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Report of the Citizens Advisory Committee
Apprentice & Training Utilization Sub-Committee

Summary

The Apprenticeship & Training Sub-Committee was tasked to determine the viability of changing the language within the scope of work of contracts over \$1 million to include mandating apprenticeship utilization. In the past four years the Port of Olympia has only had two contracts over \$1 million.

Scope of Work

- *Study existing apprenticeship and training programs*
- *Evaluate possibilities – costs-and benefits of expanding apprenticeship and training programs at the Port of Olympia*
- *Recommend options – timeline - process*
- *The Port of Olympia currently awards contracts to the lowest bidder. According to RCW 39.10 there are alternatives to selecting the lowest bidder for public work contracts.*

2018 Sub-Committee members

Juqita McClure (Chair)
Meren Gadman
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Washington State Labor and Industries (L&I) considers compliance of apprenticeship utilization, only when a contractor uses apprentices from Washington State approved apprenticeship programs.

Although RCW 39.04 outlines public works, RCW 39.10 outlines Alternative Public Works Contracting Procedures, which gives the public body the ability to consider additional factors like outreach plans during the bidding process.

Based on the requested evaluation of apprenticeship and training utilization implementation under Port contract similar to other public entities, additional research determined that mandated apprenticeship utilization for contract greater than (>) \$1 million is not required by the Port, because the Port of Olympia does not fall under Governor authority, but is exempt as the contracts are awarded by other state agency headed by publicly elected officials.

Mandating apprenticeship utilization for contract > \$1million has the potential to discourage competitive bidding. Past contractors were contacted (attachment 7) to determine



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whether mandated changes to include apprenticeship utilization would discourage the contractor from continuing to bid on Port contracts.

Long term public works contracts projected to take years to complete, often require a Project Labor Agreement (PLA) or Community Workforce Agreement (CWA). The Port of Olympia averages 166 days for its standard contract. The last million-dollar contract (fuel dock) took 170 days to complete.

Recommendation

For contracts with a projected cost > \$1 million, the Port of Olympia does not meet the public works requirements to mandate apprenticeship utilization, nor should the Port of Olympia discourage open competitive bidding of its contractors. The Apprenticeship Utilization Sub-Committee recommends rather than mandating apprenticeship utilization for Port contracts > \$1 million, the port apply an incentive to contractors already utilizing state approved apprentices during the proposal process.

The Port of Olympia Citizen Advisory Committee has reviewed the proposal and recommends the implementation of an incentive (attachment 1) rather than mandating apprenticeship utilization. An incentive for contracts >\$1 million would continue to encourage competitive bidding between open shop contractors and signatory contractors while not discriminating between those contractors who choose not to utilize apprentices. Further recommend the Port of Olympia continues to require contractors meet L&I prevailing wage guidelines as indicated in policy 1004. Prevailing wages are required to be paid to workers, laborers and mechanics on all public works projects, according to RCW 39.12.020. Fair and competitive open bidding can be achieved without labor restrictions and through the prevailing wage requirement.

If the Port of Olympia chooses to adopt this proposal in order to utilize an incentive during the bidding process for contracts >\$1 million, it would require a change to policy #1004 adding a statement in the “BIDDING PROCESS:” that contract documents for project with a cost estimate range >\$1 million will include a bidding incentive for those contractors utilizing Washington State approved apprentices for the project. This would require the contractor to provide the apprentice (s) registration number to the Port during the proposal process, and the Port Contract Administrator can verify each apprentice in Apprenticeship Registration & Tracking (ARTS) in order to utilize any proposed incentive.



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Port of Olympia Current Policies/Practice

Policy 1002, Small Works Roster Procedures, dated 9/15
Policy 1004, Public Works Contracting Procedures, dated 9/15
Accepts the lowest *responsive bid*
Awarded contracts to *signatory contractors* in past practice

Responsive bids are a bids or proposals that substantially complies with the invitation to bid or request for proposals and all prescribed procurement procedures and requirements.

The Port, in its sole discretion, reserves the right to determine bid irregularities which render a bid non-responsive, and to waive informalities and immaterial irregularities in the bid. A bid shall be considered irregular and may be rejected by the Port as non-responsive for reasons including, but not limited to:

- If the bid form furnished or authorized is not used or is altered;
- If the bid form or any required supplemental documents are incomplete, contain any additions, deletions, conditions, or otherwise fail to conform to the Port’s requirements;
- If the bidder adds any provisions reserving the right to reject or accept the award, or enter into the contract;
- If the bid or bid guaranty is not properly executed, or shows an incorrect amount;
- If the bid fails to include a price for every bid item;
- If the Port reasonably deems the bid guaranty inadequate; or
- If the Port deems any of the bid prices to be excessively unbalanced either above or below the amount of a reasonable bid price for the item of work to be performed, to the potential detriment of the Port

Signatory contractors are union contractors. The company or organization has signed a *collective bargaining agreement* between one or more of the unions whose members work directly for the contractor on construction projects.

