

AGENDA

CALIFORNIA LABOR COMMISSIONER'S OFFICE • FOUNDATION FOR FAIR CONTRACTING
PRESENT

PREVAILING WAGE/LABOR COMPLIANCE WEBINAR

Thursday • September 17, 2020 • 9:00 a.m. – 1:00 p.m.

Time	Item	Speaker(s)
	Welcome and Opening Remarks	
9:00 AM – 9:15 AM	<ul style="list-style-type: none">○ Coronavirus (Covid-19) for Employers/Workers<ul style="list-style-type: none">○ State: labor.ca.gov/coronavirus2019/○ Federal: dol.gov/agencies/whd/pandemic	Jesse Jimenez
9:15 AM – 10:15 AM	Labor Commissioner's Office - Legal Updates	David Cross, Lance Grucela
10:15 AM – 10:45 AM	Office of the Director – Legal <ul style="list-style-type: none">○ Coverage	Isaac Nicholson
10:45 AM – 11:00 AM	<i>Break</i>	
11:00 AM - 12: 00 PM	An Overview of California's Prevailing Wage System <ul style="list-style-type: none">○ What is a Public Work?○ Public Agency Responsibilities○ Contractor Responsibilities	Jorge Delgadillo, Eric Raktiprakorn, Lorna Espiritu, Christopher Kim
12:00 PM – 12:45 PM	Davis-Bacon Compliance Principles – Federal Requirements - U.S. Department of Labor	Martin Otero
12:45 AM – 1:00 PM	Q & A	Panel - All



Public
HOT TOPICS
Works



PUBLIC WORKS
CALIFORNIA LABOR COMMISSIONER'S OFFICE
DEPARTMENT OF INDUSTRIAL RELATIONS

1

What is a
Skilled and
Trained
Workforce?
("STW")

2

DISCLAIMER

California Labor Commissioner's Office

The following presentation is intended to summarize relevant portions of existing law in the Labor Code and California Code of Regulations, but those code sections, as interpreted by the courts, will govern actual enforcement. The information contained in this presentation is a general overview of existing law or regulation. Any opinions expressed are solely those of the author/speaker and are not necessarily the official position of the Department of Industrial Relations (DIR), its Director, or any related public entity. The information in this presentation is not intended as legal advice, and does not guarantee any outcome in specific enforcement or coverage proceedings within the jurisdiction of DIR.



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BACKGROUND

SB 693 (2016)

Prior to recent changes, a patchwork of various laws required an enforceable commitment to use a STW for specific projects and/or with specific procurement processes.

SB 693 was passed in 2016, which created **Public Contract Code §§2600 thru 2602**, applicable whenever a public entity is required by law to obtain an enforceable commitment to use a STW to complete a contract or project. Shortly thereafter, “clean up” legislation was enacted to refine these statutory provisions.

Authorizes public entities to require a bidder, contractor or other entity (hereafter “contractor”) to use a STW to complete a contract/project - even if the public entity is not required to do so by law (Pub. Contract C. §2600 (b)). Established that the amendments made by the bill shall not apply to contracts advertised for bid or awarded before January 1, 2017.

However, contractors already subject to an enforceable commitment regarding the use of a STW in certain contracts* advertised for bid or awarded before January 1, 2017, may request the **school district or county** allow them to instead be subject to compliance with the newly created STW requirements in Pub. Contract C. §§2600 thru 2602.

This presentation will address the state of the law as of January 1, 2020.

* Awarded pursuant to Ed. Code §§ 17250.25 or 17407.5, or Sex Ed. Code §§ 20119.3 or 20155.4. (See SB693 Bill Analysis, Assembly Comm. on Lab & Employment, Jun. 22, 2016.)



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RECENT CHANGES

Effective January 1, 2019

SB 418 amended Public Contract Code §2601(d) to:

- Exclude “teamsters” from the STW requirements
- Exclude specified crafts from increasingly higher standards of compliance

AB 3018 enacted Public Contract Code §2603 and amended Public Contract Code § 2602 to:

- Provide greater specificity regarding the enforcement obligations of awarding bodies
- Clarify that for work performed on or after January 1, 2018 the compliance threshold for specified occupations remains at 30% and does not increase
- Exempt specified occupations from the 50% increase, effective January 1, 2019 and 60% increase, effective January 1, 2020



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WHAT IS A “SKILLED AND TRAINED WORKFORCE”?

Public Contract Code §2601

A STW meets **ALL** of the following conditions:

- **ALL workers** performing work in an apprenticeable occupation in the building and construction trades are **EITHER**:
 - Skilled Journeypersons OR
 - DAS-Registered Apprentices
- 30% - 60% of **ALL** Skilled Journeypersons must be **graduates of apprenticeship program**.
 - Graduation percentage requirement varies depending on specific craft.
 - Graduation percentage requirement can be met by counting **EITHER**:
 - Number of Skilled Journeypersons employed (head count) OR
 - Number of hours worked by Skilled Journeypersons (hours worked by trade)

