

Contractors Guidance on
NRS 338.01165
Apprenticeship Utilization Act
(AUA)

Apprenticeship Utilization Act (NRS 338.01165)



Added to Nevada law in 2019



Regulates and Requires the use of apprentices on Public Works Projects in Nevada



Contractors performing work on public works projects must employ apprentices for a minimum number of hours, depending on the type of construction of the overall project

AUA: Who, What, Where, When, Why

Who	Contractors and Subcontractors
What	Employ apprentices for a minimum percentage of total hours worked
Where	On Public Works Projects in Nevada
When	Annually: Not subject to penalties if annual hours are below: 400 hours of vertical construction or 800 hours of horizontal construction performed in an apprenticeable craft (NRS 338.01165(12)(b))
Why	A skilled workforce in construction is essential to the economic well-being of Nevada (NRS 338.0116)

Apprentice hours required when contractors perform work on public work project

AUA

Minimum required hours are based on a percentage of total hours worked

Requirement is for apprenticeable crafts in the jurisdiction

Vertical Construction = 10% of apprentice hours required

Horizontal Construction = 3% of apprentice hours required

Same?

Who Qualifies as an Apprentice

Individuals enrolled in a Registered Apprenticeship Program; and

In the appropriate craft or type of work

“Contractors and Subcontractors”

“Contractor” means:

(a) A person who is licensed pursuant to the provisions of chapter 624 of NRS.

(b) A design-build team.
NRS 338.010(4)

“Subcontractor” means a person who:

(a) Is licensed pursuant to the provisions of chapter 624 of NRS or performs such work that the person is not required to be licensed pursuant to chapter 624 of NRS; and

(b) Contracts with a contractor, another subcontractor or a supplier to provide labor, materials or services for a construction project.
NRS 338.010(23)

“Apprentice, Apprenticed Craft, & Apprenticeship Program”

“Apprentice” means a person employed and individually registered in a registered apprenticeship program with:

1. The Bureau of Apprenticeship and Training of the Office of Apprenticeship, Training, Employer and Labor Services of the Employment and Training Administration of the United States Department of Labor or its successor; and

2. The State Apprenticeship Council pursuant to chapter 610 of NRS and any regulations adopted pursuant thereto.

NRS 338.01165(17)(a)

“Apprenticed craft or type of work” means a craft or type of work for which there is an existing apprenticeship program recognized by the State Apprenticeship Council.

“Apprenticeship program” means an apprenticeship program recognized by the State Apprenticeship Council

NRS 338.01165(17)(b)&(c)

“Horizontal vs. Vertical Construction”

“Horizontal Construction” means any construction, alteration, repair, renovation, demolition or remodeling necessary to complete a public work, including, without limitation, any irrigation, drainage, water supply, flood control, harbor, railroad, highway, tunnel, airport or airway, sewer, sewage disposal plant or water treatment facility and any ancillary vertical components thereof, bridge, inland waterway, pipeline for the transmission of petroleum or any other liquid or gaseous substance, pier, and any other work incidental thereto. The term does not include vertical construction, the construction of any terminal or other building of an airport or airway, or the construction of any other building. NRS 338.010(14)

“Vertical Construction” means any construction, alteration, repair, renovation, demolition or remodeling necessary to complete a public work for any building, structure or other improvement that is predominantly vertical, including, without limitation, a building, structure or improvement for the support, shelter and enclosure of persons, animals, chattels or movable property of any kind, and any other work or improvement appurtenant thereto NRS 338.010(25)

NRS 338.01165-Apprentice Utilization Act

- Utilization:

- Vertical Construction-10% annual utilization
- Horizontal Construction-3% annual utilization

**Horizontal & Vertical are defined by the overall project, not the individual work done by the contractor

- Apprentice requests must be submitted on the form prescribed by the Labor Commissioner (Form is located on our website)
- Requests sent directly to the Registered Apprenticeship Program (RAP)
 - Not more than 30 days before work (*change made through AB502*)
 - Not more than 5 days after commencing work
 - If your request is denied or unanswered, request again every 30 days while working on the project

- Annual AUA Report:

- Submit by using the portal found on our website (Link & Instructions will only be available between January 1st and February 15th each year)
- If you did not meet the utilization goal, submit all supporting evidence to show a good-faith effort was made
 - Copies of the requests (with emails)
 - Copies of denials (with emails)
 - Evidence of nonresponse, or no shows

***There are no longer project-specific waivers. A contractor or subcontractor must show a good-faith effort to utilize apprentices annually pursuant to NRS 338.01165(7). Your supporting documentation serves as the waiver if it is shown to comply with subsection (7).*

Request!, Utilize!, Report!

