



Notes regarding submitting comments on this Draft Work Product:

Comments are Due November 30th, 2017.

Comments shall be no longer than 5 pages.

Comments should be submitted to LDBPcomments@ebce.org

EBCE Workforce Development: Strategy and Policy Guidance

draft

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Introduction

A coherent regional workforce strategy consists of both demand-side “pull” strategies and supply-side “push” strategies. This is not to say that EBCE can or should engage explicitly in both types of activities. Rather, EBCE should consider the other resources and programs in the region it serves and identify opportunities in which it can “push” and/or “pull” workers to support the broader ecosystem of workforce development.

Often people outside of the workforce development industry, wanting to develop a workforce program, think about developing training opportunities or workshops. Such programs can fail to reach the workforce they aim to engage, serving marketing and consumer education goals instead of workforce goals. Networking events for consultants, community engagement, and volunteer opportunities for at-risk youth or disadvantaged workers serve important functions, but should be considered “market-building” or community engagement activities rather than workforce training and education programs.¹

Actual new workforce training programs should be coordinated with existing workforce training partners like apprenticeship or pre-apprenticeship programs or community colleges. Rather than focusing on training, however, EBCE has a strategic opportunity to improve workforce outcomes by influencing the demand for workers.

It is important to know that EBCE influences the local labor market one way or another. EBCE can ignore this influence thus contributing to a low-road employment environment in which workers compete on price alone or jobs are created outside the region. Or EBCE can use its influence to support high-road employment practices, in which trained and qualified workers are engaged in the work supplying products and services to EBCE and receiving compensation appropriate to their level of preparation. EBCE can also influence whether local residents with barriers to employment gain access to new clean energy careers.

Taking the high road requires developing a comprehensive workforce policy that considers workforce outcomes of every major decision. The benefits of a comprehensive workforce policy are good for the Alameda County community and economy, but they also yield financial and risk reduction benefits for EBCE as a business.

¹ See <http://laborcenter.berkeley.edu/pdf/2014/WET-Plan14.pdf> (Executive Summary, page 8)

Benefits of a Comprehensive EBCE Workforce Policy

| Benefits for EBCE | Benefits for Alameda County |
|---|--|
| <ul style="list-style-type: none"> -Attract and engage a high-performing workforce -Ensure high quality construction and retrofits -Reduce delays -Reduce risks due to low-quality workmanship and worksite safety -Accelerate the adoption of new technology (efficiency, demand response, storage) -Reduce attrition and retain skilled workers -Avoid and resolve disputes -Community participation -Widespread support from community stakeholders | <ul style="list-style-type: none"> -Local job creation -Enhances local economic activity -Family-sustaining jobs -Access to career-path jobs for disadvantaged workers -Realization of comprehensive economic and environmental goals of EBCE |

Alameda County’s Workforce Development Ecosystem

Push/Supply Strategies

The success of different industries depends on access to a qualified workforce. The goal of education and training programs is to prepare workers with the knowledge and skills required by different industries. Anticipating technology changes and other trends, providing the appropriate level of training, and training the right number of workers for the available jobs are critical challenges of the training system. If you train workers with too narrow a skill set (such as solar installer training), you will impede worker resilience in a volatile labor market. Training too many workers can flood the labor market and drive wages down, while a limited supply of adequately workers can impede the growth of an industry.

Alameda County workforce training providers consists of college readiness and college access programs, community colleges, 4-year colleges, universities, professional schools, and other higher education institutions. In addition to traditional higher education, Alameda County is home to world-class workforce training programs that operate in parallel to the university track.

Nationally recognized training programs such as Cypres Mendela and Rising Sun work with people facing severe barriers to employment, expose workers to careers in the trades, and train them in basic skills. The unique feature of these pre-apprenticeship programs is that they are coordinated with the building trades unions and use the national multi-craft core curriculum (MC3), which trains participants with the specific skills they need to gain acceptance and succeed in formal apprenticeship programs.

The skilled trades—carpenters, electricians, iron workers, sheetmetal workers, and others—operate apprenticeship programs in Alameda County. Apprenticeship is a multi-year comprehensive skilled craft training in which apprentices are paid while they train, with increasing pay for each year of experience. Apprenticeship is, by design, “right-sized”: the number of openings for new apprentices is driven by the jobs available for apprentices and journeypersons (graduates) to fill.

Alameda County’s community colleges also offer comprehensive training in the construction trades, including HVAC, carpentry, and others. In Alameda County, unlike some other places, some community college offerings are well-coordinated with apprenticeship programs. Apprentices earn college credits for the classroom portion of their work, and the community colleges support the broad career training associated with apprenticeship.

In addition, there are industry-sponsored trainings and workshops. PG&E offers a wide variety of classroom workshops providing information on specific technologies. These trainings are open to all, without pre-qualification.

Build It Green, BOMA, and other groups offer trainings and/or certifications. These are increasingly oriented around up-skilling trades workers rather than as stand-alone trainings. Everything on the training side is a “push” strategy.



Services for people with barriers to employment

- Job readiness training
- Pre-apprenticeship programs
- Certified apprenticeship programs (earn-as-you-learn)
- Community Colleges
- Universities and professional schools
- Professional trainings and certifications

PUSH

Pull/Demand Strategies

Alameda County has an exceptional training system, but training workers does not create jobs. For the training system to work effectively, there needs to be a demand for workers. Job creation is influenced by individual business decisions, the markets in which business operate, broader economic trends, regulatory decisions, and long-term policy goals. Thus many entities from individual employers to the government help drive demand for workers. Short-term and long-term demand for workers influences the decisions of the training providers and of workers themselves. When there is a reasonable assurance of attaining a good job in a particular industry, workers will invest in developing the necessary skills.

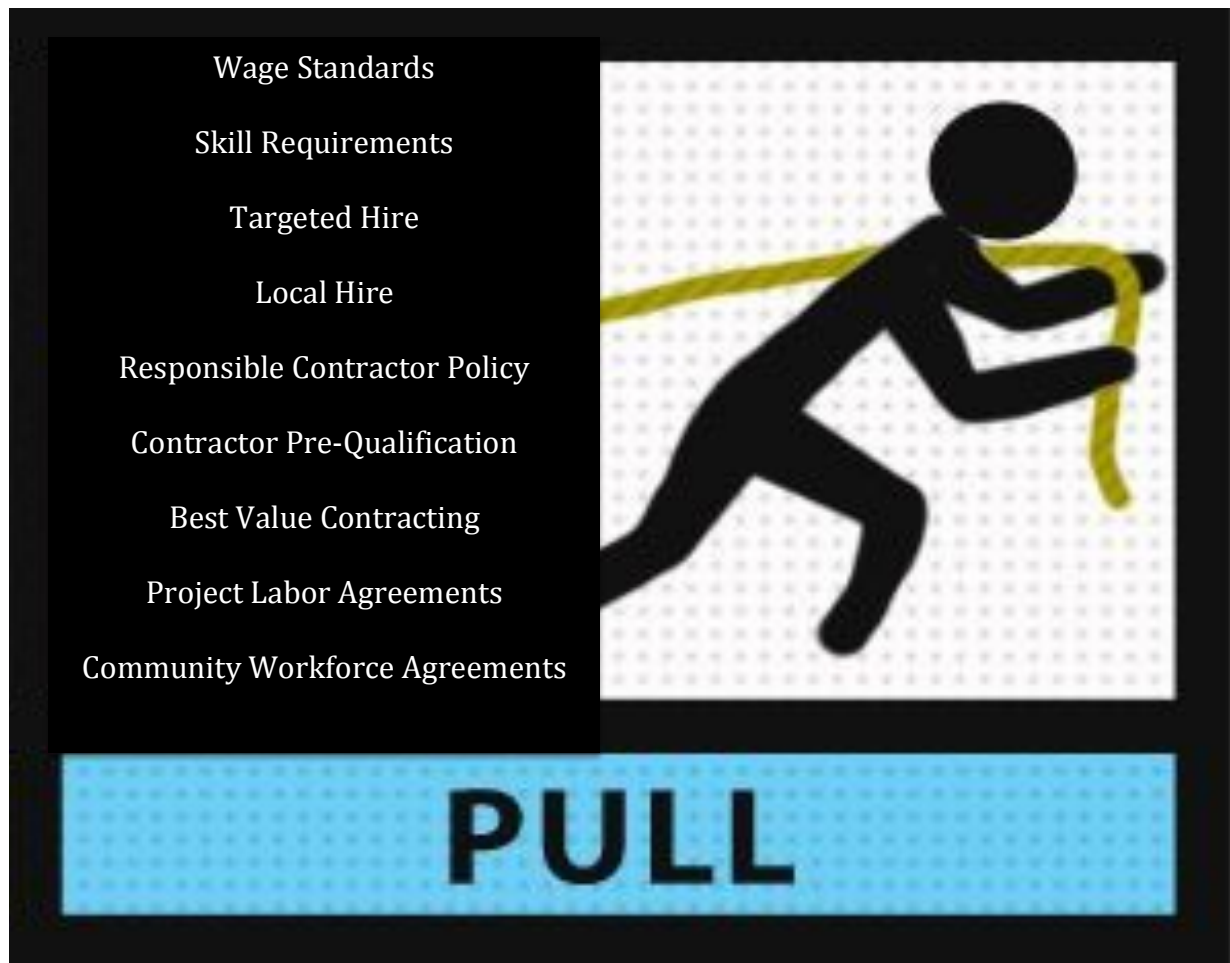
Employers and/or the government can clarify demand for workers by establishing standards that govern the work itself. Law requires that surgeons and doctors meet high educational, testing, and residency standards. A particular employer seeking a bookkeeper might require 3 years of experience. Labor standards include wage floors, skill requirements, contractor qualifications, or other labor requirements. Labor standards support workforce development by communicating specific requirements needed to achieve business, economic, or policy objectives.

