

Public Works

Contractor Workshop

2024



Kim Deyo, Supervisor

Custom Construction

- Custom construction involves commercial construction performed for others, including road construction for the state of Washington.
- Prime contracting: Custom prime contracting is when a contractor is hired by a landowner (or a person having the rights of ownership, such as a lessee or easement holder) to complete an entire construction project. The prime contractor may perform all, or a portion of the construction, or hire other contractors (subcontractors) to perform all, or a portion of the work. The income from custom prime contracting (without deduction for any amounts paid to subcontractors) is reported under the Retailing B&O tax classification and is subject to retail sales tax unless a specific exemption applies.

Custom Construction, Cont.

- **Subcontracting:** Custom subcontracting is when a contractor is hired by a custom prime contractor to provide a portion of the services necessary to complete the project. Income from custom subcontracting is reported under the Wholesaling B&O tax classification.
- **Public Road Construction:** applies only when a **prime or subcontractor** builds, repairs, or improves streets, roads, etc., owned by a municipal corporation or political subdivision of the state of Washington or the federal government. **(This type of construction does not apply to roads owned by the state of Washington.)**

Which Tax Classification do I report?

- Retail vs. Wholesale vs. Public Road Construction (PRC)
 - Retailing – Prime Contractor, sales tax is added to the total contract amount
 - Wholesale- Must have Reseller Permit from General or higher level sub-contractor
 - PRC – Any Prime or Subcontractor, Sales or Use Tax is due on the materials installed

Rules/Laws

- WAC
 - 458-20-170 – Construction/Repair Buildings
 - 458-20-171 – Public Road Construction
 - 458-20-178 – Use Tax
 - 458-20-102 Reseller permits

Helpful Links

- [Reseller permits | Washington Department of Revenue](#)
- webgis.dor.wa.gov/taxratelookup/SalesTax.aspx
- [Construction | Washington Department of Revenue](#)
- [ETA 3068.2009 \(First Revision\) Taxability of Highway](#)
- [Construction Contract Projects Administered by Washington State Department of Transportation](#)

DOR Contract Closeout Process

- Awarding Agency submits Notice of Completion (NOC) for the Prime contractor to DOR/ESD/LNI, when the project is accepted.
- DOR has contractor/ field auditor complete a Reconciliation of Taxes on the project.
- Reconciliation of Taxes and the Primes account are reviewed by Examiners in Tumwater.
- When there are no outstanding balances, the Release Certificate is sent to the Public Agency and Prime Contractor.
- Reconciliations are not completed for the Sub Contractors.

Retainage

- Retainage can be held as 5% cash, retainage bond or in some cases held via performance bond. For DOR purposes we are talking about retainage being held by the Prime, not subcontractor retainages
- If Prime contractor does not pay taxes owing, DOR will send Certificate of Lien to the awarding agency.
 - Awarding Agency has 10 days to respond to the lien certificate.
 - If DOR is trying to collect on bonded retainage, it will significantly slow down the retainage release process.

When can the awarding agency release retainage?

- In order to release retainage, the awarding agency must first receive approval to release retainage from the Department of Revenue, the Employment Security Department, and the Department of Labor & Industries.
- In most circumstances, Priority of Retainage claims:
 1. L&I for Prevailing Wages
 2. Revenue for taxes on agency project
 3. Revenue for any other taxes owed
 4. Employment Security and L&I for Industrial Insurance

Common Retainage Release Delays

- Prime contractor failing to Complete the Reconciliation
 - All reconciliations are to be completed and returned within 30 days. The sooner the better.
- Prime Contractor unable to pay.
- Final Payment on Project being questioned.
- Disagreement of Project Dollar Amounts
 - This should be resolved between the Awarding Agency and the Prime contractor.

