

**GENERAL MANAGEMENT  
TO  
COMMUNITY BENEFITS POLICY- NATIONAL TARGETED HIRING INITIATIVE PLAN  
FOR  
CALIFORNIA HIGH-SPEED RAIL AUTHORITY**

**1.0 GENERAL**

The California High-Speed Rail Authority (Authority) will administer the Community Benefits Policy and work closely with its Community Benefits Agreement partners to ensure that the construction career and related jobs and opportunities created by the California high-speed rail project are afforded to the community, including providing priority to those which are economically disadvantaged, thereby providing meaningful benefits and reinvestment to communities at large. The Community Benefits Policy- National Targeted Hiring Initiative Plan identifies the minimum efforts contractors must make to comply with the Authority's Community Benefits Policy and Community Benefits Agreement. This policy will be treated with the same significance as all other Authority policies and contractual provisions.

**2.0 APPLICABILITY**

- 2.1.1 This policy applies to construction contracts awarded by the Authority for California high-speed rail system project.
- 2.1.2 The Authority shall include compliance with this policy as a material term in all applicable Authority Construction Contracts.

**3.0 PROCEDURES**

**3.1 Implementation**

- 3.1.1 All applicable Requests for Proposals/Invitations for Bid (RFP/IFB) specifications shall require all contractors submitting bids or proposals to agree to the terms of the Authority's Community Benefits Policy, inclusive of the National Targeted Hiring Initiative Plan and corresponding Community Benefits Agreement.
- 3.1.2 All construction contracts shall include these provisions to obligate the Contractor/Subcontractor/Employer (C/S/E) to comply and sign an "Affidavit of Community Benefits Policy- National Targeted Hiring Initiative" to be provided to the Authority. Bidders/Proposers are to submit the "Affidavit of Community Benefits Policy- National Targeted Hiring Initiative" with their bid/proposal; the selected Contractor's S/Es are to submit the affidavit prior to commencement of project work.
- 3.1.3 The Authority will monitor and enforce compliance with this policy and assess sanctions for non-compliance, where appropriate.
- 3.1.4 The Contractor shall, following receipt of the Authority's approval, engage a Jobs Coordinator for assistance in the facilitation and implementation of this policy

**3.2 Exclusions and/or Modifications**

- 3.2.1 This policy shall not apply to or impact in any way service contracts or operation or maintenance contracts entered into by the Authority including, but not limited to, said contracts relating to the project, services provided at any Authority facility, building and/or the operation or maintenance of any Authority owned and operated facilities.

- 3.2.2 This policy shall not apply to C/S/E superintendents, supervisors, staff, engineers, quality control and quality assurance personnel, time keepers, mail carriers, clerks, office workers, messengers, guards, safety personnel, emergency medical and first aid technicians, and other engineering, administrative, supervisory, and management employees (except those covered by state and federal prevailing wages requirements).
- 3.2.3 This policy shall not apply to offsite prefabrication facility work, provided that this facility is not dedicated solely to project work.
- 3.2.4 This policy shall not apply to officers and employees of the Authority or to work performed by or on behalf of other governmental entities, cities and utility companies.
- 3.2.5 This policy shall not apply to the work of persons, firms and other entities that perform consulting, planning, scheduling, design, environmental, geological, management, or other supervisory services on any Authority project, including but not limited to, consultants, engineers, architects, geologists, construction managers, and other professionals hired by the Authority or any other government entities.

### **3.3 Targeted Hiring**

The Contractor shall ensure the following targeted hiring requirements are met:

- A minimum of 30% of all hours of Project Work shall be performed by National Targeted Workers.
- A minimum of 10% of the 30% National Targeted Workers hours shall be performed by Disadvantaged Workers.

### **3.4 Compliance**

The Authority representative, and/or its designee, shall determine whether a Contractor and its S/Es have complied with the requirements of this policy. The Contractor is responsible for ensuring full compliance (regardless of tier) with policy requirements.

