

Using Local and Economically-Targeted Hire to Promote Good Jobs through the Infrastructure Investment and Jobs Act

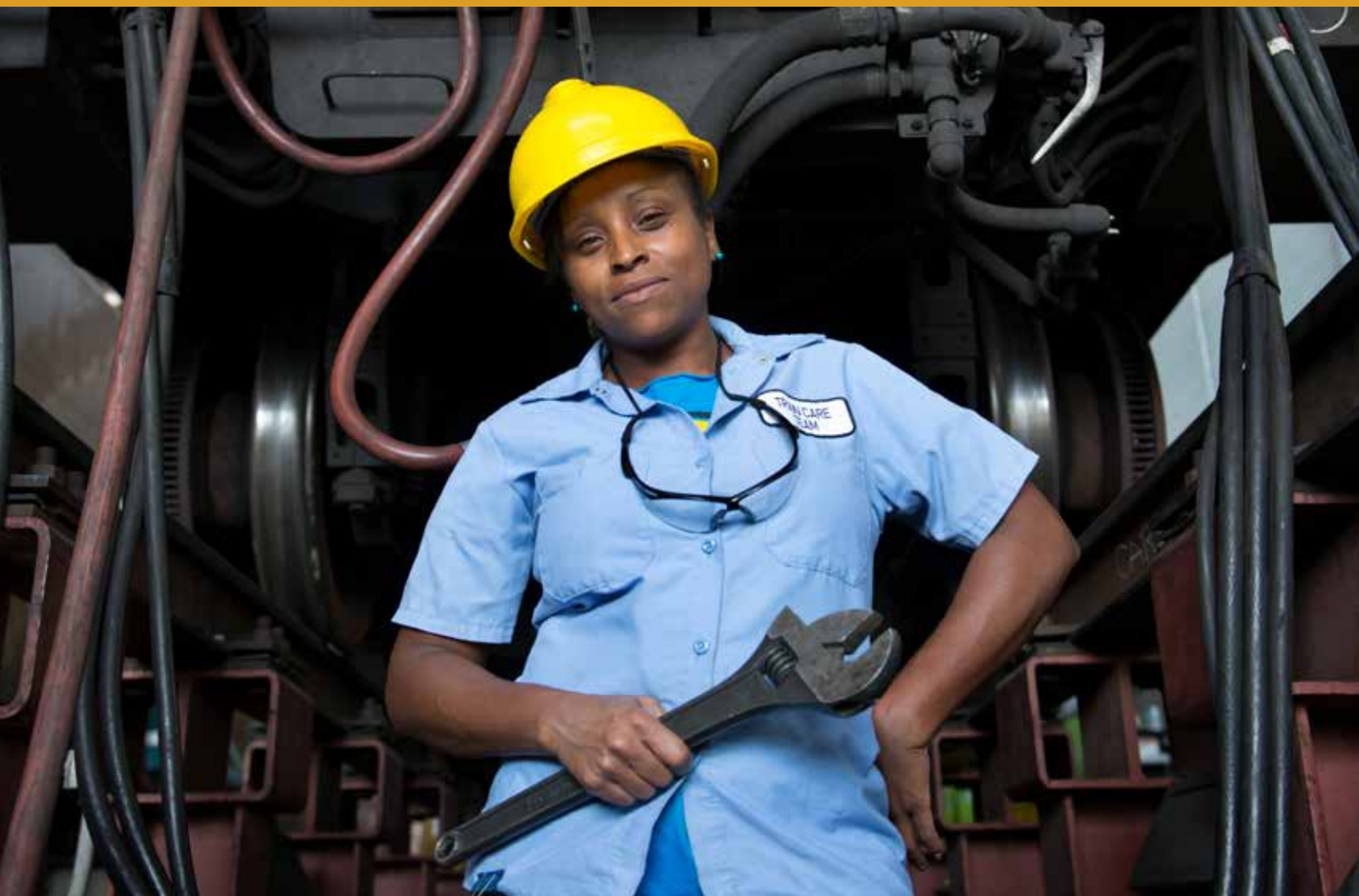


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Introduction

The Bipartisan Infrastructure Law (BIL), also known as the Infrastructure Investment and Jobs Act (IIJA), was signed into law on November 15, 2021. This federal legislation will bring \$1.2 trillion to states and cities over the next 5 years to repair and build roads and bridges, public transportation, the broadband network, and water infrastructure, among many other critical infrastructure projects. Each state will receive billions of dollars in funding over the next 5 years [through mandatory and competitive grants, loans, and bonds](#)¹.

