



PUBLIC WORKS APPRENTICE PROGRAM FAQS

City of Spokane
808 W. Spokane Falls Blvd.
Spokane, WA 99201
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How will the new apprenticeship ordinance affect my current project?

Any project that is in progress or was advertised to bid prior to December 6, 2021, will fall under the previous apprenticeship utilization requirements. Projects that are advertised and bid after December 6, 2021, will fall under the new requirements.

What contracts are affected by the new apprentice ordinance?

Just like the previous ordinance, it applies to all public works contracts of \$600K or more and subcontracts greater than \$100K. Subcontracts valued at less than \$100K will be exempt.

What are the major differences?

In short, two major differences are the requirement of 15% apprentice utilization for each qualified craft that has more than 160 journeyman hours and progressive monetary penalties for repeat violations. Penalties shall be for failure to meet the 'per craft' requirement only and project will not be measured by its overall project apprenticeship utilization rate as it was in the past.

Do I have to have apprentices for every trade?

15% apprentice utilization is only required for each craft that has an available state-approved apprenticeship program for Spokane county and performs more than one hundred and sixty (160) hours on a project. If a craft or trade performs less than one hundred and sixty (160) hours, no required apprentices are required.

Where is the City of Spokane getting the data for the reports?

The data is coming from the information that contractors are already entering for certified payroll reports and affidavits filed online within LNI's Prevailing Wage Intent & Affidavit (PWIA) system.

- Certified Payroll Reports: This option provides real-time data to help manage utilization during the project when the reports are filed using LNI's system.
- Affidavits: Provides the final utilization data once the project is completed and all affidavits are filed.

How is the 15% utilization rate determined?

It is calculated by dividing the Total Apprentice Labor Hours worked on the project. The City of Spokane will use the data from Washington State Labor and Industries PWIA system adjust for incentive hours and/or Good Faith Efforts.

What hours are considered labor hours?

Labor hours are the total hours of workers receiving an hourly prevailing wage who perform work on the public works project and who are subject to prevailing wage requirements.

Do labor hours include the hours worked by supervisors, foremen, superintendents, or owners?

Yes, if they are subject to prevailing wage requirements. RCW 39.04.310(3)

A supervisor (e.g., foremen, general foremen, superintendents, etc.) is subject to prevailing wage requirements when they perform more than 20% of their week performing manual/physical labor on the project. If the supervisor performs physical labor between 20% and 50% of their time on public works projects during the week, they must be paid prevailing wages for each hour worked performing trades work. These hours must be reported to L&I and be included in the total labor hours considered for apprentice utilization. If more than 50% of the supervisor's time is spent performing trades work on public works projects during the week, all the supervisor's hours for the week must be paid prevailing wages. These hours must be reported to L&I and be included in the total labor hours considered for apprentice utilization. WAC 296-127-015

An owner/operator that owns less than 30% of the business is subject to the prevailing wage requirements. These hours must be reported to L&I and be included in the total labor hours considered for apprentice utilization. WAC 296-127-026

Owner/operators that own more than 30% are not subject to the prevailing wage requirements which means their hours aren't reported to L&I and aren't included in the total labor hours considered for apprentice utilization. WAC 296-127-026

What is a Washington State-Approved Apprenticeship Program and how can I find one?

A Washington State-Approved Apprenticeship Program (State-Approved Program) is a program that has been approved by the Washington State Apprenticeship and Training Council. There is a listing of State-Approved training programs on the Washington State Department of Labor & Industries website: <http://www.lni.wa.gov/TradesLicensing/Apprenticeship/Programs/default.asp>

I have a training program of my own but it is not a State-Approved Program. Can I use this toward meeting the utilization requirement?

You cannot use a program that is not a State Approved toward meeting the utilization requirement.

I'm trying to get a program approved by the Washington State Apprenticeship and Training Council but it is not approved yet, what can I do to meet the requirement until the program gets approved?

You'll need to utilize an existing State-Approved program or other contractor on the job will need to make up for the shortfall in utilization caused by you not using a State-Approved program.

What labor hours get reported and are subject to the apprentice utilization percentage?

Labor hours are the total hours performed by all workers (apprentice or journeyman) receiving an hourly wage supporting or who are directly employed upon the public works project including hours performed by workers employed by the prime contractor and all subcontractors. Labor hours do not include hours performed by foremen, superintendents, owners and workers who are not subject to prevailing wage requirements. Be sure to take this into consideration when filling out your Monthly Report.

Are owner/operators included?

The owner/operator would not be included. Any employees they have receiving a prevailing hourly wage would be included.

My plan shows that I cannot meet the apprentice utilization requirement, what should I do?