In Alameda County, many private and public entities have established labor standards that govern their work. The County, BART, the Oakland Airport, the Port of Oakland, Oakland Unified School District, and other institutions have signed project labor agreements (PLAs) or project stabilization agreements (PSAs) with the Alameda County Building Trades Council. PLAs and Community Workforce Agreements (CWAs) create a set of labor standards, specifying wages and benefits, ratios of journey persons to apprentices, and targeted hire provisions to involve members of the community with barriers to employment and ensure the jobs created by the construction project will benefit workers in the community.

PLAs and CWAs are very effective pull strategies because they ensure that the workers and employers who've invested in training can earn a return on their investment. Because they are comprehensive agreements, they are appropriate for large projects, typically over \$1 million.

Other "pull" strategies are also available and may be more appropriate for smaller projects. Skill requirements that specify technical skills workers must have to do clean energy work affiliated with EBCE can effectively ensure that work performed under or for EBCE meets certain quality thresholds. Skill standards can be difficult to identify for each individual technology, so broad occupational training, such as enrollment or graduation from a certified apprenticeship program or an associates degree in a relevant field, are often the most effective type of skill standards. For example, Illinois requires that anyone installing solar panels has the equivalent of an associates degree.

Responsible contractor criteria can also be effective in ensuring work meets a certain threshold for quality. Responsible contractor criteria enforced through a system of pre-qualification is an efficient and effective pull strategy. Responsible Contractor criteria should include a history of excellent performance, no wage or labor law violations, OSHA certification, and evidence of a skilled and trained workforce. A responsible contractor policy is valuable for smaller utilities, because it requires some upfront and periodic investment to vet and screen contractors, but requires less onerous ongoing management. Delaware Sustainable Energy Utility has a solid responsible contractor policy, and SB350 requires adoption of a Responsible Contractor Policy for all ratepayer energy efficiency programs in California.



Workforce Policy Concepts and Guidelines

Given Alameda County's complex workforce development ecosystem, EBCE's most highly leveraged role is on the "pull" side. EBCE's primary purpose is the procurement of power on behalf of its customers, but EBCE was developed to serve broader economic and community goals as well. *Entities involved in procurement are better situated to influence workforce development goals by generating demand for skilled workers rather than contributing to the supply of skilled workers.*

While a robust workforce policy can help ensure timely and high quality work, ensure jobs created are good jobs, and engage disadvantaged workers in the local clean energy economy, workforce outcomes are influenced by numerous business decisions. Because of this, workforce considerations should be embedded in nearly every business decision made by EBCE.

Item 6 of the Recitals in the EBCE JPA Agreement offers specific guidance. The purpose EBCE exists is to:

- (a) Provide electricity rates that are lower or competitive with those offered by PG&E for similar products;
- (b) Offer differentiated energy options (e.g. 33% or 50% qualified renewable) for default service, and a 100% renewable content option in which customers may "opt-up" and voluntarily participate;
- (c) Develop an electric supply portfolio with a lower greenhouse gas (GHG) intensity than PG&E, and one that supports the achievement of the parties' greenhouse gas reduction goals and the comparable goals of all participating jurisdictions;
- (d) Establish an energy portfolio that prioritizes the use and development of local renewable resources and minimizes the use of unbundled renewable energy credits;
- (e) Promote an energy portfolio that incorporates energy efficiency and demand response programs and has aggressive reduced consumption goals;
- (f) Demonstrate quantifiable economic benefits to the region (e.g. union and prevailing wage jobs, local workforce development, new energy programs, and increased local energy investments);
- (g) Recognize the value of workers in existing jobs that support the energy infrastructure of Alameda County and Northern California. The Authority, as a leader in the shift to a clean energy, commits to ensuring it will take steps to minimize any adverse impacts to these workers to ensure a "just transition" to the new clean energy economy;
- (h) Deliver clean energy programs and projects using a stable, skilled workforce through such mechanisms as project labor agreements, or other workforce programs that are cost effective, designed to avoid work stoppages, and ensure quality;

- (i) Promote personal and community ownership of renewable resources, spurring equitable economic development and increased resilience, especially in low income communities;
- (j) Provide and manage lower cost energy supplies in a manner that provides cost savings to low-income households and promotes public health in areas impacted by energy production; and
- (k) Create an administering agency that is financially sustainable, responsive to regional priorities, well managed, and a leader in fair and equitable treatment of employees through adopting appropriate best practices employment policies, including, but not limited to, promoting efficient consideration of petitions to unionize, and providing appropriate wages and benefits.

To provide a few examples of how various business decisions influence workforce outcomes, the following examples explain how marketing and communications, power procurement, and other program design decisions will affect whether EBCE will be able to effectively meeting the express goals around create good local jobs for Alameda County workers.

- 1) **Marketing and Communications:** It is important to consider the baseline conditions against which EBCE is competing. Because EBCE is effectively competing with PG&E, whose workers are represented by IBEW 1245, it is important that any claims relative to PG&E acknowledge the highly unionized sector in which it operates. In addition, because EBCE is compelled to follow state law pertaining to its procurement and sale of renewables, and because most large-scale renewable power plants in California are already built under project labor agreements (PLAs), it is important that EBCE not claim credit for activities that represent business-as-usual in California. In addition, use of un-bundled (category 3) RECs should be clearly explained to customers and not counted as renewable or carbon-free energy. "Truth-in-marketing" is important to help customers make informed decisions about which model of energy procurement they want to support.
- 2) **Power Procurement:** Larger-scale energy resources not only provide lower cost electricity than smaller systems; they also lead to higher quality jobs, with compensation for workers far superior to smaller-scale distributed systems. Procuring more power from large-scale systems is both more economical and supports better jobs. However, because the presence of solar investment in ALL of Alameda's County's communities is important to stakeholders, special attention should be paid to developing distributed solar in Alameda County that mirrors the economies of scale and employment benefits of grid-scale systems outside of the county. This can be done in a number of ways. Larger or aggregated publicly-owned, community-owned, or EBCE-owned clean energy projects can lead to stronger community partnerships and employment outcomes than a more piecemeal, private-sector driven development model. When privately-owned power systems

intend to sell energy to EBCE, EBCE should preference energy generated by systems built with strong labor standards and community partnerships.

- 3) **Load Reduction:** Energy efficiency programs should be designed to provide work opportunities and career ladders for local workers. Projects should be designed and aggregated to create the economies of scale and adopt strong labor standards. For example, Clean Energy Works in Portland created a single-family energy efficiency retrofit program, where homeowner marketing aggregated projects to create the economies of scale that allowed for contractor pre-qualification and pre-selection based on contractor agreement to pay higher than average wages. See Appendix B: Clean Energy Works Oregon, Community Workforce Agreement or visit <https://www.portlandoregon.gov/bps/50152?a=265161>
- 4) **Load Augmentation:** Policies aimed at building electrification and electrical vehicle infrastructure will yield benefits to EBCE like increased and stabilized electricity load, while also reducing greenhouse gases and creating local jobs. Programs aimed to enhance local investment in building and vehicle electrification could create new opportunities for skilled workers and trainees in the County.

Suggested Elements of Comprehensive EBCE Workforce Policy

Building on the guidance in the JPA Agreement, specific suggestions for elements of an EBCE workforce policy are included below with links to examples of other energy programs employment these elements.

- 1) For all EBCE-owned energy generation or efficiency projects over a certain dollar threshold (\$500K), adopt a Project Labor Agreement or Project Stabilization Agreement modeled after the agreements signed by Alameda County or Bay Area Rapid Transit (BART). These agreements contain local and targeted hire provisions and support the engagement of Alameda County's pre-apprenticeship and apprenticeship programs. See Appendix C. Project Stabilization Policy or visit https://www.bart.gov/sites/default/files/docs/I-%20TOD%20Project%20Stabilization%20Policy%20Adopted%2011-17-2011_0.pdf.
- 2) Include provisions and provide support for participation of local small and emerging minority contractors to provide services and/or power for EBCE. Programs such as bonding assistance, partnership, and mentoring, along with carve-outs of SDBEs have been effective, in Alameda County, for example, at Oakland Airport's Terminal 2 expansion.
- 3) Establish and enforce a responsible contractor policy. Such policies determine criteria for contractors (employers) and screen for high performance based on a skilled workforce, history of past performance,

OSHA certification, no labor law violations, and other criteria. For an example, see Appendix D. Responsible Contractor Policy developed by Delaware Sustainable Energy Utility or visit <https://evogov.s3.amazonaws.com/media/50/media/17657.pdf>.