Collective bargaining agreement means an agreement in writing or writings between an employer and a trade union setting forth the terms and conditions of employment or containing provisions in regard to rates of pay, hours of work or other working conditions of employees.



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Attachments

Attachment 1 – Proposed Incentive Process

Attachment 2 - Responsibilities During Contract Process

Attachment 3 – Apprenticeship Training Programs

Attachment 4 – Public Works Projects

Attachment 5 – Project Labor Agreement/Community Workforce Agreements

Attachment 6 – Alternative to Lowest Bid

Attachment 7 – Contractor/Labor Questions and Responses

Attachment 8 – Associated General Contractors (AGC) Feedback



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Attachment 1

Proposed Incentive Process

Continue competitive process using public solicitation for proposals of services as outlined in 1004, with the exception for those contracts projected > \$1million, will include the statement during solicitation, “incentive will be granted to those bidders identifying the use of apprentices from an approved Washington State L&I apprenticeship training program.”

Contractor should also provide a general description of work to include names of apprentices, trade, occupation, and apprentice identification number for all apprentice who will be working on the project, if any, during the proposal process.

If a contractor has identified the use of State approved apprentices and all proposals are processed and closed for bidding, continue to identify the proposed cost incentive in order to determine the lowest bid submitted.

Determine the average proposed bid from all bids submitted.

Subtract the lowest proposed bid submitted from the average bid to create a cost incentive.

Subtract the cost incentive from the proposal for the contractor(s) who have identified the use of apprentices from the State approved apprenticeship utilization program.

The contract will be awarded to the bidder with the lowest responsive proposal after subtraction of the incentive which could be a slightly higher bid than the lowest bidder’s proposal.

Note: See examples below.

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** If the calculated incentive changes the proposal to the lowest bid, then grant the contract to the contractor using apprentices at the proposed bid submitted by the contractor. (example #1)

Example #1

Engineering estimated project cost: \$1.6 million			
	Bid >\$1 mil	Use Apprentices	Lowest Bid After Incentive
Contractor #1	\$ 1,303,000.00	No	\$ 1,303,000.00
Contractor #2	\$ 1,403,500.00	<u>Yes</u>	\$ 1,245,822.63
Contractor #3	\$ 1,462,100.00	No	\$ 1,462,100.00
Contractor #4	\$ 1,300,512.00	No	\$ 1,300,512.00
Contractor #5	\$ 1,500,253.00	<u>Yes</u>	\$ 1,342,575.63
Contractor #6	\$ 1,620,300.00	No	\$ 1,620,300.00
Contractor #7	\$ 1,583,200.00	No	\$ 1,583,200.00
Contractor #8	\$ 1,492,650.00	No	\$ 1,492,650.00

Award Contract

Avg Bid = \$ 1,458,189.38

Difference of lowest Bid - Avg Bid = \$ 157,677.38 Incentive

Contract Cost to Port \$ 1,403,500.00

** The incentive may not always change the outcome of the lowest bid proposed. If the calculated incentive does not change the lowest proposal, then the incentive is not considered. (example #2)

Example #2

Engineering estimated project cost: \$2.3 million			
	Bid >\$1 mil	Use Apprentices	Lowest Bid After Incentive
Contractor #1	\$ 2,015,000.00	No	\$ 2,015,000.00
Contractor #2	\$ 2,033,500.00	No	\$ 2,033,500.00
Contractor #3	\$ 2,300,520.00	<u>Yes</u>	\$ 2,205,611.67
Contractor #4	\$ 2,018,630.00	No	\$ 2,018,630.00
Contractor #5	\$ 2,000,740.00	No	\$ 2,000,740.00
Contractor #6	\$ 2,205,500.00	No	\$ 2,205,500.00

Award Contract

Avg Bid = \$ 2,095,648.33

Difference of lowest Bid - Avg Bid = \$ 94,908.33 Incentive

Contract Cost to Port \$ 200,740.00



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Attachment 2

Responsibilities During Contract Process

If the Port of Olympia chooses to adopt this proposal in order to utilize an incentive during the bidding process for contracts >\$1 million, it would require a change to policy #1004 adding a statement in the “BIDDING PROCESS:” requiring that the contractor will provide the apprentice (s) registration number to the Port during the proposal process for verification, and the Port contract administrator must verify each apprentice in Apprenticeship Registration & Tracking (ARTS) to utilize any proposed incentive prior to awarding the contract to the lowest bid.