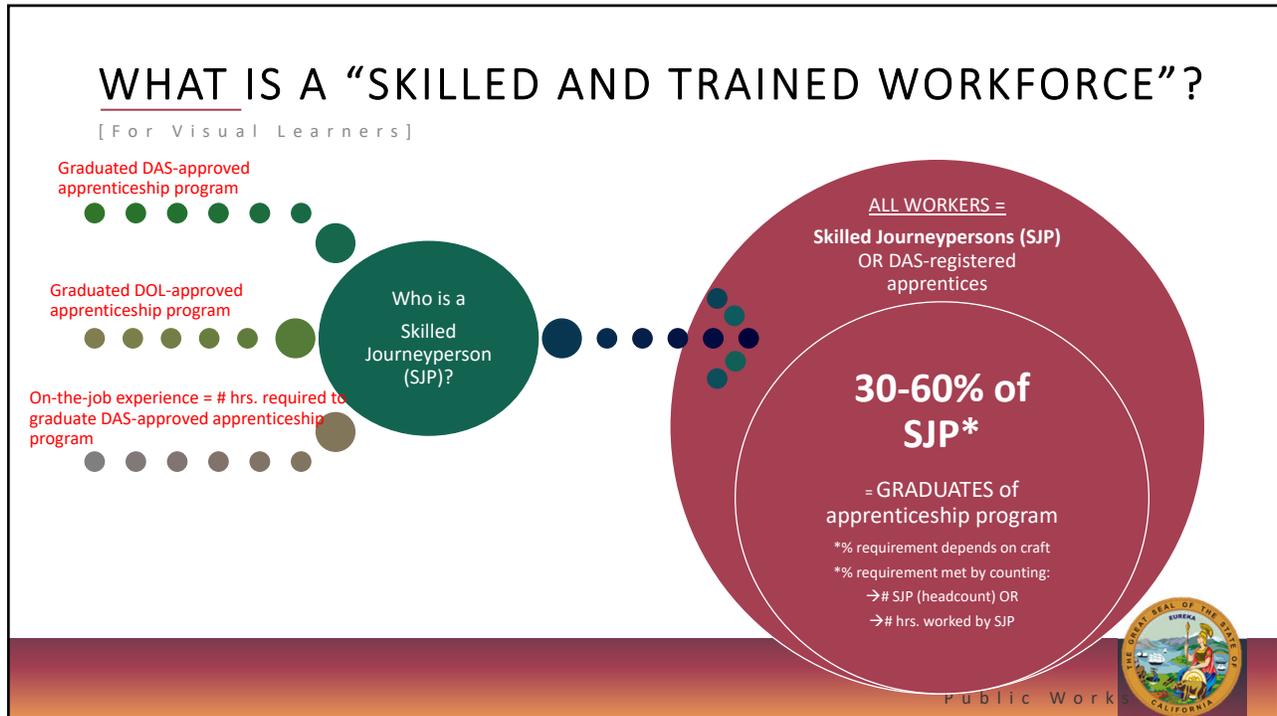
EXCEPT:

- The graduation percentage requirement does not apply if **less than 10 hours of work** were performed in a calendar month (in a particular craft).
- The graduation percentage requirement does not apply if **BOTH**:
 - Subcontractor is **not listed in the bid** as required by Pub. Contract Code §4104; **AND**
 - Subcontract **does not exceed ½%** of total contract.



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WHO IS A “SKILLED JOURNEYPEPERSON”?

Public Contract Code §2601(e)

A **Skilled Journeyperson** is a worker who EITHER:

- **Graduated from a DAS-approved apprenticeship program** for the applicable occupation or a **DOL-approved apprenticeship program** outside California OR
- Has at least as many **hours of on-the-job experience** in the applicable occupation **as would be required to graduate** from a DAS-approved apprenticeship program

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PHASE-IN OF APPRENTICESHIP GRADUATION PERCENTAGE REQUIREMENT			
Applies to <u>work performed on or after</u> :	% of journeypersons who must be graduates of apprenticeship program:	Not applicable to work performed by the following trades/occupations:	Authority
January 1, 2017	30%	Teamster.	Pub. Contract Code §2601 (d)(2)(A)
January 1, 2018	40%	Acoustical installer, bricklayer, carpenter, cement mason, drywall installer or lather, marble mason, finisher, or setter, modular furniture or systems installer, operating engineer, pile driver, plasterer, roofer or waterproofer, stone mason, surveyor, teamster , terrazzo worker or finisher, and tile layer, setter, or finisher.	Pub. Contract Code §2601 (d)(2)(B)
January 1, 2019	50%	Same as above. (Including Teamster.)	Pub. Contract Code §2601 (d)(2)(C)
January 1, 2020	60%	Same as above. (Including Teamster.)	Pub. Contract Code §2601 (d)(2)(D)



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APPRENTICESHIP GRADUATION PERCENTAGE REQUIREMENT

Public Contract Code §2601(d)

If no DAS-approved apprenticeship program existed before January 1, 1995 for any apprenticeable craft:

- **Up to one-half (1/2) of the graduation percentage requirements may be satisfied** by Skilled Journeypersons who commenced working in the apprenticeable craft before DAS approved an apprenticeship program for that craft in the county in which the project is located.

The graduation percentage requirement may be satisfied if **EITHER** of the following is true in a particular **calendar month**:

- At least the required percentage of the Skilled Journeypersons employed by the contractor or subcontractor to perform work on the contract or project meet the graduation percentage requirement.
- For the hours of work performed by Skilled Journeypersons employed by the contractor or subcontractor on the contract or project, the percentage of hours performed by Skilled Journeypersons who met the graduation requirement is at least equal to the required graduation percentage.



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EXCEPTIONS TO THE APPRENTICESHIP GRADUATION PERCENTAGE REQUIREMENT

A contractor or subcontractor does not need to meet the graduation percentage requirements for any apprenticeable craft in which it **performs less than 10 hours of work** during that calendar month.

A subcontractor does not need to meet the graduation percentage requirements (for all crafts it employs) if **BOTH** of the following requirements are met:

- Subcontractor was **not a listed on the bid** pursuant to Pub. Contract Code §4104* or performing work as a substitute for a subcontractor that was listed.
- Subcontract does not exceed **one-half of 1 percent (1/2%)** of the price of the prime contract.

NOTE: These exceptions apply only to the graduation percentage requirements– NOT to the STW requirements generally.

*Pub. Contract Code § 4104 requires the listing of all subcontractors who will perform work or labor or render service to the prime contractor in an amount in excess of one-half of 1 percent of the prime contractor's total bid or, in the case of bids or offers for the construction of streets or highways, including bridges, in excess of one-half of 1 percent of the prime contractor's total bid or ten thousand dollars (\$10,000), whichever is greater.

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OTHER STW REQUIREMENTS FOR CONTRACTORS

Public Contract Code §2602

Whenever a contractor is subject to the STW requirements, the commitment shall be made in an **enforceable agreement** with the public entity or other awarding body that provides **BOTH** of the following:

- Contractor and subcontractors at **every tier will comply** with the STW requirements.
- Contractor and subcontractors will **provide a report demonstrating compliance with the STW requirements** to the public entity or awarding body on a monthly basis while the project or contract is being performed.

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THE PUBLIC ENTITY/AWARDING BODY'S OBLIGATIONS UNDER PUBLIC CONTRACT CODE §2602.



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FAILURE TO PROVIDE OR INCOMPLETE MONTHLY REPORT

Public Contract Code §2602(b)

If the contractor fails to provide the monthly report, or provides an incomplete one, the public agency or other awarding body (AB) **shall withhold further payments until a complete report is provided.**

If a monthly report is **incomplete because a subcontractor** failed to timely submit the required information to the contractor:

- AB shall withhold an amount only equal to **150 percent (150%)** of the value of the **monthly billing** for the **relevant subcontractor.**
- The **contractor may withhold the same amount from the subcontractor** until the subcontractor provides a complete report and the AB subsequently pays the contractor the withheld payments.