- 4) When EBCE procures or subsidizes power (including energy savings or storage) from non-EBCE entities, through a power purchase agreement, feed-in tariff, or other mechanism, require as a condition to the agreement that power providers enter into an agreement with the Building Trades Council appropriate to the region in which the power is produced. Ensure that the agreement has local and targeted hire provisions.
- 5) Allow and support union representation of EBCE employees.
- 6) Provide bonus points in the bidding process for consultants who use union labor or have signed neutrality agreements.
- 7) Partner with training programs that adhere to “best practices” and specifically only programs that do not displace paid workers.
- 8) Develop metrics to track and report number of work hours created by EBCE sponsored local development in Alameda County, plus job quality, compensation, and benefits. (See Appendix A)
- 9) Invest in data collection, and contract with a certified payroll company to manage and maintain worker records for EBCE projects. (as reported for RREP projects here: [http://www.acgov.org/board/bos_calendar/documents/DocsAgendaReg_7_17_17/GENERAL%20ADMINISTRATION/Regular%20Calendar/Project Stabilization Agreement update pro con 7 17 17.pdf](http://www.acgov.org/board/bos_calendar/documents/DocsAgendaReg_7_17_17/GENERAL%20ADMINISTRATION/Regular%20Calendar/Project%20Stabilization%20Agreement%20update%20pro%20con%207%2017%2017.pdf))

Conclusion

EBCE’s operations in Alameda County will influence the clean energy local labor market. In order to meet the goals of the community and County in supporting the development of EBCE, a strong and comprehensive workforce policy is needed. This policy can be designed to support a high-road employment environment that supports the creation of good jobs and creates career opportunities for disadvantaged workers in Alameda County. EBCE should focus on demand-side/pull strategies and work with the County’s training providers to ensure alignment between supply and demand workforce development efforts. This document provides background, context, and specific recommendations for developing a comprehensive workforce policy that is aligned with the JPA agreement establishing EBCE.

Appendices

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Appendix A. Potential Goals and Measures of Success

What gets measured improves. Setting specific workforce development goals and identifying how progress will be measured is an important component of a workforce policy. Goals and metrics create accountability to ensure that a policy will be implemented and progress tracked for later evaluation.

The below section identifies potential goals and indicators to measure progress toward goals. The purpose of this section is to provide more background research and specificity to measure the effective

1. Ensure that EBCE utilizes and supports a skilled and trained clean energy workforce and creates good jobs

While clean energy investments create jobs, the jobs are not automatically good jobs. Creating good jobs in Alameda County requires labor standards to engage and compensate a skilled workforce. Without standards, many jobs in the clean energy economy will be low-paying, volatile, dead-end jobs. To support a strong and equitable local economy, EBCE should adopt and enforce labor standards.

Indicator:

The percent of workers in the clean energy in Alameda County enrolled in or graduates of a registered apprenticeship program that has graduated at least 50% of apprentices in the past five years, hold a two-year associate degree, or have comparable, industry-recognized certification.

How to operationalize

This metric is based on [California SB 54](#), which establishes standards for utilization of a “skilled and trained workforce” in the refinery sector. Labor standards help ensure work quality and job safety and reduce delays.

- For **non-residential** work, require skill standards through Project Labor Agreements, Project Stabilization Agreements (PSAs), Community Benefit Agreements (CBAs), or Community Workforce Agreements (CWAs). Fund apprenticeship training through PLAs (under which employers contribute to an apprenticeship training fund per each craft-hour worked) to support the next cohort of trained workers.²
- For **residential** work, work with Alameda County Building Trades Council to establish appropriate skill standards³ and enforce these standards through Responsible Contractor Policy.⁴

² Jones, Philips, and Zabin, 2015. [The link between good jobs and a low-carbon future](#). Donald Vial Center on Employment in the Green Economy, UC Berkeley.

³ Illinois requires a [Distributed Generation Installer Certification, that provides another example of how workforce standards can be applied](#). All distribution generation renewable energy must be installed by a “qualified person,” who holds a “Distributed Generation Installer Certification.”

2. Grow Alameda-based clean energy businesses owned and operated by under-represented populations (people of color, veterans, and women)

People of color often lack access to capital, which limits their ability to become contractors or limits the size of their firms and/or potential to scale up. Standards to improve job quality may hurt the competitiveness of smaller firms that do not have the experience or capacity to meet advanced certifications. Rather than weakening workforce standards (which would hurt employees), workforce standards must be accompanied by procurement programs and support that target businesses owned by people of color, veterans, and women in order to increase the share of contracts going to under-represented populations.

Indicator:

Percent of clean energy firms (with at least one paid employee) owned by a member of any under-represented population (female/female-identifying, person of color, or veteran).

How to operationalize

Support for small businesses and particularly those that are at least 51 percent owner-operated and controlled by people of color, women, or veterans can be implemented through several pathways.

- Partner with unions to mentor and encourage new minority signatory contractors.⁵
- Adopt supplier diversity provisions in the procurement processes.
- Implement a points-based bidding system that incentivizes disadvantaged business and local enterprise participation.⁶
- Increase contractor access to bonds and bonding assistance programs.⁷
- Establish mentorship programs to advise new contractors and guide them through steps to meet bonding and other certification requirements.

⁴ Delaware Sustainable Energy Utility, *Oregon Clean Energy Works*, and others require contractors participating in their programs to pre-qualify. Qualification is determined based on wage standards, OSHA certification, history of performance, no wage or labor law violations, and other criteria. Oregon established a wage floor of 180% of local minimum wage. This ensures clean energy investments are not creating poverty-level jobs.

⁵ Emerald Cities Collaborative. (2016). E-Contractor Academy. Retrieved from: <http://emeraldcities.org/about/national-initiatives/e-contractor-academy>.

⁶ Port of Oakland. (2007). Non-Discrimination and Small Local Business Utilization Policy. Retrieved from: http://www.portofoakland.com/files/pdf/responsibility/ndslbu_policy.pdf.

⁷ Alameda County Contractor Bonding Assistance Program <https://www.acgov.org/cao/rmu/programs/bonding.htm>.

3. Create access to career pathways in Alameda County

Expanding access to the clean energy economy requires support for workers facing high barriers to employment or business ownership.⁸ Increasing the diversity of the clean energy workforce can, in part, be achieved through targeted standards that require employers to prioritize hiring from groups that have historically faced barriers to employment.⁹

Indicator:

Percent of journey-level craft hours filled by local or disadvantaged/under-represented workers on construction projects

Indicator:

Percent of apprentice craft hours filled by local or disadvantaged/under-represented workers on construction projects

How to operationalize

The most successful targeted hire programs emerge out of formal agreements negotiated with the local Building Trades Council and contractors covering projects in a geographically defined jurisdiction. Community collaborations help to identify and support trainees from apprenticeship readiness programs for apprenticeship positions and/or to maintain a list of qualified workers from which contractors can hire to meet their local/targeted hire requirements.¹⁰

Implementing local/targeted hire goals requires fostering strong partnerships with dedicated workforce intermediaries that can assist with preparing entry-level workers for apprenticeship programs and to develop a qualified pool that contractors can hire from. Tracking and monitoring outcomes are also important and can help to identify best practices to improve workforce outcomes.¹¹

⁸ For more see: Mulligan-Hansel, K., Owens-Wilson, S., Beach, B., 2013. The Construction Careers Handbook: How to Build Coalitions and Win Agreements that Create Career Pathways for Low Income People and Lift Up Construction Industry Jobs. Partnership for Working Families; BBC Partnerships & Consulting, (no date). Chapter 10: Contracting Practices and Business Assistance Programs. Retrieved from: http://www.pdc.us/Libraries/Public_Participation_-_General/Disparity-Study-Ch-10_pdf.sflb.ashx.

⁹ Altstadt, D. (2010). Building Opportunity: How States Can Leverage Capital and Infrastructure Investments to Put Working Families on a Path to Good Jobs. The Working Poor Families Project; Mulligan-Hansel, K. (2008). Making Development Work for Local Residents: Local Hire Programs and Implementation Strategies That Serve Low-Income Communities. Partnership for Working Families.

¹⁰ Waheed, S. and Herrera, L. (2014). Exploring Targeted Hire: An Assessment of Best Practices in the Construction Industry. UCLA Labor Center; Helmer, M., Blair, A., and Gerber, A. (2012). A Solid Foundation: Key Capacities of Construction Pre-Apprenticeship Programs Workforce Strategies Initiative, a project of the Aspen Institute.

¹¹ See page 43-50: Helmer, M. and Altstadt, D. (2013). Apprenticeship: Completion and Cancellation in the Building Trades. The Aspen Institute.

- Partner with unions, apprenticeship programs, and pre-apprenticeship programs.
- Pass resolution that directs contractors to negotiate targeted hire criteria¹² within community benefits/community workforce agreements¹³ or PSAs/PLAs.¹⁴
- Adopt responsible contractor standards with targeted hire criteria.¹⁵
- Encourage local energy companies to adopt first source language targeting graduates of pre-apprenticeship or apprenticeship programs.¹⁶

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¹² Waheed and Herrera, 2014.