First, you should determine if there are any other areas where you or your subs have the ability to increase your utilization of apprentices. If there are not, you will need to collect documentation demonstrating that you made a good faith effort to meet the requirement. If you cannot demonstrate that you made a good faith effort to meet the requirement you are not in compliance with the requirement. Failure to comply with the requirements as specified may result in the assessment of financial penalties and can include debarment from bidding on future City of Spokane public works contracts.

What should the Good Faith Effort I turn in look like?

Your good faith effort will be documentation of the efforts you made to utilize apprentices. You can add a narrative to describe the situations encountered and how they impacted your ability to meet the requirement; however it is the documentation demonstrating your efforts to utilize apprentices that is

necessary to demonstrate you met the requirement through good faith. This documentation could be in the form of:

1. Documentation showing that the Contractor or Subcontractor uses State-Approved programs and no apprentices were available for the project.
2. Documentation showing a disproportionately high ratio of material costs to labor hours, which does not make feasible the required minimum levels of apprentice participation.
3. Documentation showing the reasonable and necessary requirements of the contract which render apprentice utilization infeasible at the required levels.
4. Documentation demonstrating that the Contractor or subcontractor cannot meet the entire apprenticeship requirement due to a conflicting federal or state requirement.
4. Letters or email correspondence from apprenticeship programs or contractors.
5. Lists of Washington State Labor & Industries ARTS printouts showing the availability or lack of State-Approved Apprenticeship Programs.
6. Agreements, contacts or subcontracts.
7. Photographs
8. Payrolls, timecards and schedules.
9. Spreadsheets or data from company systems.
10. Logs of phone calls with names, dates and outcomes

How will the Good Faith Effort be evaluated?

The City of Spokane, Contract and Business Standards Compliance Officer will review your good faith effort documents to determine that:

1. The situation/s documented in the good faith effort (meets the intent of the contract requirement and the spirit of the law) AND
2. The entire shortfall in apprentice participation could likely be attributable to the situations documented in your good faith effort.
3. Your submittal will be evaluated based on your attempts to utilize apprentice labor. The City Administrator will also evaluate the situation/s documented to determine if what you have documented could be solely responsible for the entire shortfall in apprentice hours.

What situation/s meet the intent of the contract in terms of the Good Faith Effort?

In most cases the good faith effort will be documentation demonstrating that you or a subcontractor participates in State-Approved Apprenticeship Programs but no apprentices were available or not enough apprentices were available during the project. It is expected that contractors participate in apprenticeship programs for occupations where they have employees being trained. If apprentices are not available for dispatch at the beginning of a long-duration job, it is expected the contractor check back with the program periodically to see if apprentices are available.

If a conflicting Federal requirement such as TERO, Federal Training or DBE goals affected your ability to utilize apprentices, this will be accepted as long as it is determined that conflicting requirements (or other acceptable efforts) are attributable for the entire shortfall in apprentice hours and provided that you met the Federal requirement.

The intent of the apprenticeship requirement is not for contractors to lay off their apprentice workers as soon as they journey out. If you have a small workforce and no hiring opportunity exists, this will be accepted as long as it is determined that this accounts for the entire shortfall in apprentice hours. You'll need to demonstrate through documentation that your company has a history of hiring apprentices from State-Approved Apprenticeship Programs or enrolled your unskilled new-hires in these programs. You should also document any apprentices retained by your company and provide information about your project workforce and company workforce such as how long your workers have been employed and if they were hired as journeymen or apprentices and whether or not they graduated from State-Approved programs.

Other unique situations may come up. If you have questions about a situation you encounter, please contact the City of Spokane, Contract and Business Standards Compliance Officer at 509-635-6031 for guidance.

What situation/s DO NOT meet the intent of the contract in terms of the Good Faith Effort?

A number of commonly submitted concerns actually do not meet the contract requirement for demonstrating a good faith effort. Keep in mind that the intent of the requirement is you will utilize State-Approved Apprenticeship Programs to train apprentices. Very few situations where a contractor does not use State-Approved Apprenticeship Programs to meet the requirement will be accepted. The following examples do NOT meet the requirement:

1. Falling short of the requirement due to subcontractors not using apprentices
2. Not using a State-Approved Apprenticeship Program while you are trying to get your own program approved by the Washington State Apprenticeship and Training Council
3. Not using a State-Approved Apprenticeship Program due to cost
4. Not using a State-Approved Apprenticeship Program because you are an out-of-state contractor
5. Not replacing an apprentice that quit or was fired
6. Not using enough apprentices because certain work is too dangerous or the apprentices do not have the appropriate skills.

