

SECTION 00 73 30

LOCAL HIRING REQUIREMENTS

1.1 SUMMARY

- A. This Section 00 73 30 incorporates applicable requirements of the San Francisco Local Hiring Policy for Construction ("Policy") as set forth in Section 6.22(g) and Chapter 82 of the San Francisco Administrative Code. The Provisions of the Policy are hereby incorporated as a material term of this Contract. Contractor agrees that (i) Contractor shall comply with all applicable requirements of the Policy; (ii) the provisions of the Policy are reasonable and achievable by Contractor and its Subcontractors; and (iii) they have had a full and fair opportunity to review and understand the terms of the Policy.
- B. The Office of Economic and Workforce Development (OEWD) is responsible for administering the Policy. For more information on the Policy and its implementation, please visit the OEWD website at: www.oewd.org.
- C. Meeting the local hiring requirements of the Policy as set forth in this Document will satisfy Contractor's obligations under the City's First Source Hiring Program (San Francisco Administrative Code Chapter 83).

1.2 DEFINITIONS

- A. "Apprentice" means any worker who is indentured in a construction apprenticeship program that maintains current registration with the State of California's Division of Apprenticeship Standards.
- B. "Area Median Income (AMI)" means unadjusted median income levels derived from the Department of Housing and Urban Development ("HUD") on an annual basis for the San Francisco area, adjusted solely for household size, but not high housing cost area.
- C. "Covered Project" means a public work or improvement or part thereof with estimated cost in excess of the Threshold Amount as set forth in Section 6.1 of the San Francisco Administrative Code.
- D. "Non-covered Project" means any construction projects not covered by the San Francisco Local Hiring Policy.
- E. "Disadvantaged Worker" means a local resident, who (i) resides in a census tract within the City with a rate of unemployment in excess of 150% of the City unemployment rate; or (ii) at the time of commencing work on a covered project has a household income of less than 80% of the AMI, or (iii) faces or has multiple barriers to employment as set forth in Section 82.3 of the Administrative Code.
- F. "Local Resident" means an individual who is domiciled, as defined by Section 349(b) of the California Election Code, within the City at least seven (7) days prior to commencing work on the project. For projects outside the jurisdictional boundaries of the City, "local resident" also applies to residents within the San Francisco Public Utilities Commission service territory, except where a reciprocity agreement exists with another local agency, in which case the reciprocity agreement controls.¹

¹ For Covered Projects located in whole or in part in San Mateo County, the following reciprocity agreement controls: <http://oewd.org/sites/default/files/Workforce/Workforce-Docs/SFO-SM%20reciprocity%20agreement.pdf>

- G. "Project Work Hours" means the total work hours worked on a construction contract by all apprentices and journey-level workers, whether those workers are employed by the Contractor or any Subcontractor.
- H. "Job Notification" means the written notice of any Hiring Opportunities from Contractor to CityBuild. Contractor shall provide Job Notifications to CityBuild with a minimum of 3 business days' notice.
- I. "Targeted Worker" means any Local Resident or Disadvantaged Worker.

1.3 LOCAL HIRING REQUIREMENTS

- A. Total Project Work Hours By Trade. For all Covered Projects advertised for bids on or after March 25, 2013, the mandatory participation level in terms of Project Work Hours within each trade to be performed by Local Residents is 30%, with a goal of no less than 15% of Project Work Hours within each trade to be performed by Disadvantaged Workers.
- B. Apprentices. For all Covered Projects, at least 50% of the Project Work Hours performed by apprentices within each trade shall be performed by Local Residents, with a goal of no less than 25% of Project Work Hours performed by apprentices within each trade to be performed by Disadvantaged Workers.
- C. Out-of-State Workers. For all Covered Projects, Project Work Hours performed by residents of states other than California will not be considered in calculation of the number of Project Work Hours to which the local hiring requirements apply. Contractors and Subcontractors shall report to San Francisco Public Works and OEWD the number of Project Work Hours performed by residents of states other than California.
- D. Pre-construction or other Local Hire Meeting. Prior to commencement of construction on Covered Projects, Contractor and its Subcontractors identified in the Local Hiring Forms as contributing toward the mandatory local hiring requirement shall attend a preconstruction or other Local Hire meeting(s) convened by awarding department or OEWD staff. Representatives from Contractor and the Subcontractor(s) who attend the pre-construction or other Local Hire meeting must have hiring authority.
- E. The Policy does not limit Contractor's or its Subcontractors' ability to assess qualifications of prospective workers, and to make final hiring and retention decisions. No provision of the Policy shall be interpreted so as to require a Contractor or Subcontractor to employ a worker not qualified for the position in question, or to employ any particular worker.