¹³ Partnership for Working Families. (2015). Policy & Tools: Community Benefits Agreements and Policies in Effect; Partnership for Working Families. (2015). Policy & Tools: Community Workforce Agreements.

¹⁴ Le, U. (2011). Project Labor Agreements: Pathways to Business Ownership and Workforce Development in Los Angeles. UCLA Labor Center: California Construction Academy.

¹⁵ Partnership for Working Families. (2015). Policy & Tools: Responsible Contracting.

¹⁶ Partnership for Working Families. (2015). Policy & Tools: Targeted Hiring and First Source Referral Systems.

4. Build career ladders through multi-craft, apprenticeship readiness programs

Apprenticeship readiness programs are the first step for many workers in a career pathway. Whether those workers are high school or community college students or adults looking to change career paths, apprenticeship readiness programs (or pre-apprenticeship programs) can provide remedial or supplemental education to help workers apply for an apprenticeship position.

Indicator:

Job or apprenticeship placement rates from “job training” programs partnering with EBCE

How to operationalize

- Partner with programs utilizing the Multi-Craft Core Curriculum (M3C), which was developed by the National Building Trades to ensure that participants of pre-apprenticeship programs are gaining the skills necessary for entry and success in apprenticeship programs. Both Cypres Mendela and Rising Sun training programs in Alameda County use M3C.
- Provide program funding to pre-apprenticeship programs in Alameda County using M3C. Unlike apprenticeship programs, which are industry-funded, pre-apprenticeships often rely on a combination of grants from foundations, community colleges, and government agencies.
- Ensure that training programs are not displacing paid employees. Be cautious in partnering with organizations that rely on volunteers for work for which people get paid, such as installing solar panels.
- Support best practices. The federal Department of Labor identifies core elements of “a quality pre-apprenticeship,” including
 1. Approved curriculum for training
 2. Recruitment, educational, and professional development to guide under-represented individuals on a path to long-term success
 3. Access to financial, mentoring, or other necessary support services
 4. Hands-on training¹⁷
 5. Link to registered apprenticeship program formalized through articulation agreement¹⁸ or facilitated entry¹⁹ where possible

¹⁷ Program participants should have the opportunity to work with apprentices or journey-level workers on a project site to have a better idea of what a job in construction or manufacturing would be like every day if they chose to pursue such a career following completion of the pre-apprenticeship.

¹⁸ Articulation agreements dictate that if a participant completes a pre-apprenticeship program in good standing, they are guaranteed either a union apprenticeship or a job. The demand-driven training model depends on strong connections to industry and determining the number of pre-apprentices openings based on available apprenticeship or job openings.

¹⁹ Facilitated entry does not necessarily guarantee a job or apprenticeship at the conclusion of a pre-apprenticeship program, but can help pre-apprenticeship graduates find a placement.

Appendix B.

Community Workforce Agreement on Standards and Community Benefits in the Clean Energy Works Portland Pilot Project

9-24-09

INTRODUCTION

Clean Energy Works Portland (CEWP) is an innovative effort to deliver affordable home energy upgrades by testing new ways of delivering energy efficiency to homeowners in Portland. The project is intended to save energy, reduce carbon emissions, improve home comfort and home values, and create new jobs and long-term employment opportunities and career paths for Portland area residents.

CEWP is about to embark on a pilot project phase during which it is anticipated that approximately 470 Portland area homes will be audited and retrofitted between this fall and summer of 2010.

After the 470-home pilot phase, the City of Portland and the Energy Trust of Oregon will significantly scale up CEWP in an effort to retrofit the estimated 100,000 qualifying homes in Multnomah County over the next several years.

The City has assembled a group of diverse stakeholders to work through a process to create the below community workforce agreement (CWA) on the community and workforce standards and benefits to be included in the pilot phase. The community workforce agreement will help ensure equity for women, people of color, and other historically disadvantaged or underrepresented groups in the implementation of CEWP.

In addition, the assembled stakeholders are recommending standards and community benefits to be included in the scale up of CEWP after the pilot phase concludes based on their collective experience and on lessons learned during the pilot phase. The small scale of the pilot program does not allow for all desirable standards and community benefits to be realized until the expansion of the program takes place. (See the diagram in Appendix A for more information on the relationship between this CWA and a CWA for the scale-up.)

The Agreement

Whereas, CEWP is a leading national model for saving energy, creating jobs, improving homes, reducing carbon emissions and promoting equity by creating economic opportunities and career pathways for historically disadvantaged or underrepresented people, including people of color and women, and

Whereas, the Portland metro area is committed to growing green businesses and a green economy that puts people back to work and provides new employment opportunities to disadvantaged communities, as reflected in the 5-year Economic Development Strategy and other documents, and

Whereas, the City's American Recovery and Reinvestment Act (ARRA) Resolution calls for equity while the Regional Equity Atlas demonstrates the need for ongoing advancement of equity for poor people, people of color, and women as a key component of the region's development, and

Whereas, the City's ARRA Resolution also recognizes that well-trained workers earning decent wages and benefits produce quality work as they contribute to the good of the community, and

Whereas, the City's CEWP Resolution calls for creating contracting, subcontracting, training and employment policies that will strive to:

- Provide pathways to prosperity for *all* workers;
- Offer competitive wages that lead to a lasting career-track;
- Involve stakeholders and community members in developing and enacting policies and processes;
- Drive accountability and continuously evaluate performance towards goals, and

Whereas, the City's Climate Action Plan calls for a 40% reduction in the region's greenhouse gas footprint by 2030 through strategies for residential energy efficiency deep retrofitting, among other things, and green jobs as a key component of the regional economy, with products and services related to clean energy providing living-wage jobs throughout the community.

Whereas, the development of CEWP has been marked by an impressive degree of collaboration among and contributions from public, private, nonprofit, community, and labor institutions, and

Whereas, numerous stakeholders have worked hard in a short period of time to identify the ways in which the CEWP can be successful while setting high standards for inclusive economic development and broad community benefits,

Now, therefore, it is the recommendation of the undersigned parties that the following standards and community benefits be incorporated into the implementation of the 470-home pilot phase of Clean Energy Works Portland.

I. GOALS AND TARGETS

Because of the unique contractual and legal framework of CEWP, and because of the relatively small size of the pilot program, there are some desired standards and community benefits that cannot be achieved simply by applying universal criteria to all contractors participating in the project. Ensuring equity and broad opportunity in the project will require assembling the right mix of contractors in the overall pool, organizing community expertise in support of the goals, and establishing minimum qualifications for and requirements on all contractors. Therefore, the City, Energy Trust and a new stakeholder Evaluation and Implementation Committee shall work closely together to achieve the following goals and targets in the CEWP pilot project.

- **Local Hire**: At least 80 percent of employees used in the CEWP pilot program hired from the local work force.

- **Family-Supporting Jobs**: Workers participating in CEWP pilot project retrofits will earn not less than 180% of state minimum wage.
- **Health Insurance**: Strive to ensure that employees on CEWP pilot project jobs have access to adequate and affordable health insurance, and work to mitigate the burdens on small contractors associated with providing health insurance.
- **Diverse Workforce**

Historically disadvantaged or underrepresented people, including people of color, women, and low-income residents of the city perform not less than 30% of total trades & technical project hours in the pilot. As practical, contractors should have a first source hiring agreement with qualified training programs to meet this goal.

Formerly incarcerated individuals seeking new opportunities for responsible citizenship and economic self-sufficiency are presented with employment opportunities leading to a career in weatherization and/or construction.
- **Diverse Business Participation**: Businesses owned by historically disadvantaged or underrepresented people, including people of color- and women-owned businesses make up not less than 20% of all dollars in the CEWP pilot project.
- **Highly-skilled Workforce**: Resources for continuing education and certification are available for those coming into the industry as well as those wanting to increase their opportunities for upward mobility within the industry through registered apprenticeship and other career pathways trainings in the region.

II. INDIVIDUAL CONTRACTOR QUALIFICATIONS AND REQUIREMENTS

To ensure that the CEWP pilot meets the goals and targets for creating good jobs, social equity and quality work described above, individual contractors must meet the following minimum criteria to be considered for a CEWP pool of participating contractors:

- A.** Contractors and their sub contractors will pay wages that are at least 180% of Oregon state minimum wage, unless federal prevailing wages for residential weatherization and energy efficiency retrofit work is higher, in which case the higher wage requirement will apply.
- B.** Contractors will have sufficient skills to conduct energy efficiency retrofits and weatherization projects with a high degree of quality and customer satisfaction, such skills to be demonstrated by approval as an Energy Trust Home Energy Solutions Trade Ally and Oregon Home Performance with ENERGY STAR Building Performance Institute (BPI) Certified.

C. Contractors and sub contractors will hire 100% of new worker/installer weatherization employees from a designated training program, as described in section IV, until 50% of contractor's total non-supervisory worker/installer weatherization employee monthly work hours on covered projects are performed by graduates of a designated training program. This provision is waived if no training program has yet qualified under section IV; if all graduates of designated training programs are currently employed in weatherization work or have waived their priority employment status; if the contractor can demonstrate that no suitable graduates of designated training programs are available; or if no training program has the capacity and ability to train experienced new hires to USDOE standards within a reasonable time and at reasonable cost, as determined by the Evaluation and Implementation Committee.