- 3.4.1 The Contractor shall be deemed to be in compliance of this policy if the targeted hiring goals have been met, after taking into account all craft hours of project work performed.
- 3.4.2 If the targeted hiring goal requirements have not been satisfied, the Contractor is to provide evidence that the Contractor performed the following compliance efforts towards meeting the Contractor's goal committed by affidavit. Substantiation of compliance efforts is to be provided within ten (10) days of the Authority's request, or as otherwise requested.
  - Adherence to procedures contained in the Contractor's National Targeted Hiring Plan (CNTHP), as approved by the Authority.
  - Copies of Craft Request Forms utilized to initiate the dispatch of National Targeted Workers and Disadvantaged Workers to meet the Contractors targeted hiring goal commitments; Craft Request Forms are to additionally include the documented outcomes.
  - Accurate records documenting the C/S/E's compliance efforts that include (but not limited to) the following:

- A listing by name and address of all local recruitment sources contacted by the C/S/E;
- The date of the local recruitment contact and the identity of the person contacted, the trade, classification and number of hire referrals requested;
- The number of Targeted Worker hires made as a result of the contact;
- The identity and address of the worker(s) hired pursuant to the contact; and
- Documentation when a referral was not hired (reason for non-hire) and/or premature termination.

### **3.5 Enforcement**

3.5.1 The Authority representative and/or designee, shall be responsible for the oversight and enforcement of this policy.

3.5.1.1 Enforcement activities include, but are not limited to, the following:

3.5.1.1.1 Review of reports, processes and auditing, if necessary.

3.5.1.1.2 Issuance of “Discrepancy Notices” and “Notices to Cure” when Contractor is in violation of this policy.

3.5.1.1.3 Request the withholding of contract payments for violations of this policy

3.5.1.1.4 Conduct any necessary hearings regarding the implementation of this policy.

3.5.2 The Contractor for every project agrees to the following:

- The Contractor and its S/E’s commitment to comply with the targeted hiring requirements of the policy is a material element of the contract.
- If, on or before the designated quarterly reporting period, the Contractor has not submitted a satisfactory National Targeted Hiring Initiative Utilization Report, the Authority Construction Manager shall issue a “Initial Notice of Non-Compliance: National Targeted Hiring Initiative Utilization Report” for the Contractor’s response within ten (10) days of the notice.
- If the Contractor fails to respond to the “Initial Notice of Non- Compliance: National Targeted Hiring Initiative Utilization Report” or is found to be substantially out of compliance during any reporting period, the Authority and Contractor shall meet to develop a plan for compliance. If the following reporting period’s monitoring activities do not show substantial improvement in compliance, the Authority shall issue a “Second Notice to Cure & Retention of Funds” and withhold funds equal to \$10,000 per day until compliance is satisfactorily effectuated.
- Failure for the Contractor to satisfactorily effectuate compliance within 90 calendar days of the issuance of the “Second Notice to Cure & Retention of Funds” and if after all administrative remedies have been exhausted, may be deemed “Non-Responsive to the Authority’s National Targeted Hiring Initiative”.

- 3.6 The Contractor may appeal the “Non-Responsive to the Authority’s National Targeted Hiring Initiative” determination to an Authority assigned Reconsideration Official. Prior to the Reconsideration Official’s determination, the Contractor shall be served with a summary of the information upon which the Authority is relying, and provided an opportunity to be heard by the Reconsideration Official. At the hearing, the Contractor will be allowed to rebut adverse information and to provide evidence that it has made best efforts to conform to procedures as described in this policy. The Contractor must exercise its right to request a hearing within five (5) calendar days after receipt of the Authority’s determination of “Non-Responsive to the Authority’s National Targeted Hiring Initiative”. Failure to submit a written request for a hearing within the time frame set forth in this Section will be deemed a waiver of the right to such a hearing, and the determination will be implemented.
- 3.7 The Authority Board of Directors shall be notified of contractors deemed as “Non-Responsive to the Authority’s National Targeted Hiring Initiative”. The Authority reserves the right to consider this “Non-Responsive to the Authority’s National Targeted Hiring Initiative” determination in future evaluation and contract award processes.

The provisions of this policy shall not be applicable where prohibited by federal or state law, or where the application would violate or be inconsistent with the terms and conditions of a grant or a contract with an agency of the United States or the State of California, or the valid instructions of an authorized representative of any of these agencies with respect to any grant or contract. If enforcement of any provision of this policy is enjoined by any court of competent jurisdiction, the remaining provisions shall remain in full force and effect.

