

12.18A PRIORITY HIRE PROGRAM

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12.18A.010 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

A. "Apprentice" means a person who has signed a written apprenticeship agreement with and enrolled in an active state-registered apprenticeship training program approved by the Washington state Apprenticeship and Training Council.

B. "Apprenticeship training program" means an active program registered and in compliance with the Washington state Apprenticeship and Training Council as defined by chapter 49.04 RCW and WAC 296-05-011 and WAC 296-05-013.

C. "Community workforce agreement" means an executed agreement signed by the executive, or the executive's designee, on behalf of the county, and representatives of the Seattle-King County Building Trades Council, the Northwest National Construction Alliance II and other labor organizations, as applicable, for a covered project. The community workforce agreement is a project labor agreement for a single covered project that contains terms and conditions for priority hiring requirements.

D. "Contractor" means a person or business entity that enters into a contract with the county or that is a subcontractor performing services under such a contract. A contractor employs individuals to perform work on covered projects, including general contractors, subcontractors of all tiers and both union and nonunion entities.

E. "Covered project" means a county public works project with project construction costs estimated to equal fifteen million dollars or greater, and such other criteria established by the executive, upon enactment of this ordinance. This threshold of fifteen million dollars may be lowered to five million dollars by December 31, 2020, at the discretion of the executive.

F. "Division" means the department of executive services, finance and business operations division or its successor.

G. "Economically distressed area" means a geographic area within King County, defined by ZIP code, and found by the manager to be in the top thirty percent of all ZIP codes in King County in terms of the concentration of individuals who meet at least two of the following three criteria: have income at or below two hundred percent of the federal poverty level; are unemployed; or are at least twenty-five years old and without a college degree. The manager may add ZIP codes that meet this criteria for construction projects that are part of the county's wastewater service area in Pierce and Snohomish counties. Also, the manager may adjust the list of economically distressed areas within King County in order to enhance regional uniformity with other local jurisdictions implementing priority hire programs.

H. "Good faith efforts" means the strongest possible efforts that the contractor and its subcontractor can reasonably make to meet the established apprentice requirement, priority hiring requirement and other hiring goals.

I. "Helmets to Hardhats" means the nationwide program that is administered by the Center for Military Recruitment, Assessment and Veterans Employment, a nonprofit corporation that connects National Guard, Reserve, retired and transitioning active-duty military service members with skilled training and quality career opportunities in the construction industry.

J. "Journey level" means that an individual has sufficient skills and knowledge of an occupation, either through a formal apprenticeship training program or through practical on-the-job work experience, to be recognized by any combination of a state registration agency, a federal registration agency or an industry, as being fully qualified to perform the work of the occupation. To be "journey level," practical experience must be equal to or greater than the term of apprenticeship.

K. "Labor hours" means hours performed on covered projects by workers who are subject to prevailing wages under chapter 39.12 RCW.

L. "Manager" means the manager of the finance and business operations division, or its successor, or the manager's designee.

M. "Master community workforce agreement" means a standardized project labor agreement that would be anticipated to apply to all covered projects and sets forth terms and conditions for hiring requirements to include priority hire workers, signed by the executive or the executive's designee on behalf of the county, and representatives of the Seattle-King County Building Trades Council, the Northwest National Construction Alliance II and other labor organizations, as applicable.

N. "Open shop contractor" means a contractor that is not a signatory to a collective bargaining agreement with a union representing the trade or trades of the contractor's workers, also known as a nonunion contractor.

O. "Pre-apprentice" means a student enrolled in a construction pre-apprenticeship training program that is recognized by the Washington state Apprenticeship and Training Council.

P. "Pre-apprentice graduate" means an individual who successfully completed a pre-apprenticeship training program and is readily available to enter an apprenticeship training program or has been accepted into an apprenticeship training program, including individuals who are completing the first or second year of apprenticeship training.

Q. "Pre-apprenticeship training program" means an education-based apprenticeship preparation program that is formally recognized by the Washington state Apprenticeship and Training Council and endorsed by one or more registered apprenticeship sponsors, with a focus on educating and training students to meet or exceed minimum qualifications for entry into an apprenticeship training program.

R. "Preferred entry" means a program provided as part of a project labor agreement or a community workforce agreement that allows pre-apprentice graduates and Helmets to Hardhats veterans, entry into an apprenticeship training program ahead of other applicants.

S. "Priority hire program" means a program implemented by King County that prioritizes the recruitment and placement of priority hire workers for training and employment in the construction trades on covered projects.

T. "Priority hire worker" means an individual prioritized for recruitment, training and employment opportunities because the individual is a resident in an economically distressed area.

