



Port of Seattle Commission

Policy Directive on Priority Hire

**As Amended
April 24, 2018**

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SECTION 1. Purpose.

The purpose of this policy directive is to provide good family-wage jobs to qualified construction workers from economically distressed areas of King County by increasing access to Port of Seattle covered projects. This leads to economic growth and job creation in areas of King County that are experiencing economic distress. In addition, it will provide jobs to those historically underrepresented in the construction industry, such as women and people of color.

To develop a priority hire program implemented through a project labor agreement (PLA) and to foster closer cooperation with the Regional Public Owners Group to ensure uniform application of priority hire terms and contractor and union compliance with priority hire requirements. This supports the Port of Seattle's continued efforts on workforce development. *(Res. 3736, §2, 2017)*

SECTION 2. Definitions.

When used in this policy directive, the following words and phrases shall have the meanings given below unless the context in which they are included clearly indicates otherwise:

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

“City” means City of Seattle.

“Contractor” means any person, firm, partnership, owner operator, limited liability company, corporation, joint venture, proprietorship, trust, association, or other legal entity that employs individuals to perform work on covered projects, including general contractors, subcontractors of all tiers, and both union and non-union entities.

“Core Employee” means an employee of an open-shop contractor that meets the core employee criteria established under a PLA.

“Covered Project” means a Port of Seattle construction project under a PLA as defined in the Policy Directive on Construction Labor Practices for Projects Located on Port of Seattle Property.

“Dispatch” means the process by which a union refers workers for employment to contractors under the authority of a collective bargaining agreement. The process typically mandates the distribution of work via a “first in, first out” priority but can be legally adjusted via special agreements to allow for out-of-order dispatching and priority worker hiring.

“Economically Distressed Area” means a geographic area defined by zip code in King County and found to have high population concentrations: 1) Living at or below 200 percent of the federal poverty level, 2) Unemployed, 3) Those over 25 years of age without a college degree, compared to other zip codes. King County zip codes with a high density per acre of at least two out of the three criteria will be identified as Economically Distressed Areas. These zip codes are updated and published by King County’s Finance and Business Operations Division.

“Jobs Coordinator” means either one of the following: a Port of Seattle employee, an employee that is considered a shared resource between government agencies, or a third party entity that facilitates the hiring of priority workers in collaboration with contractors and union dispatch.

“Journey-level” means an individual who has sufficient skills and knowledge of an occupation, either through a formal apprentice training program or through practical on-the-job work experience, to be recognized by a state or federal registration agency and/or an industry as being qualified to perform the work of the occupation. Practical experience must be equal to or greater than the term of apprenticeship.

“Labor hours” means hours performed on covered projects by workers who are subject to prevailing wages.

“Open-shop contractor” means a contractor that is not a signatory to a collective bargaining agreement with a union representing the trade(s) of the contractor’s workers, also known as non-union contractors.

“Pre-apprentice” means a student enrolled in a construction pre-apprentice training program recognized by the Washington State Apprenticeship and Training Council.

“Priority Hire Program” means a program on Port of Seattle major construction contracts that focuses on recruitment, training and employment of workers who reside in Economically Distressed Areas as defined by King County.

“Priority Worker(s)” means an individual prioritized for recruitment, training, and employment opportunities because the individual is a resident in an Economically Distressed Area.

“Project Labor Agreement” means an agreement authorized under the National Labor Relations Act (NRLA), 29 U.S.C., which provides a means for aligning interests of public owners such as the Port with those of construction labor unions.

“Regional Public Owners Group” means the group including the City of Seattle, King County, Port of Seattle, Sound Transit, the City of Tacoma, and the Washington State Department of Transportation, focused on public agencies working together as regional partners to better understand the workforce demand-supply gap for regional public infrastructure projects; to enhance access opportunities and to increase the diversity of pre-apprentices, apprentices, and journey-level workers entering into the trades workforce; to support retention programs for

current trades workers, especially women and people of color; and to improve performance data and systems of reporting for monitoring regional goals and initiatives.

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

(Res. 3746, §2, 2018; Res. 3736, §2, 2017)

SECTION 3. Scope and Applicability.

A. This Policy Directive pertains to covered project(s) for the remainder of this policy directive. *(Res. 3736, §2, 2017)*

SECTION 4. Responsibilities.

