



Memorandum

TO: COMMUNITY AND ECONOMIC
DEVELOPMENT COMMITTEE

FROM: Matt Cano

SUBJECT: LOCAL HIRE UPDATE

DATE: April 14, 2021

Approved

Date

4/19/2021

RECOMMENDATION

Staff recommends that the Community and Economic Development Committee accept and provide feedback on this report regarding local worker participation on City of San José Public Works projects. The City Council has re-prioritized this item from the 2020-2021 City Council Policy Priority #1 to City Roadmap Backlog #4.

OUTCOME

The purpose of this report is to provide the Community and Economic Development Committee a status report on staff's review of local worker participation rates on City public works projects. Additionally, this report reviews potential methods to continue monitoring local worker utilization and identifies opportunities to partner with community organizations and regional agencies with the goal of increasing local apprentice and journey-level involvement in the construction trades. This report is focused solely on local worker participation on City public works projects, not on projects, products, or services procured through other methods. Additionally, this report is not focused on local business participation on city Public Works projects.

BACKGROUND

At the June 23, 2015 City Council Priority Setting Session, the development of a Local Hire/ Local Business/Apprentice Utilization Program was listed as a City Council Priority. This report has been delayed several times over the years due to multiple factors, including the scope of the analysis, data collection, and other City priorities. To understand the trends impacting our local construction workforce, staff was required to collect and sort thousands of worker-specific data items from hard copies of certified payrolls and labor compliance documents. The development of this report experienced further delays due to work on wage theft, project labor agreements, local and small business inclusion, and the development of a COVID-19 sick leave ordinance.

At the January 2019 Community and Economic Development Committee (CED), staff provided a summary of a preliminary Labor Market Study conducted by Craft Consulting Group. As a result of challenges in data collection and analysis, this study was never finalized. While the initial findings presented a helpful picture of the state of the construction labor market at the time, the ongoing COVID-19 pandemic has impacted the local economy in ways both known and yet undiscovered.

On October 8, 2019, City Council approved the Public Works Contracting Program. This program featured educational seminars, opportunity awareness, and networking events aimed at local and small businesses unfamiliar with the City construction procedure. This was approved by Council in lieu of developing a disadvantaged business enterprise program. While local business participation is not the focus of this current report, an update on the items that are included in the Public Works Contracting Program is summarized in Attachment A of this memorandum.

On March 28, 2019, the Citywide Project Labor Agreement (PLA) was executed between the City of San José and the Santa Clara/San Benito Counties Building Trades Council. The PLA requires many public works construction projects with engineer estimates of at least \$3 million to use local union hiring halls for most work performed. The PLA \$3 million dollar threshold is adjusted annually by the Consumer Price Index for All Urban Consumers-U.S. City Average.

ANALYSIS

Public Works staff has engaged partners from the construction trades as well as representatives from local community organizations and municipalities to better understand the nuances of the construction industry workforce. Based on these conversations and review of work hour ratios on Public Works projects, staff has identified a need to focus on cultivating apprenticeship opportunities as part of addressing local hire.