These funding opportunities offer a once in a generation opportunity to address community priorities for developing, strengthening, and building resilient infrastructure for the 21st century. At the same time, infrastructure dollars allocated to states and local communities may also be used to promote economic opportunity by creating good jobs. A number of obstacles—some rooted in history and others just the result of everyday struggles for workers—have often stood between local communities and the benefits of public infrastructure investment. The policies and programs described in this document are intended to help reconnect many workers to the good career jobs that infrastructure projects provide.

Local and targeted hiring refers to policies attached to major economic development and construction projects that seek to ensure that a certain percentage of the jobs on the contract be set aside for local residents or for job seekers that share a particular set of demographic characteristics, such as being from communities historically underrepresented in an industry or experiencing barriers to employment. A range of community and labor advocates worked together with federal policymakers to include a [provision in the BIL that allows policymakers to enact](#)

¹ <https://www.bluegreenalliance.org/site/a-user-guide-to-the-bipartisan-infrastructure-law-bil/>

[preferences for local and economically-targeted hiring](#)² on highway and transit construction projects receiving financial support from the US Department of Transportation (USDOT). This is the first time local and economically-targeted hire on federally-funded projects is allowed after [years of community advocacy](#)³.

When designed and implemented properly, these policies ensure that good construction jobs, with family-sustaining benefits and career pathways, are available to communities that need them most. These policies only work with the right partners. Community stakeholders, given the resources to recruit local workers and help overcome employment challenges for them, are key to an effective program. Local building trades unions and their partner employers anchor the skills training and employment pathways essential for local workers to enter long term, well-paying careers. Contracting agencies and elected officials provide the demand for these workers and must help coordinate work with community groups, labor partners, and other local stakeholders to ensure local and targeted hiring policies promote equity in hiring for construction projects.

Before the BIL was passed and expanded local and economically-targeted hire to federally-funded transportation projects, many cities and states around the country implemented these and other targeted hiring policies on locally-funded infrastructure projects.

Since 2012, [LA Metro](#) has used local and/or targeted hire on construction projects that are valued at more than \$2.5 million⁴. Their policy requires covered projects to meet hiring goals for total hours worked on the project by local workers from economically distressed zip codes, historically underrepresented communities, and registered apprenticeship programs. LA Metro

² <https://jobstomoveamerica.org/wp-content/uploads/2021/11/BIF-local-hire-language.pdf>

³ <https://jobstomoveamerica.org/resource/analysis-of-usdot-local-labor-hiring-pilot-local-hire-increases-opportunities-for-disadvantaged-workers-strengthens-local-economies/>

⁴ <https://www.metro.net/about/placcp/>

projects covered by this policy consistently meet and exceed the hiring goals, and have created strong career pathways for thousands of workers since it was established.

Similarly, the City of Seattle passed their own city-wide [ordinance](#) in 2015 implementing targeted hiring goals on city construction projects⁵. This policy has resulted in local workers from economically distressed zip codes earning an [additional \\$36.7 million in wages](#) because of the program.⁶

These success stories, which we'll expand on later in this brief, offer important goals and insights for how states and cities around the country can implement their own local or economically-targeted hiring policies on major economic projects related to the BIL.

Using This Guide

This guide provides an overview of local and targeted hiring policies, answers key questions for states and cities looking to implement these policies, and offers success stories from around the country. The BIL represents an important organizing opportunity for community groups and unions to meet with state officials on incorporating local and economically-targeted hiring provisions in the highway and transit construction contracts that local agencies will be issuing over each of the next 5 years. Our hope is that this guide will be helpful not just for BIL implementation, but for other local initiatives and future legislation as well.

