



# WORKFORCE OPPORTUNITIES FOR RISING CAREERS (WORC) PROGRAM HIRING REQUIREMENTS

*(REQUIRED FOR CONSTRUCTION PROJECTS OVER \$5 MILLION)*

## 1. OVERVIEW

SANDAG has implemented WORC Program Hiring Requirements (the WORC Requirements) applicable to the Project, to facilitate the hiring of Disadvantaged Workers and Targeted Workers, as defined below. The Contractor is required to retain and utilize a Jobs Coordinator to assist in implementation of the Requirements, and to comply with related requirements as set forth in these Requirements and the Prime Contract.

The Contractor and all subcontractors shall implement and comply with the WORC Program Hiring Requirements for the Project. In addition, a Community Benefits Agreement (CBA), executed by SANDAG and covering construction work on the Project, contains specified processes by which unions signatory to the CBA will facilitate Contractor compliance with the WORC Program Hiring Requirements.

## 2. DEFINITIONS

Terms used in these WORC Requirements are defined as follows:

- A. **Contractor** means the Prime Contractor and any subcontractor of any tier awarded Covered Work. The term “Contractor” includes any individual, firm, partnership, corporation, owner operator, consultant, or combination thereof, including joint ventures, performing Covered Work.
- B. **Community Benefits Agreement** means SANDAG’s CBA with an effective date of May 19, 2022, and applicable to the Project.
- C. **Construction Craft Hour** means an hour of work performed on the Project and within a construction trade classification as established by the California Department of Industrial Relations for payment of prevailing wages on public works, unless explicitly excluded from the CBA by the terms of the CBA.
- D. **Disadvantaged Area** means a zip code that contains a census tract for which the average household income is no more than 80 percent of the average household income for the Metropolitan Statistical Area (as designated by the U.S. Office of Management and Budget) in which that census tract is located. Qualifying zip codes are available on the SANDAG website, as indicated on the Workforce Dispatch Request Form.

- E. **Disadvantaged Worker** means an individual domiciled in a Disadvantaged Area, or a Veteran residing anywhere. "Domiciled" has the meaning set forth in section 349(b) of the California Election Code, indicating a fixed address with intent of continued residency. For Covered Projects that are not federally funded, and for federally funded projects for which local hiring requirements have been pre-approved by federal funding sources, this definition is modified by a Local Employment Project Radius, as described in Section 4.5(b) of the CBA.
- F. **Prime Contract** means the construction contract awarded by SANDAG that incorporates these WORC Requirements.
- G. **Prime Contractor** means the Contractor awarded a Covered Contract in privity directly with SANDAG.
- H. **Project** means the construction project awarded by SANDAG through the Prime Contract.
- I. **Targeted Worker** means any individual qualifying for one or more of the following categories, at initial time of employment on the Covered Project in question:
- a) is a Veteran;
  - b) is an Apprentice with less than fifteen percent of the work hours required for completion of the Apprenticeship Program;
  - c) has no high school diploma or general education diploma (GED);
  - d) is homeless or has been homeless within the last year;
  - e) is a former foster youth;
  - f) is a custodial single parent;
  - g) is experiencing protracted unemployment (defined as receiving unemployment benefits for at least three months);
  - h) is a current recipient of government cash or food assistance benefits;
  - i) has a documented income at or below 100 percent of the Federal Poverty Level;
  - j) is formerly incarcerated; or
  - k) is a graduate of an apprenticeship readiness program approved to use the multi-craft core curriculum (MC3).
- J. **Workforce Dispatch Request Form** means the project-specific form by which Contractors request workers from the Union hiring halls on Covered Projects, an example of which is attached as Attachment B-1 in the CBA.

### 3. DISADVANTAGED AND TARGETED HIRING GOALS AND PROCEDURES

- A. SANDAG has established the following percentage goals for Construction Craft Hours on the Project:
- At least 30 percent of total Project Construction Craft Hours are to be performed by Disadvantaged Workers.
  - At least 10 percent of total Project Construction Craft Hours shall be performed by Targeted Workers.

