

NRS 338.01165 (AUA) Compliance-Frequently Asked Questions

1. Do I have to request an apprentice on every project?

The law allows an annual utilization of 10% on vertical construction and 3% on horizontal construction. It is ultimately at the contractor/subcontractor's discretion when to utilize apprentices. However, if the required annual percentage is not met, the contractor or subcontractor must demonstrate a good-faith effort (GFE) pursuant to NRS 338.01165(7).

When the OLC assesses whether a GFE was established, we will consider how many projects were undertaken, how often requests were made, and whether the supporting documentation meets the definition of a GFE in NRS 338.01165(7).

2. What if the Registered Apprenticeship Program (RAP) doesn't respond?

Keep your email and the original request sent, and if you are on the project for at least 30 additional days, you will need to request again. NRS 338.01165(7) states that if an apprentice is not available when requested, additional requests should be made every 30 days for the time the work is performed on the project.

3. What if I am on the project for a short period of time? Or asked to be on a project the night before?

The law does not provide an exception or waiver for these situations. It is recommended that you submit the request and note the special circumstances. The request will most likely be denied or go unanswered, as the project does not provide adequate time to train an apprentice, but you will have documentation showing that a GFE was made.

If you choose not to request, keep notes on why, so if you do not meet the % requirement by the end of the year, you can submit this information with your supporting documentation.

***Please always consider the definition of good-faith effort pursuant to NRS 338.01165(7) when deciding whether to request.

4. What if I am on the project sporadically?

If the type of work performed requires you to be on the project sporadically, NRS 338.01165(7) states that, to show a GFE, you shall request an apprentice no earlier than 30 days before or 5 days after the work resumes.

5. What if we are only on the project for a couple of hours in the morning and a couple of hours in the afternoon?

The law does not provide an exception or waiver for these situations. It is recommended that you submit the request and note the special circumstances. The request will most likely be denied or go unanswered, as the project does not provide adequate time to train an apprentice, but you will have documentation showing that a GFE was made.

If you choose not to request, keep notes on why, so if you do not meet the % requirement by the end of the year, you can submit this information with your supporting documentation.

***Please always consider the definition of good-faith effort pursuant to NRS 338.01165(7) when deciding whether to request.

6. How do I know which apprentice to use?

Apprentices are utilized by craft. So, if you have Laborers and Operators on the project, you will need to request a Laborer apprentice and an Operator apprentice. The list of RAPs on our website provides contact information, broken down by craft, for all programs available in Nevada. [Current Apprenticeship Programs](#)

7. Do I have to do this if I am a Union Member or Non-Union Member?

NRS 338.01165 has no exceptions for non-union or union contractors. Pursuant to NRS 338.01165(1)&(2), **any** contractor or subcontractor engaged in vertical construction who employs workers on one or more public works during a calendar year pursuant to [NRS 338.040](#) shall use one or more apprentices for at least 10 percent (vertical)/ 3 percent

(horizontal), or any increased percentage established pursuant to subsection 3, of the total hours of labor worked for each apprenticed craft or type of work to be performed on those public works.

8. What if we don't have an apprenticeship program?

A contractor or subcontractor is not required to have their own apprenticeship program. Apprentices should be requested from a Registered Apprenticeship Program in the State of Nevada. The list of RAPs on our website provides contact information, broken down by craft, for all programs available in Nevada. [Current Apprenticeship Programs](#)

9. What if we have our own apprentices/helpers?

Pursuant to NRS 338.01165(17)(a), Apprentice means a person enrolled in an apprenticeship program recognized by the State Apprenticeship Council. To qualify as an apprentice, the apprentice must be in a recognized program. A company determined apprentice or helper would not satisfy the requirements of NRS 338.01165.

If you have registered apprentices pursuant to NRS 338.01165(17)(a) on staff, you can utilize them on your public works projects to count towards your utilization hours. If you are certain you will meet the utilization goal with staff already working for you, you would not need to request apprentices pursuant to subsection 7.

**** Please make sure to always consider the definition of good-faith effort pursuant to NRS 338.01165(7) when deciding whether to request.**

10. What if the apprentice shows up unable to perform the work/causes safety concerns?

If an apprentice is dispatched to the job site and there is a concern for safety, for example, they don't have PPE gear, and you send them home, you will need to make sure to document what happened, when it happened, and contact the RAP that dispatched the apprentice to notify them of what occurred. If you do not meet the annual utilization requirements, submit any documentation you have to support a GFE.

11. What if the Project we are working on requires background checks?

The law does not make an exception for this. A contractor or subcontractor can request an apprentice up to 30 days before starting a project. It is recommended that if you have a project that requires a background check, you work with the RAP as soon as possible to request an apprentice. When submitting your request, under "Additional Information," note that the project requires background checks.