Rules/Laws/Helpful Information on Retainage

- WAC
 - 458-20-217 – Lien on Taxes
- RCW
 - 60.28 – Lien for Labor, Materials, & Taxes on Public Works
- [ETA 3024.2013 Public Works Contracts \(wa.gov\)](#)
- [Public works contracts Q&A for contractors | Washington Department of Revenue](#)
- Contact DOR Public Works Team PWC @dor.wa.gov or 360-704-5650



Contract Release

Christina Shelton, Supervisor

Contract Release Mission

Our goal is to ensure equality, fairness, and consistency related to the public works project bidding process and workers' compensation premium reporting.

What is a Contract Release audit?

- In 2009, legislation required that all taxes due are paid to state agencies prior to releasing all payments for projects done for public entities.
- A review of the firm's records to insure that they have reported all worker hours in the correct risk classes based on the work performed for each individual public works contract.

Public Works

[RCW 39.04.010](#) (4) states in part the following: "Public work" means all work;

- Construction
- Alteration
- Repair
- Improvement

Executed at the cost of the state or of any municipality, or which is by law a lien or charge on any property therein. - All public works, including maintenance when performed by contract shall comply with chapter [39.12 RCW](#) (prevailing wages).

Contract Release: RCWs 60.28 and 51.12

RCW 60.28.011 Retained percentage

Public Agencies must withhold 5% of the contract on contracts over \$35,000.

RCW 60.28.040 Tax liens—Priority of liens

Allows L&I, DOR and ESD to collect wages and taxes (premiums) owed by prime contractors

RCW 51.12.050 Public Entity Liability

Allows the L&I to seek industrial insurance payments for debt owed by any contractors that complete work on a public works contract

RCW 51.12.070 Prime Contractor Liability

Allows L&I to seek industrial insurance payments owed by their subcontractors

Contract Release Review Process

- Review Notice of Completion (NOC)
 - Project location
 - Project description
 - Awarding agency, prime contractor, and subcontractors
- Perform individual contractor review
 - Work performed
 - Classification(s)/hours worked
- Collect all pertinent info and documents from Awarding Agency, Prime Contractor and/or firm directly, when needed.