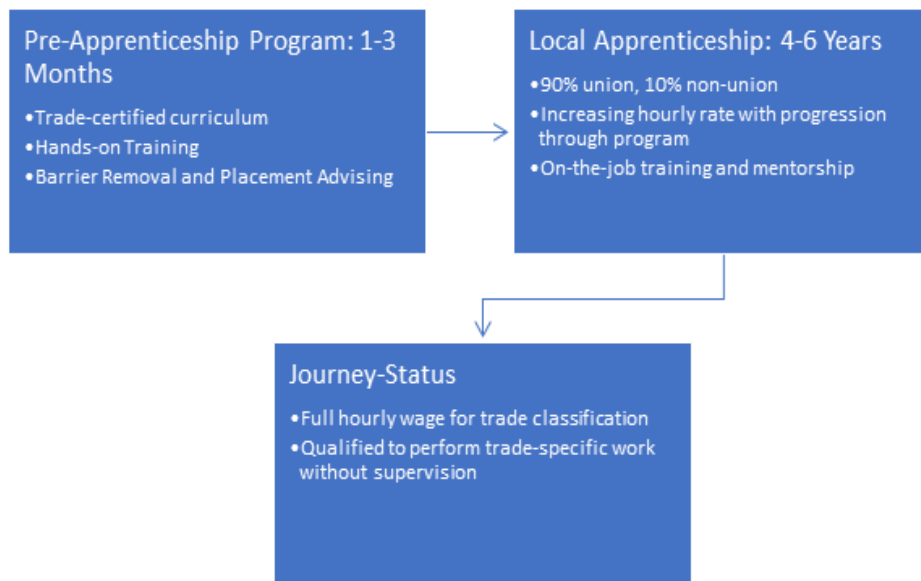
How the Construction Pipeline Works

The construction trades have historically been and continue to be a viable pathway to economic security for San José residents. In order to begin a career in a particular trade, one must complete one of two types of apprenticeship in the relevant trade. One type is established by unions through collective bargaining agreements—generally overseen by a local Joint Apprenticeship Training Committee (JATC)—while the other is operated by non-union contractors. In the region, the first type is more prevalent. Apprenticeships typically last between four and six years, and apprentices earn higher wages as they move through the various stages of the program. After completing an apprenticeship, an individual achieves ‘Journey’ status, and is eligible to earn full wages for their trade.

For many, earning an apprenticeship is no easy task. Economic and educational barriers impact many local residents who might otherwise begin highly successful careers in the construction

trades. For this reason, recent efforts have led to the development of trade-certified pre-apprenticeship programs across the region that provide essential training and supportive services.

A healthy construction pipeline pairs robust pre-apprentice training with sufficient apprenticeship opportunities for the graduates of such programs. To facilitate progress through apprenticeships, the California Department of Industrial Relations has mandated that 16.67% of all hours, by trade, on public projects are assigned to apprentices. This ensures that contractors are providing essential training and job experience for the future construction workforce.



Trades Orientation Program (TOP)

An example of a pre-apprentice program focused on developing the construction workforce pipeline is the Trades Orientation Program (TOP). TOP is operated by the San José-based community-based organization (CBO) Working Partnerships USA (WPUSA) and overseen by the Santa Clara County Construction Careers Initiative (CCI), a collaborative effort in which industry, community, and the public workforce development systems (work2future and NOVAworks), have come together to transform access to high-quality construction careers. The program serves Santa Clara County residents, especially those in underserved and underrepresented communities, by creating a Community Workforce Pipeline into construction apprenticeships.

Benchmarking

San Francisco and Los Angeles County Local Hire Policies

To provide a framework for the analysis, staff considered the local hire policy approaches of the [City and County of San Francisco](#)¹ and the [County of Los Angeles](#)² (see Attachment B). Their policies help contextualize staff's current findings and provide potential models for the design of a Local Hire Policy for San José.

Both policies feature 30% goals for local participation at the journey level and define 'local' in terms of County ZIP codes. Though Los Angeles staff were unavailable for comment, conversations with San Francisco staff indicated that San Francisco provides one full-time compliance office for every \$500 million in public works contracts to enforce Local Hire goals across all projects.

Data Sources

Determining whether a worker on a Public Works construction project is 'local' is a significant challenge for the Office of Equality Assurance (OEA) due to the process in which information is submitted. In December 2019, staff implemented a pilot program to collect wage and worker information electronically and streamline data collection and analysis. Prior to the pilot program documentation was collected through PDF or hard copies of certified payrolls (paper), making collecting information labor-intensive due to manual entry of total number of hours worked, classifications, and worker locations for each individual worker. Staff is currently evaluating the pilot program to determine the best path forward to continue electronic submittal of payroll information.

