

APPRENTICESHIP UTILIZATION REQUIREMENTS

Version Date: July 1, 2024

In accordance with apprenticeship utilization requirements in RCW 39.04.310 – RCW 39.04.320, on July 1, 2024, it is required that 15 percent (15%) of the labor hours on public work projects with estimated contracts of \$2 million or more be performed by apprentices registered in a state-approved training program. Bidders must include these requirements in all subcontracts of any tier on projects. On July 1, 2026, contracts over \$1.5 million must follow these regulations; in 2028, contracts over \$1 million are also included.

- A. An apprentice is a person enrolled in an apprentice training program approved by the Washington State Apprenticeship and Training Council. No worker shall be employed as an apprentice in any work classification in which the employee has successfully completed a training course leading to journeyman status or in which the employee has been employed as a journeyman.
- B. Apprentice Participation shall be calculated by taking the total number of labor hours performed by prime and subcontractor apprentices divided by the total number of labor hours performed by all hourly labor at the job site, expressed as a percentage. Labor hours shall exclude hours worked by foremen, superintendents, supervisors, owners, and workers who are not subject to prevailing wage requirements. The denominator shall not include hours spent by contractor/subcontractor personnel not directly involved in the work at the job site and shall not include hours spent by personnel at the site that are not paid prevailing wages, such as owners and superintendents.
- C. Per RCW 49.04.130 the Contractor and all Subcontractors shall make every effort to enlist women and racial minority representation in their apprenticeship programs. However, this provision is not intended and shall not be used to discriminate against any applicant to an apprenticeship program, whether that person is a minority, women, or otherwise.
- D. A certification of commitment to the Apprenticeship goals is required as part of the bid submittal.
- E. Apprenticeship Utilization Plan, Good Faith Efforts, and Adjustments
 1. The AUP outlines how the Apprentice Utilization Requirement will be met and demonstrates intended compliance. It should be submitted no later than ten (10) days following Notice of Selection. An AUP includes the following:
 - a. An estimate of the total contract Labor Hours by trade and craft to be worked by the Contractor and all subcontractors.
 - b. An estimate of the total Labor Hours in each trade or craft to be worked by Apprentices and journey workers, and the anticipated dates when the work will start.
 - c. A rate of participation in each trade and/or craft, and an overall rate of participation that is not less than the Apprentice Utilization Requirement.

An electronic copy of the Apprentice Utilization Plan is available on the Port's website at:

<https://www.portwhitman.com/contractors>.

2. If the plan does not reasonably demonstrate compliance with the established apprentice utilization, the contract will not be executed.
3. During the term of the contract, if the Contractor determines that the Project will be unable to achieve the apprentice utilization percentage, the Contractor may make a written request to the Port to adjust the required apprentice utilization percentage as allowed under RCW 39.04.320(2). The request must include documentation of the Contractor's and subcontractor's good faith efforts to hire registered apprentices. An electronic copy of the Apprenticeship Utilization Good Faith Efforts Documentation form is available on the Port's website at <https://www.portwhitman.com/contractors>.

Acceptable good faith efforts must include one, or more of the following:

- a. Demonstrated lack of availability of registered apprentices in the geographic/county area as verified by WSATC;
- b. An inadequate number of apprentices are available to comply with the required apprentice utilization percentage as verified by appropriate state programs;
- c. There is a disproportionately high ratio of material costs to labor hours, which does not make the required minimum levels of apprentice participation possible for this Contract as verified by the schedule of values/bid item breakdown and/or backup invoicing from suppliers or similar
- d. There are not enough hours on the project to afford the appropriate ratio of journey level to apprentice oversight as verified by the appropriate state programs and documented through the Project schedule;
- e. Apprentice utilization and involvement in Work of the Project would void warranty as verified by an original equipment manufacturer and/or surety;
- f. Other documented and verifiable impracticality that could not have been foreseen or avoided.

F. Reporting:

The Contractor and every Subcontractor shall report all labor hours and wages paid as required by the Washington State Department of Labor and Industries.

G. Incentive and Disincentive Assessment

RCW 39.04.320 (4b) outlines a requirement for a monetary incentive for meeting the apprentice hours and a monetary disincentive assessment for not meeting the apprentice hours. The value of the incentive and disincentive assessment will be determined per project, and the incentive and disincentive assessment will be identified in the bid solicitation and contract documents.

The Port has set the following incentive and disincentive assessment regarding apprentice utilization:

OPTIONS- The Port is not limited to these options or stated amounts:

1. Disincentive Assessment: Failure to comply with requirements for apprentice utilization, without a good faith effort, is a material breach of the Contract for which the Contractor, or its subcontractors, are subject to damages. If the Port determines that the Contractor, or any of its subcontractors, are noncompliant, a monetary disincentive assessment of **Twenty Dollars (\$20) for every minimum apprentice hour not achieved**, will be subtracted from monies otherwise owed to the Contractor. If no additional monies are owed, an invoice will be sent for remittance prior to the filing the Notice of Completion with the state. In no event, will the disincentive assessment exceed 5% of the Total Contract Cost.

OPTION 2 a monetary disincentive assessment of **Five Thousand Dollars (\$5,000) for each One Million Dollars (\$1,000,000) of the total project amount**,

OPTION 3 a monetary disincentive assessment of **0.50% (one-half of one percent) of the total project amount**,

2. Incentive: Should the Contractor, and/or subcontractors, achieve 15% apprentice utilization without any good faith efforts, **a monetary assessment of Five Thousand Dollars (\$5,000)** will be paid to the Contractor for proportional distribution to all employers of apprentices on the Project.

OPTION 2 a monetary assessment of **Five Dollars (\$5) for every minimum apprentice hour achieved** will be paid to the Contractor,...

In no event, will the disincentive assessment exceed **Five Thousand Dollars (\$5,000)**.

OPTION 3 a monetary assessment of **0.50% (one-half of one percent) of the total project amount** will be paid to the Contractor,...

In no event, will the disincentive assessment exceed **Five Thousand Dollars (\$5,000)**.