

Enforce existing laws.

1. Alcohol and Drug Free Act

In order to bid a DOH project valued at more than \$100,000 a contractor must first provide documentation that they have complied with the Alcohol and Drug Free Act by providing the required report detailed in [§21-1D-7b](#) for at least three projects in the last three years. Any subcontractors used on the project must provide the same documentation prior to starting any portion of work on the project.

[§21-1D-7b](#). Contractor to provide certified drug-free workplace report.

No less than once per year, or upon completion of the project, every contractor shall provide a certified report to the public authority which let the contract. The report shall include:

- (1) Information to show that the education and training service to the requirements of section five of this article was provided;
- (2) The name of the laboratory certified by the United States Department of Health and Human Services or its successor that performs the drug tests pursuant to this article;
- (3) The average number of employees in connection with the construction on the public improvement;
- (4) Drug test results for the following categories including the number of positive tests and the number of negative tests:
 - (A) Preemployment and new hires;
 - (B) Reasonable suspicion;
 - (C) Post-accident;
 - (D) Random.

2. WV Jobs Act

Before an award is made for any DOH project valued at more than \$500,000 contractors must present a local hiring plan showing how they and their subcontractors at all levels will comply with the WV Jobs Act. Any waivers anticipated will be declared. If the contractor plans to use WorkForce to recruit workers, qualifications will be listed at least 10 days in advance (rather than three days minimum required by law) and sent to WorkForce.

As a condition of any award a company and any subcontractors must supply certified payrolls compliant with federal regulations on no less than a monthly basis and a report on their compliance with the WV Jobs Act. Such documentation will be considered an open record available for public inspection without redaction except for an individual's Social Security Number. Any company that is not in compliance for two consecutive months with the requirements of the WV Jobs Act during the project shall be subject to applicable penalties within the law even though the project has not yet completed.

3. Collect payroll and other taxes

Companies that are awarded contracts funded with state or federal funds must certify on a monthly basis that they and their subcontractors at all levels have paid payroll taxes to the state of West Virginia for all employees on the project. Payroll taxes to be defined as state and federal income tax, unemployment, social security, etc... If a project is located within a municipality of the State of West Virginia a contractor and their subcontractors must show they are in compliance with any B&O or per-capita tax levied by such municipality. No payments will be made to the contractor until such documentation is provided.

4. Unauthorized Worker

The contractor and subcontractors shall maintain copies of I-9 forms and the documents each employee presented when the employee completed the I-9 form. The contractor and subcontractor shall make the copies of the forms and the employee documents used to complete the forms available for inspection by appropriate state and local governmental agencies including but not limited to the West Virginia Division of Highways, the West Virginia Division of Labor and the West Virginia State Police.

Pre-Qualification Update

DOH already has a prequalification process – we suggest the following terms be included.

The names and addresses of all officers and all individuals who own or have owned 5% or more of the contractor or subcontractor (“related individuals”);

The names and addresses of all businesses that such individuals have been officers or of which they own or have owned 5% or more (“related entity”);

The qualifying contractor shall certify the following for any related individuals and/or related entities during the last five years;

- No related individuals or related entities are or have been in default to the federal government, the state or any political subdivision of the state, or any other state or subdivision;
- No related individuals or related entities are or have been penalized, debarred or deemed ineligible to bid or be awarded any public works contract;
- No related individuals or related entities have had any professional license revoked in the State of West Virginia or in any other state;
- No related individual or related entity has been charged with or convicted of a crime relating to a public works contract;
- No related individuals or related entities are or have been found in violation on any federal, state or local project for certified payroll records violations; any violation of federal or state tax laws, including the improper use of 1099 employees; the federal Fair Labor Standards Act or corresponding state law; the Wage Payment and

Collection Act; the federal Davis-Bacon or state prevailing wage laws; the West Virginia Jobs Act; the West Virginia Alcohol and Drug Free Act; unemployment or workers' compensation laws; state contractors licensing laws; the National Labor Relations Act; or any other state or federal work-related law or regulation.

Executive Order - Apprenticeship, Training Requirement

Apprenticeship Coordinating Team

In order to help facilitate and maximize the local workers participation in apprenticeship and training programs there shall be a task force established called the Apprenticeship Coordinating Team. (Similar to HB2625, SB518.)

Because it is critical to the economic future of the State of West Virginia that our citizens keep up with workforce training in the 21st century we need to make sure we have a statewide focus on apprenticeship opportunities.

Apprenticeship is a proven method of training that produces highly skilled workers in many technical occupations.

For many people a college education is the right choice, but for others the technical education provided by apprenticeships has many advantages that should not be overlooked.

We need to end the perception that non-university education paths are "second best".

Creating the Apprenticeship Coordinating Team (ACT) is the first step in putting together a team with existing state government resources. This team will draw on existing administrative resources to ensure a focus on services for apprenticeship training and certification within the state and local education and governmental agencies. In addition members of the private sector with expertise in registered apprenticeship and construction shall be asked to participate.

There will be a focus on making sure returning veterans have knowledge of existing apprenticeship and training opportunities. There will also be a focus on making sure our unemployed coal miners and other unemployed or underemployed workers, disadvantaged youth, women and minorities are aware of apprenticeship and training opportunities.

Therefore;

The Apprenticeship Coordinating Team is hereby established.

The team shall draw on government administrative resources to ensure a focus on services for apprenticeship training and certification within the state and local education and governmental agencies. The team shall consist, at the minimum, of the following state agencies:

(1) Secretary of the West Virginia Department of Veterans Assistance, or designee;

- (2) Executive Director of WorkForce West Virginia, or designee;
- (3) Secretary of the Department of Education, or designee;
- (4) Commissioner of the Division of Labor, or designee;
- (5) Chancellor for Community and Technical College Education, or designee; and
- (6) Four citizen representative who are familiar with apprenticeship and represent an equal number of labor and management positions in current apprenticeship programs. In addition, representatives from the U.S. Department of Labor responsible for regulating apprenticeship in West Virginia and representatives from the West Virginia DOH responsible for regulating trainees shall be invited to participate.

Therefore;

In order to bid any state DOH construction project estimated to cost more than \$500,000 a bidder must demonstrate how no less than 20 percent of the total hours of construction labor used on the project will consist of federally registered apprentices, or trainees under a program in compliance with the federal trainee requirements.

Such written demonstration shall be known as the 'Apprenticeship and Training Plan.' As a condition of any such contract award the contractor shall be required to provide documentation on a monthly basis on how they are complying with their Apprenticeship and Training Plan. Final payment will not be made until a company certifies they have fully complied with their Apprenticeship and Training Plan and such certification is validated by DOH.