For this report, staff assembled a dataset containing ZIP code information for the work performed on Public Works projects, which was used to analyze the geographic distribution of project work hours and apprentice utilization across trades and project types collected through the pilot program.

Findings

Defining 'Local'

San José Municipal Code, section 4.12.030 defines 'Local Business Enterprises' as "a business enterprise, including but not limited to a sole proprietorship, partnership, or corporation, which has legitimate business presence in the County of Santa Clara." In order to remain consistent with the City's Municipal Code, policies and procedures, staff used this definition of 'local' when analyzing the data and identifying opportunities for further impact.

¹ <https://oewd.org/local-hire>

² <https://economicdevelopment.lacounty.gov/local-worker-program/>

Methods

Using certified payrolls from December 2019 through January 2021, staff calculated local and apprentice hour ratios across a variety of categories. Staff relied on ZIP code information to group project work hours. As data entry irregularities were common in denoting worker classification, staff considers calculated apprenticeship ratios to be a conservative estimate.

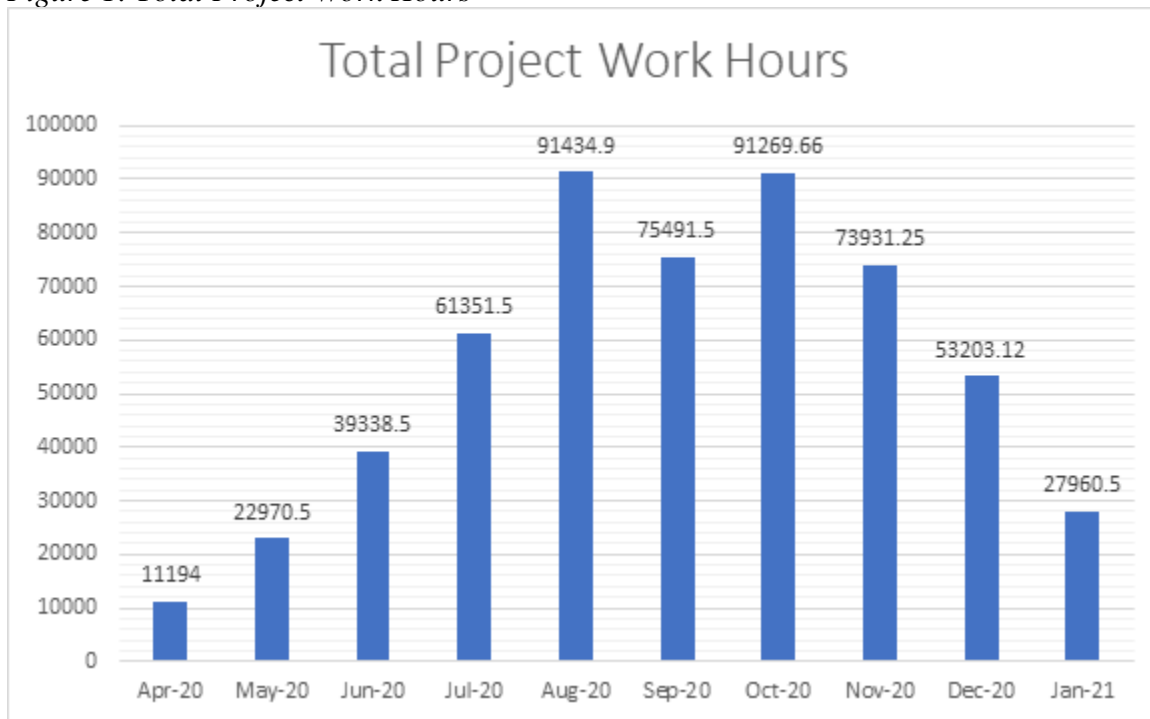
Results

To begin, staff analyzed total work hours for the months that have significant data. Note that totals are low for the initial months of April, May, and June 2020; at that time, Public Works staff was gradually adding projects to the electronic data collection process. Since projects were added by start date and not by any other feature that might bias the sample, staff estimates that the reported data reliably indicate overall trends impacting Public Works projects.

