



Employment Training Panel
STATE OF CALIFORNIA EMPLOYMENT TRAINING PANEL
POLICY COMMITTEE MEETING
1100 J Street, Sacramento, CA, Sequoia Room
Thursday, August 29, 2024

I. POLICY COMMITTEE MEETING CALL TO ORDER

Chair Gretchen Newsom called the meeting to order at 1:00 p.m.

II. ROLL CALL

Present

Gretchen Newsom
Rick Smiles
Rebecca Bettencourt

Executive Staff

Jessica Grimes, Director
Peter Cooper, Assistant Director
Kumani Armstrong, Assistant Director/Chief Counsel

ETP Representatives

Elisabeth Testa, Policy Manager

III. MEETING AGENDA

No changes to August 29, 2024 Agenda.

ACTION: Mr. Smiles moved and Ms. Bettencourt seconded approval of the August 29, 2024 Meeting Agenda with no changes. All Policy Committee Members present voted in the affirmative.

Motion carried, 3 to 0.

IV. MEETING MINUTES

No changes to June 20, 2024 Meeting Minutes.

ACTION: Mr. Smiles moved and Ms. Bettencourt seconded approval of the June 20, 2024 Meeting Minutes with no changes. All Policy Committee Members present voted in the affirmative.

Motion carried, 3 to 0.

V. POLICY MANAGER REPORT

Nothing this month.

VI. DISCUSSION ITEMS

A. AFFILIATES

During the June 2024 Policy Committee meeting, the Affiliates work group requested stakeholder feedback and suggestions on affiliate participation in Single Employer (SE) contracts via email with a July 19, 2024 deadline. No feedback was received.

The work group identified two areas that needed additional research for discussion: 1) the use of the Group of Employers contractor category for SEs with participating affiliates; and 2) EDD's Unity of Enterprise process as a possible way to determine exactly how 'affiliates' are related to each other, to use and aid in eligibility determinations. Once the research is complete, the work group will bring their results to a future Policy Committee meeting for discussion.

A Group of Employers is a Multiple Employer Contractor (MEC) contractor category where two or more employers combine efforts or form a consortium in order to meet the common training needs of each employer. One issue to consider here is how liability for the contract will be assigned – split somehow between each participating affiliate, or assigned to a primary contract holder who assumes liability for the entire contract.

Unity of Enterprise is a process used by EDD to review the relationship between the parent company and its subsidiaries in order to determine if a horizontal unity of enterprises (HUE) exists. This is done through a questionnaire, which determines if two or more businesses entities are united by factors of Unity of Control, Unity of Operation, or Unity of Use. The work group would like to research this process to see how a company qualifies under each of the three categories.

Public comment was requested on this issue.

Phillip Herrera explained that when looking at affiliates, the question of California Employer Account Number (CEAN) often comes up. Mr. Herrera's customers grow in California through mainly through acquiring additional companies – and when these acquisitions occur, the original CEAN is often kept in place – making the CEAN perhaps not the best way to determine a unique identifier for a company. Mr. Herrera highly recommends that CEAN's not be used to delineate any kind of affiliate relationship.

Panel member feedback

None given.

B. PILOTS AND GUIDELINES

As discussed at the June Policy Committee meeting, ETP is beginning a comprehensive review of our Pilots and Guidelines. For discussion today, we will review the Respond Program and the Certified Safety Training Guidelines.

Respond Program

Respond program (Rapid Employment Strategies Pilot on Natural Disasters) began in 2014 to help businesses severely impacted by a major drought at the time. It began as an alternatively funded program with funds being allocated from the general fund by the legislature to ETP - \$1 million for businesses located within the 24 counties designated by the governor as under a natural disaster for drought. Once the “alternative funds” expired, the program shifted to a Core funded program. In 2020, the program was amended to add pandemics to the definition of natural disaster in order to help with COVID.

Some statistics of past RESPOND projects were highlighted, including data points such as the number of RESPOND contracts awarded each year, their earned amounts, the type of natural disaster they qualified under, if the contracts were alt funded or not, and the Priority Industry status of the contracts.

When considering options for revising this program, ETP could do nothing; could eliminate the program altogether (which we are not recommending); or could change specific elements of the Guideline. Staff is recommending adding a small clarification to the definition of natural disaster. Currently, the Guideline notes that eligibility under the RESPOND program can be determined in two ways: 1) by governor declaring a state of emergency; and 2) by ETP’s executive Director declaring that the applicant has been affected by a natural disaster. ETP would like to add a clarification to the second prong of this definition – that the Executive Director may determine an applicant eligible for RESPOND, when an applicant can demonstrate it has been “*significantly affected*” by a natural disaster.

Public comment was requested on this issue.

Phillip Herrera recommended keeping the program. Keyside Technology was a RESPOND applicant in 2017 for drought, the application was fast-tracked, the Panel allowed for more CBT and more latitude and it was very well received.

Robert Meyer stated that there are an incredible number of agencies waiting to help during a disaster but workforce training becomes a latent benefit. One of the strategies our team is utilizing is to work ahead and look at resiliency strategies and economic benefits for companies. Mr. Meyer’s recommendation is to strengthen the language around the definition of “natural disaster” and the timing for the use of it.

Committee Member Feedback

Comment was made that it was good the definition of natural disaster included things like fire, since it is becoming more and more prevalent. Timing is also very big. The training needs are not always immediate, but sometimes become apparent a year after the disaster, once the company is recovering enough from the natural disaster. Agreement was given that timing is important and further defining the context to significantly affected by natural disaster is needed.

In review of the RESPOND contracts, there were seven that had 0% earnings. Was it something in the guidelines preventing that? Were there any common themes?

