



CEO Response to Special Investigation Response Executive Summary

Ten months ago, the Port of Seattle Commission hired former U.S. Attorney Mike McKay to begin an independent investigation into areas a performance audit identified as potentially vulnerable to fraud. Mr. McKay's report, released last week, identified areas where civil fraud occurred in the Port's contracting procedures and provided eight recommendations for how the Port can strengthen its policies to prevent such actions in the future. The Port of Seattle is committed to bringing the citizens of King County a more accountable and transparent organization, one that continues to create jobs and deliver economic growth for the region.

The Port of Seattle will enforce a robust compliance program. The compliance program will serve as an umbrella encompassing the ethics policies for commissioners, port employees, and consultants; a fraud awareness policy; appropriate use of information technology; and the Port's newly strengthened whistleblower policy. On December 8, 2008, the CEO released that revised, updated whistleblower policy, which clearly identifies who staff members should call when they have concerns. The full workplace responsibility program, an awareness and training initiative focused on the six policies listed above, will be ready by February 15th.

The Port of Seattle will continue efforts to ensure all procurement processes comport with Port policy and state law. Port also invested significant time, money and energy over the past several months revising, reorganizing and improving contracting and procurement processes. We will prohibit use or disclosure of privileged information for personal gain, while reporting financial interests held by employees in entities doing business with the port, and requiring all potential conflicts of interest, financial or otherwise, of an employee who is in a position to influence the selection, non-selection, or conduct of business between the Port and any entity.

The Port has also implemented requirements that the Port Commission be informed of advertisement, award and amendments of service agreements, while implementing a policy on service agreements that requires identifying and training personnel to manage service agreements in advance of awarding, providing for Chief Procurement Officer (CPO) oversight and more explicit definition of the types of service agreements and procedures.

The Port Legal Department has prepared a set of draft guidelines for documenting and distributing legal advice that will be finalized and published by December 31, 2008. In summary, the guidelines will distinguish between discussions involving straightforward procedural issues that carry minimal legal risk from more complex issues that include an element of material risk.

The Port of Seattle will standardize project manual provisions used in major construction projects. The Port recognizes the value of a central, consistent, explicit set of standard instructions and common contract provisions to guide the many staff members involved in forming and administering construction contracts. A computer-based system will be readily available, standardized for all users and easily updated. Establishing such a system requires identifying applicable laws, policies and best practices, ensuring that procedures meet the needs of the Port's wide variety of construction types, locations and customers and compiling a large quantity of information.

The Port of Seattle will include an enforceable audit provision in all contracts that survives termination of the contract. Contract provisions for construction (both major construction and small works) and service agreements will be reviewed and updated or revised. An appropriate audit provision and duty to cooperate provision will be included in the terms. Until this goal is met, the Port will include an audit provision as a supplemental condition in all small works procurements initiated after January 1, 2009.

The Port of Seattle will take appropriate personnel action. A high level of expectation exists for leadership at the Port of Seattle. Each and every manager has a responsibility to spot potential fraud and take action to stop it, no matter who is directing that fraud, including the CEO. Mr. McKay forwarded two names that he deemed worthy of particular emphasis when reviewed for appropriate discipline for fraud. He did not make specific recommendations of action, but rather highlighted those two employees who were directly involved in the majority of actions that met the test of fraud. Both employees have resigned.

In all, the Port of Seattle is going to continue to work for the trust of King County taxpayers. Our work has begun, but it is not over. In the coming months there will be greater opportunity to turn these recommendations into reality, as we continue our work to keep this region economically competitive.