For most months, project work hours from Santa Clara County met or exceeded the 30% benchmark used by San Francisco and Los Angeles, indicating a local high employment rate. The percentages for San José appear to hover between 20% and 25%, and for the most part, mirrored County ratios. Though this dataset is small, the initial observation is that local ratios are somewhat stable, with a slight peak in the summer and a drop in the winter consistent with the seasonal nature of the industry. This suggests that current policies and practices create favorable conditions for local worker participation on Public Works projects.

An interesting pattern appears when the ratio of local apprentice hours to total apprentice hours is considered. As time elapsed, a downward trend appeared as fewer of the available apprentice work hours were performed by Santa Clara County and San José residents alike.

Figure 1: Total Project Work Hours



Next is a breakdown of the local and apprentice ratios for these months as seen in Figure 2. It shows (in blue) the percentage of project work hours performed by individuals with Santa Clara County ZIP codes, the percentage of project work hours performed by individuals with San José ZIP codes (in orange), and the percentage of project work hours performed by apprentices (in green).

Figure 2: Local Percentages and Apprentice Ratios by Month

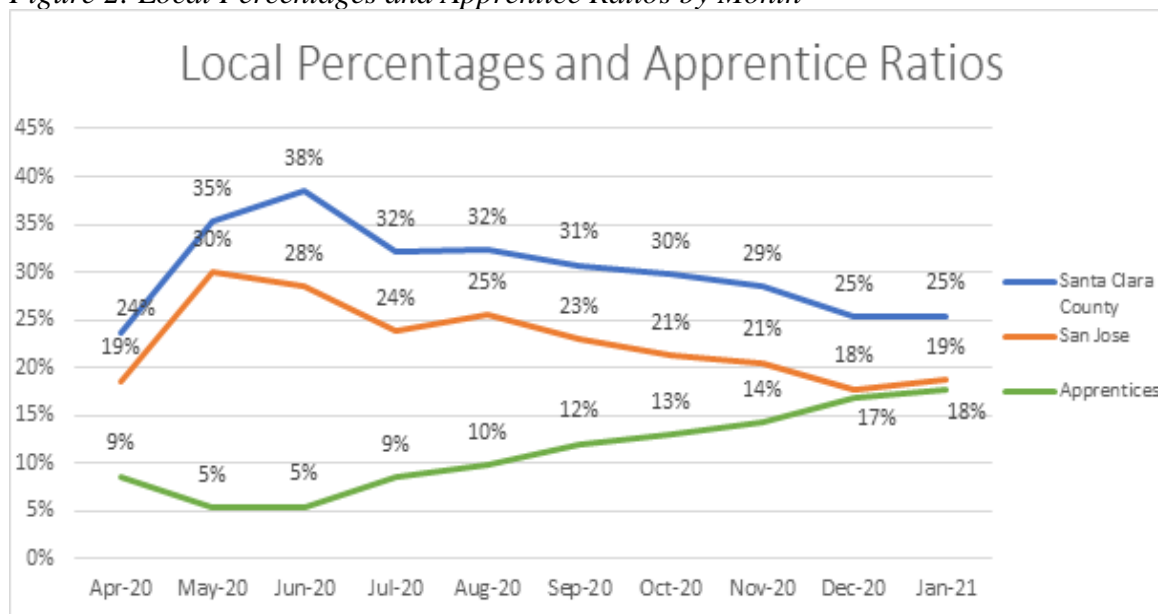
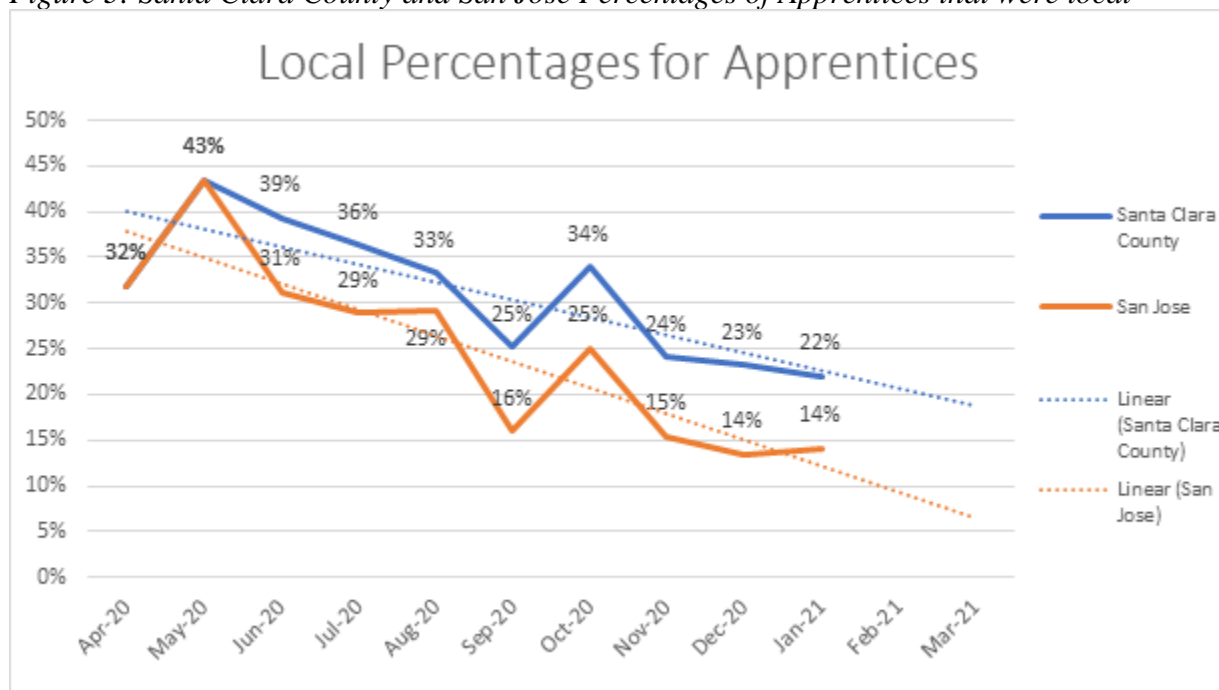