1.4 CITYBUILD WORKFORCE DEVELOPMENT PROGRAM; EMPLOYMENT NETWORKING SERVICES

- A. OEWD administers the CityBuild Program. CityBuild is a resource for Contractor and Subcontractors to use in meeting local hiring requirements under the Policy. CityBuild has two main goals:
 - 1. Assist with local hiring requirements under the Policy by connecting Contractor and Subcontractors with qualified journey-level, apprentice, and pre-apprentice local residents.
 - 2. Promote training and employment opportunities for disadvantaged workers of all ethnic backgrounds and genders in the construction work force.

- B. Where Contractor's or its Subcontractors' preferred or preexisting hiring or staffing procedures for a Covered Project do not enable Contractor to satisfy the local hiring requirements of the Policy, the Contractor or Subcontractor shall use other procedures to identify and retain Targeted Workers, including the following:
1. Requesting to connect with workers through CityBuild, with qualifications described in the request limited to skills directly related to performance of job duties.
 2. Considering Targeted Workers networked through CityBuild within three business days of the request and who meet the qualifications described in the request. Such consideration may include in-person interviews. All workers networked through CityBuild will qualify as Disadvantaged Workers under the Policy. Neither Contractor nor its Subcontractors are required to make an independent determination of whether any worker is "disadvantaged" as defined in the Policy.

1.5 CONDITIONAL WAIVER FROM LOCAL HIRING REQUIREMENTS

- A. Contractor or the Subcontractor may use one or more of the following pipeline and retention compliance mechanisms to receive a conditional waiver from the local hiring requirements on a project-specific basis. All requests for conditional waivers must be submitted to OEWD for approval.
1. Specialized Trades. OEWD has published a list of trades designated as "Specialized Trades" for which the local hiring requirements of the Policy will not apply. The list is available on the OEWD website. Contractor and its Subcontractors shall report to OEWD the project work hours utilized in each designated Specialized Trade and in each OEWD-approved project-specific Specialized Trade.
 2. Credit for Hiring on Non-Covered Projects. Contractor and its Subcontractors may accumulate credit hours for hiring Targeted Workers on Non-Covered Projects in the nine-county San Francisco Bay Area and apply those credit hours to contracts for Covered Projects to meet the mandatory local hiring requirement. For hours performed by Targeted Workers on Non-Covered Projects, the hours shall be credited toward the local hiring requirement for this Contract provided that:
 - a. the Targeted Workers are paid the prevailing wages for work on the Non-Covered Projects; and
 - b. for Non-Covered Projects located in the City, the number of hours to be credited for the Non-Covered Project exceed one-half of the number of hours that would be required if the project were a Covered Project.
 3. Sponsoring Apprentices. Contractor or a Subcontractor may agree to sponsor an OEWD-specified number of new apprentices in trades in which noncompliance is likely and retaining those apprentices for the period of Contractor's or a Subcontractor's work on the project. OEWD will verify with the California Department of Industrial Relations that the new apprentices are registered and active apprentices.
 4. Direct Entry Agreements. OEWD is authorized to negotiate and enter into direct entry agreements with apprenticeship programs that are registered with the California Department of Industrial Relations' Division of Apprenticeship Standards. Contractor may avoid assessment of penalties for non-compliance with the Policy by Contractor or Subcontractor hiring and retaining apprentices who are enrolled through such direct entry agreements. Such exception from assessments of penalties is subject to review and approval by OEWD.