- B. Contractors shall attempt to satisfy the Project goals set forth above by (i) assigning current craft employees who are Disadvantaged Workers and/or Targeted Workers to perform covered work; (ii) if necessary, requesting referral of Disadvantaged Workers and Targeted Workers from union hiring halls and apprenticeship programs; and (iii) if the goals are not satisfied after following such steps, considering qualifying workers available from other sources, in compliance with Section 4.7 of the CBA. If the Prime Contractor and all other Contractors follow these procedures in good faith and with concerted efforts to identify and retain Disadvantaged Workers and Targeted Workers, the Prime Contractor shall not be considered in non-compliance for failure to meet the goals set forth above for the Project. In making this compliance determination, SANDAG will evaluate the factors set forth in Section 4, Compliance.
- C. To facilitate the dispatch of Disadvantaged Workers and Targeted Workers, as well as all Contractor requests for referral and dispatch of workers from the applicable union referral system, all Contractors are required to utilize the Workforce Dispatch Request Form. The CBA requires that, when Disadvantaged Workers and Targeted Workers are requested by a Contractor, the Unions will refer Disadvantaged Workers, and Targeted Workers to the extent such status is known, regardless of their place in the union hiring halls' list and normal referral procedures. If any union's registration and referral system does not fulfill the requirements for specific classifications of covered employees (including Disadvantaged Workers and Targeted Workers) requested by any Contractor within forty-eight hours (excluding Saturdays, Sundays, and holidays), that Contractor may employ qualifying applicants from any other available source.
- D. The Prime Contractor shall ensure that all Contractors on the Project (in aggregate) hire at least one Disadvantaged Worker or Targeted Worker who is newly enrolled in an Apprenticeship Program (as defined in the CBA), for each 5,000 Construction Craft Hours. Contractors are strongly encouraged to maximize utilization of newly enrolled apprentices who are Disadvantaged Workers and Targeted Workers.

#### **4. COMPLIANCE**

SANDAG shall determine whether a Prime Contractor has complied with the procedural hiring requirements of the CBA and Sections 3.B. and 3.C. above. The Prime Contractor is ultimately responsible for its and its Contractors' compliance with the Disadvantaged and Targeted Hiring Goals and Procedures, and related requirements of the CBA and these WORC Requirements.

- A. If, after taking into account all hours of project work performed up to that point in time of a reporting period specified by SANDAG, the Disadvantaged and Targeted Worker percentage goals of the SANDAG CBA and WORC Program have been satisfied for a Project, then the Prime Contractor and its Contractors working on that Project shall be deemed to be in compliance for the Project to date.
- B. If the Disadvantaged and Targeted Worker percentage goals of the SANDAG CBA and the WORC Program have not been satisfied for a Project at a point in time, the Prime Contractor nonetheless may be deemed to be in compliance if it demonstrates both (a) that it and each of its Contractors have complied with all

other requirements of the SANDAG CBA and the WORC Program, and (b) that it and each of its Contractors have either (i) satisfied the Disadvantaged and Targeted Worker goals of the SANDAG CBA and the WORC Program with regard to the project work that it has performed or (ii) satisfactorily demonstrated the following:

- Adherence to procedures contained in the WORC Program.
- Assigning current craft employees who are Disadvantaged Workers and/or Targeted Workers to perform Construction Craft Hours.
- Requests to unions, through SANDAG Workforce Dispatch Request Forms, of sufficient numbers of Disadvantaged Workers and Targeted Workers to meet the percentage goals set forth in Section 4.5.a-4.5.g of the SANDAG CBA, and in Section 3.A above.
- Documented contact with the Jobs Coordinator in each instance when the relevant unions did not refer qualified Targeted Workers within the 48 hours following the Contractor's request and the Contractor's consideration of any Targeted Worker or Disadvantaged Worker subsequently referred by the Jobs Coordinator.
- Accurate records documenting the Contractor's compliance efforts that include (but are not limited to) the following:
  - A listing by name and address of all local recruitment sources contacted by the Contractor;
  - The date of the local recruitment contact and the identity of the person contacted, the trade and classification and number of referrals requested;
  - The number of Disadvantaged and Targeted Worker hires made as a result of the contact;
  - The identity and address of the worker(s) hired pursuant to the contact;
  - Documentation when a referral was not hired (reason for non-hire) and/or premature termination.

## **5. JOBS COORDINATOR**

The Prime Contractor shall utilize a Jobs Coordinator, which is an independent third-party individual, entity, or employee with whom the Prime Contractor enters into a contract or employs to facilitate the achievement of the Project's hiring goals. In addition, each Contractor shall utilize the Jobs Coordinator to assist the Contractor in fulfilling its WORC program obligations described in the CBA and the Prime Contract. The Jobs Coordinator may be selected from the approved Jobs Coordinators list available from SANDAG. If the Contractor utilizes a Jobs Coordinator not on the "Pre-Qualified SANDAG Jobs Coordinators" list, the Jobs Coordinator must submit a "Jobs Coordinator Pre-

Qualification Request & Application” for approval to SANDAGCBA@sandag.org 10 calendar days prior to the deadline for Bid Submittal.

