

PORT OF OLYMPIA COMMISSION
Resolution 2022-16

A Resolution, of the Port of Olympia Commission, creating an apprenticeship utilization requirement for public works projects with a cost estimate of more than \$1,000,000 (One Million Dollars)

WHEREAS, the State of Washington recognizes that a well-trained construction trades workforce is critical to the ability to construct public works and codifies the purpose of apprenticeship training programs in RCW 39.04.300, and:

WHEREAS, the Port Commission last established a master policy directive for matters related to Port Contract and Acquisitions Policies with the adoption of Resolution 2019-06 that includes Policy 1004 Public Works Contracting; and

WHEREAS, the Port Commission wishes to update Policy 1004 Public Works Contracting to add a requirement for the utilization of apprenticeships for public works projects that exceed \$1,000,000 (One Million Dollars) in estimated costs; and

WHEREAS, Section 53.12.270 of the Revised Code of Washington provides authority to the Port Commission for delegation of powers to the Executive Director; and

WHEREAS, the Port Commission has adopted policy directives delegating administrative authority to the Executive Director and his/her designees for the purpose of expeditious administration of the Port; and

WHEREAS, the Port Commission has from time to time found it necessary to amend and revise such directives due to changes in law and/or operations of the Port;

THEREFORE, BE IT RESOLVED, that Port Policy 1004 Public Works Contracting as adopted previously by Resolution 2019-06, is amended as set forth in Exhibit "A" attached to this Resolution and incorporated herein by such reference for the purpose of providing an Apprenticeship Utilization Policy for the Port of Olympia.

BE IT FURTHER RESOLVED that the Port of Olympia Commission delegates the authority to the Executive Director to create procedures for the above listed policy.

ADOPTED BY THE Port of Olympia Commission this 12th day of December, 2022.

PORT OF OLYMPIA COMMISSION

Charles Iyall
Charles Iyall (Feb 27, 2023 14:27 PST)

Charles (Bob) Iyall, President

Amy Harding
Amy Harding (Feb 16, 2023 08:21 PST)

Amy Evans Harding, Vice President

J Downing
J Downing (Mar 15, 2023 08:26 PDT)

Joe Downing, Secretary

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Exhibit A

Public Works Contracting (Policy 1004)

The Port shall ensure that its contracts for construction of public works comply with applicable laws and regulations. All public works contracts shall be executed by the Executive Director and administered by the Port's Environmental, Public Works and Planning Director or designee.

Policy Definitions:

- **Apprentice** means an apprentice enrolled in an apprenticeship training program approved or recognized by the Washington State Apprenticeship and Training Council.
- **Apprentice utilization requirement** means the requirement that no less than 15 percent of the total reported labor hours involved in a public works project estimated by the Port to cost in excess of \$1 million be performed by apprentices.
- **Contractor** means a person, corporation, partnership, limited liability company, public agency, or joint venture entering into a contract with the Port to construct a public work.
- **Emergency** means unforeseen circumstances beyond the control of the Port that either present an immediate threat to the proper performance of essential functions, or will likely result in material loss or damage to property or bodily injury if immediate action is not taken.
- **Labor hours** means the total hours of workers receiving an hourly wage who are directly employed on the site of the public works project. "Labor hours" shall include hours performed by workers, including foremen, employed by the contractor and all subcontractors working on the project. "Labor hours" shall exclude hours worked by superintendents, owners, and workers who are not subject to prevailing wage requirements.
- **Public Works** is defined by Washington State law to include "all work, construction, alteration, repair or improvement, other than ordinary maintenance, performed at public cost on any property".
- **Ordinary Maintenance** means work not performed by contract and that is performed by the employees of the Port on a regularly scheduled basis (e.g. daily, weekly, monthly, seasonally, semiannually, annually) to service, check, or replace items that are not broken; or work not performed by contract that is not regularly scheduled but is required to keep existing infrastructure in good usable, operational condition. Maintenance work by contractors is not Ordinary Maintenance.

- Small Public Works is the procedure created by Washington State statute authorizing the solicitation of public works bids from a limited number of contractors in lieu of formal advertisement to bid.
- **Subcontractor** means a person, corporation, partnership, limited liability company, public agency, or joint venture that has contracted with the contractor to perform all or part of the work to construct a public work by a contractor.

Policies

Competitive Selection:

The Port shall observe a competitive solicitation process for the purposes of contracting Public Works, as determined by the approved Port Signing Authority and Spending Thresholds, in compliance with contracting law, and as is governed by RCW.

Signing Authority and Spending Thresholds for Public Work Contracts:

\$0 to \$40,000 – No solicitation requirements apply, although it is best practice to use at least a roster procurement process (i.e. “rosters”). Port staff may perform Public Work projects with in-house resources.

\$0 to \$300,000 – Both formal, competitively bid or Small Works Roster contracts shall be authorized and executed by the Executive Director (see Policy #1002, “Small Works Roster Procedures”).

\$300,000 or more - The Commission shall authorize all contracts prior to execution by the Executive Director.

The Commission shall authorize any change order if the new contract not to exceed amount exceeds \$300,000 or 10% of the Commission last approved amount. The Executive Director is authorized to execute change orders up to this threshold.

Apprenticeship Utilization Requirement:

For Public Works contracts with an estimated cost of more than \$1,000,000, no less than 15 percent of the total reported labor hours involved shall be performed by apprentices. This apprenticeship utilization requirement applies even if the bid awarded is less than \$1,000,000 provided the estimated cost as determined by the Port was in excess of \$1,000,000 at the time the request for bids was published.

Reduction or waiver:

The Executive Director may in their discretion reduce or waive the requirements of this policy for a specific project for the following reasons:

- a. An emergency exists;
- b. The demonstrated lack of availability of apprentices in specific geographic areas;
- c. The reasonable and necessary requirements of the contract render apprentice utilization financially infeasible at the required levels.

- d. Where an apprentice utilization requirement is precluded by law or regulatory requirements such as, but not limited to, Federal Aviation Administration (FAA) contracting requirements.
- e. Any other reason that in the judgement of the Executive Director would not be in the best interest of the Port.

The Executive Director shall report to the Board of Commissioners the intent to waive or reduce these requirements at a regular Commission meeting before taking such action or, in the case of an emergency where immediate action is necessary, at the next regular Commission meeting following such action.

Grant funding:

The provisions of this section shall not apply to the extent they are deemed to be in conflict with state or federal grant funding requirements.