In preparing for a meeting with your state or local contracting agency on implementing a local or economically-targeted hiring policy, please also review this [Q&A on hiring preferences from the USDOT](#), which we encourage you to use alongside this guide in meetings with

⁵ https://library.municode.com/wa/seattle/codes/municipal_code?nodeId=TIT20PUWOIMPU_SUBTITLE_IIPUWO_CH20.37PRHI_20.37.040PRHI

⁶ <https://www.seattle.gov/documents/Departments/FAS/PurchasingAndContracting/fas-2021-priority-hire-annual-report.pdf>

contracting agencies⁷. This document explains in detail the types of hiring preferences that can be used under the BIL. It also explicitly states that DOT is prioritizing projects that use local and other economic hiring in their discretionary grant applications. We are actively encouraging contracting agencies to use local and economic hiring preferences in their applications, and we encourage workforce and labor leaders to partner with their local governments and transportation entities to help determine populations that are economically disadvantaged and create complementary workforce development programs.

Additionally, the USDOT provides [background resources](#)⁸ as well as [state specific fact sheets](#)⁹ describing how each state may benefit from federal infrastructure dollars. These are important resources providing information on the amount of federal infrastructure money each state will receive over the next 5 years through formula funding, as well as discretionary grants states and cities can apply for.

If you have questions while preparing for a meeting with state officials, please contact one of the organizations that sponsored this guide.

⁷ <https://www.fhwa.dot.gov/construction/hiringpreferences/qanda060822/>

⁸ <https://www.transportation.gov/bipartisan-infrastructure-law/bipartisan-infrastructure-law-resources>

⁹ <https://www.transportation.gov/briefing-room/usdot-releases-state-state-fact-sheets-highlighting-benefits-bipartisan>

KEY TERMS AND DEFINITIONS

TABLE Key Terms for Developing Local and Economically-Targeted Hiring Policies and Relationship to the Bipartisan Infrastructure Law

KEY TERMS FOR DEVELOPING LOCAL AND TARGETED HIRING POLICIES	RELATIONSHIP TO BIPARTISAN INFRASTRUCTURE LAW
<p>Apprenticeship programs¹⁰ provide workers with paid, on the job training experience, and related instruction to learn the skills and knowledge required for an occupation and career. Joint labor management apprenticeship programs are run by unions and contractors and are funded by contractors who pay into apprenticeship and training trust funds that are used to cover the costs of the programs. These kinds of apprenticeship programs have proven to be the most effective at both enrolling women and people of color and graduating participants into journey-level status.^{11 12}</p> <p>Apprenticeship Readiness programs (<i>also known as pre-apprenticeship programs</i>)¹³ recruit and prepare participants for apprenticeship programs. These programs provide orientation to an industry, job readiness training, and financial support to address needs such as related tools and equipment, transportation, and child care. The strongest apprenticeship readiness programs partner closely with high road apprenticeship programs and employers to ensure their training prepares participants for the next level.</p>	<p>The BIL includes funding, through the USDOT, for apprenticeship and apprenticeship readiness programs, including the On-Job Training Program for states and Technical Assistance and Workforce Development Grants for national nonprofit organizations, providers of public transportation, workforce development entities, and Tribal organizations.</p>

¹⁰ <https://www.apprenticeship.gov/employers/explore-apprenticeship>

¹¹ https://www.cpwr.com/wp-content/uploads/publications/The_6th_Edition_Construction_eChart_Book.pdf

¹² https://www.researchgate.net/publication/243463149_Registered_Apprenticeship_Training_in_the_US_Construction_Industry