A. The Executive Director (1) will assign a designee (referred to as “designee” for the remainder of the policy directive) and subsequent designated office to implement and administer this policy directive, and (2) may, through the designee, develop and adopt rules consistent with the requirements of this policy directive. *(Res. 3736, §2, 2017)*

B. The designee, with the Executive Director’s written concurrence and upon notice to the Port of Seattle Commission, may reduce or waive requirements or goals of this policy directive when impractical for a covered project for one or more of the following reasons: when required due to an emergency, when subject to limitations of a sole source, when requirements or goals would be inconsistent with an agreement with a public agency, when requirements or goals are inconsistent with federal funding or other funding sources, when the project is in a remote location, when superseded by safety or other legal requirements, when other conditions arise such as the goals become impractical, or absent an executed PLA. *(Res. 3736, §2, 2017)*

C. The designee shall be responsible for identifying, monitoring, and mitigating risks within his/her authority and propose mitigation actions to the Executive Director if additional authority is required. The designee shall enforce the requirements in this policy directive and may use actions as deemed appropriate. *(Res. 3736, §2, 2017)*

D. As part of establishing a priority hire advisory committee to operate in an advisory role to the Port of Seattle for implementation and effectiveness of this policy directive, the designee shall participate in the previously established Regional Public Owners Group and may, under an agreement with one or more other government entities with priority hire programs, establish and participate in a regional priority hire advisory committee. *(Res. 3736, §2, 2017)*

SECTION 5. Policy.

A. For covered projects that are not found impractical under Section 4(B), the designee shall establish in the bid or other solicitation documents the following: (1) the required percentage of labor hours to be performed by priority workers, and (2) the aspirational goal percentage of labor hours to be performed by priority workers. Contractors and dispatch under a PLA shall seek to first hire and dispatch priority workers so as to meet or exceed the required and aspirational goal percentages. The designee shall establish the percentages separately for apprentices and for journey-level workers. *(Res. 3736, §2, 2017)*

B. For each covered project, the designee shall establish the greatest practicable required percentage of labor hours to be performed by priority workers by considering anticipated workforce availability and past utilization percentages on similar construction projects from the most recent project previous calendar year, and shall establish the percentage for the upcoming year. This shall be included in the PLA and other Port agreements as appropriate and progress monitored by the designee. The designee shall adjust these required percentages annually, based on performance and reasonably anticipated changes in worker availability. *(Res. 3736, §2, 2017)*

C. In order to achieve the intended impact in economically distressed areas, the designee shall set project-specific requirements and an aspirational goal percentage of no less than 20 percent for all labor hours performed annually by priority workers on the total of covered projects for the year. Annual percentage rates will be measured January 1 – December 31 of each applicable year. *(Res. 3736, §2, 2017)*

D. In order to meet the percentage of labor hours to be performed by priority workers, the designee shall require contractors and dispatch under a PLA to seek to employ a priority worker who is a resident of an economically distressed area in King County, and then workers from any other economically distressed areas as needed to meet the percentage labor hours to be performed by priority workers. The specific process by which contractors, dispatch, and the Port of Seattle Jobs Coordinator(s) will collaborate in order to facilitate the hiring of priority workers shall be established by the designee. *(Res. 3736, §2, 2017)*

E. For covered projects, the designee shall ensure the availability of a Jobs Coordinator(s) to perform the following functions: maintain a database of pre-qualified priority workers for referral to work on a covered project; network with various work source centers, community, non-profit, and faith-based organizations to facilitate the identification of priority workers; and facilitate referral and coordination around training and employment of priority workers between contractors, unions, and training programs. In addition, the designee shall explore development of a third party to manage regional priority hire efforts. *(Res. 3736, §2, 2017)*

F. Per the Construction Labor Practices Policy Directive for Projects Located on Port of Seattle Property (adopted by Resolution 3725), contracts \$1 million in value or greater require

apprenticeship utilization goals. The goal is no less than 15 percent of all contract labor hours are to be performed by apprentices.

