City of Seattle

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Finance and Administrative Services

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Director's Rule: FHDR-2, Application Process for Designating a Qualified Driver Representative	Code and Section Reference: SMC 6.310.110 and .735.C	
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Rule FHDR-2, Application Process for Designating a Qualified Driver Representative (SMC 6.310.110 and .735.C)

The following Rule establishes the application process to designate a Qualified Driver Representative (QDR) as authorized by the Seattle Municipal Code.

The QDR renewal process and associated deadlines will appear in a separate rule.

Application

Any organization wishing to apply to be designated a QDR must meet all of the following qualifications:

1. Be registered with the Washington Secretary of State as a nonprofit corporation.

2. Have organizational bylaws that give for-hire drivers the right to be members of the organization and participate in the democratic control of the organization.

3. Have experience in and/or a demonstrated commitment to assisting stakeholders in reaching consensus agreements with, or related to, employers and contractors.

4. Does not interfere with, restrain or coerce[1] drivers in the exercise of their right to decide whether to authorize the QDR to represent them, their right to become members of or refrain from membership in the QDR or any other right protected in the SMC. This will not impair the right of a QDR or EDR to prescribe its own rules with respect to the acquisition or retention of membership therein.

5. Is not dominated or controlled by any current Driver Coordinator and does not receive any financial support from a Driver Coordinator. Domination or control will mean that the Driver Coordinator has assisted and supported the QDR's operation and activities to such an extent that it must be looked at as the Driver Coordinator's creation.

An organization seeking such designation must submit information on a City supplied application form with following sections:

Section 1

Organization's name and contact information (mailing address, phone number and e-mail address)

[1] The Director will rely primarily on Washington State Public Employment Relations Commission (PERC) cases and secondarily upon federal National Labor Relations Board authority to interpret the terms "interfere with, restrain or coerce" and "dominate or control."

Section 2

Designated representative, which includes the name of and contact information (mailing address, phone and e-mail address) for the person representing the organization and certifying the application on the organization's behalf; the person must be vested with authority to manage or direct the affairs of the organization or to bind the organization in dealings with third parties

Section 3

Proof of nonprofit status, which includes either a Unified Business Identifier (UBI) number or a certificate of formation from the Washington Secretary of State

Section 4

Current bylaws

a. The bylaws will need to include language allowing for-hire drivers to be members of the organization and to participate in democratic control of the organization
b. The organization will highlight relevant language in a copy of the bylaws provided to the City

Section 5

Statement of experience and/or commitment

a. The statement will highlight commitment to and/or experience with, including any specific and relevant examples, assisting stakeholders in reaching consensus agreements with, or related to, employers and contractors
b. The statement will be 1,500 words or less and include three references for the organization itself (name and contact information for each reference)

Section 6

Disclosures

a. Answers to questions and, if applicable, explanations of those answers provided as attachments to the application form. Questions will cover:
    i. Financial indebtedness, if any, and funding sources,
    ii. Financial support received from any current Driver Coordinator,
    iii. Involvement by current and former City employees,
    iv. Compliance/criminal background and
    v. Any parent or affiliated organization.

Section 7

Certification

a. An original signature and date from the organization's representative

At the Director's discretion, the City may require an organization to submit additional information to assist decision-making on the QDR designation.

Within 14 calendar days of receipt of the application, or, if requested by the Director, receipt of additional information from the applicant, the City will notify applying entities by e-mail whether they have been designated a QDR. To facilitate communication between a QDR and Driver Coordinator, the City will make available on a City website the names and contact information for all designated QDRs and all known Driver Coordinators.

An organization's designation as a QDR by the City does not guarantee that the QDR will be designated as an EDR. A QDR must continuously meet the qualifications described in this Rule to maintain its QDR designation. If at any time the Director determines that an entity no longer meets the QDR qualifications described in this Rule, the Director will withdraw the entity's QDR status. The Director's decision can be appealed to the Hearing Examiner per the SMC.

Director's Review and Determination

Upon receipt of an application, the Director will perform an initial screen of all application materials for completeness. If the application has a material omission or misstatement, then the Director will deny it outright.

For sections 3 and 4 of the application, the Director will assign either a pass or a fail. To determine whether an organization has sufficient experience in or commitment to reaching consensus agreements (section 5), the Director will consider factors including, but not limited to, the organization's bylaws, constitution, or other evidence of its purposes and functions; the length of time the organization and/or the person or persons vested with authority to manage or direct the affairs of the organization has assisted stakeholders in reaching consensus agreements with, or related to, employers and contractors; the number of consensus agreements reached; the number of persons covered by the consensus agreements; and the nature and number of activities/campaigns demonstrating a commitment to reaching consensus agreements and the outcome of those activities/campaigns.

For the various disclosures covered under section 6, the Director has the discretion to consider any affirmative response and its supporting explanation to reasonably determine whether the organization can or cannot fulfill the QDR responsibilities and requirements set forth in the SMC. The Director also has the discretion to consider any allegations that an entity seeking QDR designation is dominated or controlled by, or receives any financial support from, any current Driver Coordinator.

Timeline

The City will open the QDR application period in connection with the initial commencement date as well as any subsequent commencement dates established. A prospective QDR's application materials, including disclosures, will be made publicly available via a City website.

An organization applying to be designated as a QDR will observe the following key dates:

- Initial commencement date: January 17, 2017

- 15 calendar days before commencement date: City makes applications publicly available

- Commencement date: first day applications accepted by the City

- 30 calendar days after commencement date: last day applications accepted by the City

- Various dates: the City will notify the organization, by e-mail, of its determination within 14 calendar days of receipt of application or additional information, if requested by the Director

- Various dates: an applicant may appeal the City's determination to the Office of Hearing Examiner within 10 calendar days of receiving the determination

- Various dates: a QDR that has been designated as a QDR by the City following a commencement date and seeks to represent a particular Driver Coordinator's drivers will notify that Driver Coordinator within 14 calendar days of being designated as a QDR.[2] A QDR that has been designated prior to a commencement date will notify a Driver Coordinator of intent to represent its drivers within 58 calendar days[3] of any subsequent commencement date. The QDR must reasonably plan its notification to ensure it reaches the Driver Coordinator.

- Notice sent by U.S. mail, personal delivery or e-mail to a Driver Coordinator using contact information available from the City will be deemed to comply with this obligation.

- Appeals: in the event of an appeal of the Director's determination by a QDR applicant, all applicable deadlines may be suspended at the Director's discretion; in that event, after the appeal is decided, the deadlines will resume per the schedule specified by the SMC.

[2] Per the SMC, a Driver Coordinator will not be subject to the requirements of a driver representation effort associated with a specified commencement date more than once in any 12-month period. The 12-month period begins on the date a Driver Coordinator transmits a list of its qualifying drivers to any QDR. However, if the FAS Director determines that a Driver Coordinator has willfully delayed transmittal of the list in violation of the SMC, then the FAS Director has discretion to specify that the 12-month period begins on the date that the list was due. For any specified commencement date, however, more than one QDR may attempt to organize the drivers of the same Driver Coordinator.

[3] The 58 calendar days is the sum of the time that an applicant obtaining designation as a QDR following a commencement date would have to give such notice: 30 calendar days (for a prospective QDR to apply for City designation), 14 days (for the City to make a determination on the prospective QDR's application) and 14 days (for a designated QDR to inform a Driver Coordinator of its intent to represent drivers).