1.6 LOCAL HIRING FORMS

- A. Utilizing the City's online Project Reporting System ("PRS"), Contractors shall submit the following forms, as applicable, to the San Francisco Public Works and OEWD within ten (10) calendar days of notice of Award:
1. Form 1: Local Hiring Workforce Projection. The City will not issue Notice to Proceed (NTP) until Contractor completes and submits a Local Hiring Workforce Projection.
 2. Form 2: Local Hiring Plan. For Covered Projects estimated to cost more than \$1,000,000, Contractor shall prepare and submit to Contracting City Agency and OEWD for approval a Local Hiring Plan for the project using OEWD Form 2. The OEWD-approved Local Hiring Plan will be incorporated into this Contract as a Contract Document, and will serve as the basis for determining Contractor's and its Subcontractors' compliance with local hiring requirements.
 - a. The City will not issue NTP until Contractor submits the Local Hiring Plan. Contractor shall be fully responsible for any delays to NTP and associated damages incurred by the City caused by Contractor's failure to timely submit a Local Hiring Plan.
 - b. The Local Hiring Plan must be reviewed and approved in writing by OEWD before any Application for Payment can be approved and progress payment paid to Contractor.
 - c. Upon commencement of work, Contractor and its Subcontractors may submit Job Notifications to CityBuild to connect with local trades workers.
 3. Form 4: Conditional Waivers. To be completed by Contractor in the event that Contractor or a Subcontractor believes the local hiring requirements cannot be met. Refer to Articles 1.4 and 1.5 for more information regarding conditional waivers.

1.7 ENFORCEMENT, RECORD KEEPING, NONCOMPLIANCE AND PENALTIES

- A. Subcontractor Compliance. Contractor shall ensure that Subcontractors of all tiers comply with applicable requirements of the Policy. Refer to Administrative Code Section 82.7(d).
- B. Reporting. As required by Subparagraph 9.03M of the General Conditions (Section 00 72 00) Contractor shall submit certified payrolls to the City electronically using the Project Reporting System. OEWD and San Francisco Public Works will monitor compliance with the Policy electronically
- C. Recordkeeping. Contractor and each Subcontractor shall keep, or cause to be kept, for a period of four years from the date of Substantial Completion of project work, certified payroll and basic records, including time cards, tax forms, and superintendent and foreman daily logs, for all workers within each trade performing work on the Project.
1. Such records shall include the name, address and social security number of each worker who worked on the covered project, his or her classification, a general description of the work each worker performed each day, the apprentice or journey-level status of each worker, daily and weekly number of hours worked, the self-identified race, gender, and ethnicity of each worker, whether or not the worker was a local resident, and the referral source or method through which the contractor or subcontractor hired or retained that worker for work on the covered project (e.g., core workforce, name call, union hiring hall, City-designated referral source, or recruitment or hiring method).

2. Contractor and Subcontractors may verify that a worker is a Local Resident by following OEWD's domicile policy.
 3. All records described in this subsection shall at all times be open to inspection and examination by the duly authorized officers and agents of the City, including representatives of the awarding department and the OEWD.
- D. Monitoring. From time to time and in its sole discretion, OEWD and/or the awarding department may monitor and investigate compliance of Contractor and Subcontractors working on the Project with requirements of this Policy. Consistent with the Access to Work provisions of Paragraph 3.13 of the General Conditions (Section 00 72 00), Contractor shall allow representatives of OEWD and the awarding department, in the performance of their duties, to engage in random inspections of the Site. Contractor and all Subcontractors shall also allow representatives of OEWD and the awarding department to have access to employees of Contractor and Subcontractors and the records required to be maintained under the Policy.
- E. Noncompliance and Penalties. Failure of Contractor and/or its Subcontractors to comply with the requirements of the Policy and the obligations set forth in the Local Hiring Plan may subject Contractor to the consequences of noncompliance specified in Section 82.8(f) of the Administrative Code, including but not limited to the penalties prescribed in Section 82.8(f)(2). The assessment of penalties for noncompliance shall not preclude the City from exercising any other rights or remedies to which it is entitled. Refer to Administrative Code Section 82.8(f)(4) for a description of the recourse procedure applicable to penalty assessments under the Policy.

END OF SECTION