



## Workforce Training and Hiring Program Specifications Exhibit

In furtherance of Prosper Portland’s commitment to social and racial equity, the Prosper Portland Board of Commissioners adopted the *Construction Business and Workforce Equity Policy* on April 14, 2021 through Resolution No. 7411 (the “**CBWE Policy**”). The CBWE Policy establishes two different programs: (i) the Business Equity Program, and (ii) the Workforce Training and Hiring Program (“**WTHP**”). These specifications (these “**Specifications**”) relate to the WTHP, and identify specific requirements that contractors, developers, borrowers, grantees, purchasers, or other parties with whom Prosper Portland does business and to whom the WTHP applies (each a “**Recipient**”) must meet to comply with its contractual obligations. By attaching these Specifications to the contract, agreement, or instrument to which they are an exhibit (the “**Contract**”), the requirements of these Specifications are incorporated into the Contract.

The goal of the WTHP is for each Recipient’s project workforce to reflect workforce diversity in the city of Portland, and to ensure that Prosper Portland’s contracting dollars provide equitable opportunities to Portland’s diverse populations, including those who have been historically underrepresented in the construction trades.

### 1. PROGRAM APPLICABILITY

These Specifications apply to the construction project described in the Contract (the “**Project**”), but not to Soft Construction Costs (as defined in the CBWE Policy), except to the extent otherwise expressly stated in the Contract.<sup>1</sup> Notwithstanding anything to the contrary in these Specifications, where a Recipient is not directly undertaking construction (e.g., a developer is instead contracting with a prime contractor to

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<sup>1</sup> Pursuant to the CBWE Policy, the WTHP applies in the following circumstances (this footnote is for informational purposes only; if these Specifications are attached to the Contract, or the Contract otherwise indicates the WTHP applies, the WTHP applies to the Project):

- A Prosper Portland-Owned Construction Contract consisting of construction work greater than \$300,000.
- A Prosper Portland-Sponsored Project consisting of construction, the WTHP will apply if the project receives \$300,000 or more of Prosper Portland Resources to support a project with a Hard Construction Cost greater than \$1,000,000.
- A sale of Prosper Portland real property to a private party with a purchase price greater than \$300,000 that is expected to involve Hard Construction Costs greater than \$300,000.
- A Prosper Portland-Intergovernmental Agreement consisting of construction work greater than \$300,000.

If the WTHP applies, it applies to the prime contractor and all subcontracts with values of \$100,000 or greater, but not to subcontracts with values of less than \$100,000. The WTHP does not apply to Personal Services Contracts, Flexible Services Contracts, and services contracts or agreements not involving construction work.

undertake construction), the Recipient must see to it that applicable requirements in these Specifications are passed through to its contractor and subcontractors, and ensure that any contractor / subcontractors comply with these Specifications and thereby enable Recipient to comply with these Specifications.

## **2. PROGRAM REQUIREMENTS AND GOALS**

Recipients must do the following:

- Ensure that a minimum requirement of twenty percent (20%) of labor hours in each apprenticeable trade performed by any Recipient (or its prime contractor/subcontractor, as applicable), are filled by State Registered apprentices if working an excess of 300 hours or more on any trade; and
- Use active, good faith efforts towards achieving workforce goals of hiring thirty percent (30%) minority workers and fifteen percent (15%) women workers. This goal will be measured in aggregate by combining both apprentice hours and journey hours. Although goals are measured in aggregate, Prosper Portland staff may nonetheless collect this data in a disaggregated manner (e.g., collecting data about journey and apprentice performance separately) to help inform future policy development.
- Not intentionally divide subcontracts into smaller scopes to avoid any requirements of the WTHP.

## **3. STANDARDS OF COMPLIANCE**

Recipients shall comply with the following requirements:

### **a. Initial Meeting**

Recipient shall attend an initial kickoff meeting with Prosper Portland's Compliance Coordinator at the earliest possible opportunity.

Recipients shall bring the following to the initial meeting:

- Project description;
- Proposed project schedule; and,
- Scopes of work, if any, to be subcontracted on the project.