¹³ <https://www.apprenticeship.gov/employers/explore-pre-apprenticeship>

KEY TERMS FOR DEVELOPING LOCAL AND TARGETED HIRING POLICIES	RELATIONSHIP TO BIPARTISAN INFRASTRUCTURE LAW
<p>Prevailing wage¹⁴: Contractors typically submit a bid to work on public projects. Without a prevailing wage requirement, firms may pay their workers less to secure contracts. In addition to harming employees of individual construction firms, this practice incentivizes paying workers less throughout the construction industry as rival firms respond with similar cuts when making their bids. Prevailing wage standards take wages out of the bidding process and set a stable floor for contractors to compete for government projects based on other factors.</p> <p>Approaches to contracting such as responsible contracting¹⁵ and best value contracting¹⁶ can also support local and targeted hiring and good jobs. Responsible contracting policies¹⁷ require contractors and subcontractors to meet specific job access requirements and job quality standards to bid on a project. Best value contracting evaluates competitive bids based on a range of factors, which can include job quality, not just which entity submits the lowest responsive bid.</p>	<p>The BIL requires that workers employed by contractors or subcontractors in construction, alteration, or repair work on projects receiving funding under BIL be paid wages at rates not less than those prevailing on similar projects in the locality, as determined by the Secretary of Labor, in accordance with the Davis-Bacon Act of 1931</p>
<p>Project Labor Agreements (PLAs) are legally binding collective bargaining contracts negotiated and signed by labor unions and general contractors and/or the developer or project owner. Government agencies can also sign their own PLAs for their projects. PLAs establish the terms and conditions of a specific construction project. These may include wages, benefits, health and safety training, conflict resolution, as well as targeted hiring requirements and procedural measures to support those requirements.</p> <p>Community Benefit Agreements (CBAs) Community Workforce Agreement (CWAs) are legally binding agreements that define the benefits the developer promises to provide to the community (e.g., affordable housing, local and targeted hiring requirements, floor for wages and benefits). CBAs may, but do not always, include job access requirements and job quality standards.</p>	<p>PLAs, CBAs and CWAs can be used to implement the local hiring preferences now permitted on USDOT projects as a result of BIL Section 11003.</p>

¹⁴ <https://www.dol.gov/agencies/eta/foreign-labor/wages>

¹⁵ <https://www.nelp.org/wp-content/uploads/responsible-contracting-best-practices.pdf>

¹⁶ <https://www.adaptationclearinghouse.org/resources/clean-energy-works-portland-oregon.html>

¹⁷ <https://drive.google.com/file/d/0B5MprJ0QUmH3QU9jNHBoZ215emM/view?pli=1&resourcekey=0-kootYe9fgKdIx8-gYfET5g>

LOCAL AND ECONOMICALLY-TARGETED HIRE FAQs

What are the mechanisms for creating a local hire or economically-targeted hiring program?

Depending on state and local contract law, local and economically-targeted hiring programs can be created through passing a city-wide ordinance, through policies at individual agencies, through a project-labor agreement covering one or multiple projects, through CBAs or CWAs, or within individual contracts between contracting agencies and prime contractors. These policy options can be used in conjunction with each other, or can be used individually to create local hiring opportunities for residents impacted by a major economic project.

For example, the City of Seattle passed a city-wide ordinance in 2015 establishing their targeted hire program, known as Priority Hire. The ordinance set targeted hiring goals for local public works projects with a budget over \$5 million.¹⁸ On top of the ordinance creating the program and the hiring goals, the City of Seattle entered into a CWA with the city's building trades unions to cover the Priority Hire projects. The CWA includes the hiring goals set forth in the ordinance, sets job quality standards for workers, and determines the process for identifying and sending Priority Hire workers out on covered projects.¹⁹

While passing local hire legislation can be a long-term goal, cities and states also have the option to create a local or targeted hiring program through agency-specific policies, like LA Metro's Construction Careers Policy. The Construction Careers Policy was created in 2012 to create pathways to construction jobs for Los Angeles residents living in economically disadvantaged areas, and covers projects valued at more than \$2.5 million. LA Metro sets targeted hiring

goals directly in their agency policy documents, and enforces these hiring goals through a PLA with the Los Angeles/Orange County Building Construction Trades Council.²⁰

¹⁸ https://library.municode.com/wa/seattle/codes/municipal_code?no-deld=TIT20PUWOIMPU_SUBTITLE_IIPUWO_CH20.37PRHI

¹⁹ https://www.seattle.gov/documents/Departments/FAS/Purchasin-AndContracting/Labor/Seattle_CWA_final.pdf