U. "Project labor agreement" means an executed agreement between the executive or designee, on behalf of the county, and one or more labor unions that represent workers who typically perform on county public works projects, that provides standards for work hours, wages, working conditions, safety conditions, union representation, apprenticeship requirements and settlement of disputes procedures.

V. "Resident" means a person who provides evidence to the satisfaction of the manager demonstrating that the person lives at a particular address.

W. "Small contractor and supplier" means a contractor that meets the eligibility criteria for King County's small contractor and supplier program under K.C.C. chapter 2.97 and is certified as a small contractor and supplier company in the online directory maintained by the business development and contract compliance section of the division.

X. "Union" means a representative labor organization whose members collectively bargain with employers to set the wages and working conditions in their respective trade or covered scope of work.

Y. "Women-owned or minority-owned business" means a business that has been certified by the state of Washington to be at least fifty-one-percent owned by either women or minority group members. For the purposes of this subsection, "minority" means African American/Black, Hispanic/Latino, Asian American, Pacific Islander, Native Hawaiian, Alaska Native or Native American. (Ord. 18672 § 2, 2018).

12.18A.020 Priority hire program created – master community workforce agreements.

A. The priority hire program is hereby created.

B. The executive shall make a good faith effort to negotiate and execute a master community workforce agreement to streamline implementation of the priority hire program and promote efficiency and consistency in priority hire practices. The master community workforce agreement shall be used for all covered projects unless the master community workforce agreement is not executed or the executive determines that use of an individual community workforce agreement is more appropriate for a covered project. The master community workforce agreement shall:

1. Include terms and conditions for priority hire workers. The executive or designee shall determine the percentage of labor hours to be performed by priority hire workers in each contract for a covered project;

2. Require that twenty percent of apprentice labor hours on covered projects be performed by preferred entry candidates;

3. Include provisions to ensure a respectful workplace that is inclusive and focuses on nondiscrimination and antiharassment behaviors and provides procedures for workers to address concerns;

4. Include provisions to increase access for women-owned or minority-owned businesses, open shop contractors and small contractors and suppliers, and expand placements for both open shop and union apprentices;

5. Include provisions for the recruitment, retention and mentoring of construction workers, including priority hire workers and workers who reside in other areas of King County, as they advance from apprentice positions into journey level positions;

6. Be structured so as to streamline paperwork and reporting requirements; and

7. Be signed by the executive or the executive's designee on behalf of the county, and representatives of the Seattle-King County Building Trades Council, the Northwest National Construction Alliance II and other labor organizations, as appropriate, before its implementation.

C. Before execution of the master community workforce agreement, the executive shall provide a copy of the master community workforce agreement in the form of a paper original and an electronic copy to the clerk of the council, who shall retain the original and provide an electronic copy to all councilmembers, the council chief of staff and the lead staff for the transportation, economy and environment committee, or its successor. The master community workforce agreement may then be executed, unless an ordinance rejecting it is introduced within thirty days of receipt of the electronic copy of the agreement and is enacted within seventy-five days of the introduction of the ordinance.

D. If the master community workforce agreement is not negotiated or executed, or if the executive determines that the use of the master community workforce agreement is not appropriate for a specific covered project, the executive is authorized to develop and execute a community workforce agreement specific to that project, which must contain terms and conditions for the use of priority hire workers and preferred entry workers, as well as provisions related to a respectful workplace and access for women-owned or minority-owned businesses, open shop contractors and small contractors and suppliers and to expand placements for both open shop and union apprentices.

E. Contractors who make public work bids on covered projects shall evidence good faith efforts that the contractor can reasonably make to meet any established apprentice requirements, priority hiring requirements and hiring goals including the percentage hour requirements that are consistent with the terms and conditions set forth in an applicable community workforce agreement or master community workforce agreement. (Ord. 18672 § 3, 2018).

12.18A.030 Manager's duties – memorandum of understanding alternative.

To administer the priority hire program, the manager shall:

A. Analyze the indicators for economically distressed areas and prepare a list of ZIP codes that are found by the manager to be economically distressed areas and update that list at least once every five years. Any changes proposed by the manager to the criteria for determining economically distressed areas are subject to approval by ordinance;

B. Establish a methodology using data from local sources for determining the required percentage of labor hours to be performed by priority hire workers on covered projects and review and adjust the methodology annually, as needed. The methodology for determining the required percentage of labor hours shall separately address apprentices and journey level workers on a contract-by-contract basis;

C. Partner with pre-apprenticeship or apprenticeship training programs to encourage programs, classes and curriculum that are intended to increase outreach, training, graduation, retention, and employment rates of women, racial minorities, other pre-apprentice program participants and priority hire workers;

D. Provide technical assistance to women-owned or minority-owned businesses, small contractor and supplier firms and open shop contractors on the recruitment and reporting requirements of the priority hire program to promote participation in the priority hire program;