#### **4.0 DEFINITION OF TERMS**

- 4.1 Affidavit of Community Benefits Policy- National Targeted Hiring Initiative is the document which formally binds each C/S/E to adhere to the requirements and conditions of this policy.
- 4.2 Apprentice means any worker who is indentured in a bona fide construction apprenticeship program.
- 4.3 Authority means the California High-Speed Rail Authority.
- 4.4 Construction Contract means a contract for the performance of construction work related to the Project.
- 4.5 Contractor means a Contractor that has entered into a Contract with the Authority.
- 4.6 Contractor National Targeted Hiring Plan (CNTHP) is the plan presented by the Contractor, reviewed by the Program Management Team and approved by the Authority.
- 4.7 Contractor/Subcontractor/Employer (C/S/E) means any individual firm, partnership or corporation, or combination thereof, including joint ventures, which is an independent business enterprise that has entered into a contract with the Authority, or any of its contractors or subcontractors or owner/operators of any tier, with respect to the construction of any part of the Project(s) under contract terms and conditions approved by the Authority and which incorporate this policy.
- 4.8 Craft Request Form means a document provided by the Authority through which Contractors shall request workers from Unions.

- 4.9 Disadvantaged Worker means an individual who, prior to commencing work on the project resides in an Economically Disadvantaged Area or Extremely Economically Disadvantaged Area and faces at least one of the following barriers to employment: (1) being a veteran; (2) being a custodial single parent;(3) receiving public assistance; (4) lacking a GED or high school diploma; (5) having a criminal record or other involvement with the criminal justice system; (6) suffering from chronic unemployment; (7) emancipated from the foster care system; (8) being homeless; or (9) being an apprentice with less than 15% of the required graduating apprenticeship hours in a program.
- 4.10 Economically Disadvantaged Area means a zip code that includes a census tract or portion thereof in which the median annual household income is between \$32,000 and \$40,000 per year, as measured and reported by the U.S. Census Bureau in the 2010 U.S. Census and as updated upon the U.S. Census Bureau issuing updated Median Annual Household Income data by census tract in the American Community Survey.
- 4.11 Extremely Economically Disadvantaged Area means a zip code that includes a census tract or portion thereof in which the median annual household income is less than \$32,000 per year, as measured and reported by the U.S. Census Bureau in the 2010 U.S. Census and as updated upon the U.S. Census Bureau issuing updated Median Annual Household Income data by census tract in the American Community Survey.
- 4.12 Jobs Coordinator means an independent third-party individual, entity or employee with whom the Contractor enters into a contract or employs to facilitate implementation of the Targeted Hiring Requirements of this policy. The Jobs Coordinator must be able to demonstrate or document to the Authority designee the requisite qualifications and/or experience to fulfill the duties and responsibilities as outlined in this policy for their review and recommendation to the Authority for approval.
- 4.13 National Targeted Worker means an individual whose primary place of residence is within an Economically Disadvantaged Area or an Extremely Economically Disadvantaged Area in the United States, or a Disadvantaged Worker.
- 4.14 Policy means the Community Benefits Policy, inclusive of the National Targeted Hiring Initiative Plan. This policy shall govern covered construction projects as defined herein.
- 4.15 Contract means a contract entered into by a Contractor and the Authority for construction of the Project Work.
- 4.16 Project Work means construction work performed in the construction of a project.
- 4.17 Program Management Team means the entity selected by the Authority to perform Program Management services, including oversight and enforcement of this policy, on behalf of the Authority, as assigned.
- 4.18 Reporting Period means the indicated reporting period for measuring the targeted hiring efforts of the C/S/Es. These reporting periods shall be defined by the Authority.
- 4.19 Unemployment means, in accordance with the definition by Bureau of Labor Statistics, a situation in which a person does not have a job, has actively looked for work in the prior four

(4) weeks, and is currently available for work. Chronic unemployment means unemployment lasting 27 weeks or longer.

## **5.0 RESPONSIBILITIES**

**The Authority representative and/or its designee shall ensure that the following responsibilities are met:**

- Ensure that each construction contract includes the detailed requirements of the policy guidelines and has been agreed to by the Contractor and all C/S/Es.
- Review submitted CNTHP prior to Contractor's estimated start of work and provides recommendation to the Authority for its approval.
- Review of Jobs Coordinator and provide recommendation to the Authority for its approval.
- Monitor and enforce the targeted hiring measures of this policy and issue Notices of Non-Compliance, where appropriate.
- Enforce all mechanisms in Section 3.5 of this policy.
- Report the status of all projects covered by this policy, as determined by the Authority or its designee.

**The Authority, through the Project and Construction Management Team, shall ensure that the following responsibilities are met:**

- Collection, retention and tracking of C/S/E's "Affidavit of Community Benefits Policy- National Targeted Hiring Initiative" prior to commencement of work.
- Receipt of Contractor's Annual CNTHP.
- Issuance of "Initial Notice of Non- Compliance: National Targeted Hiring Initiative Utilization Report" to Contractor for failure to submit CNTHP. Within five (5) days, notify the Authority designee if Contractor failed to respond to the notice.
- Ensure that the Contractor provides a National Targeted Hiring update at job progress meetings.