Review Process Continued

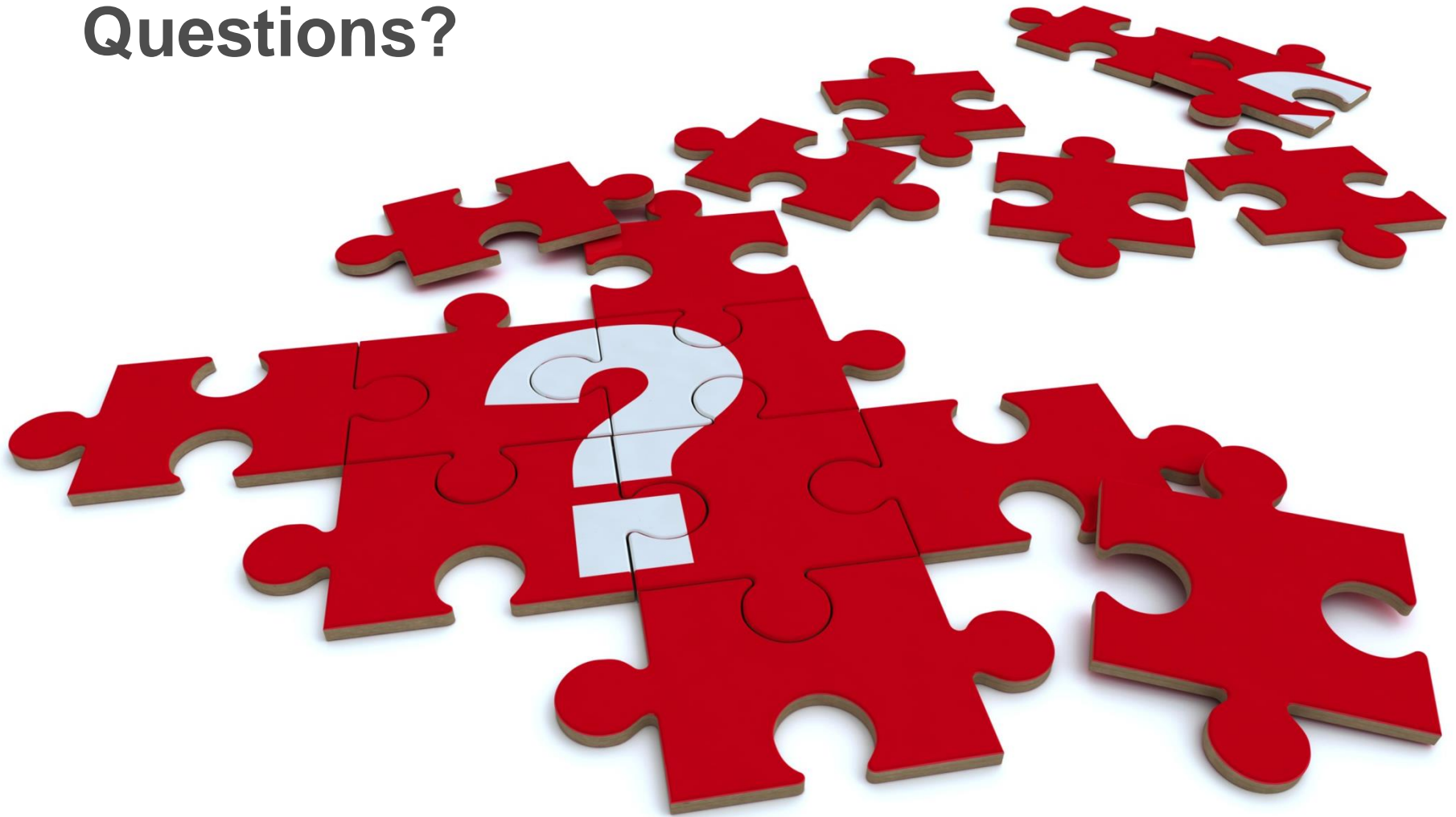
- When discrepancies are found:
 - Issue amendment requests
 - Issue assessments
 - Collection actions
 - Audit referrals

Contact Us

Phone: (360)902-5335 Option 3

Email: ContractRelease@Lni.wa.gov

Questions?





1 Kitsap Economic Development Alliance

Mary Jo Juarez, Terry Homburg, James Davis



2 Thurston Economic Development Council

Grady Smith



3 Columbia River Economic Development Council

Julia Krivoruk



4 Economic Alliance Snohomish County

Cara Buckingham, Mark Johnson



5 Green River College

Darrell Sundell, Melinda Martirosian



6 Washington APEX Accelerator in Pierce County

Trena Payton, Maryam Lynch-Tate



7 Greater Spokane Incorporated

Aleesha Roedel



8 Tri-City Regional Chamber of Commerce

Maria Alleman

Other APEX Accelerators Serving Washington State

North Olympic Peninsula APEX Accelerator:

Rebekah Miller
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See full staff listing at washingtontape.org/about-apex/staff

