



Employment Training Panel

# Memorandum

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

Date: July 16, 2020

CC: Executive Staff  
Peter Cooper, Assistant Director

From: Lis Testa, Policy Manager

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

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- I. Brief Issue Statement: At the May, 2018 Panel meeting, Panel enacted the Repeat Contractor Rule, as an alternative to our substantial contribution requirement. Substantial contribution still remains in effect for possible use, but the new Repeat Contractor Rule addressed companies who return to ETP for funding multiple times by basically imposing a waiting period on additional contracts.

The Repeat Contractor Rule, as it stands now, has been cumbersome for staff to implement, and applies only to large Single Employers, with MECs, Small Businesses, Critical Proposals, and Alternately Funded projects being exempt. Committee expressed interest in reviewing the Repeat Contractor Rule, and at their June, 2020 meeting, moved a revision to the Repeat Contractor Rule to Panel for full consideration.

- 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.

- 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
  - Since MECs are exempt, they must have at least four (4) Participating Employers on their contract.
  - Anyone desiring an exemption from the Repeat Contractor Rule may request an exemption with ETP Executive Staff.

### III. Policy Committee Action:

At the June, 2020 Policy Committee meeting, the Committee heard benefits and drawbacks of the current Repeat Contractor Rule, and were presented with a variety of options for a revision of the Repeat Contractor Rule.

The Policy Committee approved the following revision to the Repeat Contractor Rule to be moved to full Panel for consideration:

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.

Since the Policy Committee meeting, staff has received a large amount of stakeholder feedback on this item, mostly revolving around the absence of any exemptions from the proposed revised Repeat Contractor Rule, and especially the absence of any exemptions for MECs. Additional feedback was obtained on the criteria for the 75% completion requirement.

Staff would like to clarify the 75% completion requirement.

- The 75% completion threshold was part of the original Repeat Contractor Rule, and would be applied the same way if this proposed revision is approved – namely, that those projects that have not reached 75% will be right-sized for their next contract.
- ETP proposals show performance levels in multiple ways: we list the % hours tracked, the actual amount earned, and the potential amount earned (which is dependent upon the number of hours tracked).

- Since the proposed version of the Repeat Contractor Rule still allows contractors to return to ETP for a second contract before their first contract has terminated, we cannot use the actual earned amount to determine a completion percentage, since contract activities, especially retention, on the first contract may still be ongoing.
- Therefore, the 75% completion rate threshold before a pre-app for a second contract can be submitted and as a right-sizing threshold, will be determined using the potential earned amount.

Staff would also like to add an exemption to the Repeat Contractor Rule for MECs and apprenticeship projects. MECs are historically very high performers in their ETP contracts. They also serve as excellent intermediaries to many small businesses, and also help reduce the strain on ETP staff.

#### IV. Recommendation:

Staff would like to know if Committee or stakeholders have any other feedback or desire for more discussion on this item.

Staff would also like approval of the amendment to the Repeat Contractor Rule as follows:

- Contractors must wait until 18 months have passed in their current contract before submitting a Preliminary Application for a second contract.
- If the current contract does not meet 75% completion rate, as determined using the potential earned amount, then the second contract will be right-sized accordingly.
- MECs and apprenticeship projects are exempt from the Repeat Contractor Rule.