What if I don't want to put an apprentice on certain parts of the job due to the dangerous nature of work, or their skill level?

Everyone has to start somewhere so generally this is not a reason for being unable to meet the requirement. The City of Spokane recognizes that unique situations may exist. If you should encounter a situation where apprentices should not be used, document this with photos of the location or equipment. Obtain documentation demonstrating that the apprenticeship program agrees with the determination. The City of Spokane will evaluate the situation to determine if the shortfall in apprentice utilization could be attributed to these situations where apprentices could not be used.

There are circumstances where on Washington State Department of Transportation (WSDOT) projects WSDOT specifies a level of experience that workers must have to perform certain types of work. For example, WSDOT specifies that only experienced workers can be used for High Scaling and Drilling. In these cases, track the hours where experienced workers must be used and the City of Spokane will subtract them from the total journeymen hours to see if the requirement was met without them.

I'm an out-of-state contractor and I'm having trouble finding apprenticeship programs. What should I do?

If you've been to the Washington State Department of Labor & Industries website and looked through their listing of available programs at:

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

Keep in mind that you can register as a traveling training agent in any of these programs. By joining as a traveling training agent, you won't violate the terms of any programs you utilize in your home state. Be sure to mention this option when you call the programs you are interested in.

I'm a non-union contractor and there aren't as many non-union programs as there are union programs. Does that mean I can't meet the requirement?

Absolutely not. Non-union contractors can use union apprenticeship programs to train their employees. You do not have to sign a union agreement to utilize a union program and state law prohibits programs from asking you to join the union. If you are asked to join the union or told you must do so to utilize the program, please contact your regional Washington State Department of Labor & Industries Apprenticeship Coordinator. A list is available at:

<http://www.lni.wa.gov/TradesLicensing/Apprenticeship/About/AppCoordinators/default.asp>

When the project started, I had apprentices, but some of them graduated. There isn't enough work left to provide much training if I hired new apprentices, but if I don't I might fall short of meeting the requirement. What can I do?

You can receive good faith effort credit for apprentices that graduated through the end of the construction season for all projects that they work on as long as the apprentice remains continuously employed with the same contractor they were working for when they graduated. If the apprentice is employed on a project of significant duration, they may be counted toward good faith effort credit for a year after their graduation or until the end of the project (whichever comes first). These graduates must be paid journeyman wages. The next available hire should always be an apprentice. Do not report these hours on the apprentice section of your monthly report. The hours must be reported as journeyman hours. Track them separately and the impact on overall project hours will be taken into account when the City of Spokane reviews your good faith effort documentation.

I have enough apprentices to meet the requirement, but they have to go to classroom training during the project and I may fall short of the requirement now. What can I do?

Document which apprentices had to attend classroom training and how long they were there. Submit to the City of Spokane information about the number of hours they would have been scheduled to work on the job during this period had they not been in classroom training. The City of Spokane will add these hours to the cumulative apprentice hours and see if the requirement could have been met had the apprentices not been in class.

I'm trying hard to meet the requirement but having trouble retaining apprentices. What can I do?

When an apprentice leaves the project, document the date the apprentice stopped working. Also document the date you called dispatch for another apprentice or began a hiring process. If you are hiring, document the dates various actions took place such as advertising for the job, the deadline for applications and when interviews took place. Submit documentation showing when the replacement apprentice arrived on the work site. The City of Spokane will take the period of time you were without an apprentice into account in your good faith effort as long as you demonstrate you acted in a reasonable amount of time to replace the lost apprentice.

I was on track to meet the requirement but the City of Spokane requested a change to the contract that affected my plan for apprentice utilization and makes it difficult for me to meet the requirement based on where I had planned to have apprentices. What should I do?

The City of Spokane understands that contract changes can affect apprentice utilization. If a contract change decreases hours in areas where you planned to have apprentices, or increases hours in areas where you are not training, the City of Spokane will consider this in your good faith effort. You should update your Apprentice Utilization Plan to demonstrate how much the change will affect utilization. At this time, we encourage you to contact your Project Manager and your subcontractors' Project Managers to see if apprentice utilization can be increased in other areas.

What are the consequences of not meeting the apprentice utilization requirement?

If you do not meet the requirement through utilization or by demonstrating a good faith effort, failure to comply with the requirements as specified may result in the assessment of financial penalties and can include debarment from bidding on future City of Spokane public works contracts.

Are there any incentive programs?

It is the policy of the City of Spokane to encourage the utilization of apprenticeships for veterans, women, minorities and residents of a CEZ. The City offers a credit of 1.1 hours for every hour of work performed by an apprentice covered.