Request for Apprentice Availability on a Public Works Project

Form & list of current Registered Apprenticeship Programs can be found at:

https://labor.nv.gov/Apprenticeship_Utilization_Act/apprenticeship-utilization-act/

Office of the Labor Commissioner
1818 College Parkway, Suite 102
Carson City, Nevada 89706
Phone: (775) 684-1890
Fax: (775) 687-6409
E-Mail: AUA@labor.nv.gov

STATE OF NEVADA Office of the Labor Commissioner

Office of the Labor Commissioner
3340 West Sahara Avenue
Las Vegas, Nevada 89102
Phone: (702) 486-2650
Fax: (702) 486-2660
E-Mail: AUA@labor.nv.gov

REQUEST FOR APPRENTICE AVAILABILITY ON A PUBLIC WORKS PROJECT

NRS 338.01163, Senate Bill 207 from the 80th, 2019, Legislative Session, and Senate Bill 82 from the 82nd, 2023, Legislative Session, require contractors and subcontractors to employ apprentices on Public Works Projects in Nevada. In passing SB 207, The Legislature hereby finds and declares that (1) a skilled workforce in construction is essential to the economic well-being of the State, (2) apprenticeship programs are a proven method of training a skilled workforce in construction, and (3) requiring the use of apprentices on the construction of public works will ensure the availability of a skilled workforce in construction in the future for this State.
<https://www.leg.state.nv.us/App/NEUS/REL/80th2019/Bill/6331/Text>
<https://www.leg.state.nv.us/App/NEUS/REL/82nd2023/Bill/9667/Text>

You may use this form to request an apprentice or determine availability of an apprentice from a Registered Apprenticeship Program in the applicable craft or trade in the area of the Public Works Project. For information about Registered Apprenticeship Programs in your area and registered apprentices, please visit www.labor.nv.gov or the Nevada State Apprenticeship Council at https://labor.nv.gov/Wages/Nevada_State_Apprenticeship_Council/. For information in regard to ratio of apprentices to journeyman workers, refer to NAC 610.438 and/or contact the Registered Apprenticeship Programs.

Requests for dispatch of apprentices must be in writing and submitted (and received) no more than thirty (30) days prior to the contractor or subcontractor's commencement of work on a Public Works Project, and no more than five (5) days after a contractor or subcontractor commences work on a Public Works Project. Requests must be in writing via email, first class mail, or fax. Proof of submission (and receipt): Retain records and documentation of requests, unavailability, denials, evidence of no response, or no show. Please refer to Chapter 610 of the Nevada Revised Statutes and Nevada Administrative Code Chapter 610 for the laws and regulations governing Registered Apprenticeship Programs and Registered Apprentices.

Request Submitted To: Date Request Submitted:

Name of Registered Apprenticeship Program:

Contact Person/Title:

Address: City: State: Zip Code:

Tel No.: Fax No.: Email:

Craft or Trade:

Requestor Information:

Contractor/Subcontractor: License Number:

Contact Person/Title:

Address: City: State: Zip Code:

Tel No.: Fax No.: Email:

Availability Request Information:

Number of Apprentice(s) Required: Craft or Trade (see below):

Apprentice(s) Report Date: Report Time: :

Name of Person to Report to: Telephone No.:

Address to Report to: City: State: Zip Code:

Additional Details:

Note: apprentice Craft occupations can be found at www.labor.nv.gov, AUA, Registered Apprenticeship Programs, and Trade and type of work information can be found at www.labor.nv.gov, Prevailing Wage.

