



Employment Training Panel

# Memorandum

To: ETP Policy Committee  
Gretchen Newsom, Chairperson  
Janice Roberts, Member  
Rick Smiles: Member

Date: June 18, 2020

CC: Executive Staff  
Peter Cooper, Assistant Director

From: Lis Testa, Policy Manager

Subject: ETP Policy Committee Meeting Agenda Item 4.d.  
Proposal to Policy Committee Re: Repeat Contractor Rule

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- I. Brief Issue Statement: In 2018, Committee and Panel had many discussions regarding the difficulties of implementing our substantial contribution formula to projects, and, after researching the ways that repeat contractors are handled in the workforce training programs of other states, decided to enact a new Repeat Contractor Rule.

Substantial contribution remains a tool that ETP can use, but the goal of the Repeat Contractor Rule was to provide an alternative way of handling repeat customers in a simpler, more streamlined way.

The initial staff proposal for the Repeat Contractor Rule was to simply require contractors to wait until a full 18 months had passed in their contract terms, and until they had reached a full 75% completion rate on their current contract, before allowing them to submit a pre-app for a second contract.

Stakeholders provided an alternate option where a contractor could have a first, and then immediately a second contract with no waiting period, but must then wait a full year from the contract term end date of their second contract before they could submit a pre-app for a third contract.

After lengthy deliberations over a period of some months, the final version of the Repeat Contractor Rule was approved at the May, 2018 Panel meeting, becoming effective on 7/1/2018.

- II. Current Repeat Contractor Rule:

Substantial Contribution may still be applied, as needed, on a case-by-case basis.

The Repeat Contractor Rule imposes a time limit as follows:

- Contractors may have a first, and then a second contract with no waiting period.
- After the ending contract term date of the second contract, contractors must wait 9 months before submitting a Preliminary Application for a 3<sup>rd</sup> contract.
- Both 1<sup>st</sup> & 2<sup>nd</sup> contract must reach at least a 75% completion rate before a new Pre-App for a 3<sup>rd</sup> contract will be accepted.
  - o If either the 1<sup>st</sup> or 2<sup>nd</sup> contract do not meet the 75% threshold, the following projects will be right-sized accordingly.
- Clock resets with the start of the 3<sup>rd</sup> contract.
- A contractor may earn a maximum of \$2.5 M over the course of four (4) contracts.
- Critical Proposals, Alternately Funded Projects, Small Business Projects, and all MECs (including JATCs) are exempt from the Repeat Contractor Rule
  - o Since MECs are exempt, they must have at least four (4) Participating Employers on their contract.
  - o Anyone desiring an exemption from the Repeat Contractor Rule may request an exemption with ETP Executive Staff.

### III. Analysis:

The Repeat Contractor Rule, as is, ensures high performance while also placing a time limit on when companies can return for additional projects. It allows for an exemption for the majority of our contract holders, applying really only to large Single Employers. The possibility to apply substantial contribution is still available. It also places a funding cap on multiple repeat contractors.

Logistically, this can be difficult for staff to implement. This is due to mostly three reasons:

- Since a contractor can finish their first contract at any point during their 2-year contract term, there is no 'standard' date to use when determining when the waiting period will apply. Each contractor must have this date determined individually.
- Tracking the total earned over the course of four contracts is doable, but cumbersome.
- The bulk of these tracking tasks fall upon AAU, who are already inundated with historically high levels of demand in the number of pre-apps they have in their queue.

Additionally, we have not yet begun seeing companies finishing their second contracts from the time that the Repeat Contractor Rule became effective, and having their waiting periods begin. For example, in the quickest scenario:

- Repeat Contractor Rule became effective 7/1/2018.
- Contract #1 started August 1, 2018. (Assuming contractor finishes contract within 1 year).
- Contract #2 started August 1, 2019.
- Contract #2 ends July 31, 2021 and waiting period begins.
- Contract #3 pre-app can be submitted April 30, 2022.

IV. Potential Options:

Option #1: Do nothing, keeping the Repeat Contractor Rule in place as-is.

Option #2: Remove the Repeat Contractor Rule, reverting back to applying the substantial contribution calculation, which has already proven to be cumbersome.

Option #3: Amend the Repeat Contractor Rule to match staff's initial proposal, namely: require contractors to reach 75% completion and to finish the first 18 months of their full contract terms before submitting a pre-app for a second contract.

Option #4: Amend the Repeat Contractor Rule to require a waiting period of a year after the first contract's full contract term has expired before submitting a pre-app for a second contract. Perhaps a year waiting period, or 9 or 6 months.

Option #5: Not allow repeat contractors unless they are Small Businesses, Critical Proposals, Apprenticeships, or MECs. Large Single Employers will need to wait five (5) years from the end of their contract term before submitting a pre-app for a second contract.

Option #6: Any other option that Committee may like to explore.

V. Recommendation:

Staff would like to know which option Committee prefers. If we need to fine-tune one of the options, we will bring it back to you for a vote in July. If you are happy with one of the proposed options as is, then we request a motion to move that option to full Panel in July for a vote.