- (1) For individual projects, the designee will determine the apprenticeship utilization goal and may consider such factors as project size, project duration, labor hours anticipated for the project, skills required, the likely crafts required for the project, historic utilization rates, and apprentice availability.
- (2) The designee shall establish aspirational percentage goals for apprentices who are women and people of color using similar factors. Contractors may be allowed to offer utilization below the aspirational percentage goals by substituting other efforts to meet the intent of building a trained construction workforce for a portion of the utilization percentages for women and people of color.

(Res. 3736, §2, 2017)

G. When determining whether the percentage of priority hire requirements has been achieved, the designee shall exclude from the calculation labor hours performed by residents of states other than the state of Washington. The designee shall track labor hours performed by residents of states other than the state of Washington and shall review this percentage annually with the previously established Regional Public Owners Group and any future regional priority hire advisory committee that may be established under an agreement with one or more other government entities with priority hire programs. *(Res. 3736, §2, 2017)*

H. Per the Construction Labor Practices Policy Directive for Projects Located on Port of Seattle Property (adopted by Resolution 3725), the designee shall support the inclusion of priority hire provisions in the PLA standard language to be approved by the Commission Projects and Procurement Committee. In furthering the Construction Labor Practices Policy Directive for Projects Located on Port of Seattle Property, Port staff will seek an agreement with regional partners to develop a framework to achieve operational efficiencies through uniform priority hire requirements and by sharing priority hire resources and data and advancing workforce development efforts. *(Res. 3736, §2, 2017)*

I. The Port shall review and recommend how the intent of priority hire can be implemented throughout the Port beyond the covered projects, including future leases, concession agreements, and procurement contracts by September 1, 2018. *(Res. 3736, §2, 2017)*

SECTION 6. Program Evaluation.

A. The designee shall establish benchmarks and metrics to evaluate the program, such as project costs, completion times, workplace safety, utilization rates and graduation rates of priority workers, women and people of color from pre-apprentice and apprentice training programs, and changes in the amount of contracting dollars paid to small business and Women

and Minority Business Enterprises (WMBE) firms working on covered projects and the number of small business and WMBE firms under contract. *(Res. 3736, §2, 2017)*

B. Port efforts in pursuit of the objectives of this policy directive will be incorporated into the Port's long range plan (LRP) to the fullest extent reasonable, including incorporation into the LRP scorecards, reports, and LRP updates. Further, the designee shall prepare and publish an annual report each year titled Apprenticeship and Priority Hire Annual Report.

The report shall include, but not be limited to, the following:

- (1) The number and kinds of construction projects and contracts on which apprenticeship and priority hire requirements were established;
- (2) The percentage of labor hours actually worked by apprentices and priority workers on each such project and the total number of labor hours on each project;
- (3) The number of apprentices and priority workers by contractor broken down by trade and craft category, the wages paid by category of work or trade, the number and percentage of women and people of color utilized as apprentices and priority workers, and the degree of compliance with the percentage requirements and aspirational goals to be established under this policy directive;
- (4) The number of apprentices and priority workers per Port dollar spent on the program;
- (5) A description of problems encountered in the implementation of the program; and
- (6) A description of barriers encountered by participating apprentices and priority workers and steps taken to resolve those problems and to ensure their continued participation in the program.

(Res. 3736, §2, 2017)

C. The Port of Seattle Commission, Executive Director, and designee will review program results annually as part of the LRP update to determine if the program should be expanded or amended by increasing or decreasing requirements and aspirational goals. *(Res. 3736, §2, 2017)*

SECTION 7. Fiscal Implications.

This policy directive has fiscal implications as funding and staffing requirements will be needed to implement the priority hire program. Fiscal implications will be reviewed by the designee

annually, at a minimum, to determine if additional funding and/or resources are required and shall submit a budget request, as appropriate. *(Res. 3736, §2, 2017)*

SECTION 8. Research Findings

Based on studies commissioned by the City of Seattle and King County and their implementation of priority hire programs and numerous public discussions, the Port of Seattle Commission finds that it is in the Port's and the public's best interest to increase the supply of qualified construction workers, particularly those historically underrepresented in the construction industry, including those who live in economically distressed areas in King County and also within that group, women and people of color. *(Res. 3736, §2, 2017)*