Purpose of initial meeting:

- Answer questions Recipient may have regarding the WTHP;
- Identify any barriers to compliance and provide assistance, if possible;
- Present the ongoing compliance reporting requirements in the City of Portland's LCP Tracker Reporting System; and
- Explain the ramifications of noncompliance with this guidance, including but not necessarily limited to liquidated damages, withholding of progress payments (if applicable), and debarment.

### **b. Subcontractor Workforce Plan**

Any Recipient required to register as a training agent pursuant to Section 4(a), below, shall submit **Exhibit 2**, "Workforce Plan," prior to beginning work on the Project or within five (5) calendar days after the execution of an applicable subcontract, whichever occurs first. Work by any Recipient shall not begin prior to submission of such documentation. Failure to timely and properly enroll as a training agent prior to beginning work may subject a Recipient to liquidated damages.

## **4. APPRENTICESHIP REQUIREMENTS**

### **a. Training Agent**

Any Recipient (or their prime contractor and any subcontractor at any tier) that directly employs workers and has a subcontract of \$100,000 or more on a WTHP Project must be registered as a training agent with an Oregon Bureau of Labor and Industries (**BOLI**) approved training program. Registration as a training agent in a specific trade is not required if there are no training programs in that trade.

Any Recipient (or any prime contractor or subcontractor, as applicable) must submit proof to the Compliance Officer that they are registered Training Agents with BOLI prior to beginning any work on the Project. Failure to register as a training agent prior to beginning work may subject a Recipient to liquidated damages.

- i. Only training programs approved by and registered with BOLI may be used to fulfill training requirements under WTHP.
- ii. Training is intended to be primarily on-the-job training in apprenticeable crafts, and does not include classifications such as flag person, timekeeper, office engineer, estimator, bookkeeper, clerk/typist, fire fighter, or secretary. Hours performed in crafts which are not apprenticeable occupations are exempt from training agent requirements.

**b. Use of Apprentices**

Any Recipient shall:

- i. Ensure that a minimum of twenty percent (20%) of labor hours in each apprenticeable trade performed on a Project are worked by state registered apprentices throughout the duration of such Project. Recipients shall fulfill the twenty percent (20%) apprenticeship hours requirement without exceeding the apprentice ratios approved by the applicable apprenticeship program;
- ii. Pay all apprentices the wages required by any applicable collective bargaining contract or pursuant to state or federal law and regulations;
- iii. Not use workers previously employed at journey-level or those who have successfully completed a training course leading to journey-level status to satisfy the requirements of these provisions;
- iv. Notify the Compliance Officer when an apprentice is hired for this Project;
- v. Count apprentice hours as follows:
  - (1) Compile hours worked on the Project by apprentices enrolled in state-approved apprenticeship programs. If a Recipient is unable to fulfill its twenty percent (20%) requirement, then the Recipient may also use the methods below:
    - (a) Compile hours worked on the project by apprentices who are required to be away from the job site for related training during the course of the Project, but only if the apprentice is rehired by the same employer after completion of training; and
    - (b) Compile hours worked on the project by graduates of state-registered apprenticeship programs, provided that such hours are worked within the 12-month period following the apprentice's completion date.

**c. Use Apprenticeship Programs for Referrals**

Recipients must follow each of these steps in seeking apprentice referrals:

- i. Contact the appropriate apprenticeship program or dispatch center to request apprentices who are enrolled in the apprenticeship program;
- ii. Request female or minority apprentices from union or open shop apprenticeship programs if such an action will help remedy historical underutilization in the Recipient's (or its

- contractor's or subcontractors') workforce;
- iii. Keep a written record of any request for apprentices, including name of the contact person at apprenticeship program, phone, fax, e-mail, date, time, job location, start date, etc.; and
  - iv. Make reasonable best efforts to recruit apprentice applicants from community organizations/recruitment resources, and seek to enroll them into an apprenticeship program, if the apprenticeship program is unable to supply an apprentice and if the program is open for applications or allows direct entry from community resources.