<http://lni.wa.gov/TradesLicensing/Apprenticeship/ARTS/default.asp>

Note: Those same apprentice names must also be identified on the intent to pay prevailing wage if contract is awarded, which can be verified also by the contract administrator.

Step-by-step instructions for public works projects for the awarding agency and contractors filing intents can be found at <http://www.lni.wa.gov/TRADESLICENSING/PRE VWAGE/DEFAULT.ASP>.

Contractors must submit an affidavit of wages paid addendum D, apprentices when filing with the L&I for a public works contract.

Contractor

- Provide paid on-the-job training to the apprentices in the appropriate occupation and setting
- Complete affidavit of wages paid Addendum D, Apprentices
- Pay the apprentices the right wages (L&I prevailing wage)
- Monitor ratio of journey level to apprentices workers
- Ensure proper supervision of apprentices
- Employ only registered apprentices and journeymen when training for an occupation

Port Contract Administrator

- Track the name of each apprentices and apprentice’s registration number;
- Track the name of each project;
- Track the dollar value of each project;
- Track the date of the contractor's notice to proceed;
- Track the number of apprentices and labor hours worked by them, categorized by trade or craft;
- Track the number of journey level workers and labor hours worked by them, categorized by trade or craft; and
- Track the number, type, and rationale for the exceptions



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Attachment 3

Apprenticeship & Training Programs

The Apprenticeship Utilization Act encourages apprenticeship programs by requiring apprentices be used in public works projects. The purpose of the Act is to ensure a well-trained trades workforce to ensure the economic future of the county, increase efficiency and economical construction of public works projects, and create experience to individuals seeking to enter or advance in the workforce.

Apprentices – or – Trainee:

An “Apprentice” is an individual who is employed to learn an occupation and registered with a sponsor enrolled in a state-approved apprenticeship training program.

A “Trainee” is a person undergoing training for a particular job or profession. Trainee can be training in terms of apprentices training, a person undergoing military training, or vocational training.

RCW 39.04.310 - Apprenticeship training programs—Definitions.

The definitions in this section apply throughout this section and RCW 39.04.300 and 39.04.320 unless the context clearly requires otherwise.

(1) "Apprentice" means an apprentice enrolled in a state-approved apprenticeship training program.

(2) "Apprentice utilization requirement" means the requirement that the appropriate percentage of labor hours be performed by apprentices.

(3) "Labor hours" means the total hours of workers receiving an hourly wage who are directly employed upon the public works project. "Labor hours" includes hours performed by workers employed by the contractor and all subcontractors working on the project. "Labor hours" does not include hours worked by foremen, superintendents, owners, and workers who are not subject to prevailing wage requirements.

(4) "School district" has the same meaning as in RCW 28A.315.025.

(5) "State-approved apprenticeship training program" means an apprenticeship training program approved by the Washington state apprenticeship council.

RCW 39.04.320 Apprenticeship training programs – Public works contracts – Adjustment of specific projects – Report and collection of agency data-Apprenticeship utilization advisory committee created.

(4) This section applies to public works contracts awarded by the state, to public works contracts awarded by school districts, and to public works contracts awarded by state four-year



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institutions of higher education. However, this section does not apply to contracts awarded by state agencies headed by a separately elected public official.

(5)(a) The Department of Enterprise Services must provide information and technical assistance to affected agencies and collect the following data from affected agencies for each project covered by this section:

- (i) The name of each apprentice and apprentice registration number;
- (ii) The name of each project;
- (iii) The dollar value of each project;
- (iv) The date of the contractor's notice to proceed;
- (v) The number of apprentices and labor hours worked by them, categorized by trade or craft;
- (vi) The number of journey level workers and labor hours worked by them, categorized by trade or craft; and
- (vii) The number, type, and rationale for the exceptions granted under subsection (2) of this section.

(b) The Department of Labor and Industries shall assist the Department of Enterprise Services in providing information and technical assistance.

(6) The secretary of transportation shall establish an apprenticeship utilization advisory committee, which shall include statewide geographic representation and consist of equal numbers of representatives of contractors and labor. The committee must include at least one member representing contractor businesses with less than thirty-five employees. The advisory committee shall meet regularly with the secretary of transportation to discuss implementation of this section by the Department of Transportation, including development of the process to be used to adjust the requirements of this section for a specific project.

(7) At the request of the senate labor, commerce, research and development committee, the house of representative's commerce and labor committee, or their successor committees, and the governor, the Department of Enterprise Services and the Department of Labor and Industries shall compile and summarize the agency data and provide a joint report to both committees. The report shall include recommendations on modifications or improvements to the apprentice utilization program and information on skill shortages in each trade or craft.



