

WAC 296-140-004 Application, records and documentation, and certification for Category 1 and Category 2 clean energy projects under RCW 82.08.962 and 82.12.962. (1) For Category 1 and Category 2 clean energy projects under RCW 82.08.962 and 82.12.962, businesses applying for department certification must complete an application in a form required by the department prior to the start of the project.

(2) Businesses must maintain records and documentation open to review to verify compliance with the labor standards or the good faith efforts. Records and documentation include, but are not limited to:

(a) Standard for procurement from and contract dollars with women, minority, or veteran-owned businesses:

(i) A list of all businesses that have had contracts on the project, including information about their certifications for the women-owned businesses, minority-owned businesses, or veteran-owned businesses that have been contracted with on the project, including:

(A) A description of the work of the contract;

(B) The dollar amount of the contract and the total dollar amount paid to the contractor;

(ii) Written confirmation from each women-owned business, minority-owned business, or veteran-owned business that it is participating in the contract;

(iii) A copy of the plan to meet the standards or good faith efforts developed in consultation with OMWBE and DVA;

(iv) A copy of OMWBE's or DVA's review to determine compliance with the good faith efforts in the plan if the standard was not met;

(v) Documentation and evidence to support good faith efforts as necessary as requested by OMWBE, DVA, or the department; and

(vi) Other records and documentation requested by the department, OMWBE, or DVA.

(b) Standard for procurement from and contracts with entities that have a history of complying with federal and state wage and hour laws and regulations.

(i) A list of all the businesses contracted with, including the unified business identifier number, the federal employer identification number, other identifying information requested by the department, and information obtained concerning their federal and state wage and hour laws and regulations compliance history;

(ii) A copy of documents related to the contract invitation or bid such as the contract solicitation, bid request, or request for proposal; a copy of the responding bids, proposals, or offer; and a copy of any final contracts and amendments;

(iii) A description of the process used to determine prospective contractors' compliance with federal and state wage and hour laws and regulations;

(iv) Documentation and evidence to support good faith efforts as necessary; and

(v) Other records and documentation requested by the department.

(c) Standard for apprenticeship utilization.

(i) The name, occupational title, and registration number for each registered apprentice;

(ii) The number of apprentices and labor hours worked, categorized by occupational title and employer;

(iii) The number of journey level workers and labor hours worked, categorized by occupational title and employer;

(iv) Copies of weekly or monthly reporting forms and payroll records used to capture the required information;

(v) A statement affirming the hours reported meeting the definition of "labor hours" as defined by WAC 296-140-001;

(vi) Documentation and evidence to support good faith efforts as necessary; and

(vii) Other records and documentation requested by the department.

(d) Standard for preferred entry by local workers.

(i) The total number of workers performing labor hours on the project;

(ii) The total number of workers performing labor hours hired who meet the definition of a local worker under WAC 296-140-001 for the job category selected;

(iii) Employment records that contain the address of individuals hired to work on the project;

(iv) Documentation and evidence to support good faith efforts as necessary; and

(v) Other records and documentation requested by the department.

(e) Standard for payment of prevailing wages.

(i) Documentation showing all workers performing labor hours on the project were paid not less than chapter 39.12 RCW prevailing rates of wage; and

(ii) Payroll records. For projects that are also public works, labor and industries public work reporting online system for the project will eliminate the need to maintain documents and is acceptable as the system of record.

(f) Records and documents for a standard PLA or CWA. A signed copy of the PLA or CWA for the project.

(3) The department may require periodic reporting of compliance in a form and method prescribed by the department. Where a project seeking certification under this rule is also a public works project, public works reporting requirements may satisfy reporting requirements.

(4) For Category 1 clean energy projects seeking certification for the 50 and 75 percent tax remittance and Category 2 clean energy projects seeking certification for the 50 percent tax remittance, businesses must submit notice of project completion in a form required by the department. After receiving the notice of competition, the department will determine if the certification standards are met based on a review of the documentation as requested by the department. If the standards were met, the department will issue the certification to the applicant.

(5) For Category 1 clean energy projects seeking certification for the 100 percent tax remittance, the department will issue certification upon the receipt of the required application for certification and a signed copy of the PLA or CWA for the project. In the event there are separate PLAs or CWAs for different phases of construction, all PLAs and CWAs for the project must be submitted to the department before the start of each phase and the department will not certify the project until the PLAs or CWAs for the construction and installation of the energy producing equipment have all been signed.

[Statutory Authority: RCW 82.08.962, 82.12.962, 89.82.070, and 89.90.060. WSR 23-11-125, § 296-140-004, filed 5/23/23, effective 6/23/23. Statutory Authority: RCW 82.08.962 and 82.12.962. WSR 21-21-043, § 296-140-004, filed 10/13/21, effective 11/13/21.]