A. In January 2015, following the positive results of a pilot program on the Elliott Bay Seawall project, the City of Seattle adopted Ordinance No. 124690, an ordinance relating to establishing a priority hire policy to ensure better access to training programs and well-paying construction jobs for local workers, as well as to increase the diversity of the workforce on city projects. *(Res. 3736, §2, 2017)*

B. The City of Seattle implemented the priority hire ordinance through a community workforce agreement (CWA) between the city and the building trade labor unions, and that agreement requires that prime contractors on city public works construction projects of \$5 million or more, must ensure that a certain percent of project labor hours are performed by workers living in economically distressed areas of Seattle and King County. *(Res. 3736, §2, 2017)*

C. In May 2016, the King County Executive directed county agencies to implement a priority hire pilot program that prioritized economically disadvantaged local workers for inclusion on large King County capital construction projects. King County is considering a permanent priority hire program implemented through a CWA. *(Res. 3736, §2, 2017)*

D. Based on studies commissioned by the City of Seattle and King County and their implementation of priority hire programs, and numerous public discussions, the Port of Seattle Commission finds that it is in the Port's and the public's best interest to increase the supply of qualified construction workers, particularly those historically underrepresented in the construction industry, including women, racial minorities, and those who live in economically distressed areas of Seattle and King County. *(Res. 3736, §2, 2017)*

E. King County completed a study in January 2016 documenting a widening gap between the demand for construction labor and the supply of skilled trade workers in the regional labor market for King County and other public entities. The gap reinforces the urgent need for developing a strategy to address the current and projected workforce shortages. The study also used economic data involving poverty levels, employment, and educational attainment to determine economically distressed areas, which are identified by zip code. *(Res. 3736, §2, 2017)*

F. King County completed the Construction Workforce Analysis in December 2016 and found that the county may reasonably anticipate a reduced surplus of qualified labor and possible labor shortages in certain construction trades by 2020. That is the result of a projected shortfall forecast between demand and supply of 4,630 workers by 2020. The county is concerned that these labor shortages will increase reliance on out-of-state construction workers and that the demand for new construction workers may increase construction costs on the county's public works projects unless the county supports efforts to increase the supply of trained apprentices and journey level workers for local public works projects.

The analysis also found that 81 percent of the construction workforce in King County in 2016 were white males, while 19 percent were people of color and women. Representation of women and people of color is higher among new entrants to the labor force through apprenticeships and accredited certificates of completion, such as those received for completing a pre-apprenticeship program. However, according to the analysis, women and people of color also have lower rates of apprenticeship completion than do their white male counterparts. *(Res. 3736, §2, 2017)*

G. The City of Seattle commissioned the Construction Industry Labor Market Assessment, which found that women, irrespective of race, are underrepresented in the construction industry. Between 2009 and 2013, 10 percent fewer women finished their apprentice training program than males. The assessment also found that between 2009 and 2013, 14 percent fewer racial minority apprentices finished their apprentice training program than white apprentices. In addition, it also found that underrepresented workers face barriers to completing apprentice training. Between 2009 and 2013, 65 percent of the racial minorities exiting apprenticeships did not complete the programs compared to 51 percent of the white apprentices who failed to complete the program. During that same time period, 65 percent of all women, irrespective of race, failed to complete their programs compared to 55 percent of all men. *(Res. 3736, §2, 2017)*

H. The City of Seattle has found that priority hire effectively and successfully increases diversity on city construction projects. The share of labor hours between November 2013 and April 2017 saw an increase of 233 percent in rate of hours performed by workers living in Seattle's economically distressed zones. In addition, it saw an over 300-percent increase in rate of hours performed by apprentice women and 200-percent increase in rate of hours performed by African-Americans. *(Res. 3736, §2, 2017)*

I. A PLA is an effective tool to manage public works projects when reducing the risk of project delays and reducing the potential of labor disruptions and labor shortages. *(Res. 3736, §2, 2017)*

J. Priority hire is an effective tool to create local jobs, enhance workforce diversity, and improve overall working conditions. *(Res. 3736, §2, 2017)*

Revision History

April 24, 2018	Resolution 3746 modified the definition of a covered project to comport with the definitions in the Policy Directive on Construction Labor Practices for Projects Located on Port of Seattle Property.
November 28, 2017	Resolution 3736, establishing the Priority Hire Policy Directive, was adopted.