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Attachment 4

Public Works Projects

What is a public works project? Construction projects financed by government funds, and includes those projects encompassed by appropriate statute. A public works project is any category of infrastructure projects, such as construction, alteration, demolition, installation, or repair work done under contract and paid in whole or in part out of public fund. Projects include hospitals, bridges, schools, libraries, highways, and dams.

Currently apprenticeship utilization is mandated by Washington State for all public works contracts projects overseen by the Governor. Ports do not fall within the defined public works infrastructure, making a mandate for apprenticeship utilization optional for contractors.

Public-work contracts administered by WSDOT currently require 15 percent of the total labor hours be performed by state-approved apprentices for projects estimated to cost \$3 million or more.

The Port of Olympia is not required by the RCW39.04.340 to mandate apprenticeship utilization for contracts over 1 million dollars, as projects are not overseen by the Governor. However, for the employment health of the county and the future strong workforce, apprenticeship utilization is highly encouraged.



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Attachment 5

Project Labor Agreement (PLA)/Community Workforce Agreement (CWA)

A Project Labor Agreement (PLA) is a type of collective bargaining agreement typically formed between unions and owners of construction projects. A PLA is a collective bargaining agreement that applies to a specific construction project and lasts only for the duration of the project. The agreement is project-specific and is finalized before labor is hired. Generally used with multiple employers and multi-union for long term construction projects to establish pre-hire collective bargaining agreement designed to establish employment terms and conditions while providing benefits to local communities, tax payers, workers and businesses. A PLA generally specifies the wages and fringe benefits to be paid on a project. A PLA may require contractors to hire workers through a union hiring hall.³ If not, it may require employees to become union members after being hired.

A Community Workforce Agreement (CWA) is a comprehensive pre-hire collective bargaining agreement between the County and labor unions that sets the basic terms and conditions of employment for an entire public works construction project.

A PLA or CWA generally requires (1) contractors to hire workers through a union hiring hall or (2) employees to become union members after being hired. A PLA applies to all contractors and subcontractors for the duration of the project.

PLAs are designed to assist in long term projects that take years to complete, providing a readily available workforce in the event of illness or injury. Unlike the Port of Seattle and the Port of Tacoma, the Port of Olympia has short term projects that do not necessarily fall within the intent of a PLA. Average contract for the Port of Olympia range from 60 to 90 days.

PROS:

1. Provide uniform wages, benefits, overtime pay, hours, working conditions, and work rules for work on major construction projects.
2. Provide contractors with a reliable and uninterrupted supply of qualified workers at predictable costs.
3. Ensure that a project will be completed on time and on budget due to the supply of qualified labor and relative ease of project management.
4. Ensure no labor strife by prohibiting strikes and lockouts and including binding procedures to resolve labor disputes; Labor conflict resolution.
5. Make large projects easier to manage by placing unions under one contract, the PLA, rather than dealing with several unions that may have different wage and benefit structures.



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6. May include diversity provisions to recruit and train workers by requiring contractors to participate in recruitment, apprenticeship, and training programs for women, minorities, veterans, and other under-represented groups (this is a common CWA provision).
7. Reduces misclassification of workers and the related underpayment of payroll taxes, workers compensation, and other requirements;
8. May mean a larger percentage of construction wages stay in the county.
9. May improve worker safety by requiring contractors and workers to comply with project safety rules.

CONS:

1. Increase costs by mandating union wages and work rules and inhibiting competition.
2. Are anti-competitive because nonunion contractors may choose not to bid because either their members would be required to join a union if the contractor wins the bid or the contractor would not be able to use its own workers if the PLA required hiring through the union hiring hall.
3. Are inherently unfair to nonunion contractors and nonunion employees.
4. Are an unnecessary mandate (if imposed by law).
5. Hinder the use of nonunion contractor training programs that may operate more efficiently and are job specific, instead of union apprenticeship programs of a fixed duration.
6. Are unnecessary because of existing prequalification procedures that screen contractors that bid on public projects.



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Attachment 6

Alternative to Lowest Bidder

RCW 39.10.200 - Finding—Purpose—Intent.

The legislature finds that the traditional process of awarding public works contracts in lump sum to the lowest responsible bidder is a fair and objective method of selecting a contractor. However, under certain circumstances, alternative public works contracting procedures may best serve the public interest if such procedures are implemented in an open and fair process based on objective and equitable criteria. The purpose of this chapter is to authorize the use of certain supplemental alternative public works contracting procedures, to prescribe appropriate requirements to ensure that such contracting procedures serve the public interest, and to establish a process for evaluation of such contracting procedures. It is the intent of the legislature to establish that, unless otherwise specifically provided for in law, public bodies may use only those alternative public works contracting procedures specifically authorized in this chapter, subject to the requirements of this chapter.

RCW 39.10.330 -Design-build contract award process.

