



# SEATTLE CITY COUNCIL

*Via E-Mail*

September 27, 2021

Governor Jay Inslee  
Governor of the State of Washington  
PO Box 40002  
Olympia, WA 98504-0002

Dear Governor Inslee:

On behalf of Washington state's largest city with more than 700,000 residents, we the undersigned Seattle City Councilmembers we urge you to take strong and decisive action on rescinding Governor's race-neutral Directive 98-01 and finally restoring race and gender conscious Affirmative Action in Washington State, consistent with the United States federal government and the majority of U.S. states.

As you know, in 1998 Washington voters passed Initiative 200 (I-200). I-200 stated in the November 3, 1998 Washington State Voters Pamphlet, that I-200 **does not end all affirmative action programs**. I-200 only prohibits those programs which use race and gender to select a lesser qualified applicant over a more deserving applicant for a public job, public contract or a seat in a state college or university.

In the same 1998 voters' pamphlet, then Washington Attorney General Christine Gregoire declared, ***"The effect of the proposed measure would thus depend on how its provisions are interpreted and applied."*** In other words, I-200's effect will be determined, not solely by its written words, but by its interpretation and application.

Unfortunately, for the last 23 years Olympia has sent conflicting interpretations of I-200 to Washington's over 281 cities, 39 counties, 295 public school districts, colleges, universities and the entire nation.

On one hand, in 1998 Governor Gary Locke issued **Governor's Directive 98-01 (GD 98-01)**, which still stands today as the only official Executive Branch directive interpreting I-200. GD 98-01 declares that I-200 is a race neutral Affirmative Action policy by erroneously stating that neither race nor sex can be used as factors to select candidates for public employment, public contracts or seats in our public colleges and universities.

On the other hand, in 2003, the Washington State Supreme Court in **Parents Involved in Community Schools v. Seattle School District No.1**, interpreted I-200 to only prohibit the state's use of race or gender to select a less qualified applicant over a more qualified applicant.

Finally in 2017, Washington Attorney General (AG) Robert Ferguson issued **AG Opinion 2017, No. 2** which concluded: 1) I-200 allows Affirmative Action programs as long as neither race nor gender are used to select a less qualified contractor over a more qualified contractor; and 2) Evidence of discrimination in state contracting, which race or sex-neutral measures fail to remedy, may justify a race or sex-conscious remedy for that disparity.

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Sadly, the people who have paid the price for Washington's more than two (2) decades of conflicting I-200 interpretations are primarily women and BIPOC communities:

- The **King County Auditor** recently reported that contracting inequities still persist in Washington's current race-neutral environment, and that King County disproportionately contracts with White-owned businesses, to the detriment of some Black-owned businesses.
- BIPOC students now make up a lower share of enrollment at the University of Washington than their percentage of Washington state's population (Inside Higher Ed, 5/6/2019);
- Washington's small, minority and women owned businesses have lost nearly \$4 billion in state public contracting opportunities from 1998 to 2018, according to the Washington State Office of Minority and Women Business Enterprises (OMWBE);
- Washington has witnessed a 45% drop in the number of certified woman- and minority-owned businesses, from 4,917 in 1998, to less than 2,700 in 2020, according to OMWBE;
- As of 2020, the percentage of BIPOC employees in Washington's state, county and city governments ranks far below their demographic populations within their municipalities;
- A 2019 OMWBE Disparity Study concluded: 1) women and people of color do not enjoy equal access to all aspects of State contracting opportunities; 2) **the lack of remedial intervention in the wake of Initiative 200 perpetuates this inequality;** and 3) **remedial action is necessary to end discrimination in State contracting activities.**

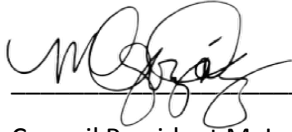
According to the 2020 U.S. Census, over 40% or nearly 300,000 of our 700,000 residents are people of color. We do not want our marginalized communities to continue bearing the brunt of the State's failure to reconcile long standing conflicting laws regarding I-200. We need your leadership NOW!

Please rescind Governor's Directive 98-01 to successfully achieve the following effects:

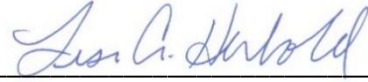
- 1) Establish Washington state as a race-conscious Affirmative Action state, without repealing I-200;
- 2) End 23 years of conflicting interpretations of I-200;
- 3) Eliminate the legal confusion city administrators routinely encounter when implementing diversity policies and procedures.

In conclusion, the Seattle City Council urges you to immediately sign an Executive Order rescinding Governor's Directive 98-01. The Council is prepared to direct the city's Office of Intergovernmental Relations' to work with your office and House and Senate leadership to pass any legislation necessary to expedite the implementation of your Executive Order rescinding Governor's Directive 98-01.

Please contact Brianna Thomas at [Brianna.Thomas@seattle.gov](mailto:Brianna.Thomas@seattle.gov), with any questions regarding this request. We look forward to working with you!



Council President M. Lorena González



Councilmember Lisa Herbold



Councilmember Andrew J. Lewis



Councilmember Tammy J. Morales



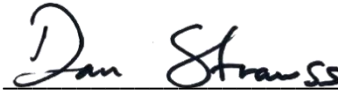
Councilmember Teresa Mosqueda



Councilmember Alex Pedersen



Councilmember Kshama Sawant



Councilmember Dan Strauss