D. Contractors listed by the Commissioner of the Bureau of Labor and Industries under ORS 279C.860 as ineligible to receive a contract or subcontract for public works will not be eligible.

E. Contractors will demonstrate a history of compliance with federal and state wage and hour laws.

F. Contractors will utilize a safety-trained workforce in which all on-site workers have completed an OSHA 10-hour safety course and an Environmental Hazard Awareness Course through an qualified training program.

G. Contractors will sign a labor peace agreement that would include provisions that an employer will not take any action nor make any statement that directly or indirectly states or implies any opposition by the employer to the selection by its employees of a collective bargaining representative; that a labor organization can obtain recognition as the exclusive collective bargaining representative by demonstrating to an agreed upon neutral third-party provider that a majority of the employees in a bargaining unit have shown their preference to have the labor organization be their representative by signing authorization cards indicating that preference; that prohibits the labor organization from engaging in any picketing, work stoppages, boycotts or any other economic interference with the construction conditions or negotiation thereof to final and binding arbitration; and that any dispute over what constitutes an appropriate bargaining unit will be determined by a third party.

H. Contractors will report quarterly, or some other recurring period defined by the Evaluation and Implementation Committee, on workforce diversity, subcontracting, health care and other issues relevant to this agreement. Regarding health care, contractors will report what kind of health care, if any, they offer to employees who conduct work on covered projects and whether employees are using it. These reports will be made available to members of the public upon request and homeowners as they are selecting contractors.

I. Contractors will have already completed or commit to complete a CEWP-approved cultural competency and inclusive and harassment-free workplace training within three months of submitting RFQ. If issues arise, best resolution practices (e.g., worker coaching) will be offered.

J. Contractors and subcontractors will commit to list their job openings related to CEWP through WorkSource Oregon when there is a need for an external hire. Contractors are not obligated to hire

through WorkSource, and a commitment to list new jobs through Work Source would not apply to any pre-negotiated hiring agreements employers have established with the Trades.

III. ESTABLISHING A CONTRACTOR POOL TO ACHIEVE TARGETS AND GOALS

Below are two methods for selecting a pool of qualified contractors that can produce the above standards and community benefits.

A. Best Value Contracting

Best Value Contracting – The City and Energy Trust, with assistance from a stakeholder Evaluation and Implementation Committee, shall employ a “best value contracting” approach to selecting contractors for the pool during the solicitations for participating contractors. In this approach, applications from contractors applying to be part of the pool will be scored on a range of desired attributes. Final selections will be made based on the highest scores and the need to create a pool with the right mix of attributes to achieve the above stated goals and targets for the pilot project. Additional desired attributes and/or adjustment to the relative weighting of such attributes may be identified for subsequent rounds of solicitations during the course of the CEWP pilot project.

Through this best value contracting approach – and in reference to the goals above – preference will be given to contractors that meet, but not limited to, the following criteria:

1. Have demonstrated success in the use of Home Check and exemplary quality control compliance in Home Performance installation work.
2. Have an exemplary record of customer service.
3. Have a successful track record in hiring and retaining historically disadvantaged or underrepresented people, including people of color and women. (Newer contractors can receive preference by providing a detailed plan for how they will hire, maintain, and welcome diversity in their workforce in the immediate future.)
4. Have a well described plan on establishing “Mentor-sub” relationships with businesses owned by historically disadvantaged or underrepresented people, including people of color- and women-owned businesses who have been in business for a minimum of 6 months and shall receive a significant amount of work on jobs while they are seeking necessary training and experience toward BPI certification to be considered in subsequent contractor pools as “Primes”.
5. Have a well described plan for establishing sub-contracting relationships with businesses owned by historically disadvantaged or underrepresented people, including people of color- and women-owned businesses who have been in business for a minimum of 6 months.
6. Hire graduates of pre-apprenticeship training programs
7. Recognize the value of quality training for employees by participating in registered apprenticeship and other credential-granting programs
8. Hire at least 80% of their employees from the Portland metro region
9. Provide health insurance to employees
10. Are Oregon-based contractors

11. Demonstrate efforts to strive to provide employment opportunities to formerly incarcerated individuals who are seeking self-sufficient career pathways in weatherization and construction.

B. Neighborhood-Based Contractors

The City and Energy Trust plan to issue a special RFQ solicitation to assemble contractors for implementation of 20% of the pilot project work to Oregon Home Performance with ENERGY STAR BPI-certified contractors that demonstrate particular focus on creating pathways out of poverty and into green jobs for local residents. This RFQ will seek contractors that employ social enterprise models and/or partner with nonprofit community-based organizations that can provide support and training services for low-income individuals embarking on a career pathway to economic self-sufficiency in the building and construction trades. This RFQ will also seek innovative, collaborative approaches to reaching out to residents, including those of low-moderate income, in targeted neighborhoods.

IV. QUALIFIED TRAINING PROGRAMS

The City, Energy Trust and the stakeholder Evaluation and Implementation Committee shall identify a pool of qualified training programs to create a pipeline of opportunities from recruitment to placement through retention.

To be designated as a qualified training program, a training program will:

1. Provide weatherization training based on curriculum developed by an accredited organization to meet United States Department of Energy standards and any additional specifications and standards designated by the Oregon Department of Energy and Energy Trust.
2. Provide training that includes health & safety, as well as hazardous material recognition.
3. Have at least three defined partnerships with state recognized pre-apprenticeship programs or signatory community organizations that serve historically disadvantaged or underrepresented populations, including women, and people of color.
4. In conjunction with those partner organizations, ensure that a majority of its trainees are women, people of color, residents of low-income communities, or other disadvantaged or underrepresented people.
5. Offer mentoring, follow-up monitoring and/or other support to assure retention of participants in the program and in weatherization careers.
6. Demonstrate a track record of graduating and placing trainees from underrepresented communities in construction careers.

V. ASSISTANCE TO CONTRACTORS AND TRAINING PROGRAMS

The City, Energy Trust and the stakeholder Evaluation and Implementation Committee shall work together to identify a revenue source for the purposes of providing support to training programs and businesses. [1% of the fund can be considered as a placeholder for further research.]

The City shall also encourage the Portland Development Commission to engage partners to provide support to contractors that are participating in the CEWP pilot program, recognizing that while all contractors will benefit from support, businesses owned by historically disadvantaged or underrepresented people, including people of color- and women-owned businesses, should have targeted support to increase their participation in the project.

The types of support that businesses should receive include but are not limited to:

1. Cultural competency and inclusive and harassment-free workplace training
2. Assistance for contractors to find subcontractors that are historically disadvantaged or underrepresented, including people of color- and women-owned businesses
3. Assessment to ensure support is directed as needed to succeed. For example, the Evaluation and Implementation Committee can assist Primes in assessing Mentor-subso that Mentor-subso can be prepared to bid as a Prime in following rounds of contracting.
4. Increased capacity to provide on the job training
5. Technical assistance developing mentoring programs for underrepresented employees
6. Technical assistance providing health insurance to employees
7. Scholarships for BPI certification for businesses owned by historically disadvantaged or underrepresented people, including people of color- and women-owned businesses
8. Technical assistance with bonding and allaying homeowner fears while hiring formerly incarcerated individuals

The types of support that training programs should receive include but are not limited to:

1. Funding for qualified training programs who focus on training for weatherization,
2. Funding for Pre-Apprenticeship programs and other programs that focus on connecting disadvantaged populations to jobs and careers in weatherization and construction
3. Scholarships to provide opportunities for individual weatherization workers to participate in an advanced occupational training as part of an articulated Green Job Pathway.

VI. ACCOUNTABILITY

The City, Energy Trust and the stakeholder Evaluation and Implementation Committee shall be accountable for progress toward, and enforcement of, the CWA standards.

A stakeholder Evaluation and Implementation committee shall be established to:

- o Help set standards and community benefits
- o Help set accountability strategies for non-compliance and recognition of excellence in complying with or going beyond standards.
- o Evaluate progress toward standards and community benefits
- o Help develop a list of qualified training providers
- o Request and evaluate data related to all job classifications in CEWP
- o Identify ongoing resources needed for data collection and dissemination, assistance to contractors and training providers, and other activities necessary to the work of the Evaluation and Implementation Committee

- Identify, collect and analyze data on disparity and other measures that could inform recommendations for the scale-up
- Take actions to improve progress toward standards and community benefits, including but not limited to:
 - a. Identifying additional contractors to be brought into the pool
 - b. Adjusting weighting on Best Value Contracting measures
 - c. Recommending additional training and business support

The stakeholder Evaluation and Implementation Committee shall be nominated by the larger group of stakeholders involved in the CWA process and be appointed by the Mayor. The Committee shall represent a mix of the stakeholders involved in the CWA process and be comprised of not less than 50% historically disadvantaged or underrepresented people, including people of color and women.

The City and Energy Trust will work collaboratively with the Evaluation and Implementation committee to identify and provide the information the committee needs to perform its function.

The Evaluation and Implementation Committee's term is limited to the CEWP pilot. The committee will make recommendations on how the CWA standards and accountability process should evolve into the scale-up period of CEWP.