AB required to immediately resume making payments to the contractor (including all previously withheld payments) if the **contractor substitutes a subcontractor** for its failure to provide a complete report and replaces it with one that provides an enforceable commitment to use a STW to complete the work.



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MONTHLY REPORT FAILING TO DEMONSTRATE COMPLIANCE

Public Contract Code §2602(c)

If a **monthly report does not demonstrate compliance** with the STW requirements the **AB is required to do ALL** of the following:

- **Withhold further payments** until the contractor provides a plan to achieve “substantial compliance” with regard to the relevant trade/craft prior to contract completion.
 - Withholding amount equal to 150 percent (150%) of the value of the monthly billing for the entity or subcontractor that failed to comply with the STW requirements.
 - Contractor may withhold the same amount from the subcontractor.
 - AB required to immediately resume making payments to the contractor (including all previously withheld payments) if the contractor substitutes a subcontractor for its failure to demonstrate compliance.
 - AB required to immediately resume making payments to the contractor (including all previously withheld payments) if the contractor submits a plan to achieve substantial compliance with the STW requirements UNLESS the AB rejects the plan as insufficient and explains the reasons for the rejection within a reasonable time.
- **Forward** a copy of the monthly report to the Labor Commissioner for issuance of a Civil Wage and Penalty Assessment.
- **Forward** a copy of the plan to achieve “substantial compliance” (if any), and its response to that plan (if any) to the Labor Commissioner.



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THE LABOR COMMISSIONER’S ENFORCEMENT PROCESS

[PUBLIC CONTRACT CODE §2603]



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PENALTIES UNDER PUBLIC CONTRACTS CODE §2603

Effective January 1, 2019

Penalties of **up to \$5,000 per month of work performed** in violation of the STW requirements assessed against contractor or subcontractor that failed to use a STW.

- Increased penalties **up to \$10,000 per month** for a second or subsequent violation within a three-year period.

Factors considered by the Labor Commissioner in determining penalty amount:

1. Whether the violation was intentional;
2. Whether the contractor or subcontractor has committed other violations of this chapter or of the Labor Code;
3. Whether, upon notice of the violation, the contractor or subcontractor took steps to voluntarily remedy the violation;
4. The extent or severity of the violation; and
5. Whether a contractor or subcontractor submitted and followed a plan to achieve substantial compliance.



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PENALTIES UNDER PUBLIC CONTRACTS CODE §2603

Effective January 1, 2019

Prime contractors are not liable for penalties for violations of subcontractor unless the prime contractor **had knowledge of the subcontractor's failure to comply OR fails to comply with ANY of the following requirements:**

- For contracts entered into on or after January 1, 2019, the **contract** executed between the contractor and the subcontractor for the performance of work on the project **included a copy of chapter 2.9 of the Public Contract Code;**
- The **contractor periodically monitored** the subcontractor's use of a STW;
- Upon becoming aware of a failure of the subcontractor to use a STW, the **contractor took corrective action**, including, but not limited to, retaining 150% of the amount due to the subcontractor for work performed on the project until the failure is corrected; AND
- Prior to making the final payment to the subcontractor for work performed on the project, the contractor shall **obtain a declaration signed under penalty of perjury** from the subcontractor that the subcontractor has met the requirements of chapter 2.9 of the Public Contract Code.



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STW ENFORCEMENT PROCESS

Public Contract Code §2602



Violations of the STW requirement are enforced by the Labor Commissioner using the same process set forth in Labor Code §§ 1741 & 1742 currently used for prevailing wage and apprenticeship requirements.

Up to three years of debarment when the Labor Commissioner finds a contractor or subcontractor to have:

- Violated the STW requirements **with the intent to defraud** OR
- Committed **two or more separate willful violations** of the STW requirements **within a 3-year period.**



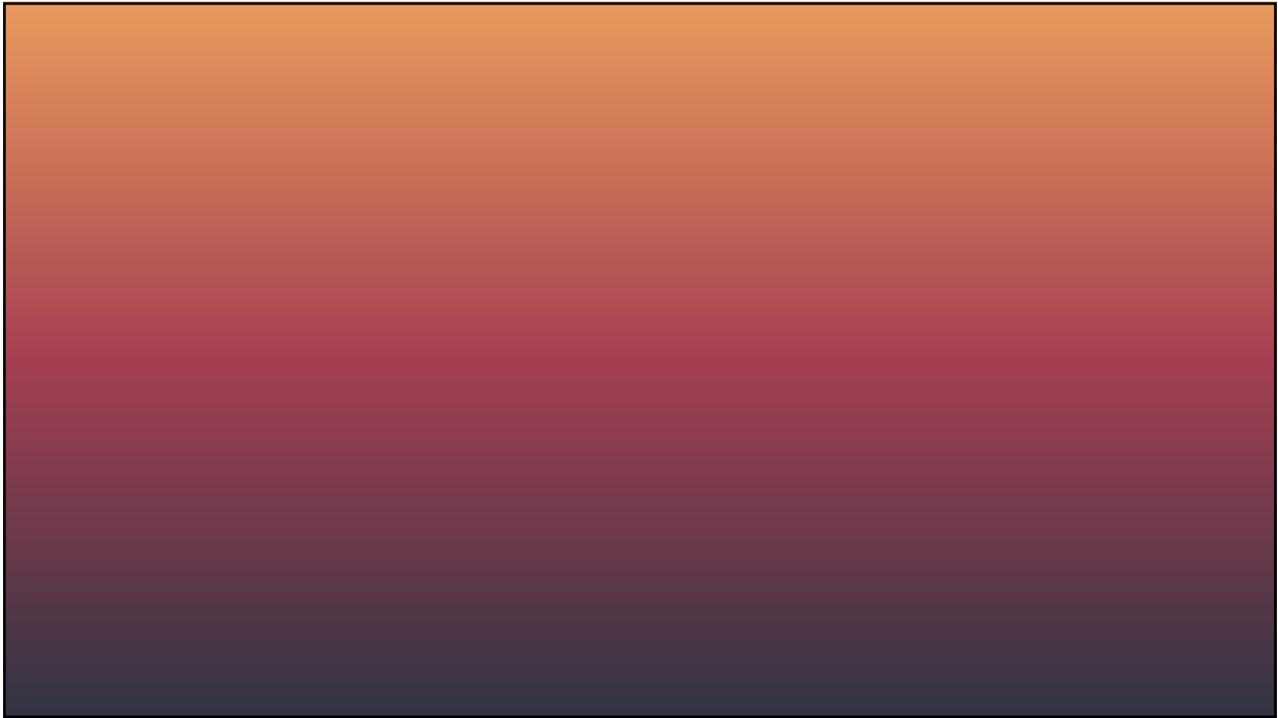
Public Work

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AB 1768

Preconstruction Activities

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Public Works
State of California
Department of Industrial Relations