²⁰ <https://www.dropbox.com/s/ieky3cey3jexfa3/construction-careers-policy-2017-placcp.pdf?dl=0>

Local and Targeted Hire Success Stories

LOS ANGELES

LA Metro created their local hire program, also known as the Construction Careers Policy, in 2012 through a PLA with the Los Angeles/Orange County Building Construction Trades Council to create pathways to construction jobs for Los Angeles residents living in economically disadvantaged areas. The PLA covers LA Metro construction projects that are valued at more than \$2.5 million. LA Metro sets local and targeted hire benchmarks directly in its PLA, which was last renewed in 2017. The benchmarks for projects covered by the PLA are:

- 40% of workers on covered projects must come from economically disadvantaged areas (defined by LA Metro as a zip code where the median household income is less than \$40,000 annually)
- 20% of workers on covered projects must come from registered apprentice programs
- 10% of workers on covered projects must come from of disadvantaged workers (defined as workers living in economically disadvantaged areas, as well as belonging to 2 of 9 historically disadvantaged communities)

Also within the PLA, contractors are required to submit monthly reports on local and targeted hiring benchmarks, helping LA Metro track compliance and progress towards its goals.

Since implementing the first PLA for local and targeted hire in 2012, LA Metro has exceeded its hiring goals in all three benchmarks. As of December 2021, the total percentage of construction hours performed by local and targeted workers are:

- 58.21% participation of workers from economically disadvantaged areas
- 21.86% apprentice participation
- 10.69% participation of disadvantaged workers²¹

²¹ https://www.dropbox.com/s/033qprlux6tql8a/pla_ccp_booklet_june_2021.pdf?dl=0

Similarly to LA Metro's policy, New York City announced their Community Hiring Economic Justice Plan in 2020. This program was created to ensure local workers who have historically been underrepresented in the construction industry have access to the good paying jobs that will fuel the city's economic recovery. Part of the plan includes new PLAs with the Building and Construction Trades Council of Greater New York, which incorporate the city's local and targeted hiring goals directly in the PLAs, and increasing opportunities for unions to work with minority and women-owned business enterprises (MWBEs).²²

Policy tools like community benefits agreements, apprenticeships, and apprenticeship readiness programs can help contracting agencies, elected officials, labor unions, and community partners work together to ensure the goals outlined in an ordinance, policy, or project-labor agreement are met.

Ultimately, it is important to understand what your existing state or local contract laws are. See the legislative history section below for additional details.

How should contracting agencies define local and targeted workers?

Contracting agencies have a few options on how to define local and economically-targeted workers. Typically, these definitions will be included within the ordinance, PLA, or CWA covering the project.

A common practice for defining local workers involves selecting workers from pre-determined zip codes within a specific area. Agencies often use economic considerations when selecting these zip codes, such as zip codes that are economically distressed, have a high unemployment rate, or have a certain percentage of households at or below the federal poverty level.

The BIL allowed a specific type of targeted hire, where agencies can prioritize based on economic characteristics. Economically-targeted hire refers to prioritizing workers based on their economic conditions, such as those making under a certain income threshold or who participate in a public assistance program where income is a determining factor, like the Supplemental Nutrition Assistance Program (SNAP) or Supplemental Security Income (SSI). Economically-targeted hire also allows for targeting those who belong to specific communities that have known barriers to employment, such as people with no more than a high school education and people returning home to their communities following incarceration.

Other forms of targeted hiring can include prioritizing workers who have historically been underrepresented in the locality's industry workforce, such as women and people of color. These types of hiring preferences are allowed under the BIL only to the extent that they are implemented as a part of a local or economically-targeted hiring policy.

How can contracting agencies develop goals for local hire and economically-targeted hiring policies?

Depending on state law, contracting agencies may have options for setting local hire goals on projects they bid out. Commonly, local and economically-targeted hiring goals will be included within the ordinance, agency policy, or PLA, or as part of individual contracts. As discussed further below, community and labor partners are also critical stakeholders for developing goals that reflect the priorities of workers and job seekers from specific communities. Contracting agencies implementing local hire policies will also usually define within the bid documents for each project the minimum percentage of hours to be performed by local or targeted workers.