**Contractor and its S/Es shall perform the following responsibilities:**

- The Contractor shall ensure the submission of the CNTHP to the Authority or its designee for review and the Authority's approval at least twenty (20) business days prior to starting work on the project. The CNTHP shall include a description of how it will meet the targeted hiring requirements set forth in this policy and additional items, as defined by the Authority or its designee.
- Prior to the start of work, the Contractor shall ensure that its S/Es, adhere to the following:
  - The Contractor shall read and understand the requirements of the policy.
  - The Contractor shall sign and submit an Affidavit of Community Benefits Policy- National Targeted Hiring Initiative prior to the start of work. No C/S/E shall be approved to work on a project without submitting a signed Affidavit of Community Benefits Policy- National Targeted Hiring Initiative.
- Prior to start of work on the project, the Contractor shall perform the following:
  - The Contractor shall recommend a Jobs Coordinator for approval by the Authority or Project Management Team.
  - The contractor shall provide documentation of the Jobs Coordinator's qualifications to the Authority or Project Management Team within ten (10) days upon request.
  - Upon Authority or Project Management Team approval of its Jobs Coordinator, the Contractor shall ensure that all its subcontractors be made aware of the Jobs Coordinator and understand the Job Coordinator's role.
- The Contractor and its S/Es shall coordinate with the Jobs Coordinator for services to support their efforts in meeting the targeted hiring percentages as described in this policy.

- The Contractor and its S/Es shall use the Craft Request Form provided by the Authority to assist in the facilitation of the request of workers from the affected Union(s) and Job Coordinator.
- If the Union(s) cannot provide the requested worker in 48 hours, the Jobs Coordinator will seek to fill the job request form from other sources.
- The Contractor and its S/Es shall maintain proof of transmittal of the Craft Request Forms to the Union hiring halls and Jobs Coordinator. Upon request by the Authority or its designated representative, copies shall be provided within ten (10) calendar days of request.
- The Contractor shall submit quarterly to the Authority, or its designee, the National Targeted Hiring Initiative Utilization Report, which shall include items to be identified by the Authority or its designee.
- The Contractor shall be prepared to present their National Targeted Hiring progress/status to the Authority's Board, at the Authority's discretion.
- The Contractor and its S/Es shall make available to the Authority and the Program Management Team, records and information that are deemed relevant to monitoring and enforcement of the provisions of this policy.
- The Contractor and its S/Es shall cooperate fully and promptly with any inquiry or investigation the Authority or its designee deem necessary in order to monitor compliance with the provisions of this policy.
- The Contractor and its S/Es shall submit to the Authority or its designee, a verified statement of the number of journeypersons and apprentices who worked on the project, their classifications, and the hours worked (Per California Labor Code 1777.5(e)) within 60 calendar days after concluding work on the project.

**The Jobs Coordinator shall perform the following responsibilities:**

- Play an integral part in the success of its partners in obtaining the targeted hiring percentages. It is the responsibility of the Contractor to designate a Jobs Coordinator who will effectively perform the following:
  - The Jobs Coordinator shall develop, create, design and market specific programs to attract Targeted Workers and/or Disadvantaged Workers for construction opportunities at the project (e.g. handouts and fliers for “walk-ins” demonstrating program entrance procedures).
  - The Jobs Coordinator shall coordinate services for contractors to use in the recruitment of Targeted Workers.
  - The Jobs Coordinator shall educate and assist contractors on incentives provided by state or federal programs for on-the-job training and employer tax credits.
  - The Jobs Coordinator shall screen and certify the disadvantaged status of workers.
  - The Jobs Coordinator shall establish a referral and retention tracking mechanism for placed disadvantaged workers.
  - The Jobs Coordinator shall network with the various work source centers, community and faith-based organizations and other non-profit entities that provide qualified workers and/or disadvantaged workers.
  - The Jobs Coordinator shall coordinate with the various building trades to facilitate the referral and placement of Targeted Workers.
  - The Jobs Coordinator shall maintain a database of pre-qualified Targeted Workers for referral to work on a project and/or indentureship into a bona apprenticeship program.
  - The Jobs Coordinator shall be the point of contact to provide information about available job opportunities on the project.
  - The Jobs Coordinator shall assist the C/S/Es with their documentation effort and other reports as it relates to their Targeted Worker hiring requirements.