

May 17, 2021

MEMORANDUM

To: Community Economic Development Committee
From: Amy Gore, Analyst
Subject: Participatory Budgeting Contract Proviso Lift

On May 18, 2021, the Community Economic Development Committee will discuss draft legislation which would lift a proviso, create three new positions in the Seattle Office for Civil Rights (SOCR) and appropriate funds to SOCR for the Participatory Budgeting program, and impose new provisos on those new appropriations. This memo briefly summarizes the background of the Participatory Budgeting effort, describes the legislation, and includes policy considerations for the committee. ¹

Background

On September 22, 2020, Council passed [Ordinance 126151](#) which appropriated \$3 million to the Legislative Department to “enter into contracts with community-based organizations to research processes that will promote public safety informed by community needs.” The Council’s intent was that this initial funding would be used to develop recommendations for a Participatory Budgeting process for 2021.

The 2021 Adopted Budget includes \$28.3 million for Participatory Budgeting.² Council Budget Action (CBA) [FG-004-A-002](#) described that the funding was intended to be used as follows:

- up to \$1,000,000 for community-based organizations and City departments to run the Participatory Budgeting process;

¹ This legislation has not yet received a Council Bill (CB) number. When the legislation is assigned a number, this memo will be updated.

² The 2021 Adopted Budget included two provisos on the SPD budget which could potentially redirect SPD sworn officer salary savings to Participatory Budgeting. The first, [SPD-011-B-002](#), identified \$5.0 million from potential 2021 SPD salary savings that might accrue from an extraordinary number of officer departures. The second, [SPD-008-A-003](#), identified \$2.5 million in potential salary savings that might result from officers that would be laid off “out of order,” but staff has determined that for a variety of reasons this proviso is unlikely to result in additional PB funds.

Substitute Council Bill 119981, currently being considered by Council and scheduled for a final vote on May 24, 2021, would cut \$2.0 million of SPD salary savings and appropriate it to Finance General for Participatory Budgeting. The substitute also modifies SPD-011-B-002 (\$5.0 million proviso) such that the authority is returned to SPD when it submits regular staffing reports. Finally, the substitute eliminates entirely the \$2.5 million proviso on out of order layoffs.

- \$500,000 to support the development of a civilian crisis response and social services triage system app to make it easier to find, pay, and support community service providers and healers; and
- the remainder of the funding for investments recommended by the PB process.

The \$28.3 million is currently held in Finance General under provisos³ which states these funds are:

“appropriated solely to run the Participatory Budgeting Process, [to] implement actions recommended to the City from the Participatory Budgeting process, and to develop a civilian crisis response and social services triage system app and may be spent for no other purpose. Furthermore, none of the money so appropriated may be spent until authorized by future ordinance. Council anticipates that such authority will not be granted until the Executive submits to the Council a plan for spending the funds.”

On November 18, 2020, Council entered into a contract with the Freedom Project to conduct a community research project, also referred to as the Black Brilliance Research (BBR) Project. The BBR Project team conducted extensive qualitative and quantitative research about community safety and community needs. This research provided the basis for the BBR Project’s recommendations for the City’s Participatory Budgeting program, including identifying community needs to support participation in the program, a framework for an equitable PB process, and recommended priority investment areas. The [Final Report](#) was submitted to Council on February 20, 2021.

The Executive worked with the BBR Project team to develop a spending plan based on their recommendations, resulting in the presentation of two options to Council. (See Attachment 1: March 30, 2021 letter).

- The Executive’s first proposed option would authorize the Department of Neighborhoods (DON) to issue an RFP for a third-party to administer the PB program, at an estimated cost of \$7.5 million. This option would require five to eight months to develop and issue an RFP, negotiate a contract, and allow the third-party to hire staff before the PB program could begin. The third-party administrator would be responsible for hiring and managing the steering committee and other PB staff and volunteers, providing technical support and expertise, and managing funds to reduce barriers to participation, including digital equity initiatives and youth fellowships. This option includes \$375,000 for DON staff to provide administrative, data, and logistical support as requested.