**NOTE: Recipients may contact the Compliance Officer for assistance regarding the apprentice referral process, or may utilize Exhibit 3, Request for Apprentice form, to document their efforts. A list of community organizations/recruitment resources is also available.**

## **5. WORKFORCE DIVERSITY GOAL**

Recipient shall make all active, good faith efforts consistent with applicable law to achieve workforce hiring goals of thirty percent (30%) minority and fifteen percent (15%) women workers, including apprenticeship and journey level hours, where applicable. See Exhibit 1 for a description of good faith recruitment efforts.

When hiring, requesting, recruiting, or replacing workers for a WTHP Project, any Recipient's active and good faith efforts to employ a diverse workforce shall include, without limitation:

- requesting minority and female applicants;
- making requests to unions, community-based organizations, apprenticeship programs, and other community resources, both union-affiliated and non-union-affiliated; and,
- making requests to community resources who assist contractors with recruitment and referral of workers.

Additional documentation will be requested by the Compliance Officer from any Recipient not meeting workforce diversity goals if it appears, in the sole discretion of Prosper Portland, that the Recipient has not made reasonable and necessary efforts to acquire an equitably diverse workforce. The Recipient shall provide any such requested documentation to the Compliance Officer within 7 calendar days.

Direct hiring of employees (such as "walk-ons") without providing notification of job opportunity may not constitute a reasonable effort.

## **6. PROJECT REPORTING**

Any Recipient (and its contractors or subcontractors at any tier) that directly employs workers and has a subcontract of \$100,000 or more on the Project shall provide monthly employment reporting online via the City of Portland's LCP Tracker reporting system by the fifth day of each month.

The Compliance Officer and Compliance Coordinator will review the monthly reporting and share the status of the project to the Prosper Portland project team. The monthly reporting data from the Project will also be posted on Prosper Portland's website. Failure to submit timely monthly reporting could adversely affect the Project's ability to meet the program requirements and thus lead to Liquidated Damages as referenced in Section 7 below, or other consequences if applicable in the Contract. At the completion of the Project the Compliance Officer and Compliance Coordinator will provide a project closeout report documenting the overall compliance of the project.

The Compliance Officer's failure to object to the timeliness or completeness of documentation

submitted by any Recipient shall not relieve them of the requirements of this section.

A copy of certified payroll reports may be requested by the Compliance Officer to verify information in any workforce compliance report provided by a Recipient. Such payroll reports shall be provided within seven days of the date when a Recipient receives the request for the payroll reports.

## **7. CONSEQUENCES OF NON-COMPLIANCE WITH WTHP**

Prosper Portland's commitment to construction workforce equity is reflected, in part, by the cost of administering and promoting the WTHP and of Prosper Portland's initiatives to advance equity in the context of the construction industry. Failure of any Recipient to meet WTHP requirements deprives Prosper Portland of the benefits of these costs and efforts, and impairs Prosper Portland's attempts to promote workforce diversity and to provide equitable opportunities to the public. A Recipient's failure to meet the requirements of these Specifications, including but not limited to the timely submission of required documentation, constitutes a material breach of these Specifications and thus the Contract.

In the event of a material breach of these Specifications by any Recipient or an entity for whom a Recipient is responsible (e.g., a contractor or subcontractor performing work on the Project), in the sole discretion of Prosper Portland, Prosper Portland may take any or all the following actions (without limiting any other rights or remedies Prosper Portland may have under the Contract):

### **a. Withholding Progress Payments**

If the Contract provides for progress payments, Prosper Portland may withhold all or part of any payments until the breach is remedied to Prosper Portland's reasonable satisfaction. If payments are so withheld, the Recipient shall in no event be entitled to interest on said payments, if reinstated, unless otherwise required by applicable law.