The Great Seal of the State of California is circular, featuring a central figure of Minerva seated on a rock, holding a spear and a shield. The background shows a landscape with mountains, a bay with ships, and a bear. The text "THE GREAT SEAL OF THE STATE OF CALIFORNIA" is written around the border, and "EUREKA" is written above the figure.

1



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The slide features the logo of the Department of Industrial Relations (DIR) on the left, which includes the letters "dir" in a stylized font and the text "Department of Industrial Relations STATE OF CALIFORNIA". On the right is a small version of the Great Seal of the State of California.

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State of California
Department of Industrial Relations
 Home | Labor Law | Cal/OSHA - Safety & Health | Workers' Comp | Self Insurance | Apprenticeship | Director's Office | Boards

Department of Industrial Relations (DIR)

▶ Divisions, Boards and Commissions at DIR

- ▶ **Office of the Director – Legal Unit (OD Legal)**
 - ▶ Assists the Director with drafting coverage determinations
 - ▶ Acts as hearing officers for appeals of wage/penalty assessments
- ▶ **Office of Policy, Research and Legislation (OPRL)**
 - ▶ Issues Prevailing Wage Determinations
- ▶ **Division of Labor Standards Enforcement (DLSE) (“Labor Commissioner’s Office”)**
 - ▶ Enforces prevailing wage and apprenticeship laws
- ▶ **Division of Apprenticeship Standards (DAS)**
 - ▶ Administers apprenticeship laws, programs, and standards
 - ▶ Approves apprenticeship programs

Department of Industrial Relations

Quick Links

- ▶ LETF Home
- ▶ Report a labor law violation
- ▶ Report a workplace hazard to Cal/OSHA
- ▶ File a wage claim
- ▶ Know my employment rights
- ▶ Know my rights as an injured worker
- ▶ Get workplace postings
- ▶ Find prevailing wage determinations

Also of Interest

- ▶ Industrial Relations databases
- ▶ Subscribe to a distribution list
- ▶ Work for DIR
- ▶ Do business with DIR

Other Resources

- ▶ California Labor & Workforce Development Agency
- ▶ Employment Development Department
- ▶ U.S. Dept. of Labor

3

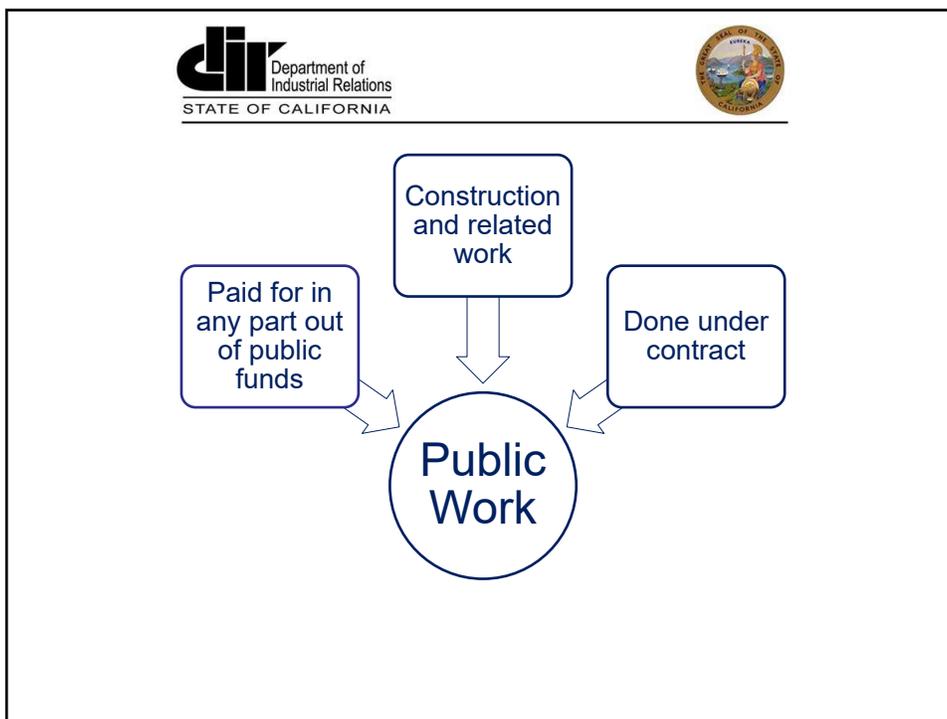
dir Department of Industrial Relations
 STATE OF CALIFORNIA

DEPARTMENT OF INDUSTRIAL RELATIONS

Department of Industrial Relations
 Recent Appointments

- Katrina S. Hagen – Director
- Doris Ng – General Counsel

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Labor Code Section 1771

Except for public works projects of one thousand dollars (\$1,000) or less, not less than the general prevailing rate of per diem wages for work of a similar character in the locality in which the public work is performed, and not less than the general prevailing rate of per diem wages for holiday and overtime work fixed as provided in this chapter, shall be paid to all workers employed on public works.

This section is applicable only to work performed under contract, and is not applicable to work carried out by a public agency with its own forces. This section is applicable to contracts let for maintenance work.

Prevailing wages apply to all public works over \$1,000, unless there's an exception.

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Labor Code Section 1720

(Labor Code 1720(a)(1))

(a) As used in this chapter, “public works” means:

(1) Construction, alteration, demolition, installation, or repair work done under contract and paid for in whole or in part out of public funds...