E. Within one year after adoption of the master community workforce agreement, develop a pilot program to include as eligible for the priority hire program individuals who are being served by an organization that serves people who are living in poverty, unemployed or lacking educational opportunities;

F. Develop a prompt-payment program for subcontractors performing services for a contractor to lower the burden of participation in the priority hire program, based on an assessment of the effectiveness of existing payment programs. The prompt-payment program may include features such as a revolving fund or other mechanism to provide cash flow relief for payments to the union trust fund;

G. At least annually, determine whether the percentage of priority hiring requirements has been achieved by calculating the labor hours performed by residents of the state of Washington and separately calculate the labor hours performed by residents from states other than the state of Washington. Labor hours performed by residents from states other than the state of Washington shall be excluded from the total labor hours used to determine priority hire requirements;

H. Determine whether to waive or reduce priority hire requirements on covered projects. The circumstances for waiving or reducing the requirements must be justified in writing and may include but are not limited to reductions in construction worker availability due to economic downturn cycles, emergency projects or circumstances, sole source projects or federal funding restrictions. Any such waivers or reductions shall be documented in the report created in accordance with section 6 of this ordinance; and

I. Consult with a priority hire advisory committee as set forth in section 5 of this ordinance. (Ord. 18672 § 4, 2018).

12.18A.040 Advisory committee.

A. The manager shall establish a priority hire advisory committee, consisting of eight to twelve members, to be appointed by the executive and confirmed by the council. A good faith effort shall be made to include representatives with experience in the construction industry from: contractors; the Associated General Contractors of Washington; labor union representatives; small contractor and supplier businesses; pre-apprentice and apprentice training providers; and local community or business organizations.

B. The committee shall operate in an advisory role to the county for implementation and effectiveness of this chapter. The committee shall advise the division on planning, input prior to the development of the master community workforce agreement, administration and reporting. The committee shall consult with the King County's immigrant and refugee commission, women's advisory board and communities of opportunity - best starts for kids advisory board to identify ways to recruit and retain people in apprenticeships who have historically not been involved in the construction trades or who are from economically disadvantaged communities or are immigrants or refugees. In addition, the committee shall advise the division on the program's performance in serving economically disadvantaged communities and the program's impacts on women-owned or minority-owned businesses, open shop contractors and small contractors and suppliers, and shall make recommendations, as necessary, to the

division to make adjustments to the program to maximize its responsiveness to these communities. The manager shall assign at least one staff member from the division to support the work of the committee. The division shall convene the committee at least twice per year, and shall provide the committee with information regarding program performance. The committee shall make recommendations regarding program implementation and this information shall be incorporated into an appendix to the report created in accordance with K.C.C.12.18A.050. The committee shall also establish rules for its procedure.

C. The manager shall consult with the advisory committee regarding the methodology for determining the required percentage of labor hours to be performed by priority hire workers on covered projects; and the baseline percentages established for apprentices and journey workers. The manager shall also review with the advisory committee the annual labor hours performed by residents of states other than the state of Washington.

D. In lieu of establishing a priority hire advisory committee under subsection A. of this section, the manager may negotiate a memorandum of understanding, subject to approval by ordinance, with the city of Seattle or one or more other government entities with priority hire programs in order to use a previously established or to jointly create a multijurisdictional priority hire advisory committee. The memorandum of understanding shall:

1. Provide a process for the contracted advisory committee to make recommendations regarding program implementation and this information shall be incorporated into an appendix to the report created in accordance with section 6 of this ordinance;

2. Provide a process for the manager to consult with the contracted advisory committee regarding the methodology for determining the required percentage of labor hours to be performed by priority hire workers on covered projects, as well as the baseline percentages established for apprentices and journey workers; and

3. Provide a process for the manager to review with the contracted advisory committee the annual labor hours performed by residents of states other than the state of Washington. (Ord. 18672 § 5, 2018).

12.18A.050 Evaluation of program – benchmarks and metrics – reports – program review.

A. The division shall establish performance benchmarks and metrics to evaluate the priority hire program.

B. The manager shall submit an annual report to the executive detailing performance of the program. The report shall be incorporated into the annual apprenticeship report required under K.C.C. 12.16.175. The report shall include, but not

be limited to, the same performance measures for priority hire workers that are identified in K.C.C. 12.16.175 for apprentices.

C. The manager shall also submit an annual report to the executive detailing the barriers and impacts on women-owned and minority-owned businesses, open shop contractors and small contractors and suppliers when evaluating the priority hire program under section 6 of this ordinance. The report shall be incorporated into the annual contracting opportunities program report required under K.C.C. 2.97.090.

D. The executive shall review program results annually to determine if the program should be expanded or amended to meet the purpose of the program. (Ord. 18672 § 6, 2018).