(1) Contracts for design-build services shall be awarded through a competitive process using public solicitation of proposals for design-build services. The public body shall publish at least once in a legal newspaper of general circulation published in, or as near as possible to, that part of the county in which the public work will be done, a notice of its request for qualifications from proposers for design-build services, and the availability and location of the request for proposal documents. The request for qualifications documents shall include:

(a) A general description of the project that provides sufficient information for proposers to submit qualifications;

(b) The reasons for using the design-build procedure;

(c) A description of the qualifications to be required of the proposer including, but not limited to, submission of the proposer's accident prevention program;

(d) A description of the process the public body will use to evaluate qualifications and finalists' proposals, including evaluation factors and the relative weight of factors and any specific forms to be used by the proposers;

(i) Evaluation factors for request for qualifications shall include, but not be limited to, technical qualifications, such as specialized experience and technical competence; capability to perform; past performance of the proposers' team, including the architect-engineer and construction members; and other appropriate factors. Evaluation factors may also include: (A) The proposer's past performance in utilization of small business entities; and (B) disadvantaged business enterprises. Cost or price-related factors are not permitted in the request for qualifications phase;

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(ii) Evaluation factors for finalists' proposals shall include, but not be limited to, the factors listed in (d)(i) of this subsection, as well as technical approach design concept; ability of professional personnel; past performance on similar projects; ability to meet time and budget requirements; ability to provide a performance and payment bond for the project; recent, current, and projected workloads of the firm; location; and cost or price-related factors that may include operating costs. The public body may also consider a proposer's outreach plan to include small business entities and disadvantaged business enterprises as subcontractor and suppliers for the project. Alternatively, if the public body determines that all finalists will be capable of producing a design that adequately meets project requirements, the public body may award the contract to the firm that submits the responsive proposal with the lowest price.

RCW 39.10.360 - General contractor/construction manager procedure—Contract award process.

(1) Public bodies should select general contractor/construction managers early in the life of public works projects, and in most situations no later than the completion of schematic design.

(2) Contracts for the services of a general contractor/ construction manager under this section shall be awarded through a competitive process requiring the public solicitation of proposals for general contractor/construction manager services. The public solicitation of proposals shall include:

(a) A description of the project, including programmatic, performance, and technical requirements and specifications when available;

(b) The reasons for using the general contractor/construction manager procedure including, if applicable, a clear statement that the public body is electing to procure the project as a heavy civil construction project, in which case the solicitation must additionally:

(i) Indicate the minimum percentage of the cost of the work to construct the project that will constitute the negotiated self-perform portion of the project;

(ii) Indicate whether the public body will allow the price to be paid for the negotiated self-perform portion of the project to be deemed a cost of the work to which the general contractor/construction manager's percent fee applies; and

(iii) Require proposals to indicate the proposer's fee for the negotiated self-perform portion of the project;

(c) A description of the qualifications to be required of the firm, including submission of the firm's accident prevention program;

(d) A description of the process the public body will use to evaluate qualifications and proposals, including evaluation factors, the relative weight of factors, and protest procedures including time limits for filing a protest, which in no event may limit the time to file a protest to fewer than four business days from the date the proposer was notified of the selection decision;

(e) The form of the contract, including any contract for preconstruction services, to be awarded;

(f) The estimated maximum allowable construction cost; and



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(g) The bid instructions to be used by the general contractor/construction manager finalists.

(3)(a) Evaluation factors for selection of the general contractor/construction manager shall include, but not be limited to:

- (i) Ability of the firm's professional personnel;
- (ii) The firm's past performance in negotiated and complex projects;
- (iii) The firm's ability to meet time and budget requirements;
- (iv) The scope of work the firm proposes to self-perform and its ability to perform that work;
- (v) The firm's proximity to the project location;
- (vi) Recent, current, and projected workloads of the firm; and
- (vii) The firm's approach to executing the project.

(b) An agency may also consider the firm's outreach plan to include small business entities and disadvantaged business enterprises, and the firm's past performance in the utilization of such firms as an evaluation factor.

(4) A public body shall establish a committee to evaluate the proposals. After the committee has selected the most qualified finalists, at the time specified by the public body, these finalists shall submit final proposals, including sealed bids for the percent fee on the estimated maximum allowable construction cost and the fixed amount for the general conditions work specified in the request for proposal. The public body shall establish a time and place for the opening of sealed bids for the percent fee on the estimated maximum allowable construction cost and the fixed amount for the general conditions work specified in the request for proposal. At the time and place named, these bids must be publicly opened and read and the public body shall make all previous scoring available to the public. The public body shall select the firm submitting the highest scored final proposal using the evaluation factors and the relative weight of factors published in the public solicitation of proposals. A public body shall not evaluate or disqualify a proposal based on the terms of a collective bargaining agreement.

