



Amendments to ORS 279C.533 (HB 2649): Frequently Asked Questions on Requirements in Public Improvement Contracts for Apprentices and Outreach

General

1. What are the changes in the law?

In 2023 the Legislature passed [House Bill \(HB\) 2649](#) to amend [ORS 279C.533](#) to require apprenticeship utilization on certain public improvement contracts with qualifying agencies. The bill also aims to increase the workforce participation on public improvement projects of women, veterans, and individuals that identify as American Indians or Alaska Natives, Asian, Black or African American, Hispanic or Latino, Native Hawaiians or Pacific Islanders, and Portuguese or Brazilian.

2. What are public improvement contracts?

Per ORS 279A.010(1)(cc), a public improvement project is a project for construction, reconstruction or major renovation on real property by or for a contracting agency. ORS 279C.533 will apply to contracts involving those projects. It does not apply to certain projects involving emergency work, minor alteration, ordinary repair or maintenance necessary to preserve a public improvement. As a general matter, contracts for architectural and engineering services and other related services are not public improvement contracts.

3. Which contractors are subject to the new requirements in ORS 279C.533?

Contractors who enter into public improvement contracts with a contract price that exceeds \$3 million at the time of the contract award will be subject to the requirements of ORS 279C.533.

These Contractors must also require that each subcontractor with a subcontract of an estimated value of \$750,000 or more at the time of Agency's consent to the subcontract ("Covered Subcontractors") comply with the ORS 279C.533 requirements. Covered Subcontractors must comply with the Outreach, Recruitment and Retention requirements; however, if they are not performing any work in Apprenticeable Occupations (see question 4), there will not be an Apprenticeship Goal.

4. What is the Apprenticeship Goal for contracts subject to ORS 279C.533?

Contractor shall employ Apprentices to perform 12 percent of the Work hours that Contractor's employees in Apprenticeable Occupations perform under this Contract.

Contractor shall also require that each of its Covered Subcontractors employ Apprentices to perform

12% of the Work hours that the Covered Subcontractor's employees in Apprenticeable Occupations perform under the subcontract.

The requirement increases from 12% to 15% or more starting January 1, 2027. This also applies to any Subcontractor that is subject to the Apprenticeship Goal.

5. What are the Apprenticeable Occupations?

BOLI provides the following list:

Bricklayer/Masonry	Limited Residential Electrician
Cabinet Maker	Marble Setter
Carpenter	Millwright
Caulker	Operating Engineer
Cement Mason	Painter
Drywall Finisher	Pile Driver
Elevator Mechanic	Pipefitter
Estimator	Plasterer
Firestop Containment	Plumber
Floor Coverer	Renewable Energy Tech
General Journey/Inside	Rigger
Electrician	Roofer
Glazier	Scaffold Erector
Grading & Paving Operator	Sheet Metal Service System Tech
Heat/Frost Insulator	Sheet Metal Worker
Heavy Duty Repairer	Sign Electrician/Maker
HVAC/R	Steamfitter/Sprinkler Fitter
Interior/Exterior Specialist	Structural Welder
Ironworker	Technical
Laborer	Engineer/Construction Surveyor
Limited Building Maintenance	Terrazzo Worker
Electrician	Tile Trades Finisher
Limited Energy Tech A	Tile Trades Setter
Limited Energy Tech B	Traffic Painter
Limited Maintenance Electrician	

6. How does ORS 279C.533 apply to change orders?

For contracts subject to ORS 279C.533, if there are change orders that increase or decrease the Work hours that Contractor's employees in Apprenticeable Occupations perform under the Contract, the calculation of the work hours for the Contractor to meet its Apprenticeship Goal will be recalculated accordingly. Similarly, if there is a change order to a Covered Subcontract increasing the Work hours that the Covered Subcontractor's employees in Apprenticeable Occupations perform under that subcontract, the calculation of the work hours for the Subcontractor to meet its Apprenticeship Goal will be recalculated accordingly.

7. May a Contractor or Covered Subcontractor use an apprentice in more than one Apprenticeable Occupation to meet the apprenticeship goal?

Yes. The goal in ORS 279C.533 is based on hours of work performed in Apprenticeable Occupations, not on number apprentices employed.

8. Will Good Faith Efforts (GFE) be considered if contractor does not satisfy Apprenticeship Goal?

No, there is no Good Faith Efforts consideration for meeting the Apprenticeship Goal.

9. Are there regular reporting requirements?

The Contractor must submit the enhanced WH-38 Form to BOLI each week, with a copy to ODOT. BOLI may from time to time change the form or method for such reports, but Contractor is under a continuing obligation to use the most current form required by BOLI.