The City, Energy Trust and Evaluation and Implementation Committee shall be provided with resources to perform its function. One consideration is that a portion of revenue to the fund be directed toward supporting accountability functions.

VII. ROLES AND EXPECTATIONS OF SIGNERS

Signing organizations are expected to perform the following functions.

The City shall pass a Resolution endorsing this Community Workforce Agreement. The Resolution shall establish the stakeholder Evaluation and Implementation Committee and direct the Bureau of Purchases to provide outreach to targeted contractors and help to provide needed data and information to the stakeholder Evaluation and Implementation committee needed to perform its function.

The Energy Trust shall (1) ensure that the CEWP contractor selection processes reflect and implement the minimum requirements and best value contracting selection processes identified in this Community Workforce Agreement and (2) help to provide needed data and information to the stakeholder Evaluation and Implementation committee needed to perform its function.

The stakeholders shall contribute to the successful outcome of this agreement and continue their constructive engagement into the scale-up period of Clean Energy Works Portland.

VIII. AUTHORITY AND EFFECTIVE DATE

Each of the individuals signing below represents that he or she is properly authorized by the party for whom the individual is signing to execute this Community Workforce Agreement which is effective as of September 30, 2009.

EXECUTED BY:

THE CITY OF PORTLAND, OREGON

By: Mayor Sam Adams

ENERGY TRUST OF OREGON

By: Margie Harris

CHANGE TO WIN

By: Colin Bishopp

COALITION FOR A LIVABLE FUTURE

By: Dianne Riley

CONSTRUCTION APPRENTICE AND
WORKFORCE SOLUTIONS

By: John Gardner

ECO TECH, LLC

By: Marshall Runkel

EVENING TRADES APPRENTICESHIP
PREPARATION

By: DeBorah Williams

GREEN FOR ALL

By: Julian Mocine-McQueen

HOME ENERGY LIFE PERFORMANCE
GROUP, INC.

By: Berenice Lopez-Dorsey

IRVINGTON COVENANT
COMMUNITY DEVELOPMENT CORPORATION

By: Jennice Jackson

METROPOLITAN ALLIANCE FOR
COMMON GOOD

By: Rev. Terry Moe

METROPOLITAN CONTRACTOR
IMPROVEMENT PARTNERSHIP

By: Tony Jones

NATIONAL ASSOCIATION OF MINORITY
CONTRACTORS OF OREGON

NAYA FAMILY CENTER

By: Maurice Rahming

By: Rey Espana

NEIL KELLY CORPORATION

By: Brian McVay

OREGON ACTION

By: Ron Williams

OREGON AND SOUTHERN IDAHO
DISTRICT COUNCIL OF LABORERS

By: Greg Held

OREGON APOLLO ALLIANCE

By: Ron Ruggiero

PACIFIC NORTHWEST CARPENTERS
INSTITUTE

By: John Steffens

PORTLAND DEVELOPMENT COMMISSION

By: John Jackley

SHOREBANK ENTERPRISE CASCADIA

By: Adam Zimmerman

URBAN LEAGUE OF PORTLAND

By: Marcus Mundy

WORKSYSTEMS, INC.

By: Andrew McGough

O'NEILL ELECTRIC, INC.

By: Maurice Rahming

OREGON AFL-CIO

By: Barbara Byrd

OREGON AND SOUTHERN IDAHO
LABORERS-EMPLOYERS TRAINING TRUST

By: Al DeVita

OREGON TRADESWOMEN

By: Roberta Hunte

PACIFIC NORTHWEST REGIONAL COUNCIL
OF CARPENTERS

By: Pete Savage

PORTLAND YOUTHBUILDERS

By: Jill Walters

SUSTAINABLE SOLUTIONS UNLIMITED

By: Adam Zielinski

VERDE

By: Alan Hipolito

APPENDIX A

CEWP Pilot Phase

470 Homes
fall 2009 – summer 2010

Stakeholder Process produces a Community Workforce Agreement on Standards and Community Benefits for the pilot

- 1.
- 2.
- 3.
- 4.
- 5.



Appendix A

Desirable Standards and Benefits that cannot be included in the pilot because of the small, 470 home scale

Lessons learned from the evaluation of the implementation of the pilot phase

CEWP Scale Up

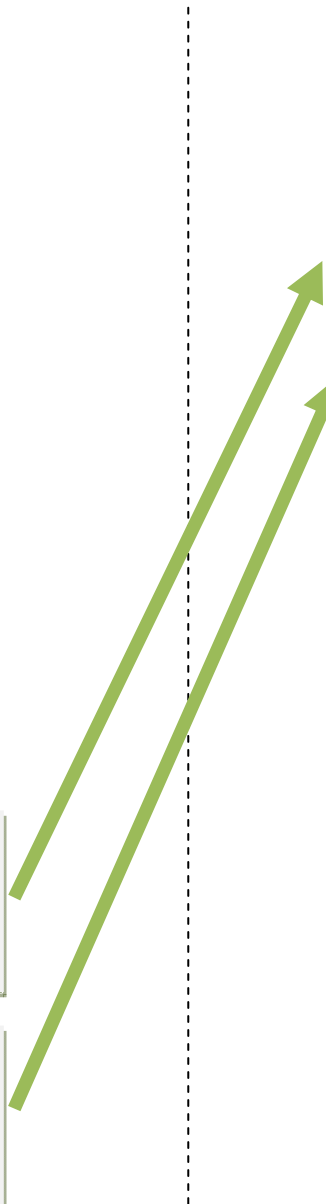
100,000 homes
Summer 2010-2030

Starting Document for Stakeholder Process on CWA for Scale up



Stakeholder Process produces a Community Workforce Agreement on Standards and Community Benefits for the Scale Up

- 1.
- 2.
- 3.
- 4.
- 5.



Appendix C.

**BEFORE THE BOARD OF DIRECTORS
OF THE SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT**

**In the Matter of a Policy
Requiring Project Stabilization Agreements (PSA)
With Local Hire Provisions on
Transit-Oriented Development (TOD) Projects**
-----/

Resolution No. 5182

WHEREAS, on July 14, 2005, the San Francisco Bay Area Rapid Transit District (District) adopted a Transit-Oriented Development (TOD) Policy with the goal of promoting intensive development at or near BART stations in order to increase transit ridership and facilitate local and regional economic development;

WHEREAS, in June 2003, the District developed TOD Guidelines that state that job opportunities near BART stations can enhance regional transit ridership when local residents living near one BART station find work near another BART station;

WHEREAS, to implement this TOD Policy, the District has partnered with developers to enable numerous TOD projects to increase transit-accessible housing, employment, and retail opportunities in the San Francisco Bay Area region;

WHEREAS, the District has approved approximately \$2 billion in TOD projects;

WHEREAS, the District anticipates that it will approve additional TOD projects in the next ten years and that such projects will generate tens of thousands of construction work hours;

WHEREAS, the construction industry is one of the few industries providing a path to middle-class careers for individuals without advanced degrees or facing barriers to quality employment, and is therefore a crucial component of the effort to build economic opportunities for residents of the region, with a particular emphasis on low-income and underrepresented workers in various building and construction trades, in order to elevate historically disadvantaged populations throughout the region;

WHEREAS, the region faces unemployment levels that have risen dramatically over the past five years climbing from 3.7% in 2006 to 9.8% in 2010 for the City of San Francisco, reaching 10.4% for the City of Oakland in 2008;

WHEREAS, high unemployment in the region is disproportionately concentrated in many areas near BART stations, neighborhoods or cities such as Richmond, Oakland, the Mission, and South of Market;

Adopted November 17, 2011

WHEREAS, this disproportion is reflected in the demographics of BART ridership where 25% of riders earn less than \$25,000 per household, a regional poverty threshold, whereas only 17% of the regional population are at this threshold;¹

WHEREAS, employing workers that are more likely to reside close to BART at BART-accessible jobsites also has environmental benefits, including reducing automobile-based commutes and resulting vehicle emissions, that are consistent with the mandates, policies, and goals of the California Global Warming Solutions Act (AB 32), the Sustainable Communities and Climate Protection Act (SB 375), and the Metropolitan Transportation Commission's (MTC) Resolution 3434, adopted in 2005, to implement SB 375 objectives;

WHEREAS, local economic development, increased transit ridership, and sustainable communities will be advanced by promoting the development of quality construction job opportunities that are transit accessible and, to the extent allowed by law, by encouraging the targeted hiring of local residents for construction jobs on TOD project sites;

WHEREAS, the District has the responsibility to promote efficient project delivery and the efficient use of public funds;

WHEREAS, these TOD Policy objectives will be advanced, and the proprietary interests of the District will be protected, by avoiding labor misunderstandings, grievances, and conflicts on certain TOD construction projects; and Project Stabilization Agreements (PSAs) minimize the possibilities for such misunderstandings, grievances, and conflicts, thereby promoting project cost containment, timely and economical project completion, financial stability, and prompt repayment of financial obligations owed to the District;

WHEREAS, the Board of Directors wishes to adopt a policy requiring PSAs with local hire provisions on TOD projects, to the extent allowable by law, in order to (1) further its TOD policy objectives of increased transit use and local economic development and its state and regionally-mandated objectives of reducing vehicle emissions, (2) to protect the District's proprietary interests and to enable the economical completion of TOD projects; and (3) to counteract the grave economic, social, and environmental ills affecting BART's regional ridership;

NOW, THEREFORE, BE IT RESOLVED, that to the extent permitted by law, the District requires as a condition of final approval for any new development agreement with the San Francisco Bay Area Rapid Transit District for a Transit-Oriented Development Project (TOD Project) that the developer or development team and all its contractors agree to enter into the Project Stabilization Agreement (PSA) with the relevant Building and Trades Council in the County where the TOD project is located for such TOD Project; and

¹ 2010 BART Customer Satisfaction Survey, BART Customer Incomes Compared to Regional Data.