- Construction (includes preconstruction *and* post construction)
- Alteration
- Demolition
- Installation
- Repair
- Maintenance (Labor Code section 1771, 8 CCR 16000)

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Labor Code Section 1720

(Labor Code 1720(a)(1)) 1/1/2020 (AB 1768)

(a) As used in this chapter, “public works” means:

- (1) For purposes of this paragraph, “construction” includes work performed during the design, site assessment, feasibility study, and other preconstruction phases of construction, including, but not limited to, inspection and land surveying work, regardless of whether any further construction work is conducted, and work performed during the postconstruction phases of construction, including, but not limited to, all cleanup work at the jobsite.**

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Other definitions of “public works”

Section 1720(a)

- 1) Standard definition: (Construction work done under contract paid for in any part out of public funds)
- 2) “Work done **for irrigation, utility, reclamation, and improvement** districts, and other districts of this type.”
- 3) “**Street, sewer, or other improvement work** done under the direction and supervision or by the authority of any officer or public body of the state, or of any political subdivision or district . . .”

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Other definitions of “public works”

Section 1720(a)

- 4) The **laying of carpet done under a building lease-maintenance contract** and paid for out of public funds.
- 5) The **laying of carpet in a public building** done under contract and paid for in whole or in part out of public funds.
- 6) **Public transportation** demonstration projects (Streets and Highways Code s 143)
- 7)(A) **Infrastructure project grants** from the California Advanced Services Fund pursuant to Section 281 of the Public Utilities Code.
- 8) Tree removal work done in the execution of a project under paragraph (1)

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Other definitions of “public work”

- Section 1720(e) [Work on electric transmission system]
- Section 1720.2 [Private construction leased to public entity]
- Section 1720.3 [Off-haul of refuse]
- Section 1720.6 [Private renewable energy projects on public property]
- Section 1720.7 [Work done under private contract on general acute care hospitals]
- Section 1720.9 [Hauling of ready-mixed concrete]

11



Paid for in whole or in part out of public funds

(Labor Code 1720(b))

1. The payment of money or the equivalent of money . . . directly to or on behalf of the public works contractor, subcontractor, or developer.
2. Performance of construction work . . . in execution of the project.
3. Transfer . . . of an asset of value for less than fair market price.

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Paid for in whole or in part out of public funds

(Labor Code 1720(b))

4. Fees, costs, rents, insurance or bond premiums, loans, interest rates, or other obligations that would normally be required in the execution of the contract, that are paid, reduced, charged at less than fair market value, waived, or forgiven
5. Money loaned . . . that is to be repaid on a contingent basis.
6. Credits that are applied . . . against repayment obligations

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- Public funds includes “state, local and/or federal monies.” (8 CCR 16001)
- Federally Funded or Assisted Projects: “The application of state prevailing wage rates when higher is required whenever federally funded or assisted projects are **controlled or carried out by California awarding bodies** of any sort.”
- California Prevailing Wage Law (CPWL) cannot be applied to a project which is “under the complete control of the federal government.” (*Southern Cal. Labor Management Committee v. Aubry* (1997) 54 Cal.App.4th 873, 886.)

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Section 1720(c)(1) exception

- 1) Private residential project;
- 2) Built on private property; and
- 3) Not built under an agreement with a state agency, redevelopment agency, a successor to a redevelopment agency when acting in that capacity, or a local public housing authority.

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Section 1720(c)(2) exception

- 1) the public improvement work is required as a condition of regulatory approval;
- 2) the project is an otherwise private development;
- 3) the public entity must not contribute more money, or the equivalent of money, to the overall project than is required to construct the public improvement work; and
- 4) the public entity must not maintain any proprietary interest in the overall project.

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Miscellaneous Exceptions

- Section 1720.4 (Volunteers or Conservation Corps)
- Section 1720.5 (Graffiti Removal Work in the City of Los Angeles Done by a Community-Based Organization Under Certain Circumstances)
- 8 CCR 16000 (Janitorial, Custodial, Security Guards)

17



COVERAGE DETERMINATIONS

- The coverage determination process is spelled out in Labor Code section 1773.5 and Cal. Code Regs., title 8, sections 16001-16002.5.
- Two types of coverage determinations
 - Whether a project is covered
 - Whether a type of work is covered.

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What is a coverage determination?

Section 1773.5 and Cal. Code Regs., Title 8, Sections 16001-16002.5

- The Director has the power to determine that a project or a type of work is public work through issuing what is known as a coverage determination.
- The administrative process consists of an initial coverage determination and a final determination on administrative appeal.
- Depending on when the parties make their submissions, the entire process can take many months.

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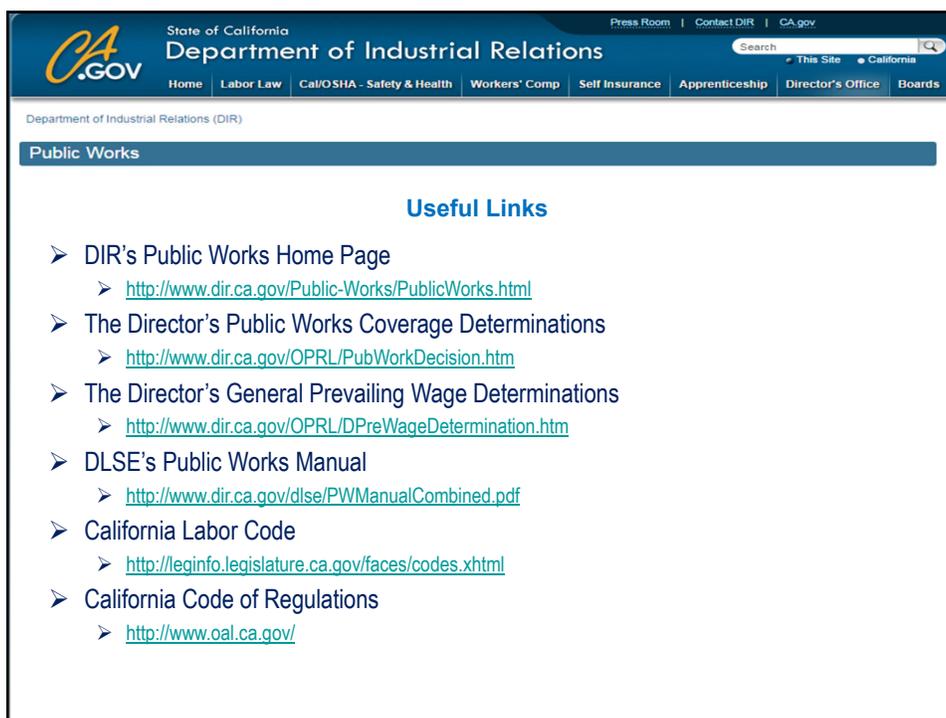
Isaac Nicholson