List of Current Registered Apprenticeship Programs

IF an apprentice is not available
→ , a contractor signatory to
CBAs with a union that sponsors
an apprenticeship that is not
longer than 3 years can use
graduates of the program within
36 months of graduation to
count towards the
apprenticeship requirement
NRS 338.01165(5)

Current Registered Apprenticeship Programs (RAPs)

CRAFT	O*NET CODE	REGION	PROGRAM	CONTACT INFORMATION
Air Balance Technician				
Sheet Metal Worker	47-2211.00	Clark, Lincoln, Nye, White Pine, Esmeralda	Sheet Metal Local 88 JATC - NV001640002	Training Director: Charles D Wright CWright@sm88jatc.org Contact: Graviela "Gabby" Garcia - ggarcia@sm88jatc.org 2540 Marco Street Las Vegas, NV 89115 702-632-3014
Sheet Metal Worker	47-2211.00	Washoe, Carson, Churchill, Douglas, Elko, Eureka, Humboldt, Lander, Lyon, Mineral, Northern Nye, Pershing, Storey	Sheet Metal Local 26 JATC - NV002650001	Coordinator: Benny Wilson - bwilson@smart26jatc.org Assistant: Brooke Noel - bnoel@smart26jatc.org Applicants send email to: info@smart26jatc.org or https://nnsnmhvactraining.org/apply/ 1237 Gator Way Sparks, NV 89431 775-331-6393
Alarm Installer				
NO Registered Apprenticeship Program Available				
Boilermaker				
NO Registered Apprenticeship Program Available				
Bricklayer				
Bricklayer	47-2021.00	Clark, Washoe, Northern Nye, Hawthorne, Lyon, Churchill, Carson City, Pershing Humboldt, Lander, Eureka, White Pine, Douglas	Bricklayers and Tile Setters Local 13 – Nevada Brick and Tile JATC-NV003030015	Coordinator: Christopher (Chris) Rayos – creyos@bacjatc.org Assistant: Yanett Cisneros – ycisneros@bacjatc.org Southern Nevada Training Center 3900 Quail Ave., Suite 100 Las Vegas, NV 89118 702-876-6563 or 702-873-0332 Contact North: Charlie Zemp – czemp@mwbac.org Northern Nevada Training Center 9475 Double R Blvd., Suite 6 Reno, NV 89521 775-323-5451
Carpenter				
Carpenter	47-2031.01	Clark	ABC NV Chapter-Las Vegas (S)-Clark NV003910002	Director: Kara Arenas - kara@abcnevada.org Assistant: Diane Rodriguez - admin@abcnevada.org 5070 Arville St., Suite 4 Las Vegas, NV 89118 702-227-0536

Contact NevadaSAC@labor.nv.gov with updates

Page 1 of 15

https://labor.nv.gov/Apprenticeship_Utilization_Act/apprenticeship-utilization-act/

Project Specific Apprentice Agreement

NRS 338.01165(16)A contractor or subcontractor who is not a signatory to a collective bargaining agreement with the union sponsoring the apprenticeship program for an apprenticed craft or type of work engaged on a public work shall enter into an apprenticeship agreement for each apprentice required to be used in the construction of a public work.

APPRENTICE AGREEMENT

(SINGLE PUBLIC WORKS PROJECT ONLY)

The Employer referenced below has been awarded a bid on the below-listed Public Works Project and is not signatory to a Collective Bargaining Agreement with any labor union or labor organization within the geographic area for which the Employer will be performing work. Nothing in this Apprenticeship Agreement ("Agreement") shall be construed in any way whatsoever as binding the Employer to any Collective Bargaining Agreement.

The below-listed Public Works Project meets the specifications of Senate Bill 207 of the 2019 Nevada Legislative Session and Senate Bill 82 of the 2023 Nevada Legislative Session ("Statute"), which requires employment of Apprentices in Public Works. The Employer is not a sponsor of an Apprenticeship Program covering the applicable trade or craft in the State of Nevada. The Employer requests the dispatch of Mr./Ms. _____, a registered Apprentice in the _____ ("Registered Apprenticeship Program"), whose Apprentice number is _____ ("Apprentice"), to the Employer for purposes of completing the below-listed Public Works Project.