BE IT FURTHER RESOLVED that the Board directs staff to negotiate the terms of a PSA with local hire provisions, to the extent allowable by law, between the developer or development team and the relevant building trades, including the Alameda County Building and Trades Council, the Contra Costa County Building and Trades Council, the San Mateo County Building and Trades Council, the Santa Clara Building and Trades Council, and the San Francisco County Building and Trades Council; and

BE IT FURTHER RESOLVED that the PSA shall establish, at minimum and to the extent allowable by law, that a mutually-agreed percentage goal of all workers on a TOD Project construction site must be residents from one of the five counties served by BART and that, if the developer/contractor fails to achieve such goal, documentation showing good faith efforts made to achieve the goal must be furnished to the District; and

BE IT FURTHER RESOLVED that it is the intention of this policy to require a PSA in BART TOD projects, but this policy shall not apply if the application of the policy would jeopardize governmental funding sources for a TOD project and thus jeopardize its financial feasibility.

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Appendix D.

Responsible Contractor Policy

Adopted: July 19, 2012

Responsible Contractor Policy

Section 1 Purpose

The Delaware Sustainable Energy Utility (“SEU”) recognizes that there is a need to ensure that construction work on SEU-assisted projects is performed by responsible, qualified firms that maintain the capacity, expertise, personnel and other qualifications and resources necessary to successfully deliver projects a timely, reliable and cost-effective manner and in full compliance with contract specifications.

To effectuate the purpose of selecting responsible contractors for SEU-assisted projects, prospective contractors and sub-contractors, should be required to meet pre-established, clearly defined, minimum standards relating to contractor responsibility, including requirements and criteria concerning technical qualifications, competency, experience, adequacy of resources, including equipment, financial and personnel, and satisfactory records regarding past project performance, safety, law compliance and business integrity.

Further, due to the critical impact that skilled construction craft labor has on public works projects, and due to the limited availability of skilled construction craft labor and imminent craft labor skill shortages, it is necessary to require contractors and subcontractors to participate in established, formal apprenticeship training programs as a condition of bidding, for the purpose of both promoting successful project delivery and ensuring future workforce development. The SEU also recognizes it is beneficial to local communities to ensure that firms receiving public contracts provide adequate wages and benefits to their employees and utilize fair business, employment and training practices that have a positive impact on local communities affected by such projects.

Therefore, SEU shall require compliance with the provisions of this policy by business entities seeking to provide services to the SEU as specified herein. The requirements of this policy are intended to supplement, not replace, existing contractor qualification and performance standards or criteria currently required by law, public policy or contracting documents.

Section 2 Responsible Contractor Requirements

- (a) All contractors and subcontractors of any tier that perform work valued at over \$25,000 on any public facility or public works project, including construction, demolition, alteration, renovation, repair, and contract service or contract maintenance work, shall meet the requirements of this policy.
- (b) All firms engaged in contracts covered by this policy shall be qualified, responsible contractors or subcontractors that have sufficient capabilities in all respects to successfully perform contracts on which they are engaged, including the necessary experience, equipment, technical skills and qualifications and organizational, financial and personnel resources. Firms bidding on public contracts shall also be required to have a satisfactory past performance record and a satisfactory record of law compliance, integrity and business ethics.

Section 3 Contractor Responsibility Certifications

- (a) As a condition of performing work on a public works contract subject to this policy, a general contractor, construction manager or other lead or prime contractor seeking award of a contract shall submit a Contractor Responsibility Certification at the time it submits its bid for a contract.
- (b) The Contractor Responsibility Certification shall be completed on a form provided by SEU and shall reference the project for which a bid is being submitted by name and contract or project number.

(c) In the Contractor Responsibility Certification the construction manager, general contractor or other lead or prime contractor shall confirm the following facts regarding its past performance and work history and its current qualifications and performance capabilities:

- (1) The firm and its employees have all valid, effective licenses, registrations or certificates required by federal, state, county, or local law, including, but not limited to, licenses, registrations or certificates required to: (a) do business in the designated locale; and (b) perform the contract work it seeks to perform. These shall include, but not limited to, licenses, registrations or certificates for any type of construction or maintenance trade work or specialty work which the firm proposes to self-perform.
- (2) The firm meets the bonding requirements for the contract, as required by applicable law or contract specifications and any insurance requirements, as required by applicable law or contract specifications, including general liability insurance, workers compensation insurance and unemployment insurance.
- (3) The firm has not been debarred or suspended by any federal, state or local government agency or authority in the past three years.
- (4) The firm has not defaulted on any project in the past three years.
- (5) The firm has not had any type of business, contracting or trade license, registration, or other certification revoked or suspended in the past three years.
- (6) The firm and its owners have not been convicted of any crime relating to the contracting business in the past ten years.
- (7) The firm has not within the past three years been found in violation of any law applicable to its contracting business, including, but not limited to, licensing laws, tax laws, prompt payment laws, wage and hour laws, prevailing wage laws, environmental laws or others, where the result of such violation was the payment of a fine, back pay damages or any other type of penalty in the amount of \$1,000 or more.
- (8) The firm will pay all craft employees that it employs on the project the current wage rates and fringe benefits as required under applicable federal, state or local wage laws.
- (9) All craft labor that will be employed by the firm for the project have completed at least the OSHA 10 hour training course for safety established by the U.S. Department of Labor, Occupational Safety & Health Administration.
- (10) The firm will employ craft employees in all classifications and individual trades required to successfully perform the work related to this project.
- (11) The firm has participated in a Class A Apprenticeship Program for the past three years, at a minimum, for each separate trade or classification in which it employs craft employees and shall continue to participate in such program or programs for the duration of the project.
 - (A) For purposes of this section, a Class A Apprenticeship Program is an apprenticeship program that is currently registered with and approved by the U.S. Department of Labor or

a state apprenticeship agency and has graduated apprentices to journeyman status for at least three of the past five years.

(B) To demonstrate compliance with this section, the firm shall provide, with this certification, a list of all trades or classifications of craft employees it will employ on the project and documentation verifying it participates in a Class A Apprenticeship Program for each trade or classification listed.

(12) The firm has all other technical qualifications and resources, including equipment, personnel and financial resources, to perform the referenced contract, or will obtain same through the use of qualified, responsible subcontractors.

(13) The firm will maintain all qualifications, resources and capabilities referenced in this certification throughout the duration of the project.

(14) The firm shall notify the SEU within seven days of any material changes to all matters attested to in this certification.

(15) The firm understands that the Contractor Responsibility Certification required by this section shall be executed by a person who has sufficient knowledge to address all matters in the certification and shall include an attestation stating, under the penalty of perjury, that the information submitted is true, complete and accurate.

(d) Execution of the Contractor Responsibility Certification required by this policy shall not establish a presumption of contractor responsibility and the SEU may require any additional information it deems necessary to evaluate a firm's status as a responsible contractor, including technical qualifications, financial capacity or other resources and performance capabilities. The SEU may require that such information be included in a separate Statement of Qualifications and Experience or as an attachment to the Contractor Responsibility Certification.

(e) The submitting firm shall stipulate in the Contractor Responsibility Certification that, if it receives a Notice of Intent to Award Contract, it will provide a Subcontractor List and required subcontractor information as specified in section 5 of this policy.

(f) If the submitting firm has ever operated under another name or controls, is controlled by another company or business entity or in the past five years controlled or was controlled by another company or business entity, whether as a parent company, subsidiary or in any other business relation, it shall attach a separate statement to its Contractor Responsibility Certification that explains in detail the nature of any such relationship. Additional information may be required from such an entity if the relationship in question could potentially impact contract performance.

(g) If a firm fails to provide a Contractor Responsibility Certification required by this section, it shall be disqualified from bidding. No action of any nature shall lie against the SEU because of its refusal to accept a bid for failing to provide information required by this section.

Section 4 Notice of Intent to Award Contract

- (a) After it has received bids for a project, the SEU shall issue a *Notice of Intent to Award Contract* to the firm offering the lowest responsive bid.
- (b) Such Notice shall be issued immediately or as soon as practicable after bids are submitted and shall stipulate that the contract award will be conditioned on the issuance of a written Contractor Responsibility Determination, as required by section 6 of this policy and any other conditions determined appropriate by the SEU.