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Office of the Director - Public Works Inquiries

PWCoverage@dir.ca.gov

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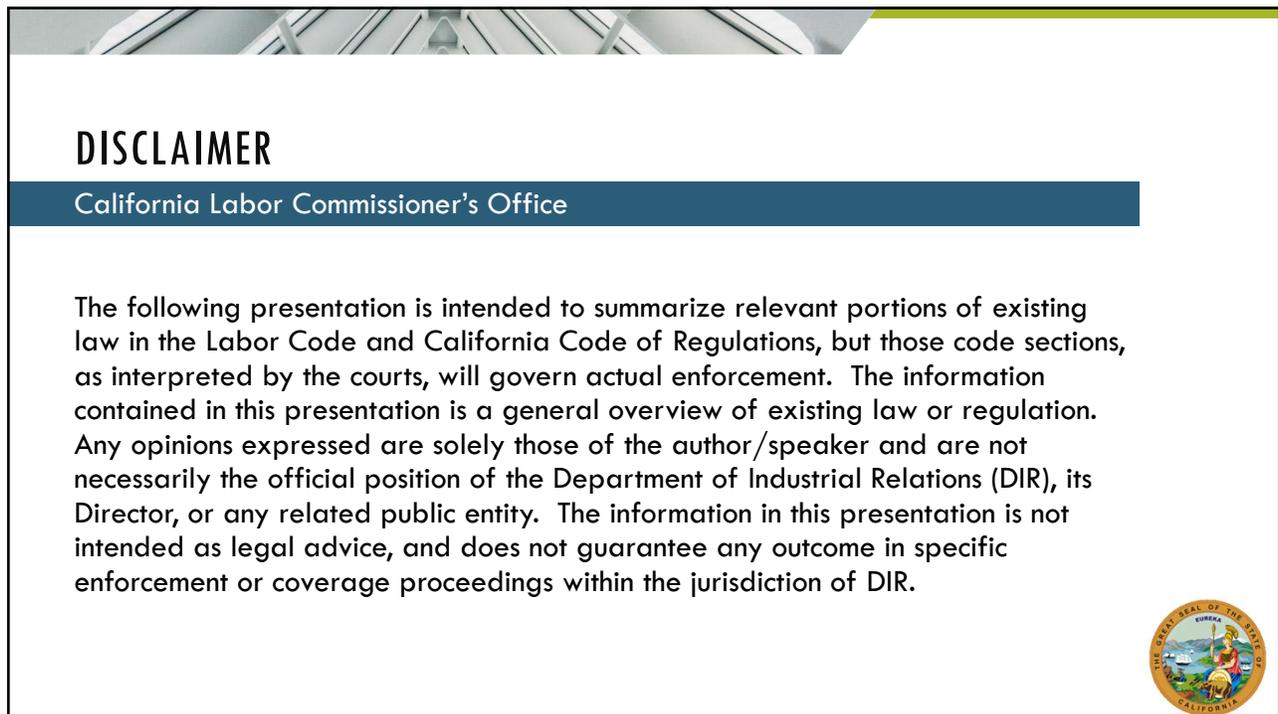
The screenshot shows the website for the State of California Department of Industrial Relations. The header includes the CA.GOV logo, the text 'State of California Department of Industrial Relations', and navigation links for 'Press Room', 'Contact DIR', and 'CA.gov'. A search bar is also present. Below the header is a menu with links for 'Home', 'Labor Law', 'Cal/OSHA - Safety & Health', 'Workers' Comp', 'Self Insurance', 'Apprenticeship', 'Director's Office', and 'Boards'. The main content area is titled 'Public Works' and features a 'Useful Links' section with the following items:

- DIR's Public Works Home Page
 - <http://www.dir.ca.gov/Public-Works/PublicWorks.html>
- The Director's Public Works Coverage Determinations
 - <http://www.dir.ca.gov/OPRL/PubWorkDecision.htm>
- The Director's General Prevailing Wage Determinations
 - <http://www.dir.ca.gov/OPRL/DPreWageDetermination.htm>
- DLSE's Public Works Manual
 - <http://www.dir.ca.gov/dlse/PWManualCombined.pdf>
- California Labor Code
 - <http://leginfo.legislature.ca.gov/faces/codes.xhtml>
- California Code of Regulations
 - <http://www.oal.ca.gov/>

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1



2



AWARDING BODY

- Compliance Requirements
- Enforcement



3



COMPLIANCE REQUIREMENTS

Labor Code & Title 8, CCR § 16000



4

PROJECT REGISTRATION

PROVIDE ELECTRONIC NOTICE TO DIR OF ALL PUBLIC WORKS CONTRACTS WITHIN 30 DAYS OF THE AWARD, BUT IN NO EVENT LATER THAN THE FIRST DAY IN WHICH A CONTRACTOR HAS WORKERS EMPLOYED UPON THE PUBLIC WORK. (LC §1773.3) *

* Does not apply to projects of \$25,000 or less when the project is for construction, alteration, demolition, installation, or repair work or for projects of \$15,000 or less when the project is for maintenance work



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<https://www.dir.ca.gov/Public-Works/PublicWorks.html>



Public Works

Public works in general means:

- Construction, alteration, demolition, installation, or repair work done under contract and paid in whole or in part out of public funds.
- It can include preconstruction and post-construction activities related to a public works project.
- For a full definition of public works refer to Labor Code section 1720.

Anyone working on a public works project must be paid prevailing wages as determined by DIR. Projects of \$30,000 or more must meet DIR's apprenticeship requirements. Failure to comply with public works requirements can result in civil penalties, criminal prosecution, or both.