### **b. Liquidated Damages for Noncompliance with the Apprenticeship Requirements**

It would be difficult, if not impossible, to assess actual damages or costs incurred by Prosper Portland for a Recipient's failure to comply with the Specifications. Therefore, if the Recipient fails to comply with the apprenticeship requirements of this program, the Recipient agrees to pay the sum of \$250 per day for each day of missed apprenticeship hours. These damages are independent of any liquidated damages that may be assessed due to any delay in the project caused by a Recipient's failure to comply with the Specifications or that may otherwise be available to Prosper Portland under any other agreement with the Recipient. For other violations of these Specifications not relating to missed apprenticeship hours, Prosper Portland reserves the right to assess an amount of liquidated damages of up to \$150,000 based upon the seriousness of the violation, as determined by Prosper Portland.

### **c. Notification of Possible Debarment**

Recipient's acknowledge that failure to comply with the Specifications may lead to the Recipient's disqualification from bidding on and receiving other Prosper Portland contracts for a minimum of two years and a maximum of three years based on the violation.

### **d. Other Remedies**

The remedies that are noted above do not limit any other remedies available to Prosper Portland under the Contract, at law, or in equity in the event that the Recipient fails to meet the requirements of the Specifications.

## **8. REVIEW OF RECORDS**

Prosper Portland shall be entitled to inspect and copy any books and records of any such Recipient related to its compliance or non-compliance with the Specifications within 7 days of the date when a Recipient receives a request under this provision. In the event that a Recipient fails to provide its books and records for inspection and copying when requested under this provision, such failure shall constitute a material breach of the Specifications and permit the imposition of any of the remedies set forth above. This provision does not limit any other audit or inspection rights Prosper Portland may have under the Contract.

## 9. CONTACTS

a. For any notices or questions regarding apprenticeships, please contact:

**Bureau of Labor & Industries**  
Apprenticeship & Training Division  
800 N.E. Oregon St. # 32  
Portland, OR 97232 (971) 673-0760

b. For any notices or questions regarding Prosper Portland WTHP requirements, please contact either:

**Ay Saechao**  
**Compliance Officer**  
City of Portland/Outside Services, Purchasing  
1120 S.W. Fifth Ave., Room 1000  
Portland, OR 97204  
(503) 823-1090 [Ay.Saechao@portlandoregon.gov](mailto:Ay.Saechao@portlandoregon.gov)

**Wendy Wilcox**  
**Compliance Coordinator**  
Prosper Portland  
220 NW 2nd Ave. Suite 200  
Portland, OR 97209-3859  
(503) 823-3236 [wilcoxw@prosperportland.us](mailto:wilcoxw@prosperportland.us)

## ATTACHMENTS:

- Exhibit 1: Recommended Recruitment & Retention Practices
- Exhibit 2: Workforce Plan
- Exhibit 3: Request for Apprentice form
- Exhibit 4: Recipient Checklist

## EXHIBIT 1

### Recommended Good Faith Recruitment & Retention Practices

#### A. Recruitment Efforts

Good faith recruitment efforts are intensive, active, sincere, and result-oriented actions taken, and best practices used, by a Recipient designed to accomplish WTHP and Equal Employment Opportunity Program objectives and requirements. Good faith recruitment efforts include, but are not limited to:

1. Working aggressively with the Recipient's Joint Apprenticeship Training Committee (**JATC**) to recruit minorities, women and disadvantaged individuals and documenting these efforts;
2. Requesting JATC ideas on how to increase employment of underutilized groups, and assist JATC in conducting a recruitment workshop with potential minority and women employees;
3. Supporting JATC by giving all apprentices referred to the Recipient by JATC a fair chance to perform successfully, allowing for possible lack of previous experience, and taking responsibility for providing on- the-job training, understanding that all apprentices should not be expected to have previous experience;
4. Participation in job fairs, school-to-work, and community events to recruit minorities, women, and disadvantaged individuals into the construction trades;
5. Allowing scheduled job site visits by participants in community programs, as safety allows, to increase awareness of job and training opportunities in the construction trades; and
6. Retaining job applications of those recruited but not selected for a job, in the event a relevant job becomes open.

