City of Seattle

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Finance and Administrative Services

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Director's Rule: FHDR-7, Renewal Application Process for a Qualified Driver Representative	Code and Section Reference: SMC 6.310.110 and .735.C	
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Rule FHDR-7, Renewal Application Process for a Qualified Driver Representative (SMC 6.310.110 and .735.C)

The following rule establishes the application process for a Qualified Driver Representative (QDR) to renew its designation annually as authorized by the Seattle Municipal Code (SMC).

Application for Renewal

Any organization previously designated by the City as a QDR and wishing to extend its designation 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. Not interfere with, restrain or coerce 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, their right to decide whether to decertify the organization as their Exclusive Driver Representative (EDR) 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. Not be dominated or controlled by any Driver Coordinator and 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.[1]

6. Comply with all applicable provisions of SMC Chapter 6.310.735 and the Director's Rules, including the use and safeguarding of lists of qualifying drivers.

Failure to renew the QDR designation on an annual basis will result in loss of the designation. An organization seeking the renewal of its designation must submit the following information on a City supplied application form:

Section 1

[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."

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

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
    i. If organization has experience as an EDR, the statement will include specific information regarding how the organization has assisted EDRs and Driver Coordinators in reaching consensus agreements and/or promoted safe, reliable and economical for-hire transportation through its representation of drivers
b. The statement will be 1,500 words or less and include three references for the organization itself (name and contact information for each)

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 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 renewal of the QDR's designation.

As part of the renewal application process, the Director will accept statements from any person or entity in support of or in opposition to renewal. Specific documentary or other evidence may be submitted to support a statement. The Director has discretion regarding the weight to give any statement submitted by considering its credibility, relevance to the applicable qualifications, evidentiary support and/or seriousness. The Director may contact the person or entity submitting the statement for additional information and/or clarification.

Upon receipt of an application for renewal, the Director will perform an initial screen of all application materials for completeness. If the application is deemed incomplete, the Director may provide an opportunity for the applicant to correct the deficiency.

Within 30 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 their designation as a QDR has been renewed.

Timeline for Renewal

The Director will establish a renewal deadline each year applicable to all currently designated QDRs. A QDR's renewal application materials, including disclosures, will be made publicly available via a City website.

The following timeline will govern the QDR renewal process:

- Submitting renewal applications to the City: annual deadline established by the Director
    - City will make renewal application forms available at least 30 calendar days prior to this deadline

- Submitting statements of support for or opposition to a QDR's renewal application: within 10 calendar days of the annual deadline established by the Director

- Director's ruling: the Director will notify the organization, by e-mail, of its determination within 30 calendar days of receipt of application for renewal

- Opportunity to remedy: the Director may allow a QDR the opportunity to remedy a deficiency (amount of time will be commensurate with the extent of the deficiency to remedy)

- Appeal: an applicant may appeal the Director's determination to the Office of Hearing Examiner within 10 calendar days after the notice of the determination

Obligation to Remain in Good Standing and Filing of Complaints
A QDR must continuously meet the qualifications described in this Rule and all applicable requirements specified in other Director's Rules implementing Ordinance 124968 and in SMC Chapter 6.310.735 to maintain its QDR designation. If at any time the Director determines that an entity no longer meets one or more of the qualifications described in this Rule and/or any requirement(s) specified in other Director's Rules implementing Ordinance 124968 or in SMC Chapter 6.310.735, the Director may withdraw the entity's QDR designation, in accordance with the procedures described herein.

To determine whether a QDR remains in good standing, the Director may initiate an investigation based on a complaint made on a form supplied by the Director and supported by specific evidence or upon the Director's own initiative. The Director may consider any available documents, data audits, evidence or other information giving the Director reason to believe that a QDR no longer meets the required qualifications.

If the Director initiates such an investigation, the Director will notify the QDR and any Driver Coordinator with respect to whom the QDR is an EDR, if applicable, of the nature of the complaint(s) or concern(s) via email and public online notice. Any QDR responses to such complaint(s) or concern(s) must be written and received by the Director by U.S. mail, personal delivery or e-mail within 10 calendar days of the date of such notice. The Director may extend this deadline for good cause.

As part of any investigation, the Director has authority to request information from a QDR, Driver Coordinator, complainant, or any other entity or person, and may convene a hearing for the presentation of testimony.

Director's Review and Determination
For the qualifications addressed in sections 3 and 4 of the renewal 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 (as addressed in section 5 of a renewal application or if at issue in a potential withdrawal of designation), the Director will consider factors including but not limited to:

1. The organization's bylaws, constitution or other evidence of its purposes and functions;

2. 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;

3. The number of consensus agreements reached;

4. The number of persons covered by the consensus agreements and

5. The nature and number of activities/campaigns demonstrating a commitment to reaching consensus agreements and the outcome of those activities/campaigns.

If the organization has experience as an EDR, the Director may consider whether and how the organization has assisted EDRs and Driver Coordinators in reaching consensus agreements and/or promoted safe, reliable and economical for-hire transportation through its representation of drivers.

For the various disclosures covered under section 6, the Director has the discretion to consider any affirmative response and its supporting explanation to determine whether the organization can or cannot fulfill the QDR responsibilities and requirements set forth in the SMC and Director's Rules. In the event of a potential withdrawal of designation where these factors are at issue, the Director may request supplemental disclosures and/or may consider changes in circumstances since the entity's most recent QDR designation to determine whether the organization can or cannot fulfill the QDR responsibilities and requirements set forth in the SMC and Director's Rules.

The Director has discretion regarding the weight to give any statement submitted by considering its credibility, evidentiary support and/or seriousness. The Director may contact the person or entity submitting the statement for additional information and/or clarification.

If the Director determines that a QDR no longer meets the qualifications described in this Rule, the Director will give the QDR a notice of intent of nonrenewal or withdrawal of the QDR designation and an opportunity and deadline to come back into compliance, unless the Director determines that it is not possible for the QDR to come back into compliance, in which case the Director will give the QDR a notice of intent of nonrenewal or withdrawal of the QDR designation without any opportunity to correct.

If the Director intends not to renew or to withdraw the QDR's designation, either after or in lieu of an opportunity to achieve compliance, the Director will provide the QDR with written notice of the proposed decision and the grounds therefor, as well as an opportunity for the QDR to be heard on the matter. The Director may request the QDR to respond to the notice in writing by a date certain and/or set a hearing and establish hearing procedures to listen to live testimony. The Director's decision to withdraw or not to renew a QDR's designation can be appealed to the Hearing Examiner per the SMC within 10 calendar days of the withdrawal or nonrenewal of designation.

Loss of QDR Status by an EDR

If an EDR loses its QDR status, it will automatically lose its EDR status. Any other QDR or QDR applicant may request a new commencement date to seek to represent that Driver Coordinator's drivers per the SMC. Any new commencement date must be set at least 12 months after that Driver Coordinator transmitted a list of its qualifying drivers to any QDR, provided that, if the FAS Director determines that the Driver Coordinator 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 the list was due.

If an EDR loses its status during the term of an approved agreement with a Driver Coordinator, the agreement will continue in effect for the remainder of its term or until a new EDR is certified and the Director approves a new agreement, except that terms regarding membership in the EDR, payments made to the EDR or any other rights of the EDR will not continue in effect. Drivers covered by that agreement will have the authority to enforce it as third-party beneficiaries.