(5) The public body shall notify all finalists of the selection decision and make a selection summary of the final proposals available to all proposers within two business days of such notification. If the public body receives a timely written protest from a proposer, the public body may not execute a contract until two business days after the final protest decision is transmitted to the protestor. The protestor must submit its protest in accordance with the published protest procedures.

(6) Public bodies may contract with the selected firm to provide services during the design phase that may include life-cycle cost design considerations, value engineering, scheduling, cost estimating, constructability, alternative construction options for cost savings, and sequencing of work, and to act as the construction manager and general contractor during the construction phase.

RCW 39.10.420 - Job order procedure—Which public bodies may use—Authorized use.

(1) The following public bodies of the state of Washington are authorized to award job order contracts and use the job order contracting procedure:



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- (a) The department of enterprise services;
 - (b) The state universities, regional universities, and The Evergreen State College;
 - (c) Sound transit (central Puget Sound regional transit authority);
 - (d) Every city with a population greater than seventy thousand and any public authority chartered by such city under RCW [35.21.730](#) through [35.21.755](#);
 - (e) Every county with a population greater than four hundred fifty thousand;
 - (f) Every port district with total revenues greater than fifteen million dollars per year;
 - (g) Every public utility district with revenues from energy sales greater than twenty-three million dollars per year;
 - (h) Every school district;
 - (i) The state ferry system;
 - (j) The Washington state department of transportation, for the administration of building improvement, replacement, and renovation projects only;
 - (k) Every public hospital district with total revenues greater than fifteen million dollars per year; and
 - (l) Every public transportation benefit area authority as defined under RCW [36.57A.010](#).
- (2)(a) The department of enterprise services may issue job order contract work orders for Washington state parks department projects and public hospital districts.
- (b) The department of enterprise services, the University of Washington, and Washington State University may issue job order contract work orders for the state regional universities and The Evergreen State College.
- (3) Public bodies may use a job order contract for public works projects when a determination is made that the use of job order contracts will benefit the public by providing an effective means of reducing the total lead-time and cost for the construction of public works projects for repair and renovation required at public facilities through the use of unit price books and work orders by eliminating time-consuming, costly aspects of the traditional public works process, which require separate contracting actions for each small project.



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Attachment 7

Survey questions sent to contractors

- 1) On average, how many employees do you normally have working on a contracted project?
- 2) Are you currently or have you every utilized apprentice on a project?
- 3) If the Port of Olympia changed the statement of work to include apprentice utilization, would you continue to bid on contracts with the Port of Olympia?
- 4) Do you believe that 10% or 15% apprentices utilization of the workforce for contracts is agreeable, too high, or too low for contracts >\$500?
- 5) Would you be willing to sign a Project Labor Agreement (PLA) to gain a contract at the Port of Olympia?

Contractor Response

Hello,

12 Employees.
 NOVA Contracting, Inc. is union-free so our apprentices program will not be approved by the state of Washington. No.
 No we would not continue to bid work with the Port of Olympia.
 Apprentices Utilization is another term to subsidize inefficient companies at the tax payer's expense. Statistics show that projects with apprentice goals are 10-30% higher directly correlating to the apprentice project goals. For example, recently the Town of Rainier bid "twice" now a \$250,000 engineers estimate project with a 20% DBE goal. Both times the bid result were the same low bidder \$350,000 and second time \$380,000. Jon Hinton, Gray & Osborne, was the consulting engineer. I would contact them to see how apprentice utilization are increasing the bid results and stopping contractors from bidding the work. The first time it was bid (2) bidders and the second time (1) bidder.
 Project Labor Agreement goes against our Capitalism system. Tax based municipalities should have no such agreements or even suggest such agreements or contracts unless it is proposed to their tax base constituents first.

Thank you for allowing me to answer your survey request.

- ☐ On average, how many employees do you normally have working on a contracted project? **Varies greatly. Typically 10 to 50 Quest employees.**
- ☐ Are you currently or have you every utilized apprentice on projects? **No.**

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☐ If the Port of Olympia changed the statement of work to include apprentice utilization, would you continue to bid on contracts with the Port of Olympia? **Not definitively, but it would be a deterrent.**

☐ Do you believe that a 10% to 15% apprentices utilization of the workforce for contracts is agreeable, too high, or too low, for contracts >\$500,000? **Too high. Workforce restrictions make project execution less efficient and, in many cases, more costly.**

☐ Would you be willing to sign a Project Labor Agreement (PLA) to gain a contract at the Port of Olympia? **No.**

On average, how many employees do you normally have working on a contracted project? **10-15**

☐ Are you currently or have you every utilized apprentice on projects? **yes**

☐ If the Port of Olympia changed the statement of work to include apprentice utilization, would you continue to bid on contracts with the Port of Olympia? **yes**