Figure 3 shows what percentage of apprentice hours were performed by workers with Santa Clara County ZIP codes (blue) and San José ZIP codes (orange), with predictive trend lines included.

Figure 3: Santa Clara County and San Jose Percentages of Apprentices that were local



Goals

To ensure that opportunities exist for local residents to benefit from employment opportunities in the construction trades, staff plans to undertake the following:

1. Continue to track local worker ratios and local apprenticeship ratios annually with the goal of remaining at or above 30%. Time is needed to assess whether this goal represents a healthy equilibrium state for our local context;
2. Seek opportunities to partner with local pre-apprentice programs to increase the opportunities for local workers to receive apprenticeships and other work opportunities; and
3. Look for opportunities to focus City staff on apprenticeship and local hire participation through future City budget cycles. In order to proactively “move the needle” on the local worker and apprenticeship ratios on City construction projects, the Department of Public Works would need at least one full-time position to focus on these efforts.

Alternative Approach

An alternative approach could be a mandatory local hire policy analogous to the policies implemented by San Francisco and Los Angeles. If Council is interested in this strategy, Public Works would need to identify current resources that could be reallocated from other projects in order to:

- Start developing a mandatory local hire policy that will work in this City and that is consistent with applicable legal constraints, and
- Identify the number of additional City staffing and resources that would be needed to implement any such policy.