Contractors, and others who work on public works projects

Awarding Bodies, public agencies or project owners

Public Works Prevailing Wage Training for Contractors and Awarding Bodies

What's New

en Español

Resources

- [Public Works Pre-Qualification of Contractors](#)
- [Apprenticeship Requirements](#)
- [Certified Payroll Reporting](#)
- [Enforcement of Public Works Law](#)
- [File a Public Works Complaint](#)
- [Labor Compliance Programs](#)
- [Prevailing Wage Requirements](#)
- [More Resources](#)

Search

- Find Public Works Projects
- Find Public Works Contractors
- Find Payroll Records
- Registration**
 - Contractor Registration
 - Project Registration



Public Works Contractors: Renew Registration by June 30

6

https://www.dir.ca.gov/pwc100ext/LoginPage.aspx

7

	Primary	PWCR	Name	Address	Email	Classification
Delete Edit	<input type="radio"/>	100000000000	XYZ CONTRACTORS INC.	1234 PW STREET LOS ANGELES, CA 90071	XYZ@GMAIL.COM	CARPENTERS

8

SEARCHING FOR A PUBLIC WORKS PROJECT



Public Works

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Contractors,
and others who work on public
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Awarding Bodies,
public agencies or project
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Public Works Prevailing Wage Training for Contractors and Awarding Bodies

Resources

- [Public Works Pre-Qualification of Contractors](#)
- [Apprenticeship Requirements](#)
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Registration

- [Contractor Registration](#)
- [Project Registration](#)

What's New

- [Public Works Contractors: Renew Registration by June 30](#)

[en Español](#)



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<https://www.dir.ca.gov/pwc100ext/ExternalLookup.aspx>

Home | Search PWC-100

Public Search Utility - You may search by DIR Project ID or enter at least one search criteria to display projects matching your selections.

DIR Project ID

OR

Awarding Body Name

Name of Project

Name of Contractor **PWCR Number**

Name of Subcontractor **PWCR Number**

First Advertised Bid Date **Contract Amount** **Project Award Date** **Estimate Start Date**

Estimated Completion Date **Classification of Workers:**

Physical Address Address Location

...



10



California Department of
Industrial Relations

CA.gov | Contact Us | DLSE

Division of Apprenticeship Standard / Division of Labor Standards Enforcement

Home
Labor Law
Cal/OSHA - Safety & Health
Workers' Comp
Self Insurance
Apprenticeship
Director's Office
Boards

Home | Search PWC-100 | Search Results

SEARCH RESULTS - 16 records found

Click the DIR Project ID to see more information about the project.

ID	Awarding Body	Project Name	Site Address	Dates	Classification	County
Project Number: Bid 7582 DIR Project ID: 123456	Sunshine County	Sunshine H.S. Gym Repair	1213 Sunny Lane Sunshine, Ca 93312	Advertised: 03/14/2019 Award: 04/04/2019 Est. Start: 07/01/2019 Est. Comp: 08/30/2019	LABORERS CEMENT MASONS OPERATING ENGINEERS	RIVERSIDE
		Amount: \$524,409.59				
Contractor			Sub Contractor			
PWC/CSLB/Lic Name			PWC/CSLB/Lic	Name		
Project Number: Y195478 Purchase Req DIR Project ID: 789101	Sunshine County	Sunshine Park Community Pool	1031 Main St. Sunshine, Ca 93312	Advertised: 01/07/2019 Award: 02/14/2019 Est. Start: 04/01/2019 Est. Comp: 11/22/2019	LABORERS CEMENT MASONS OPERATING ENGINEERS	RIVERSIDE
		Amount: \$3,459,687.33				
Contractor			Sub Contractor			
PWC/CSLB/Lic Name 10000000000			PWC/CSLB/Lic	Name		
XYZ CONTRACTORS, INC.						



11

Compliance Requirement #2

ENSURE THAT PUBLIC WORKS PROJECTS ARE NOT SPLIT OR SEPARATED INTO SMALLER WORK ORDERS OR PROJECTS FOR THE PURPOSE OF EVADING THE APPLICABLE PROVISIONS OF LC §1771. (TITLE 8, CCR § 16100)



12

ENSURE CONTRACTORS ARE REGISTERED

A CONTRACTOR OR SUBCONTRACTOR MUST BE REGISTERED WHEN BIDDING, LISTED IN A BID PROPOSAL, OR ENGAGED IN THE PERFORMANCE OF ANY CONTRACT FOR PUBLIC WORK. (LC §§1725.5 &1771.1) *

* Does not apply to projects of \$25,000 or less when the project is for construction, alteration, demolition, installation, or repair work or for projects of \$15,000 or less when the project is for maintenance work



13

<https://cadir.secure.force.com/ContractorSearch>

Public Works Contractor Registration Search

Enter at least one criteria to display registered public works contractor(s) matching your selections.

Note: Search results will display all of the public works contractor registrations, both current and expired. Make sure a proper registration fiscal year is selected when performing a search.

Input Label	From Date:	To Date:
<input type="text" value="Legal name, CSLB number, DBA, Registration number"/>	<input type="text" value="mm / dd / yyyy"/>	<input type="text" value="mm / dd / yyyy"/>
County	City	
<input type="text"/>	<input type="text"/>	

Crafts (Select all that apply)

- Asbestos
- Boilermaker-Blacksmith

Registrations

Search Results:



14

Contractor Information		Registration History	
Legal Entity Name	A+ Construction	Effective Date	Expiration Date
Legal Entity Type	Corporation	03/04/19	06/30/19
Status	Active		
Registration Number	PW-LR1200469801		
Registration effective date	03/04/19		
Registration expiration date	06/30/19		
Mailing Address	1 Address St. Anytown 95555 CA United States of America		
Physical Address	1 Address St. Anytown 95555 CA United States of America		
Email Address			
Trade Name/DBA	Mia's Construction		
License Number (s)	CSLB:1234567		
	CSLB:1234567		
	CSLB:1234567		
Legal Entity Information			
Corporation Number:			
Federal Employment Identification Number:			
President Name:	M. J. Poppins		
Vice President Name:			
Treasurer Name:			
Secretary Name:			
CEO Name:			
Agent of Service Name:			
Agent of Service Mailing Address:	CA United States of America		
Worker's Compensation			
Do you lease employees through Professional Employer Organization (PEO)?:	No		
Please provide your current worker's compensation insurance information below:			
PEO Information Name	PEO Phone	PEO Email	
Insured by Carrier			
Policy Holder Name:	M. J. Poppins		
Insurance Carrier:	Aetna		
Policy Number:	8790000		
Inception date:	01/01/19		
Expiration Date:	01/01/20		



15

Compliance Requirement #4

NOTICE REQUIREMENTS

INCLUDE THE NOTICE OF THE REQUIREMENT DESCRIBED IN LC §1771.1(A) & LC §1771.4(A)(1) IN ALL BID INVITATIONS AND PUBLIC WORKS CONTRACTS.

