



## WASHINGTON STATE APPRENTICESHIP AND TRAINING COUNCIL

### ADMINISTRATIVE POLICY

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**TITLE:** Responsible bidder status for public works: Decisions against training agent for violating ratio, supervision and/or approved work process requirements

**NUMBER:** 2011-01

**ISSUED:** 04/21/2011

**CHAPTER:** RCW 39.04.350 and RCW 39.12.055

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#### ADMINISTRATIVE POLICY DISCLAIMER

This policy is designed to provide general information in regard to the current position of the Department of Labor & Industries on the subject matter covered. This policy is intended as a guide in the interpretation and application of the relevant statutes, regulations, and policies, and may not be applicable to all situations. This policy does not replace applicable RCW or WAC standards. If additional clarification is required, the Program Manager for Apprenticeship should be consulted.

This document is effective as of the date of print and supersedes all previous interpretations and guidelines. Changes may occur after the date of print due to subsequent legislation, administrative rule, or judicial proceedings. The user is encouraged to notify the Program Manager to provide or receive updated information. This document will remain in effect until rescinded, modified, or withdrawn by the Washington State Apprenticeship and Training Council.

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#### **Decisions against training agent for violating ratio, supervision and/or approved work process requirements:**

Based on a complaint, compliance review, or other reason, the supervisor may investigate, in accordance with the rules in this chapter, whether a training agent is in compliance with the program standards relating to the ratio, supervision, or approved work processes requirements for purposes of responsible bidder status for public works under RCW 39.04.350(1)(e), or for purposes of prohibitions on bidding on public works contracts under RCW 39.12.055(3).

(1) The supervisor shall notify the training agent and the program sponsor that an investigation has commenced.

(2) The supervisor shall prepare a report identifying the results of the investigation. If the results indicate that the training agent is not operating as required by the program

standards, the supervisor will notify the training agent and program sponsor in writing of the results, with a copy of the report to the WSATC. Additionally:

(a) The supervisor will make a reasonable effort to secure compliance on the part of the training agent by requiring the training agent to submit to the supervisor a proposed corrective action plan identifying remedial steps to be taken within 30, 60, and 90 days of implementation of the corrective action plan. The supervisor shall review the proposed corrective action plan and approve it, or work with the training agent to modify it, before its implementation. The program sponsor shall assist the training agent in developing a proposed corrective action plan and shall assist the supervisor in monitoring the training agent's compliance with the terms of the approved corrective action plan.

(b) If the training agent fails to comply with the approved corrective action plan as described in subsection (2)(a) above or is found by the supervisor to have not operated as required by the program standards as a result of an additional inspection within one year of the initial inspection, the supervisor shall impose a corrective action plan identifying steps of the supervisor's choosing that must be taken by the training agent within 30, 60, and 90 days. The program sponsor shall assist the supervisor in monitoring the training agent's compliance with the terms of the corrective action plan imposed by the supervisor.

(c) If the supervisor is unable to obtain compliance from the training agent under subsections (2)(a) and (b) above, or if a third investigation within two years of the initial inspection reveals the training agent is not operating as required by the program standards, the supervisor shall refer the matter to the WSATC for action.

(3) The WSATC will take action upon the supervisor's referral under subsection (2)(c) above at its next regularly scheduled quarterly meeting. After a hearing conducted according to WAC 296-05-007, except as otherwise provided herein, the WSATC will decide by a majority vote of the members present whether to issue a determination under RCW 39.04.350(1)(e) and RCW 39.12.055(3) that the training agent is out of compliance with program standards relating to the ratio, supervision, or approved work processes requirements.

(4) A determination by the WSATC that a training agent is out of compliance with program standards relating to the ratio, supervision, or approved work processes requirements shall be stated in writing, along with the reasons supporting it, and shall be served upon the training agent, program sponsor, and supervisor as provided by RCW 34.05.010(19). Judicial review of the WSATC's written decision under this section shall be as provided in chapter 34.05 RCW.

(5) The supervisor shall place WSATC determinations under this section on file for public review. The supervisor shall maintain a list of all training agents who, as a result of a determination they are out of compliance pursuant to RCW 39.04.350(1)(e) and RCW 39.12.055(3), are ineligible to bid on a public works contract, or to have a bid accepted. The supervisor shall make the list available to the public upon request.