metro • Equipment upgrades would provide lasting emissions reduction | <ul style="list-style-type: none"> • Potentially requires significant new investments that have no current funding source • Creates a new program for Metro to administer (directly or through a partnership) |
| Procurement rule changes | <ul style="list-style-type: none"> • Does not require new investments up front • Is relatively easily to implement • Can allow some costs to be passed through to Metro • Helps COBID firms remain competitive for Metro projects | <ul style="list-style-type: none"> • May result in the effectiveness of the standard being diminished if solutions include exemptions • Makes the procurement process more complex • Would require projects to build in compliance costs into budgets |
| <i>OR</i> | | |
| No immediate changes | <ul style="list-style-type: none"> • Reduces scope of implementation planning • Relies on existing support mechanisms | <ul style="list-style-type: none"> • May negatively impact COBID firms in the short-term |

STAFF RECOMMENDATIONS

Based on Council's direction at the July 16, 2019 work session, staff recommends that Council:

1. Direct staff to develop a Resolution to amend the Sustainable Procurement Administrative Procedure to add the Clean Air Construction Standard at Council's preferred dollar threshold and approve the Intergovernmental Agreement for CAC regional program administration.
2. Direct a level of support to COBID firms that aligns with Council's preferred dollar threshold.

STRATEGIC CONTEXT & FRAMING COUNCIL DISCUSSION

Adoption of the Clean Air Construction Standard would align with Metro's regional outcomes related to climate change, clean air and equity. Additional strategic context is provided below.

Racial equity goals: Goal E of Metro's *Strategic Plan to Advance Racial Equity Diversity and Inclusion* directs Metro to "create and implement policies and procedures to ensure that its resources and investments advance racial equity". Communities of color and low-income populations experience a disproportionate burden of exposure to diesel pollution. Reducing diesel emissions on Metro projects will help improve health outcomes for those impacted communities. In addition, in recognition that COBID-certified firms already face barriers to participation in public contracts, providing support to COBID-certified firms in complying with the Standard is crucial.

Climate action goals: In addition to climate and toxics reduction actions in Metro's *Sustainability plan for internal operations*, adoption of the Standard aligns with Metro's desired outcome for the region to be a leader on climate. Diesel exhaust is the largest source of black carbon in the nation. Black carbon, also known as soot, is a type of particulate matter that is a potent but short-lived climate change contributor. Reducing black carbon emissions has an immediate, positive impact on global warming.

Stakeholder engagement: The Collaborative has engaged with stakeholder groups including construction project managers, equipment operators, construction firms including COBID firms, industry associations, environmental organizations, and neighborhood and community groups. Attachment D describes stakeholder engagement in more detail.

ATTACHMENTS

- Attachment A: Clean Air Construction Standard
 - Attachment B: Support for COBID firms
 - Attachment C: CAC Regional Program Intergovernmental Agreement
 - Attachment D: Background information
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- Is legislation required for Council action? **Yes**
 - If yes, is draft legislation attached? **No**
 - What other materials are you presenting today? **PowerPoint presentation**