Elisabeth Testa replied no, it was spread among the different employer categories. There was one contractor that did get approved by Panel, but they then withdrew before the contract was executed, and this is throwing the numbers off slightly. If we took that one contract out, the earned average would probably be a bit higher, more like 70-75%. Also, please note that the timing issue does not need to be addressed because the current definition of natural disaster will cover this - if a RESPOND applicant is coming in a year later than when the state of emergency as declared by the Governor is over, there is still the option for it to be determined eligible under RESPOND by the executive director – and this option allows for that flexibility in timing that is required.

A question came up as to whether it would be beneficial to extend the contract time to three-years as was done with some of the healthcare and literacy contracts. This would give time for rebuilding and potentially a higher performance.

Currently, ETP's legislation prohibits Core funded contracts longer than 24 months.

Conclusion: consensus is to add to the amendment to change the definition of natural disaster in the RESPOND program to allow greater flexibility to the Executive Director by requiring applicants found eligible in this way to be significantly affected by the natural disaster.

Ms. Testa will revise the Guideline to include the enhanced definition, and will bring the Guideline back to October Policy Committee for approval after which it will go to full Panel for their approval.

More Public Comment:

Barry Menzel asked if the healthcare contracts were four years.

It was stated that they were alternatively funded, so the time constraints were not the same as for Core funded projects.

Certified Safety Training Guidelines

These Guidelines allow us to have OSHA 10 and OSHA 30 courses in our curriculum as well as Hazmat and Hazwoper safety training. ETP's Regulation 4420.5 prohibits general safety training in ETP contracts. The Certified Safety Training Guidelines allow OSHA 10/30, Hazmat, and Hazwoper training because these training courses lead to certifications, and are not considered general safety training.

In reviewing the data on this program, we are using it consistently but it does not make up a huge percentage of the training curriculum in ETP contracts. The guidelines do provide a definition for each type of training, which includes things like the typical hours of training for each type of safety training, what certificates are earned, how refresher courses work, how the instructors have to be certified, where the certifications come from, training ratios, etc. Please note that there is an outdated benefit in the Guideline which will need to be removed – the Guideline currently states that the cap on CBT training is waived, however, there is no cap on CBT training – so this will need to be updated when we revise the Guideline.

Recommendation is to remove the reference to the outdated CBT cap because it is no longer relevant.

Public comment was requested on this issue

Kelly Greer, on behalf of the JATCs notes that safety training is baked into all their curriculum and coursework both in the classroom and in the field. For this reason, we would like Committee to reconsider not enforcing the ban on general safety training for the JATCs. ETP has asked them to remove general safety training from the curriculum when their contracts are developed. They are concerned that auditing and monitoring this is going to be very difficult.

Committee Member Feedback

Our understanding is that yes, general safety training is always incorporated in JATC programs, but that this agenda item is more pertaining to specific courses or classes that would result in a certification of the OSHA 10, OSHA 30 and then the Hazmat and Hazwoper training courses. Additional conversations on general safety training may need to occur.

Elisabeth Testa replied that yes, these certified safety trainings are separate from the general safety training courses. For apprenticeship programs, we only reimburse for the classroom training not the job portion. We do not allow general safety training anywhere; these Guidelines are for certified safety training courses.

It comes back to what do we fund, and what do we not. What is mandated and what is not. Mobile equipment training - maybe that element of safety training we need to think about. It is a grey area that we should probably look at. The Committee asked about the higher 1:40 trainer to trainee ratio.

Ms. Testa explained the OSHA allows the 1:40 ratio for these courses. More clarity on general safety training may need to come back as a separate topic to come back to Policy Committee but is not part of this guideline. The CBT cap will be removed and this will come back to Committee for approval in October, and will then move to Panel for approval.

C. APPLICATION QUALITY

The Application Quality work group provided a status update, stating that the mapping of the application process has been completed. Currently MEC's have a minimum of 117 questions, maximum 205. Single employers require a minimum of 111 questions, maximum of 233. Very few of the fields populate directly into the proposal, although they are heavily used to influence the narrative. The next step is to analyze and review the questions to determine if any can be eliminated, or added to directly populate into the proposal, and to ensure that they are worded in a clear and concise manner.

Public comment was requested on this issue.

Phillip Herrera commented that it's a good time to look at application quality because those in the California Legislature believe that could be better. Mr. Herrera's recommendation is to eliminate the first come first serve model, as he believes it could work better another way, especially since this approach has proven unsustainable, since ETP is oversubscribed. Mr.

Herrera believes that GoBiz has a template that could be followed. With the likely passage of SB-1321 ETP will be required to look at the application process with new adopted criteria. Reducing the number of Panel meetings to four per year, with one dedicated to apprenticeships and the other three to other kinds of applications, would give staff the flexibility to bring a more thoughtful Panel packet and prioritize applications.

Kelly Greer agreed with Mr. Herrera. Ms. Greer would caution that a more formal application would make it more difficult for companies to do on their own.

Panel Member Feedback

No comments

VII. ACTION ITEMS

None this month.

VIII. OPPORTUNITY FOR POLICY COMMITTEE MEMBERS TO REQUEST AGENDA ITEMS FOR FUTURE PANEL MEETINGS

No comments

IX. PUBLIC COMMENT ON MATTERS NOT ON THE AGENDA

Tariq Scott discussed challenges in meeting the contract instructor ratio, as well as wet signatures, saying that many contractors, especially MECs, need a larger ratio than allowed, and that the wet signature requirement for rosters is especially burdensome.

Kelly Greer commented that general safety training is a tricky fit and maybe a future meeting regarding this and the instructor ratio can be planned.

X. MEETING ADJOURNMENT

Chair Newsom adjourned the meeting at 2:05 p.m.