Mandatory Local Hire policies require specific goals and efforts by contractors to increase local participation on Public Works construction projects. Programs enacted to ensure compliance with mandatory local hire policies have dedicated staff to conduct outreach, education, data collection, and analysis while providing support to the contracting and workforce communities.

Additionally, mandatory local hire policies require significant staffing resources to develop policy framework within applicable legal constraints, typically through a Disparity Study or Labor Market Study, and program development that includes increased ongoing staffing and budgetary resources.

Staff does not recommend this approach at this time as current staffing resources do not align with development of a Mandatory Local Hire Policy. To develop, implement, and administer a mandatory policy, Public Works requires additional staffing and budget resources.

CONCLUSION

An initial review of Public Works project hours suggests that local hour ratios closely match the percentage goals of San Francisco and Los Angeles County. The same review suggests that local *apprentice* ratios could be improved. Staff will continue to monitor local worker and apprenticeship ratios and partner with local apprenticeship organizations to identify opportunities to continue and/or enhance relevant programs.

EVALUATION AND FOLLOW-UP

Annual updates of local hire, local business, and apprentice utilization will be heard at the Community and Economic Development Committee.

CLIMATE SMART SAN JOSE

The recommendation in this memorandum aligns with one or more Climate Smart San José energy, water, or mobility goals.

COORDINATION

This memo has been coordinated with the City Manager's Office, City Attorney's Office, Office of Economic Development, and Budget Office.

/s/

Matt Cano

Director, Public Works

For questions, please contact Christopher Hickey, Division Manager, at Christopher.Hickey@sanjoseca.gov.

Attachments

Attachment A: Public Works Contracting Program Update

Attachment B: Sample Local Hire Policies

Attachment A: Public Works Contracting Program Update

Component	Description
<i>Education, Outreach and Support</i>	
Public Works (PW) Academy	<p><u>Phase I</u> <i>Status:</i> Implemented <i>Description:</i> PW Academy has been implemented to increase knowledge and experience in local contractor community.</p> <p><u>Future Phase to be evaluated</u> Expansion of the number of academies per year, language and cultural capacity, and investigate the feasibility of partnering with other local agencies on contractor outreach and education.</p>
Contractor Outreach Enhancement	<p><u>Phase I</u> <i>Status:</i> Implemented <i>Description:</i> Outreach through e-mail and hardcopy to 6000+ contractors on the Caltrans Disadvantaged Business Enterprise (DBE) list and the San José Business license tax registry. Multiple outreach sessions, including in Vietnamese and Spanish, aimed to inform contractors of upcoming opportunities and Public Work Academy.</p> <p><u>Future Phase to be evaluated</u> Expansion of quantity of events, prime and subcontractor networking events.</p>
Biddingo	<p><u>Phase I</u> <i>Status:</i> Implemented <i>Description:</i> Implementation of new bidding software to enhance contractor outreach.</p> <p><u>Future Phase to be evaluated:</u> Continue to expand the use of available tools from new software.</p>
Local Chamber relationships	<p><u>Phase I</u> <i>Status:</i> Partially implemented <i>Description:</i> As part of the general outreach program, develop ongoing relationships with Black, Hispanic, and Vietnamese Chambers. Additionally, work with local chambers to connect small businesses to providers who can help them build their administration capabilities such as accounting, insurance, and payroll.</p>

