

## CITY COUNCIL STUDY SESSION

Proposed ordinance to create apprenticeship utilization requirements for certain public works projects.

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## DIRECTION NEEDED FROM COUNCIL

### DIRECTION

Following discussion, staff is seeking Council direction to prepare an ordinance amending Bellevue City Code Chapter 4.28 to establish apprenticeship utilization requirements for certain public works projects.

## RECOMMENDATION

Direct staff to prepare an ordinance amending Bellevue City Code Chapter 4.28 to establish apprenticeship utilization requirements for certain public works projects, for final action at a future meeting.

## BACKGROUND & ANALYSIS

### Background

During the February 27 study session, staff provided a presentation to Council on a draft apprenticeship utilization program. Following the presentation, Council asked staff to perform additional stakeholder outreach to inform development of the program elements before returning with an updated draft ordinance for Council's review.

### Outreach

Following the February 27 meeting, staff prepared an outreach website with an online survey and hosted two focus group meetings with stakeholders. The website was advertised through a news release and social media, as well as direct emails to approximately 60 stakeholders. These stakeholders included contractors, trade associations, unions, apprenticeship programs and pre-apprenticeship programs. Staff also held two smaller listening sessions with stakeholder groups who requested additional time to provide input.

The collection of feedback was structured around the following key elements of the proposed program: contract value threshold, required utilization ratio, waivers and reductions, monitoring and support, enforcement, and timeline for implementation. Time was also provided for stakeholders to provide feedback on any other aspect of the program. The City received robust, constructive, and productive input on the program, and in some areas there were differing viewpoints from stakeholders as to the best way to structure the apprenticeship utilization requirement to achieve the desired outcomes.

## **Recommendations**

There are two levels at which staff propose revising the draft program in light of the feedback received. The first level is within the ordinance itself, which would become City Code if adopted. The second is in the administrative policies and procedures that are described in the ordinance, which would be prepared by staff under the direction of the Director of Finance & Asset Management (FAM).

Staff recommend the following revisions to the draft ordinance:

- Increase the contract value threshold to \$2,000,000;
- Require the FAM Director to establish regular reporting on the program's effectiveness;
- Require the FAM Director to establish procedures for monitoring apprenticeship utilization over the course of the project and for discussing remedial actions with any contractor that is not on track to comply;
- Delay enforcement to apply only to projects advertised for bid after September 1, 2024;
- Allow for two "strikes" in five years before enforcement by not considering a contractor a responsible bidder on City public works projects for a two-year period; and
- Use a standard of "good faith efforts" rather than "best efforts" pertaining to contractor's efforts to achieve compliance.

If the ordinance is adopted, staff propose incorporating the following elements in the administrative policies and procedures for the program:

- Perform pre-bid review of project scope to determine involved trades and the availability of apprentices;
- Require an apprentice utilization plan from all contractors in bid documents and work from those plans during monitoring;
- Clear documentation and criteria for contractors to qualify for waivers and reductions, especially with respect to good faith efforts;
- Establish technical assistance resources for contractors;
- In conjunction with our Procurement Diversity Inclusion Plan, establish methods for tracking the use of small businesses as well as women, minority, and veteran-owned subcontractors; and
- During construction, include regular reviews of contractors' apprenticeship usage and provide feedback and support to contractors to ensure they have full opportunity to come into compliance or document their good faith efforts to do so, including the use of corrective action plans.

## **House Bill 1050**

The Washington State Legislature is currently considering House Bill 1050 that would expand the state's existing apprenticeship utilization requirement (codified in RCW 39.04.320) to apply to all municipalities in the state, including Bellevue, effective July 1, 2024. Although this bill appears likely to be signed into law, there are advantages to proceeding with a local ordinance in the near term. Adopting an ordinance this spring would give Bellevue an early start, providing time for our local contracting market to become more familiar with the program elements, and for staff and our contractors to gain working experience with the program in advance of House Bill 1050's effective date.

If House Bill 1050 is enacted, Bellevue's ordinance will need to be updated to conform with the state law and consider additional guidance that will be provided following enactment. Staff would return to

Council with another ordinance to modify Bellevue's apprenticeship utilization requirement prior to the effective date of the House Bill 1050.

### **Next Steps**

With Council direction, staff will return with an ordinance amending Bellevue City Code Chapter 4.28 to establish apprenticeship utilization requirements for Council action at a future meeting. If adopted, the program would become effective for applicable projects that are advertised for bid after September 1, 2023.

## **POLICY & FISCAL IMPACTS**

### **Policy Impact**

State law, City Code, and City policies relating to procurement: The City's procurement practices are intended to ensure the City's contracting processes are open, fair, transparent, competitive and provide the best value for citizens. This combination of law and policy is intended to support the City in the execution of its mission through continued adherence to best practices in procurement to ensure appropriate oversight and competitive pricing.

RCW 39.04.320 implements apprenticeship utilization requirements for public works projects awarded by the state, school districts, and state four-year institutions of higher education. This statute does not presently apply to contracts awarded by local municipalities, however, as described above, there is a bill in progress (House Bill 1050) that would apply this statute to all cities in the state, including Bellevue, if enacted.

### **Fiscal Impact**

The City's Adopted 2023-2024 budget includes funding to implement and manage an apprenticeship utilization program as well as authority to hire a full-time employee to administer the program.

Though there is no direct fiscal impact related with the adoption of the proposed ordinance, the approval of the apprenticeship utilization requirement will not be cost neutral to the City. Contractors will pass the costs of hiring apprentices onto the City. These costs are likely to vary from project to project based on the specific circumstances, however for most projects this additional cost is not anticipated to be significant.

## **OPTIONS**

1. Direct staff to prepare an ordinance amending Bellevue City Code Chapter 4.28 to establish apprenticeship utilization requirements for certain public works projects for final action at a future meeting.
2. Provide alternative direction to staff.

## **ATTACHMENTS**

N/A

## **AVAILABLE IN COUNCIL LIBRARY**

N/A