12. Where do I report my hours?

Beginning January 1st every calendar year, there will be a link to the AUA Reporting Portal on our website at <https://labor.nv.gov/>. The reporting portal is available between January 1st and February 15th. The portal opens on January 1st and closes at 11:59 pm on February 15th each calendar year. Outside of this time, the reporting portal is unavailable, and late reports will NOT be accepted.

13. What if I don't have more than three of the same craft?

The project-specific requirements that require more than three of the same craft workers on a project before utilization no longer apply. Apprentices are required to be utilized on all projects bid after January 1, 2024.

14. What if the work I have has a manufacturer's warranty that requires a certified installer?

If the contract documents require certification to perform the work, you would need to provide this documentation when you submit your AUA Report as supporting evidence of a GFE. For example, if you are installing a piece of equipment for which the manufacturer's warranty requires an installer's certificate for the installer, you can submit it with your AUA Report to explain why you were unable to meet the threshold.

*****This would ONLY apply if the manufacturer's warranty requires a certified installer. This does not mean that because you feel the work is specialized, an apprentice can't be utilized.**

NRS 338.0116 Legislative findings and declarations. The Legislature hereby finds and declares that:

1. A skilled workforce in construction is essential to the economic well-being of this 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 construction workforce in the future for this State.

15. What do horizontal and vertical construction mean?

Vertical and Horizontal construction are defined in NRS 338.010. When determining the type of construction you are working on, consider the overall project, not just the work you are performing.

For example, if the project is a new school being built (vertical construction), and you are doing landscaping for that school, the hours you would report for that project would be vertical hours.

NRS 338.010:

14. "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.

25. "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.

16. Does the apprentice have to be paid the prevailing wage?/Where do I find out how much the apprentice should get paid?

Pursuant to NRS 338.080, the provisions of NRS 338.010 to 338.090, inclusive, do not apply to apprentices. When an apprentice is dispatched to you, the RAP will provide you with the apprentice's hourly rate of pay based on the apprentice's program completion percentage.

17. What if I don't meet the 400/800 hours? Do I still report?

Yes! NRS 338.01165(10) requires **any** contractor or subcontractor that employs a worker on one or more public works pursuant to NRS 338.040 to report the total number of hours worked for each apprenticed craft or type of work, **and** the total number of hours worked by apprentices for each craft or type of work.

18. What if I didn't use apprentices? Do I still report?

Yes! NRS 338.01165(10) requires **any** contractor or subcontractor that employs a worker on one or more public works pursuant to NRS 338.040 to report the total number of hours worked for each apprenticed craft or type of work, **and** the total number of hours worked by apprentices for each craft or type of work.

19. Why am I being penalized for the first 400/800 hours?

NRS 338.01165(12)(b) states that the Labor Commissioner shall not assess a penalty if you did not meet the 400/800 hours in vertical/horizontal construction. The clock does not start once you hit 400/800; it starts at hour one.

For example, if you have 420 hours in the Carpenter craft in vertical construction, you would be required to have utilized 10% of that, or 42 apprentice hours.

20. I didn't get confirmation of my submission of the AUA report. How do I know you got it?

When you click “Submit,” a pop-up will appear on your computer screen confirming your report number. It is important to write down the number before closing the window. Your AUA report number “AUA-YR-000xxx” will look something like this: AUA-27-000321 **If you do not see a pop-up window with an AUA report number, do not assume we received your submission. The AUA report number is proof of submission. Please contact us at AUA@Labor.nv.gov for questions.

21. Do I submit all my requests that I made throughout the year if I met the utilization goal?

No. If you met the 10% vertical utilization goal or the 3% horizontal utilization goal, you do not need to submit your supporting evidence with your AUA report. If the OLC has questions or needs additional information, an investigator will contact you prior to May 1st.

22. What happens if I didn’t meet the utilization requirement?

If you did not meet the utilization requirement, you will want to submit all supporting evidence demonstrating that you made a GFE pursuant to NRS 338.01165(7). Your AUA report will be reviewed by our office. If we are unable to determine whether a GFE was made, we will initiate an investigation, and you will receive a Notice of Investigation on or before May 1st.

23. I submitted my report, but I have never heard from you. Why?

If a report is submitted to our office and, after review, is found to be in compliance with NRS 338.01165(1) or (2), it will be closed, and no further action will be taken. You can always email us at AUA@labor.nv.gov and ask for the status of your report. When doing so, please provide your AUA Report #.

For additional questions, please feel free to email us at AUA@Labor.nv.gov.

Office of the Labor Commissioner
Public Works Compliance Division