The Prime Contractor shall ensure that the selected Jobs Coordinator effectively performs the duties outlined in the CBA and WORC program, which may include, but are not limited to, the following:

- A. The Jobs Coordinator shall develop, create, design and market specific programs to attract Disadvantaged and Targeted Workers for construction opportunities (e.g., handouts and fliers for “walk-ins” demonstrating program entrance procedures).
- B. The Jobs Coordinator shall coordinate services for Contractors to use in the recruitment of Disadvantaged and Targeted Workers.
- C. The Jobs Coordinator shall conduct orientations, job fairs and community outreach meetings in the local community.
- D. The Jobs Coordinator shall screen and certify the eligibility of the Disadvantaged and Targeted Workers.
- E. The Jobs Coordinator shall establish a referral and retention tracking mechanism for placed Disadvantaged and Targeted Workers and apprentices.
- F. The Jobs Coordinator shall perform job site visits at least weekly to perform Targeted Worker verification and assist with implementation of the WORC Requirements.
- G. The Jobs Coordinator shall network with the various work source centers, community and faith-based organizations and other non-profit entities that provide Disadvantaged and Targeted Workers.
- H. The Jobs Coordinator shall coordinate with the various building trades crafts for referral and placement of Disadvantaged and Targeted Workers.
- I. The Jobs Coordinator shall maintain a database of pre-qualified Disadvantaged and Targeted Workers for referral.
- J. The Jobs Coordinator shall be the point of contact to provide information about available job opportunities on projects.
- K. The Jobs Coordinator shall assist Contractors with their documentation efforts and other reports as it relates to their Disadvantaged and Targeted Worker hiring requirements.
- L. The Jobs Coordinator shall work closely with SANDAG staff, the building and construction trades, Contractors, and Employees, in achieving the Disadvantaged and Targeted Worker hiring goals.
- M. The Jobs Coordinator shall input relevant data into the SANDAG compliance monitoring system (i.e., LCPtracker).
- N. The Jobs Coordinator shall assist with any other related tasks associated with the Jobs Coordinator program.

SANDAG reserves the right to request documentation supporting the Jobs Coordinator's efforts to verify employees' Disadvantaged Worker and Targeted Worker Statuses and perform periodic reviews of program success metrics.

The Jobs Coordinator shall not share any records provided to them for purposes of verifying Disadvantaged or Targeted Workers' status with any party outside of SANDAG, including the Prime Contractor, and will keep these records confidential unless a valid subpoena is issued for the records, or the records are otherwise subject to a court order or other legal process requiring disclosure.

If the Jobs Coordinator is selected from the approved list provided by SANDAG, that Jobs Coordinator shall be deemed to meet the Minimum Qualification Requirements. No additional qualification information need be provided.

If the Prime Contractor desires to utilize a Jobs Coordinator not pre-qualified by SANDAG (i.e., a Prime Contractor employee or other non-listed firm), the proposed Jobs Coordinator must submit the "Jobs Coordinator Pre-Qualification Request & Application" to SANDAGCBA@SANDAG.org for approval 10 calendar days prior to the deadline for Bid Submittal.

The Prime Contractor shall ensure that the selected Jobs Coordinator effectively has the following Minimum Qualification Requirements:

**Minimum Qualifications Requirements:**

- a) A minimum of 3 years' experience during the last 5 years with assisting workers similar to Disadvantaged and Targeted Workers on public works projects.
- b) Experience working on 2 public works projects with a Project Labor Agreement, Community Benefits Agreement, or similar negotiated labor Agreement during the last 5 years. At least one of the projects must have had a minimum construction value of \$5 million.
- c) Experience coordinating with building trades councils and local unions to help workers gain employment on at least 2 projects during the last 5 years. At least one of the projects must have had a minimum construction value of \$5 million.
- d) Experience achieving Disadvantaged and Targeted Worker hiring goals as described in the SANDAG CBA, or similar workforce hiring goals.
- e) Experience with outreach methods that resulted in meeting or exceeding goals similar to the Disadvantaged and Targeted Worker goals listed in the SANDAG CBA.
- f) Experience coordinating with programs or organizations that have access to targeted demographics listed in the SANDAG CBA, which may include America's Job Center of California (AJCCs), Faith-Based Organizations (FBOs), County Foster Youth, Department of Parole and Community Based Organizations (CBOs), or similar workforce development organizations.

The obligations to ensure the adequate performance of the Jobs Coordinator and meet the minimum requirements described herein are the sole responsibility of the Prime Contractor.