Name of Employer: _____

Employer's Address: _____

Nevada State Contractors

Board License Number: _____

Telephone Number: _____

Fax No.: _____ Email: _____

This Agreement applies *only* to the following Public Works Project:

Name of Project: _____

Project Address: _____

General Contractor: _____

Owner: _____

Starting Date: _____

Duration: _____

The Employer agrees as follows:

(1) The Employer agrees to employ the Apprentice on the Public Works Project and provide the Apprentice supervised experience and training by a qualified Journeyworker on-the-job. The provisions of Nevada law governing Apprentices, including the Statute, and the Apprenticeship Standards for the

This is not an official or approved form of the Office of the Labor Commissioner. The Office of the Labor Commissioner does not have jurisdiction over the approval, registration, standards, or agreements governing Registered Apprenticeship Programs or Registered Apprentices pursuant to Nevada Revised Statutes section 610 and Nevada Administrative Code section 610.

NRS 338.01165(7)-AUA

Good Faith Effort

Request Apprentices

- Not earlier than 30 days before the contractor or subcontractor is scheduled to begin work
- Not more than 5 days after the contractor or subcontractor begins work

Additional Requests (if request is denied or unanswered)

- Request at least once every 30 days during the period the contractor or subcontractor is working on the project

Non-Continuous Work

- Request not earlier than 30 days before the contractor or subcontractor resumes work
- Not more than 5 days after the contractor or subcontractor resumes work

Records to Keep to Show a “Good Faith Effort”

- Documentation:

- Apprentice requests made
- Emails sent with requests
- Documentation of no-shows, walk-offs, or any other reason for non-use of a dispatched apprentice

- Organization:

- Keep all documents organized by Project and by craft by calendar year.

Helpful Suggestions for Supporting Documentation

- Keep track of all public works projects you worked on:
 - Start Dates
 - End Dates
- Organize your apprentice requests by Project, construction type (vertical/horizontal), then by craft
 - Keep all emails sent with your requests

*This helps the OLC when auditing your AUA Report and supporting documents to see, i.e., “Project A” was six months long, was the first request made within 30 days before or 5 days after starting? If denied, did they request 6 times in total?

NRS 338.01165(10) WHAT YOU ARE REPORTING

- Hours worked on public works projects (in Nevada) each calendar year by:
 - Type of Construction (Vertical/Horizontal)
 - Region worked in (Clark, Southern Rural, Washoe, Northern Rural)
 - For each Apprenticed Craft or type of work:
 - The total number of hours worked on vertical construction
 - The total number of hours worked by apprentices on vertical construction
 - The percentage of the total number of hours worked on vertical construction that were worked by apprentices
 - The total number of hours worked on horizontal construction
 - The total number of hours worked by apprentices on horizontal construction.
 - The percentage of the total number of hours worked on horizontal construction that were worked by apprentices.

For Example:

Laborer:

Vertical Construction/Clark

2,600 Laborer Hours

200 Laborer Apprentice Hours

Total Hours for Laborer in
Vertical Construction: 2,800

$2,800/200$

Utilization: 7.14%

AUA Non-Compliance Investigation Process

What the OLC Looks for During Review of the AUA Report

Contractor A had zero apprentice hours in the Laborer craft in Vertical Construction:

- How many projects were they on?
- What were the start/end dates of those projects?
- How many requests were made for each project?
- Project A: 6 months=6 requests
- Project B: 3 months = 3 requests
- Project C: 2 weeks=1 request