☐ Do you believe that a 10% to 15% apprentices utilization of the workforce for contracts is agreeable, too high, or too low, for contracts >\$500,000? **agreeable**

☐ Would you be willing to sign a Project Labor Agreement (PLA) to gain a contract at the Port of Olympia? **Depends on the term of the PLA. Granite has signed PLA's with other owners in the past.**

- On average, how many employees do you normally have working on a contracted project? **It depends on the value/scope of work of the contract. For example, a dredging project is very equipment intensive and low on the labor; conversely, a structures project is much more labor intensive. On average for a \$5 million dollar project we would employ 10-15 craft hands.**
- Are you currently or have you every utilized apprentice on projects? **Yes we do utilize apprentices on our projects. Many of our public works contracts have apprenticeship goals.**
- If the Port of Olympia changed the statement of work to include apprentice utilization, would you continue to bid on contracts with the Port of Olympia? **Yes, provided the utilization goals and language in the contract was attainable and acceptable.**
- Do you believe that a 10% to 15% apprentices utilization of the workforce for contracts is agreeable, too high, or too low, for contracts >\$500,000? **Seems high and is significantly impact on the type of work. Again for a dredging project that would be difficult. Another factor to consider would the goals be calculated on total project craft labor hours, or calculated on total hours by trade? This is a significant variable, if the job has 7 pilebucks and 1 operator; meeting a apprenticeship utilization goal for the operator would be difficult. The contractor would be forced to add cost to the bid in order to employ an operator apprentices that otherwise would not be needed on the job. Please keep in mind that the operator position may require a skillset that only a journeyman posses so using a single apprentices as the operator may create a safety hazard. Also, the intent of the apprenticeship is to allow new craft employees to work around/under journeyman in order to learn the trade.**

Would you be willing to sign a Project Labor Agreement (PLA) to gain a contract at the Port of Olympia? **In my experience PLA are not effective. I have worked with a PLA at the Port of Seattle and in my opinion it add no value. The Navy has used a PLA on one of their recent large Puget Sound projects due to a Federal mandate that**

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the Obama administration put into place. It was not successful and the most recent Government RFP that we proposed on did NOT have a PLA in it, so it appears that the Government has moved away from them.

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On average, how many employees do you normally have working on a contracted project? A minimum of 5 on small jobs, a maximum of 30 on large jobs

☐ Are you currently or have you every utilized apprentice on projects? Yes, we are a union contractor and utilize apprentices through the union

☐ If the Port of Olympia changed the statement of work to include apprentice utilization, would you continue to bid on contracts with the Port of Olympia? Yes

☐ Do you believe that a 10% to 15% apprentices utilization of the workforce for contracts >\$500,000? Yes, that is about right

☐ Would you be willing to sign a Project Labor Agreement (PLA) to gain a contract at the Port of Olympia? Yes

.....

- Generally 2-5 employees on a project
- Yes- we had a PLA agreement for a prior project
- No. We have found for a company of our size the amount of monitoring and documentation is too difficult for us to manage
- We will sometimes look at projects with the apprentice requirements when the project is over 1 million. This passes on to our subcontractors as well.

We would consider it depending on the language and requirements of the PLA. In the past some required that we agree to sign up with the union after a certain # of PLAs—we would not agree to this.

.....

- On average, how many employees do you normally have working on a contracted project? 5
- Are you currently or have you every utilized apprentice on projects? Yes
- If the Port of Olympia changed the statement of work to include apprentice utilization, would you continue to bid on contracts with the Port of Olympia? Yes
- Do you believe that a 10% to 15% apprentices utilization of the workforce for contracts >\$500,000? Probably too high because a lot of jobs that size may have a crew of only 2-3 people

Would you be willing to sign a Project Labor Agreement (PLA) to gain a contract at the Port of Olympia? Yes



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Survey questions sent to labor representatives

- 1) What is the name of your organization?
- 2) Does your organization currently have a State-approved apprenticeship program in place?
- 3) If so, how do you determine the number of apprentices or apprentice-hours to allocate to a particular project?
- 4) Do you require a “Project Labor Agreement” to dispatch an apprentice?
- 5) For projects valued greater than one million dollars, how many apprentices (on an individual worker or total hourly basis) would you expect to dispatch on any given project?
- 6) For those workers who have successfully completed an apprenticeship program, approximately what % go on to become professionally employed, full time, in their respective industries?
- 7) Do they generally stay in the area in which they received their training, or do they relocate to other markets?
- 8) What % of your apprentices are veterans or participated in the “Helmets to Hardhats” program?
- 9) What impact, if any, does your apprenticeship program have on the overall cost of the job?
- 10) What are some of the benefits to increasing utilization of apprenticeship programs generally speaking?
- 11) Would your organization be in support of or opposed to the Port of Olympia requiring utilization of an apprenticeship program on contracts greater than \$1,000,000 in value? Why or why not?