³ The \$28.3 million was appropriated through five CBAs: [FG-004-A-002](#) (\$18.025M), [SPD-014-A-003](#) (\$300K), [SPD-013-B-002](#) (\$175K), [SPD-009-A-003](#) (\$6.100M) and [SPD-010-A-003](#) (\$3.700M) . The provisos vary slightly.

- The Executive’s second proposed option would authorize DON to run the PB program, at an estimated cost of \$2.6 million. This option would require three to four months to select and hire and on-board a 15-member a steering committee before the PB program could begin.

Under both options, the PB program would take six to ten months.

Summary of Participatory Budgeting Proviso Lift Legislation

The proposed legislation would do the following:

- 1. Lift a proviso** - As noted above, the 2021 Adopted Budget includes a total of \$28.3 million in Finance General for funding Participatory Budgeting, appropriated through several different CBAs, each with a proviso. The legislation would lift one proviso on \$18.025 million (imposed through CBA FG-004-A-002) so that a portion of the funds can be appropriated. The remaining PB funds are still under the original provisos.
- 2. Create Three Positions** – The legislation creates three new positions at SOCR: a Strategic Advisor 2, and two Planning and Development Specialists 2 to work with community to develop and issue an RFP, to select a third-party administrator, to negotiate and manage the contract, and to staff the PB Program, including coordinating internal City staff and collaborating with external partners in support of the program.
- 3. Appropriates Funds** – The legislation appropriates \$1,079,700 to SOCR to fund three FTE staff for the work described above from July 1, 2021 to December 31, 2023, as well as \$15,000 to support community involvement in the RFP and selection process. The legislation includes an automatic carry-forward of any unused funds into subsequent years so that additional appropriations for these positions will not be required until 2024.
- 4. Impose New Provisos** – The legislation imposes two provisos. The first states: “Of the appropriation in the 2021 budget for Seattle Office for Civil Rights, \$1,079,700 is appropriated solely for the Participatory Budgeting program, including, but not limited to, developing and issuing an RFP for a third-party provider, negotiating and managing the contract with the third-party provider, and providing staff support for the Participatory Budgeting program.”
- 5. The second, on the remaining funds from CBA FG-004-A-002, states:** “Of the appropriation in the 2021 budget for Finance General Reserves, \$16,945,300 is

appropriated solely for contracting with a provider to administer the Participatory Budgeting Process and funding projects identified by the Participatory Budgeting Process. Furthermore, none of the money so appropriated may be spent until authorized by future ordinance.”

6. **Ratify and Confirm** – The legislation includes a Ratify and Confirm clause which would allow SOCR to begin work before legislation becomes effective.

Policy Considerations

1. **Funding Sustainability** – The proposed legislation creates authority for three new positions at SOCR and funds the positions with one-time funds sufficient for 30 months. To continue the PB program beyond 2023, the Council will need to identify another funding source for any additional staffing, the PB administrator, and selected projects.
2. **PB Contract Funding** – The legislation funds the development and issuance of the RFP for a third-party administrator, as well as department staff to manage the PB contract and provide support for the PB program, but it does not fund the contract with a third-party administrator. It assumes that the City will make future appropriations to support the contract once SOCR selects a contractor through the RFP process.
3. **Department Lead** – The legislation would appropriate the funds to SOCR, which is consistent with the recommendation made by the BBR Project team, rather than to DON, as the Executive proposed. The PB program will still require staff participation from other departments, particularly during the project development phase and during the project funding/contracting phase. Therefore, future proviso lifts may require additional staff or funding for other departments in support of the PB program. This action would have no effect on Your Voice Your Choice, the existing Participatory Budgeting program run by DON.
4. **Participatory Budgeting Schedule** – The 2021 Adopted Budget anticipated that all \$28.3M of funding would be spent during 2021, however, hiring of staff, developing and issuing the RFP, and the contracting process will likely take several months, meaning that the actual PB program will not begin until the end of 2021 (or possibly the beginning of 2022), with the bulk of the program being conducted in 2022.
5. **Additional Program Development** – Deputy Mayor Washington’s March 30 letter lists several issues and suggested Council address them in the proviso lift, including RSJI

considerations, pay equity, organizational capacity, potential legal limitations on project funding and voting eligibility. The legislation does not address these issues specifically, and it allows SOCR, the community, and organizations responding to the RFP to ensure that the proposed PB program considers and addresses them appropriately.