10. What are the consequences for failure to report?

If Contractor fails to provide weekly reports to BOLI as describe in Question 9, then ODOT may withhold payment as provided in ORS 279C.845(7).

11. What other information must the Contractor provide?

Upon request by ODOT, the Contractor must also provide to ODOT the following information:

- 1) The name of or other identification for the Contract;
- 2) The city or county in which the public improvement is located;
- 3) A detailed accounting of:
 - a. The total number of hours of work that workers performed under the contract and each covered subcontract;
 - b. The total number of hours of work that workers performed in each Apprenticeable Occupation for the contract and each covered subcontract on the public improvement;
 - c. The total number of hours of work that Apprentices performed under the contract and each covered subcontract; and
 - d. The total number of hours of work that Apprentices in each Apprenticeable Occupation performed under the contract and each covered subcontract.
- 4) The total number of workers who performed construction work and the total numbers of minority individuals, women and veterans who performed construction work under the contract. A report under this subparagraph must separately list for each worker the worker's race, ethnicity, gender, veteran status and, as applicable, trade, craft or job category.

12. Is there a final report requirement?

Upon request by ODOT, Contractor must provide ODOT with a final report regarding its employment of Apprentices that includes the following information for Contractor and each of its Covered Subcontractors:

- Total amount of work hours that workers performed in each Apprenticeable Occupation
- Total amount of work hours performed by Apprentices
- Number of hours subject to calculation of reduction in payment as described in Question 11.

Reduction in Payment

13. What happens if a Contractor does not meet the Apprenticeship Goal?

Pursuant to ORS 279C.533, if the Contractor does not meet the Apprenticeship Goal, ODOT must reduce the Contractor's payment.

The amount of the reduction will be made by calculating the difference between the total number of work hours that Apprentices in Apprenticeable Occupations should have performed to meet the apprenticeship requirements, less the total number of work hours that Apprentices in Apprenticeable Occupations actually performed, multiplied by \$15 per hour.

For example: (Required Number of apprenticeable work hours – number of apprenticeable work hours achieved) x \$15 = Amount of Reduction

ODOT will reduce final payment by the amount of reduction. This is also described as a "reduction in payment."

Aspirational Targets and Outreach, Recruitment and Retention Plans

14. What is the aspirational target for women, minorities and veterans?

ODOT desires to encourage the highest possible participation of women, minority individuals, and veterans in the workforce. ORS 279C.533(4)(a) sets an aspirational target of having individuals in one or more of these groups compose at least 15 percent of the total number of workers who perform work under this contract. Neither the Contractor nor its Subcontractors are under any obligation to meet or achieve the aspirational targets set forth herein, but Contractor must establish and implement a plan for outreach to and recruitment and retention of these groups.

At a minimum, the contractor must do the following:

- 1) Advertise employment opportunities available under the public improvement contract in general circulation publications, trade association publications and publications that serve an audience or readership that consists primarily of minority individuals, women or veterans;
- 2) Follow up on initial solicitations of interest by contacting minority individuals, women or veterans who expressed interest in or responded to the initial advertisement;
- 3) Provide all persons who express continued interest with adequate information about hiring qualifications, pay rates, benefits, the expected duration of employment, work hours and other conditions of employment under the public improvement contract;
- 4) Make efforts to encourage minority individuals, women, and veterans to seek employment under

the public improvement contract that the contractor may reasonably expect will produce a level of participation that meets the aspirational target described in this paragraph; and

- 5) Use the services of minority community organizations, local, state, federal and tribal governments or other organizations that have recruiting, training and otherwise assisting minority individuals, women and veterans as the organization's primary purpose or mission to assist the contractor with outreach, recruitment, and retention.

15. When must a Contractor submit the Outreach, Recruitment, and Retention Plan to ODOT?

The Contractor shall submit Outreach Plan to OECD ten (10) days prior to the preconstruction conference.

16. Are Covered Subcontractors required to submit Outreach, Recruitment, and Retention Plans?

Contractor shall require Covered Subcontractors to develop an Outreach, Recruitment, and Retention Plan which Contractor shall submit with Contractor's request for consent to the subcontract.

17. What are the compliance requirements associated with Outreach, Recruitment, and Retention Plans?

Contractor shall demonstrate adequate good faith efforts to comply with its Outreach Plan.

Local Agency Projects

18. Does ORS 279C.533 apply to a project of a Local Public Agency (LPA)?

Yes. LPA projects are public improvement projects delivered by ODOT.

19. Does ORS 279C.533 apply to project delivered by a Certified Local Public Agency (CLPA)?

No. Projects delivered by a CLPA are not delivered by a qualifying agency (i.e. ODOT) and thus ORS 279C.533 does not apply.