	<p><u>Future Phase to be evaluated:</u> Continue to expand and build on programs and networking opportunities offered by local chambers.</p>
<i>Policy Changes</i>	
Local and local/small preference	<p><u>Phase I</u> <i>Status:</i> Implemented <i>Description:</i> Include a 2.5% preference for local contractors and a 2.5% preference for small contractors in procurement of all minor public works contracts.</p> <p><u>Future Phase to be evaluated:</u> Potential to look at ways to provide same local/small preference on procurement of major public works contracts.</p>
Government Experience work waiver	<p><u>Phase I</u> <i>Status:</i> Implemented <i>Description:</i> A barrier to contracting and working with the City is contractors must have previous government experience to be qualified to bid and be awarded City Public Work construction contracts.</p> <p>Contractors are required to provide, at the time of bid, three (3) previous work experiences similar in scope to the project being bid, and two (2) need to be with a government agency.</p> <p>Should a contractor attend the Public Works Academy and pass a course-exam, the contractor may use completion of the Academy in-lieu of prior government work experience.</p> <p><u>Future Phase to be evaluated:</u> Partner with other local jurisdictions to determine if the Public Works Academy certificate can be used to waive any government work requirement from those jurisdictions.</p>
<i>Agreements and Programs</i>	
Project Labor Agreement	<p>A multi-employer, multi-union pre-hire agreement designed to systematize labor relations at a construction site.</p> <ul style="list-style-type: none"> • Agreement with the Santa Clara and San Benito County Building Trades Council; • Applies to Public Works project of \$3 million adjusted annually or more; • Covers Design/Build and Design/Bid/Build; • Core Worker provisions

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	<ul style="list-style-type: none">• Includes a Target Hire Agreement• 5- year term
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Attachment B: Sample Local Hire Policies

	San Francisco	Los Angeles
<i>Local definition</i>	Has demonstrated domicile in San Francisco for at least 7 days.	Worker living in <i>Tier 1</i> or <i>Tier 2</i> Zip Codes in Los Angeles County: <i>Tier 1</i> – ZIP Codes within five (5) miles of the proposed project site, and where the average percentage of households living below 200 percent of the Federal Poverty Level (FPL) is greater than the County average for such households. <i>Tier 2</i> – any ZIP Codes within the County where the average percentage of households living below 200 percent of the FPL is greater than the County average for such households.
<i>Percentage Local</i>	Mandatory Local Hire: <ul style="list-style-type: none"> - 30% of project work hours - 50% of apprentice hours First Source Hire: <ul style="list-style-type: none"> - Demonstrate good faith effort to fill at least 50% of new positions with local residents. 	Mandatory/Best Effort Local Hire: <ul style="list-style-type: none"> - 30% of project work hours
<i>Percentage targeted</i>	No requirement	10% (project work hours)
<i>Threshold</i>	Over \$600K - Mandatory Local hire. Over \$350K - First Source (Public). 10 or more residential units and/or 25,000 square feet or more of commercial space - First Source (Private).	Over \$2.5M – Mandatory. \$500K to \$2.5M - <i>Best Effort</i> , no targeted requirement. Less than \$500k – No requirement. Affordable housing projects over \$2.5M – <i>Best Effort</i> .
<i>Penalties and Incentives</i>	Local Hire: the amount equal to the journeyman or apprentice prevailing wage rate for the primary	Information not currently available.

	trade used by the contractor for each hour the contractor fell short. First source: \$5K for first violation and \$10K for each subsequent violation.	
<i>Targeted definition</i>	<i>None.</i>	<p>One or more apply:</p> <p>Has a documented annual income at or below 100 percent of the Federal Poverty level,</p> <p>No high school diploma or GED,</p> <p>A history of involvement with the criminal justice system,</p> <p>Protracted unemployment,</p> <p>Is a current recipient of government cash or food assistance benefits,</p> <p>Is homeless or has been homeless within the last year,</p> <p>Is a custodial single parent,</p> <p>Is a former foster youth; or</p> <p>Is a veteran, or is the eligible spouse of a veteran of the United States armed forces</p>
<i>Notes</i>	This whole system works especially smoothly because San Francisco maintains databases of previous graduates of their CityBuild Academy as well as a list of local residents looking for construction work.	Staff has attempted to contact Los Angeles County staff, but have received no response.

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	Estimated 1 full-time equivalent (FTE) per \$500 million total contract value.	
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