- 6. Racial Equity** – An RFP process will require additional time and resources from community organizations to prepare proposals; the legislation would provide additional \$15,000 to support community participation in the development of the RFP and to create a more equitable RFP process, which could include technical support for bidders or other supports identified by community and SOCR.

- 7. Civilian Crisis Response and Social Services Triage System Application** – The proviso imposed on the \$28.3 million in the 2021 Adopted Budget anticipates funding a civilian crisis response and social services triage system application. The proposed legislation does not provide funds for the development of this application. Council may choose to:
 - a. Fund the development of the app in a separate, independent piece of legislation;
 - b. Amend the legislation to fund the application (“app”);
 - c. Fund the development of an app only if it is chosen as a project through the Participatory Budgeting stakeholder process; or
 - d. Choose not to fund the app with the Participatory Budgeting funds.

Next Steps

The Committee will discuss the draft legislation on Tuesday, May 18. The legislation will be considered by the Committee during a Special Meeting scheduled for June 3.

Attachments:

1. March 30, 2021 Letter to Council

cc: Dan Eder, Interim Director
Aly Pennucci, Policy and Budget Manager



Dear Council President Gonzalez and Councilmember Morales:

In 2020, you appropriated \$3 million dollars directly to City Council to "fund a community-led process to create a roadmap to life without policing." The Council then passed a final budget for 2021 that redesigned the Executive's proposed \$100 million investment in BIPOC communities to designate and additional \$30 million of the funds to a participatory budgeting process.

The Council entered into a \$3 million in a direct contract with the Freedom Project, which was entitled "The King County Equity Now (KCEN) Community Research Project." This contract funded the Freedom Project, KCEN, and the Black Brilliance Research Project, which delivered a report to Council and presented the report at Council on February 26, 2021. The funding was to be formally appropriated by follow-up action by the City Council after the research project was complete.

The project, powered by young black community leaders, intentionally included the experience, and input from a range of community organizations and individuals often not centered in government deliberations. This has great benefit in our mutual work to redesign community safety alternatives that respond to community needs and experience.

Because the work was conducted independently, however, it proceeded without the usual input from the City Attorney's Office and City departments regarding legal and implementation factors that impact the design, timing, and implementation of the program. These include issues relating to timeline, staffing, budget, voting, and legal impacts of contracting, hiring, I-200 and the gift of public funds.

The Mayor's Office and Executive Departments have met with some of the project leaders and Councilmember Morales to discuss the findings and recommendations; they also have reviewed the Black Brilliance Research Project's final report. Those conversations have yielded two potential options for Council to consider in its legislation authorizing the \$30 million for a Participatory Budgeting process. Each has pros and cons. Both will need further input from the City Attorney's Office to resolve legal and implementation issues as Council considers its ordinance.

We are mindful that Council decided that it wanted to control and approve the framework for this process and believe Council can detail into an ordinance the process, budget, and timeline with this feedback.

The following table outlines the two possible options including potential roles and timelines. Option One tracks the BBP recommendations, but avoids significant issues raised by hiring steering committee members as city employees. Option Two attempts to capture key input and elements, while ensuring more funding for the projects themselves. Under both options, all phases, including steering committee selection, voting and project/contract approval will have to follow state and city laws. As noted below, the process envisioned by the report results in approximately \$4.8 million less actually going into projects, and more into conducting the process. We appreciate Council may have additional alternatives envisioned for their ordinance too.