Section 5 Subcontractor Lists, Subcontractor Responsibility Certifications

- (a) Within seven days from the date of Notice of Intent to Award Contract, a prospective awardee shall submit to the SEU a Subcontractor List containing the names of subcontractors that will be used for the referenced project, their addresses and a description of the work each listed subcontractor will perform on the project.
- (b) At the time a prospective awardee submits the Subcontractor List it shall also submit Subcontractor Responsibility Certifications for all listed subcontractors to the SEU. Subcontractor Responsibility Certifications shall be executed by the respective subcontractors on forms prepared by the SEU and shall contain the same information and representations required in Contractor Responsibility Certifications, including verification of apprenticeship qualifications as required by Section 3(c)(11), for each trade or classification of craft workers it will employ on the project.
- (c) Subcontractor Responsibility Certifications shall be executed by persons having sufficient knowledge to address all matters in the certification and shall include an attestation stating, under the penalty of perjury, that all information submitted is true, complete and accurate.

Section 6 Contractor Responsibility Review and Determination

- (a) After a Notice of Intent to Award Contract has been issued, the SEU shall undertake a review process for a period of at least 30 days to determine whether the prospective awardee is a qualified, responsible contractor in accordance with the requirements of this policy and other applicable laws and regulations and has the resources and capabilities to successfully perform the contract.
- (b) As part of this review process, the SEU shall ensure that the Contractor Responsibility Certification, the Subcontractor List and the Subcontractor Responsibility Certifications, as required by this act, have been submitted and properly executed.
- (c) The SEU may conduct any additional inquiries to verify that the prospective awardee and its subcontractors have the technical qualifications and performance capabilities necessary to successfully perform the contract and that the firms have a sufficient record of law compliance and business integrity to justify the award of a public contract. In conducting such inquiries, the SEU may seek relevant information from the firm, its prior clients or customers, its subcontractors or any other relevant source.
- (d) If at the conclusion of its internal review, the SEU determines that all responsibility certifications have been properly completed and executed and if it concludes that the qualifications, background and responsibility of the prospective awardee and the firms on its Subcontractor List are satisfactory, it shall issue a written Contractor Responsibility Determination verifying that the prospective awardee is a qualified, responsible contractor. In the event a firm is determined to be non-responsible, the SEU shall advise the firm of its finding in writing and proceed to conduct a responsibility review of the next lowest, responsive bidder or, if necessary, re-bid the project.

- (e) The Contractor Responsibility Determination shall be issued at least 30 days after the date of the Notice of Intent to Award Contract. This Responsibility Determination may be revoked or revised in any manner at any time if the SEU obtains relevant information warranting any such revocation or revisions.

Section 7 Subcontractor Responsibility Review Requirements

- (a) A construction manager, general contractor or other lead or prime contractor shall not be permitted to use a subcontractor on any work performed for the SEU unless it has identified the subcontractor on its Subcontractor List and provided a Subcontractor Responsibility Certification in accordance with the requirements of Section 5 of this policy.
- (b) A subcontractor listed on a firm's Subcontractor List shall not be substituted unless written authorization is obtained from SEU and a Subcontractor Responsibility Certification is provided for the substitute subcontractor.
- (c) In the event that the SEU determines that a prospective subcontractor listed by the apparent low bidder does not meet the responsibility standards of this Section, it may, after informing the prospective awardee, exercise one of the following options:
 - (1) permit the awardee to substitute a qualified, responsible, subcontractor in accordance with the requirements of this section;
 - (2) require the awardee to self-perform the work in question if the firm has the required experience, licenses and other qualifications to perform the work in question; or
 - (3) disqualify the prospective awardee.
- (d) In the event that a subcontractor is disqualified under this policy, the general contractor, construction manager or other lead or prime contractor shall not be permitted to make any type of contractual claim against SEU on the basis of a subcontractor disqualification.

Section 8 Public Review Process

- (a) The Contractor Responsibility Certification for a firm identified in a Notice of Intent to Award Contract, Subcontractor Lists and Subcontractor Responsibility Certifications shall be made immediately available to the public for inspection through a publicly accessible website or other comparable means.
- (b) During the Public Review Period, which shall be the 30 day period after the *Notice of Intent to Award Contract*, any person or organization may protest a contractor or subcontractor for failing to meet applicable requirements of this policy or on any other relevant grounds by submitting a letter with supporting evidence to the SEU.
- (c) If the SEU determines that a Contractor or Subcontractor Responsibility Certification contains false or misleading material information that was provided knowingly or with reckless disregard for the truth or omits material information knowingly or with reckless disregard of the truth, the firm for which the certification was submitted shall be prohibited from performing work for the SEU for a period of three years and shall be subject to any other penalties and sanctions, including contract termination, available to the SEU under law. A contract terminated under these circumstances shall further entitle the SEU to withhold payment of any monies due to the firm as damages.

- (d) A procurement contract subject to this policy shall not be executed until all requirements of this policy have been fulfilled and until Contractor and Subcontractor Responsibility Certifications and Subcontractor Lists have been made available for public inspection for at least twenty one days.

Section 9 Severability, Effective Date

- (a) If any provision of this policy shall be held to be invalid or unenforceable by a court of competent jurisdiction, any such holding shall not invalidate any other provisions of this policy and all remaining provisions shall remain in full force and effect.
- (b) This policy shall become effective July 19, 2012, but the SEU shall take such anticipatory administrative action in advance as shall be necessary for the implementation of this policy.
- (c) The requirements of this policy shall not apply to contracts executed prior to the effective date of this act, except that the exercise of an option on a contract covered by this policy shall be deemed to create a new contract for purposes of this policy.

Appendix E.

Project Stabilization/ Community Benefits Agreement (PSCBA)

Status Report to Board of Supervisors
Procurement and Contracting Policy Committee
July 17, 2017

PSCBA Milestones

- July 2012 -- East County Hall Of Justice PSCBA
- June 2013 -- Countywide PSCBA adopted by BOS & BTC for 3 yr term
- Sept. 2014 -- GSA Contracted with Davillier-Sloan/A²Ventures to provide consulting services
- June 2016 -- PSCBA term extends 2 years to June 2018

PSCBA Implementation Goals

1. Create a model program, providing the best value to the county for the money spent
2. Create a long term, sustainable program
3. Implement the PSCBA in a professional, collaborative manner

ECHOJ & Countywide PSCBA GSA Projects (Status as of June 2017)

| | Total Craft Hours Worked | Disadvantaged Workers Utilized | Local Hiring (Goal 40% of hours) | Apprentice Hours (Goal 20% of hours) |
|------------------------------|--------------------------------|--------------------------------------|--|---|
| ECHOJ \$88M | 523,131 | 20 confirmed/ 17 goal | 56% | 22% |
| Countywide \$53.4M | 240,780 | 16 confirmed/ 15 goal | 47% | 19% |
| TOTAL | 763,911 | 36 confirmed/ 32 goal | | |

Countywide Total includes 7 active projects (shown on next slide) and 4 closed projects (Villa Short Stay, San Lorenzo Library, Sandy Turner II, and Highland Resident Sleep Rooms)

Countywide PSCBA GSA Projects currently under construction

(as of June 2017)

| Project Name | % of Construction Complete | Disadvantaged Workers Utilized | Local Hiring (Goal 40% of hours) | Apprentice Hours (Goal 20% of hours) |
|---|----------------------------|--------------------------------|-------------------------------------|---|
| Amber House | 7% | 0 confirmed/ 1 goal | 76% | 0% |
| Environmental Health Vector Lab | 65% | 2 confirmed/ 1 goal | 27% | 17% |
| RREP Solar Project at SRJ (Team Solar) | -- | 2 confirmed/ 1 goal | 75% | 17% |
| RREP Solar Project at SRJ (Del Monte) | 85% | | 16% | 16% |
| RREP Solar Project at SRJ (State Roofing) | 65% | | 100% | 20% |

* Upcoming GSA Projects Covered under the PSCBA include: Cherryland Community Center, ITD/393 13th Street Renovation, Camp Sweeney and Transition Day Reporting Center.

Countywide PSCBA GSA Projects currently under construction

(as of June 2017)

| Project Name | % of Construction Complete | Disadvantaged Workers Utilized | Local Hiring (Goal 40% of hours) | Apprentice Hours (Goal 20% of hours) |
|----------------------------|----------------------------|--------------------------------|-------------------------------------|---|
| Cherryland Fire Station | 94% | 2 confirmed/ 2 goal | 51% | 17% |
| 1111 Jackson Street | 99% | 5 confirmed/ 4 goal | 46% | 24% |
| Eden SSA TI Lease | 99% | 1 confirmed/ 1 goal | 46% | 21% |
| SSA Adult & Aging TI Lease | 100% | 1 confirmed/ 1 goal | 46% | 16% |

* Upcoming GSA Projects Covered under the PSCBA include: Cherryland Community Center, ITD/393 13th Street Renovation, Camp Sweeney and Transition Day Reporting Center.

County/BTC Work Plan Focus June 2016 - June 2018

1. Increase # of Disadvantaged Resident Workers Identified and Available to Work through:
 - ▶ Coordination with established CBOs with expertise in job readiness assessment
 - ▶ Collaboration with BTC and local union apprenticeship programs
2. Continue to integrate PSCBA Requirements into County processes & procedures
 - ▶ Project Managers to drive PCSBA implementation
 - ▶ Ensuring consistent messaging regarding PSCBA in all County documents
 - ▶ Branding PSCBA as a process that works for County & community

Questions?