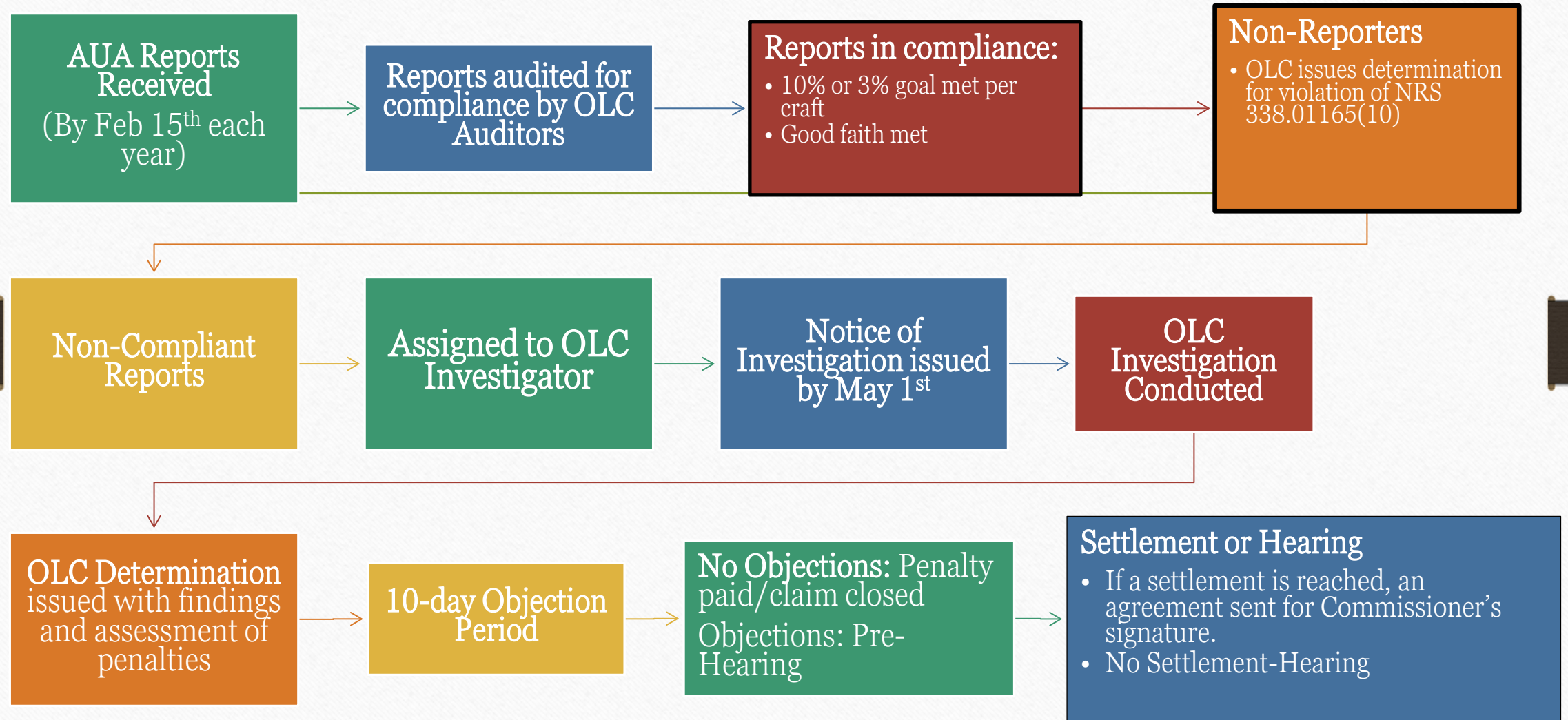
* Contractor A has shown a good faith effort pursuant to NRS 338.01165(7), and would be in compliance with NRS 338.01165(1).

Contractor B had zero apprentice hours in the Laborer craft in Horizontal Construction:

- How many projects were they on?
- What were the start/end dates of those projects?
- How many requests were made for each project?
- Project A: 6 months=2 requests
- Project B: 3 months = 0 requests
- Project C: 2 weeks = 0 requests

* Contractor B has NOT shown a good faith effort pursuant to NRS 338.01165(7) and would be in violation of NRS 338.01165(2) without supporting evidence.

AUA Audit Process



AUA Penalties:

Failure to Submit Report-NRS 338.01165(14)

- \$10,000 to \$75,000 Penalty; OR
- Disqualification from 180 Days to 2 Years

Penalty Structure is Based on Severity of Apprentice Hour Deficiency-NRS 338.01165(12)

- 7.5%-9.99% for Vertical Construction or 2%-2.99% for Horizontal Construction
 - \$2 per deficient hour or \$2,500
 - Whichever is More
- 4%-7.49% for Vertical Construction or 1%-1.99% for Horizontal Construction
 - \$4 per deficient hour or \$3,000
 - Whichever is More
- 0%-3.99% for Vertical Construction or 0%-0.99% for Horizontal Construction
 - \$6 per deficient hour or \$5,000
 - Whichever is More

AUA Penalties & Administrative Penalties:

Investigations for AUA violations will result in OLC Determinations

- Same objection rights and procedure under NRS & NAC 338 (Objection period 10 days)
- Same Hearing procedure after objection
- Same Petition for Judicial Review and Appeal to District Court

Administrative Penalty up to \$5,000 for violations of NRS 338.010—NRS 338.130

Disqualification pursuant to NRS 338.017 if NRS 338.015 Administrative Penalty imposed

Questions



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