### **Jobs Coordinator Performance Evaluation**

SANDAG shall require its Prime Contractors to conduct a performance evaluation of the Jobs Coordinator delivery of services twice during the life of the project, with the first performance evaluation to occur at 50% project completion and a final performance evaluation to occur at the end of the project. The final performance evaluation shall incorporate the project final CBA workforce attainment.

SANDAG has created a Jobs Coordinator Performance Evaluation template to be utilized by the Prime Contractor to conduct the performance evaluation.

In the event a pre-qualified Jobs Coordinator has received an unsatisfactory review from the Prime Contractor at end of the project and fails to meet the SANDAG 30% Disadvantaged Worker or 10% Targeted Worker requirements on two (2) separate occasions, SANDAG has the right to suspend the Jobs Coordinator's pre-qualified status for a period of twelve (12) months from the close-out date of its last project wherein it failed to meet the goal.

## **6. MONITORING AND ENFORCEMENT**

- A. **Reporting and Compliance Information.** The Prime Contractor shall ensure that the Jobs Coordinator utilizes SANDAG's Labor Compliance Monitoring System (LCMS) to provide SANDAG with verification of Targeted Worker status using the Targeted Worker Survey Form, and any other information requested by SANDAG to monitor compliance with these WORC Requirements and the CBA. The Prime Contractor shall provide, or ensure that the Jobs Coordinator provides, backup information requested by SANDAG to verify Targeted Worker and Disadvantaged Worker status. Contractors shall provide access to job sites and employees as requested, by SANDAG or the Jobs Coordinator, to enable implementation and compliance monitoring for the WORC Requirements.
- B. **Liquidated Damages.** Prime Contractor agrees that it would be difficult, if not impossible, to assess the actual damage incurred by SANDAG based on Prime Contractor's failure to comply with Sections 3.A-3.C of these WORC Requirements. Therefore, for violations of Sections 3.A-3.C, Prime Contractor shall owe liquidated damages in the amount of \$25 per Construction Craft Hour by which the Project is short of either of the specified percentage goals for Disadvantaged Workers and Targeted Workers.
- C. **Monthly Withholding of Progress Payments.** To enforce compliance with Sections 3.A-3.C, of these WORC Requirements throughout the duration of the project, the Liquidated Damages amount set forth above will be withheld from the monthly progress payment to the Prime Contractor based on the cumulative Construction Craft Hours and any cumulative shortfall in utilization of Targeted Worker and Disadvantaged Workers, as compared with the applicable percentage goal. The monthly withholding calculations will be based on monthly Disadvantaged and Targeted Worker utilization reports generated by SANDAG

using the LCMS. Those monthly reports will be generated by SANDAG on the 15th of each month, or the next working day following the 15th of each month, for the prior month's reporting period. The Disadvantaged and Targeted Worker utilization reports will be based on certified payroll records received for work performed through the end of the reporting period. Any monthly withholding of progress payments will be released by SANDAG upon the Contractor achieving the applicable percentage goals. The minimum withholding from a monthly progress payment for failure to comply with Sections 3.A-3.C shall be two percent of the total monthly progress payment amount.

- D. **Final Assessment, and Release.** At the conclusion of the Project, SANDAG will conduct a final evaluation of the Prime Contractor's compliance with Sections 3.A-3.C and execute a final release of withheld funds to the extent compliance is demonstrated. The Prime Contractor's failure to either (1) meet the Disadvantaged and Targeted Worker hiring percentages set forth above for the Project as a whole, or (2) demonstrate that Prime Contractor and all other Contractors satisfied the standards and procedures of Sections 3.B and 3.C, shall result in SANDAG's final assessment of liquidated damages and deduction from the Prime Contractor's final release of retention payment. SANDAG will not be required to pay interest on any amounts withheld during the term of the contract.

## 7. MISCELLANEOUS

- A. Each Contractor shall include compliance with these WORC Requirements as a material term of all subcontracts.
- B. Each Contractor warrants and represents that as of the date that a Prime Contract incorporating these WORC Requirements becomes effective, it is party to no contract that would interfere with fulfillment of or conflict with any of the terms of these WORC Requirements or the CBA. If, despite this assurance, an entity that has agreed to comply with the Requirements is party to such a contract, then upon request from SANDAG it shall either amend that contract to allow compliance with the WORC Requirements and the CBA or terminate that contract.
- C. If the Project is not receiving federal transportation funding (FTA or FHWA), the Disadvantaged Worker hiring goal does not apply to Construction Craft Hours performed by residents of states other than the State of California, and such hours shall not be considered for purposes of determining satisfaction of the hiring goals. Please contact SANDAG for information regarding Project funding sources.