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SERIES

PREPARING FOR PUBLIC PROJECTS WITH THE INTERSTATE BRIDGE

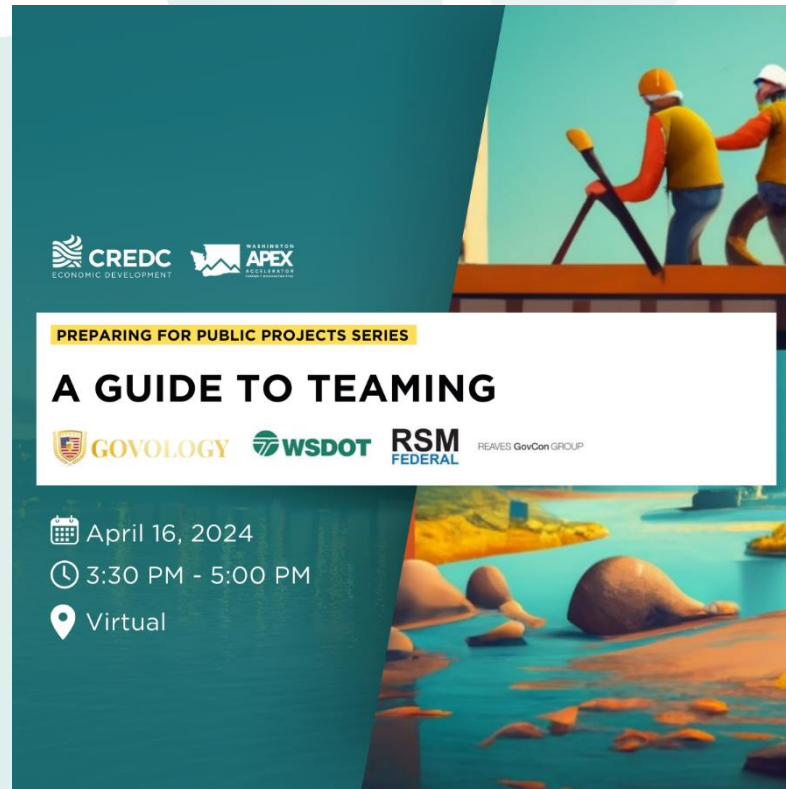


Workshops Completed this Year:





- January 23rd, 3:30 PM – 5PM: [Laying the groundwork for the I-5 Bridge](#) (IN PERSON/Virtual Hybrid)
 - Interstate Bridge Replacement (IBR) group to answer questions about this project.
 - APEX Accelerator Advisors
- February 20th, 3:30 – 5PM: [Certifications- Why they're important and how to obtain them.](#)
 - Office of Minority and Women's Business Enterprises (OMWBE) to present.
- March 5th, 3:30- 5PM: [Accounting Principles: Preparing for Government Contracting](#)
 - Perkins Accounting - discussed credit worthiness for financing
- March 19th, 3:30PM-5PM: [Finance: Expanding for bigger projects](#)
 - Panel included: Craft3, Banner Bank and Columbia Credit Union

Upcoming Workshop: Preparing for Public Projects w/The Interstate Bridge




The poster features a teal background with a white central box. On the right side, there is an illustration of two construction workers in orange and yellow gear on a bridge, and a river scene with large rocks at the bottom.


 CREDC
ECONOMIC DEVELOPMENT


 WASHINGTON
APEX
ACCELERATOR


PREPARING FOR PUBLIC PROJECTS SERIES


A GUIDE TO TEAMING


 GOVOLOGY

 WSDOT

 RSM
FEDERAL REAVES GovCon GROUP

 April 16, 2024

 3:30 PM - 5:00 PM

 Virtual

Save the date: May 9th 1-4pm

SW Washington's

MEET THE AGENCIES

PUBLIC WORKS PANEL



Hear from & meet Agencies: City of Vancouver, Clark County, C-Tran, Port of Vancouver, IBR, MRSC, and more!

More upcoming workshops in this series...

- **June 18th 3:30- 5PM: HR's How to Hire, Attracting & Retaining Talent**
 - Workforce Southwest Washington to present in partnership with an HR consulting firm.
- **July 16th 3:30-5PM: Bonding/Insurance Capacity building for large projects**
 - Brown & Brown Inc. Surety Bonding Programs
- **August 6th 3:30-5PM: L&I talks Certified Payroll & Prevailing Wage**
 - WA Labor & Industries representative
- **September 3rd 3:30-5PM: Safety Regulations with DOSH**
 - DOSH program representative
- **October: Matchmaking Networking event for Primes & Subs (IN PERSON)**

Thank you!



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WashingtonApex.org