#### B. Retention Efforts

Recipients shall attempt to retain minorities, women, and disadvantaged employees by implementing steps such as the following:

1. Maintaining a harassment-free work place;
2. Ensuring that employees are knowledgeable about company policies if they need to report a harassment issue;
3. Making reasonable best efforts to keep apprentices working and train them in all work processes described in the apprenticeship standards;
4. Reviewing and disseminating, at least annually, the obligations under the WTHP, as well as the Recipient's EEO policy, with all employees having any responsibility for hiring, assignment, layoff, termination or other employment decisions;
5. Reviewing, at least annually, of all supervisors' adherence to and performance under the Recipient's EEO policies and affirmative action obligations;
6. Taking steps to reduce any negative isolation of, or hostile attitudes or behavior toward, minorities and women (e.g., have several minorities and women at the job site; provide access to support group system);
7. Providing adequate toilet facilities for women on the job site; and
8. Matching minority, female, or disadvantaged apprentices who may need support to complete their apprenticeship programs with a journey-level mentor.

**EXHIBIT 2**  
**Workforce Plan**

This form must be completed by any Recipient. Please state how you plan to perform the work on this project, indicating the number of journey workers and apprentices by trade. This workforce plan must demonstrate how your company will fulfill all Workforce Training & Hiring Program (WTHP) requirements, including utilization of apprentices. Refer to Exhibit 5 for apprenticeship ratio data. Complete all columns, with project-specific information.

Bid# \_\_\_\_\_ Contract Amount \$ \_\_\_\_\_ Project Name: \_\_\_\_\_

Company Name \_\_\_\_\_ Federal ID #: \_\_\_\_\_

Prime Contractor: \_\_\_\_\_ Subcontractor \_\_\_\_\_

List all Trades to be used on this Project	Total # of Journey Workers	Total # of Apprentices	Total # of Female Workers	Total # of Minority Workers	# and Level of New Positions (i.e. 1A or 1J)	Anticipated Start Date	Estimated Total Hours (all workers in each trade)

Please list the apprentices who will work on this project. If you need more space, attach an additional sheet of paper. The Compliance Agency must approve all apprentices on the project.

Name of Apprentice	Trade	Race	Gender	Date of Hire	STAFF USE ONLY

If no current apprentices, indicate when and how they will be hired:

Person in your company who does hiring: \_\_\_\_\_

Company: \_\_\_\_\_ CCB# \_\_\_\_\_ Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

E-mail address for submitting Monthly Employment Reports via e-mail: \_\_\_\_\_

Are you a registered Training Agent? Yes  No  Are you a Union  or Open Shop  contractor?

With which JATCs are you registered to train apprentices? \_\_\_\_\_

Apprentice committee or union contact person who dispatches apprentices to your company:

Name: \_\_\_\_\_ Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

Name: \_\_\_\_\_ Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

Prepared by: \_\_\_\_\_ Date: \_\_\_\_\_  
(Print and sign)

Prime Contractor must complete and submit to as designated to Compliance Agency:

Workforce Training & Hiring Program | 1120 S.W. Fifth Avenue #750, Portland, OR 97204 | Phone (503) 823-6850 or FAX (503) 823-5539



**EXHIBIT 3**

**Request for Apprentice**

The contractor may use this form to document efforts when recruiting apprentices.

**FAX To:** \_\_\_\_\_ / \_\_\_\_\_  
(Apprenticeship Committee) (Contact/ Dispatcher)

Fax Number : \_\_\_\_\_ Number of Pages: \_\_\_\_\_

**Request From:**

Company Name: \_\_\_\_\_ / \_\_\_\_\_  
(Registered Training Agent) (Contact Person)

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_ Date: \_\_\_\_\_ Time: \_\_\_\_\_

**Apprentice Request:**

As a registered Training Agent, I am using this form to request referral of an apprentice for employment with my company in cooperation with the City Workforce Training & Hiring Program. I would like to continue to diversify my workforce. Therefore, please make special efforts to include ethnic minorities and women for my consideration, among other available candidates you believe are well-qualified. If I am unable to receive a referral from my apprenticeship program within a reasonable time, and my apprenticeship program is open for applications or allows direct entry, I may use this form to request a referral to the apprenticeship program from community recruitment resources.