Contracting agencies should assess the current workforce demographics of the industries they

²² <https://www1.nyc.gov/office-of-the-mayor/news/588-20/mayor-de-blasio-community-hiring-economic-justice-plan>

are targeting for local hire implementation to set realistic requirements and goals for the program.

When creating hiring goals for demographic groups that are protected by equal employment laws (ex: race, gender) on USDOT-financed projects, policymakers should connect their targeted hiring goals to other economic characteristics, like underrepresentation in the industry or income level, that tend to occur in tandem with their targeted communities. When structuring their program this way, policymakers should ensure they have data on the characteristics of the larger workforce and those of individuals working in the project's sector.

One option to incentivize local and economically-targeted hiring policies is for contracting agencies to offer additional points in the bidding process to companies that submit particularly robust commitments related to job quality. These commitments can include clearly defined categories and percentages of job seekers to be hired who are also local residents, setting a percentage goal for union apprenticeship utilization, ensuring that a certain percentage and/or total of first-year apprentices include job seekers from historically underrepresented communities, the wages and benefits they will pay workers, and the training opportunities they will offer.

How can contracting agencies track outcomes of their local hire program? How can contracting agencies report on outcomes?

Contracting agencies should determine a standardized practice for tracking relevant data and outcomes on their local hire program, and should ensure transparency mechanisms are included in their ordinance, PLAs, and contracts.

- Contracting agencies should include transparency requirements, like data reporting and program evaluation, into the original bid documents contractors review before submitting a bid on a public project. Contractors that submit a bid are agreeing to the public release of workforce obligations and compliance should

they win the bid and enter into a contract with the agency.

- Agencies can consider procuring an electronic tracking system to house this data.

How can contracting agencies enforce local hire preferences?

Contracting agencies have the power to enforce their local hire goals. Some common enforcement mechanisms include:

- *Withholding payment (or threatening to withhold payment)* until a contractor is within compliance of the required hiring goals.
- *Assessing liquidated damages at the end of a project*, requiring contractors to pay fees for failing to reconcile compliance issues.
- *Deficient ratings*: if a project is rated “deficient” during the evaluation, on some or all aspects related to the local hire program, a plan of corrective action can be implemented on all future contracts.
- *Debarment*: if companies consistently refuse to follow through on local hire commitments, they can be prevented from bidding on future contracts.

Contracting agencies should consider hiring dedicated staff to conduct regular outreach and site visits to ensure local and economically-targeted hiring goals are being met, and to conduct employee interviews. Some other common internal and third-party staff that can administer and monitor these programs and provide technical assistance to contractors and labor partners include:

- *Program managers* to oversee implementation and enforcement of the local hire program
- *Job and training advisors/coordinators* to recruit, place, and support retention workers for local hire and build relationships with local labor partners, apprenticeship readiness programs, contractors, and other community stakeholders

- *Field advisors* to provide programmatic technical assistance and oversee implementation of labor agreements (PLAs, CBAs)
- *Field enforcement coordinators* to monitor compliance of local hire goals and provide on-site assistance and information to contractors and workers
- *Program analysts* to conduct program evaluations

Local and Targeted Hire Success Stories

SEATTLE

The City of Seattle passed a city-wide ordinance in 2015 establishing their targeted hire program, known as Priority Hire. The ordinance includes important aspects of a successful local hire program discussed in this guide, such as creating a stakeholder advisory committee, targeted hire percentage goals for Priority Hire projects, requirements for Community Workforce Agreements, requirements and encouragements to work with apprenticeship and apprenticeship readiness programs, and program evaluation metrics. Since its implementation, Priority Hire reports that workers living in economically distressed communities have worked about 110% more hours and earned an additional \$36.7 million in wages because of the program.

The Priority Hire program has also worked to address systemic racism in hiring and provide equitable job opportunities for communities of color in Seattle. The Community Workforce Agreement that covers all Priority Hire projects includes pathways for workers of color to enter apprenticeship and apprenticeship readiness programs, as well as requirements for contractors to hire graduates from their programs.