Labor Response

Most of the questions don't apply to us in the traditional way but our B registration is something like an apprenticeship program. All costs are born by PMA which is a collective of all of the employers on the west coast.

1. ILWU Longshore Local #47

2. No

3. N/A

4. N/A

5. N/A

6. For our B registered individuals, 100% who make it 5 years become A registered unless there is some type of disciplinary action that would delay their registration.



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7. All B registered who make A registration are assigned to the local that they were registered in. After assignment, there are extremely few transfers of A registrants on the west coast.

8. A very small percentage. As far as I know we do not have any helmets to hard hats program on the west coast.

9. Zero percent.

10. As a labor organization we believe that apprenticeship programs are important. Having well trained and motivated workers with a future stake in their chosen industry, is important to our society as a whole. Hiring low paid, part time workers to keep bids low does nothing to help the individuals who are actually doing the work and also can affect the quality of the job being performed.

11. We are in strong support of the Port of Olympia requiring utilization of apprenticeship programs for contracts exceeding \$1,000,000 in value.



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Attachment 8

Associated General Contractors Response

The Associated General Contractors (AGC) of Washington would like to respond in a general way to the questions the Port of Olympia Citizen Advisory Committee (POCAC) posed to various contractors on June 19th. The AGC does not contract with any jurisdiction, but we do represent over 600 contractors in the State of Washington who do contract with local jurisdictions like the Port of Olympia. We represent both union and open shop contractors. We appreciate your outreach to the industry.

First, we would like to clear up any confusion that may exist around the need to adopt a Project Labor Agreement (PLA) in order to meet any potential apprentice utilization goal. In no way, shape or form would you need to adopt a PLA to meet an apprentice utilization goal. That notion is severely misinformed and the AGC is willing to talk with you more at a later date to discuss the matter in-depth. After all, WSDOT has long met its apprenticeship goals without the use of PLAs.

Second, because the Port primarily executes contracts on small and medium-sized projects only, there is no need for mandatory apprenticeship utilization goals in the first place. Mandatory goals are likely to limit your bidding pool and increase costs to taxpayers. Contractors are already stretched thin and at maximum capacity. A new government-mandated goal could mean the Port's projects with these potential requirements would be overlooked by contractors.

Next, AGC does not support government-mandated and government-negotiated PLAs. The Port of Olympia is a small to medium-sized local jurisdiction and I want you to be fully advised as to why PLAs won't work at the Port.

- PLAs effectively exclude the majority of construction workers from the opportunity to work on public projects and limit the potential bidding pool because open shop contractors and most Women and Minority Business Enterprise (WMBE) contractors (and their workers) will simply not bid a PLA project. This is the real world and the Port can't force a private construction company to bid a project. Some contractors will silently walk away from the opportunity to bid PLA projects at the Port to work in another jurisdiction. The Port should want general contractors and specialty contractors bidding to general contractors to compete vigorously.
- Because the construction economy is fairly strong in Western Washington, some jurisdictions are already complaining that they are not getting enough bidders on selected projects.
- PLAs impose unnecessary administrative costs in complying with the reporting.
- PLAs are not what they may seem. They unnecessarily restrict a contractor's ability to effectively manage the workforce and deliver quality projects and increase the costs of projects to taxpayers. The Port is not a large enough jurisdiction to not watch every penny spent.



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Further, AGC does not support government-mandated priority hire policies. Priority hire would have negative consequences for Thurston County in general. As you may know, priority hire forces contractors to hire employees from lower income, higher unemployment and less educated zip codes. First off, this pits construction workers living in middle income zip codes against workers living in lower income zip codes. Essentially, are you penalizing people with regards to employment based on where they live. That is discriminatory and courts have reversed ordinances like these in the recent past. Educating people about their potential employment options one-on-one does way more than any Port policy surrounding priority hire. AGC and the AGC Education Foundation work hard and devote significant resources to encouraging young people to enter construction and to diversifying the construction workforce.

Lastly, the construction industry understands that we have a workforce development problem, but government mandates don't solve that problem and in most cases just make it worse. The construction industry is doing all it can to advertise employment opportunities to the public and train workers. AGC employers spend well over \$20 million per year in apprenticeship programs. That is a substantial number and should not be overlooked. The AGC wishes to partner with local jurisdictions to find solutions to workforce development issues and not simply defend the industry from regulations that don't work or have little impact other than dramatically increased paperwork for Port employees and construction firms.

We would be happy to discuss this matter with you and/or the Commissioners in more detail.

Thank you for reaching out to contractors for comment.

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AGC OF WASHINGTON

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