Apprentice referral is needed by this date: \_\_\_\_\_ Work Starts: \_\_\_\_\_

Job Site Location: \_\_\_\_\_ Expected Length of Employment: \_\_\_\_\_

Project: \_\_\_\_\_ Compliance Agency (City of Portland) \_\_\_\_\_

Number of Apprentices: \_\_\_\_\_ Trade/Occupation: \_\_\_\_\_

Number of Apprentices: \_\_\_\_\_ Trade/Occupation: \_\_\_\_\_

Minimum qualifications (if different from apprenticeship standards): \_\_\_\_\_

**Safety needs.** Hard hat: \_\_\_\_\_ Gloves: \_\_\_\_\_ Hard-toed boots: \_\_\_\_\_ Other? \_\_\_\_\_

**Please fax this Request for Apprentice form to your apprenticeship committee.**

To document your good faith efforts, copies may also be sent to:

City Workforce Training & Hiring  
1120 SW 5th Ave. Rm 750  
Portland, OR 97204  
Phone: (503) 823-6850  
FAX: (503) 823-5539

(a) *For Apprenticeship Program Only*

<p><i>Please check the appropriate box and fax to City Workforce Equity Program:</i></p> <p><input type="checkbox"/> I was able to dispatch an apprentice to the project listed above.</p> <p>Name of Apprentice _____ Race _____ Gender _____ Term _____</p> <p><input type="checkbox"/> I was unable to dispatch an apprentice to the project listed above because _____</p> <p>_____ Fax</p> <p>this form with dispatch information to 823-5539. Thank you.</p>
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## EXHIBIT 4

### Workforce Training & Hiring Program Prime Contractor Checklist

The following Workforce Training & Hiring Program (WTHP) requirements are a summary of the key contractual obligations of Recipients. It is the Recipient's responsibility to read and fully understand this section of the bid specifications and to comply with all provisions of the program, regardless of whether they appear on this checklist. The City administers this program for the Prosper Portland.

#### CHECKLIST:

**1. Prime Contractor:**

- A. Submit Workforce Plan form (Exhibit 2) to Compliance Officer within 15 calendar days after bid opening or prior to contract award, whichever occurs first.
- B. Ensure compliance by all subcontractors with subcontracts of \$100,000 or more and provide them with a copy of the Specifications. Incorporate the Specifications into applicable subcontracts.

**2. Subcontractors, at all tiers, with contracts of \$100,000 or more:**

Submit Workforce Plan form (Exhibit 2) prior to beginning work on the project or within 5 days of signing subcontracts, whichever occurs first.

**3. Prime Contractor and all subcontractors with contracts of \$100,000 or more must:**

- A. Before starting work on this project: Submit proof of registration as a Training Agent with the Bureau of Labor & Industry (BOLI), Apprenticeship & Training Division. Not a BOLI registered training agent? Contact BOLI at (971) 673-0760 or the City of Portland at (503) 823-6888 for information on how to become a BOLI registered training agent.
- B. Throughout the duration of the project:
  - 1. Ensure that a minimum of 20% of labor hours in each apprenticeable trade performed by the prime and subcontractors of \$100,000 or more are worked by State-registered apprentices.
  - 2. Strive, actively and in good faith, to meet the applicable workforce diversity goals of employing people of color and women (including both journey level and apprentice workers).
  - 3. Make all active, good faith efforts to employ a workforce that reflects the diversity of the City of Portland, including recruitment of diverse workforce through the unions, apprenticeship programs and other community resources, as described herein.
  - 4. Maintain written documentation of all requests for workers from the unions, apprenticeship programs, and community organizations.
  - 5. When an apprentice is hired, notify the Compliance Officer, Ay Saechao at (503) 823-1090.
  - 6. Submit WTHP reporting online via LCP Tracker by the 5<sup>th</sup> business day of the month.
  - 7. Communicate with the Compliance Officer early and often regarding any issues with meeting the WTHP requirements.