In 2020, apprentices of color on Priority Hire projects earned \$35 an hour, which is almost double the wage paid to other entry-level workers in Washington state. The City of Seattle has also funded apprenticeship readiness programs for workers from economically distressed zip codes; 60 graduates from these programs earned over \$7.5 million once beginning their apprenticeship career on Priority Hire projects. Additionally, people of color have consistently earned significantly more annually working on Priority Hire projects than the regional average income for people of color.

The City of Seattle and their labor, community, contractor and training providers have been so successful that they've replicated the model on large and small public-private projects like the Climate Pledge Arena and many other regional public entities have followed suit.²³

²³ <https://seattle.gov/documents/Departments/FAS/PurchasingAndContracting/Labor/PH-Primer-Public-Agencies.pdf>

How should contracting agencies interact with community organizations on local and economically-targeted hire?

Contracting agencies should invest in workforce intermediaries who are committed to creating pathways to good union jobs for their students or clients. These intermediaries can include schools, community colleges, worker centers, nonprofits, women's organizations, re-entry services, workforce development agencies.

Contracting agencies should consider creating a formal advisory committee to ensure all stakeholders have a say in the development of the local hire program, and to easily share information.

To help reach targeted hiring goals, contracting agencies can invest in outreach to specific community organizations that service specific demographic groups. Contracting agencies should also consider investing in and partnering with women-owned and minority-owned contracting firms.

Contracting agencies can work with community groups and labor partners to create community-based apprenticeship readiness programs and trainings to prepare residents for apprenticeship programs and ensure they have the skills and tools to succeed. Contracting agencies should also consider creating programs to provide financial assistance for application and training fees (ex: buying work clothes and tools), and connecting individuals to existing programs that provide supportive services to workers, like childcare and transportation assistance.

How should contracting agencies interact with labor partners on local hire?

Contracting agencies should invest in building relationships with unions, including building trades unions, union contractors, and Joint Apprenticeship and Training Committees. You can start this process by reaching out to the [state or local building and construction trades council](#) nearest you.

Unions and other labor partners can help provide technical assistance by educating contractors on local and economically-targeted hire and apprenticeship and apprenticeship readiness programs.

- Some building trades unions offer their own apprenticeship readiness program, which can include direct entry into their apprenticeship program upon successful completion of the program.
- North America's Building Trades Unions (NABTU) sponsors [apprenticeship readiness programs](#) throughout the US in coordination with local building and construction trades councils, union locals, schools, and community colleges, and provides training, approved multi-craft curriculum, and support to those interested in starting new programs.

ADDITIONAL BACKGROUND ON LOCAL AND TARGETED HIRE

Legislative History and Future Federal Action

Section 25019 of the BIL removed the ban on local and economically-targeted hiring preferences for construction projects funded through the USDOT, allowing localities to hire within their communities for federally-funded work on roads, bridges, and public transit systems. As a result, there is no longer any federal impediment to including local hire preferences on work done with grants from USDOT.

- States and cities implementing a local hire policy on a DOT-financed project will need to consider any state law restrictions and a few Constitutional issues, like the Dormant Commerce Clause and the Privileges and Immunities Clause. If you are interested in learning more about the constitutional considerations of local hire, please reach out to [Jobs to Move America](#) for more information.
- Some states and cities may have already passed a local hire ordinance, or have a project-labor agreement covering specific

projects. Conversely, some states have placed restrictions on the use of PLAs by public contracting agencies.²⁴ PLAs are just one option for states and cities to create a local or economically-targeted hire policy; other options include through local ordinances, CBAs or CWAs, apprenticeship and apprenticeship readiness utilization, or within individual contracts between agencies and prime contractors.

While the BIL allows for local hire on highway and transit construction projects, the original ban on local hire still applies to billions of dollars being distributed to states and cities for other federally-financed projects, such as broadband construction and water infrastructure. The Biden administration can remove the ban on local hire for this funding by updating the [Office of Management and Budget's Uniform Guidance](#). ■

²⁴ <https://www.epi.org/preemption-map/>

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