Chart 1: Two Options for administration of Participatory Budget Process

<p style="text-align: center;">Option 1: Third Party Administration (as proposed by the BBP)</p>	<p style="text-align: center;">Option 2: City Administration via DON & multi-department IDT</p>
<ul style="list-style-type: none"> • Third-Party Administrator (TPA) hires and manages a 26-person Steering Committee for one year with each committee member earning a recommended \$112,000 inclusive of benefits. • Administrator manages funds to reduce barriers to participation, including digital equity initiatives (\$2.6 million) and youth fellowships (\$450,000) • City provides administrative, data and logistical support as requested. (up to \$375,000) 	<ul style="list-style-type: none"> • DON administers a community-driven process as outlined by Black Brilliance Research the Participatory Budgeting Project, to advertise and identify a paid 15-person independent contractor Steering Committee (this budget assumes each member earning \$75/hr. based on input)

Timeline (5-8 months to launch; 6-10 months for process): <ul style="list-style-type: none"> • Step One - DON drafts and releases an RFP for the TPA and a vendor is selected. (3-6 months) • Step Two – DON negotiates, develops, and signs contract with selected TPA. (1 month) • Step Three – TPA hires 26-person steering committee according to process laid out in their contract. (1-2 months) • Step Four – TPA leads engagement, proposal development, voting, implementation, evaluation (6-10 months) 		Timeline (3-4 months to launch; 6-10 months for process): <ul style="list-style-type: none"> • Step One – Based on Council and community input, DON advertises, develops scoring criteria and selection process to select the 15-members committee. (1-2 months) • Step Two – DON identifies and secures contracts with 15 independent contractors to serve on the steering committee. (1-2 months) • Step Three – DON onboards steering committee. (1 month) • Step Four – DON leads engagement, proposal development, voting, implementation, evaluation (6-10 months) 	
Total Budget:	\$7,475,000	Total Budget:	\$2,630,000
Remaining for Project Proposals:	\$20,825,000	Remaining for Project Proposals:	\$25,170,000

Third party administration: items to address as part of the ordinance:

- RSJI considerations, citywide representation, and legal issues regarding selection criteria for Steering Committee members. Some of the criteria suggested by the report may not be legal or inclusive enough.
- Internal pay equity to ensure that the 26 new “hires” for the Steering Committee salaries are fair and equitable in comparison to other staff that may be doing or supporting the work.
- Internal capacity of an organization to hire and onboard 26 new, qualified staff within a short amount of time, develop rules and procedures, and conduct training and sufficient oversight. It typically takes a CBO 1-3 months to hire one person.
- Identifying required resources such as such as space, equipment, transportation, etc.
- Required resources and time to design and implement a citywide participatory budgeting process, that complies with state and city laws.

- Depending on design, projects that are selected by “vote” may still need to go through city contracting process, including RFP or other competitive bid process.
- Legal risks around eligibility of voting and gift of public funds.

City administration: issues that need to be addressed as part of the ordinance:

- Legal Guidance on the proposed Steering Committee qualifications criteria and consistency with city consultant procurement processes which because of I-200 must be race neutral. Some of the criteria suggested by the report may not be legal or inclusive enough. At least one is discordant with established relationships with sovereign Tribal governments.
- Ensure that the steering committee members have the required documentation to operate as independent contractors (business license, WA state ID, SS card, insurance, ability to set aside funds for required taxes, etc.)
- Realistic implementation timeline.
- Potential legal risk related to employment status and scope of work if the independent contractors are performing work and acting in a capacity that is essentially a City employer and employee relationship.
- The RSJI and other unintended legal and budget consequences of not equitably compensating other volunteer city boards and commission members at a similar rate.
- Legal risks around eligibility of voting and gift of public funds.
- Process for evaluation of projects ahead of voting. This is particularly important given the need to be guided by community voice.

As the City Council determines the next steps on the Participatory Budgeting process, we stand ready to discuss any issues that must be addressed as part of City Council’s ordinance. Mayor Durkan, the city Departments, and I are very supportive of participatory budget and want to see the ordinance passed as soon as possible. However, I know we all are equally committed to ensuring they are implemented in a thoughtful and legal manner that maximizes our ability to change outcomes and disparities while being transparent using \$30 million of public resources.

Sincerely,



Tiffany Washington

CC: Councilmember Herbold
Councilmember Sawant
Councilmember Pedersen
Councilmember Juarez
Councilmember Strauss
Councilmember Lewis
Councilmember Mosqueda
Senior Deputy Mayor Fong
Stephanie Formas
Kylie Rolf
Ben Noble
Adrienne Thompson
Director Andres Mantilla