- A bid shall not be accepted nor any contractor or subcontract entered into without proof of the contractor or subcontractor's current registration to perform public work. (LC §1771.1(b))

- The call for bids and contract documents shall specify that the project is subject to compliance monitoring and enforcement by the Department of Industrial Relations. (LC §1771.4(a)(1))



16

Compliance Requirement #5

**OBTAIN PREVAILING
WAGE RATES FROM DIR
(LABOR CODE SECTIONS
1773, 1773.2, AND
1773.4)**



17

Compliance Requirement #6

**POST OR REQUIRE
CONTRACTORS TO POST
JOBSITE NOTICES ON
PUBLIC WORKS
REQUIREMENTS
(LC §1771.4(A)(2))**



18

Compliance Requirement #7

**ENSURE THAT PUBLIC WORKS CONTRACTORS
PAY PREVAILING WAGES AND ARE IN
COMPLIANCE WITH PUBLIC WORKS LAWS AND
REPORT ANY SUSPECTED VIOLATIONS TO THE
LABOR COMMISSIONER
(LC §1726; TITLE 8, CCR §16100)**

***Except for public works projects of one thousand dollars (\$1,000) or less. (LC §1771)**



19

Compliance Requirement #8

**WITHHOLD AND
RETAIN ALL AMOUNTS
REQUIRED TO SATISFY
THE CIVIL WAGE AND
PENALTY ASSESSMENT
(LC §1727(A))**



20

DENY THE RIGHT TO BID ON PUBLIC WORK CONTRACTS TO CONTRACTORS OR SUBCONTRACTORS WHO HAVE VIOLATED PUBLIC WORKS LAWS, AS SET FORTH IN LC §1777.7. (TITLE 8, CCR §16100.)



21

A background image of a modern building with a glass facade, partially obscured by a blue diagonal overlay. The text "ENFORCEMENT" and "Labor Code §1773.3, §1771.1(j)" is centered on a white rectangular area.

ENFORCEMENT
Labor Code §1773.3, §1771.1(j)



22

LABOR CODE §1773.3

PENALTIES SHALL BE ASSESSED AGAINST AWARDING BODIES FOR THE FOLLOWING (LC § 1773.3(C)(1)):

- Failing to timely submit project registration information;
- Entering into a contract with an unregistered contractor; or
- Allowing an unregistered contractor to engage in the performance of any public work

Civil Penalty

Subject to penalties of \$100 for each day in violation of either requirement, not to exceed an aggregate penalty of \$10,000 per project



23

LABOR CODE §1773.3

PENALTIES SHALL ALSO BE ASSESSED AGAINST AN AWARDING BODY WHEN (LC §1773.3(D)) FINAL PAYMENT WAS MADE AND IT IS LATER DISCOVERED THAT AN UNREGISTERED CONTRACTOR WORKED ON THE PROJECT

Civil Penalty

Subject to penalties of \$100 for each full calendar day of noncompliance, for a period of up to 100 days, for each unregistered contractor or subcontractor.



24

AWARDING BODY "DEBARMENT" (LC §1773.3(F)):

"WHENEVER THE LABOR COMMISSIONER DETERMINES THAT AN AWARDING AGENCY HAS WILLFULLY VIOLATED THE REQUIREMENTS OF THIS SECTION OR CHAPTER WITH RESPECT TO TWO OR MORE PUBLIC WORKS CONTRACTS OR PROJECTS IN ANY 12-MONTH PERIOD, THE AWARDING AGENCY SHALL BE INELIGIBLE TO RECEIVE STATE FUNDING OR FINANCIAL ASSISTANCE FOR ANY CONSTRUCTION PROJECT UNDERTAKEN BY OR ON BEHALF OF THE AWARDING AGENCY FOR ONE YEAR..."



25

LABOR COMMISSIONER SHALL ISSUE STOP ORDER WHEN UNREGISTERED CONTRACTOR PERFORMS WORK (LC §1771.1(J))

- Stop order prohibits use of unregistered contractor or subcontractor until registered
- Affected worker of unregistered contractor entitled to regular hourly pay of prevailing wage rate (not to exceed 10 days) for work stoppage
- Does not apply to other registered contractors or subcontractors on same public works project

Contractor's failure to observe stop order is a misdemeanor. (LC §1771.1(k).)



26

PRECAUTIONARY LEGAL NOTICE TO AWARDING BODIES

THE LABOR COMMISSIONER WANTS TO REMIND ALL AWARDING BODIES THAT ARTICLE 2 ALSO INCLUDES LC §1777, WHICH WAS ENACTED IN 1937 AND REMAINS THE LAW TODAY. SECTION 1777 ESTABLISHES A CRIMINAL PENALTY (MISDEMEANOR) AGAINST "ANY OFFICER, AGENT, OR REPRESENTATIVE OF THE STATE OR OF ANY POLITICAL SUBDIVISION WHO WILLFULLY VIOLATES ANY PROVISION" OF ARTICLE 2.



27

What Must Contractors do to Comply with the Law?



28

Who is a Public Works contractor?

A public works contractor is **anyone who bids on or enters into a contract to perform work that requires the payment of prevailing wages.**

It includes:

- subcontractors who have entered into a contract with another contractor to perform a portion of the work on a public works project.
- sole proprietors and brokers who are responsible for performing work on a public works project, even if they do not have employees or will not use their own employees to perform the work.



29

1. Must be registered when bidding, listed in a bid proposal, or engaged in the performance of any contract for public work (Labor Codes §§1725.5 & 1771.1)



30

Who needs to register?

Contractors who are bidding, listed in a bid proposal, or working on a public works project.



Small project exemption: Does not apply to projects of:

- **\$25,000 or less** when the project is for construction, alteration, demolition, installation, or repair work
- **\$15,000 or less** when the project is for maintenance work



31

Penalties for Failing to Register

- **First-time registration:** A penalty of \$2,000 applies when a contractor is registering for the first time and did any of the following in the past 12 months:
 - bid or was awarded a public works project
 - worked on a public works project
- **Late renewal:** If a contractor bid on, was awarded, or worked on a public works project after their registration expired:
 - a penalty of \$400 applies when the lapse in registration is inadvertent and paid within 90 days
 - a penalty of \$2,000 applies when the lapse in registration is not inadvertent
- **Post 90 day Renewal or Reactivation:** A penalty of \$2,000 applies when a contractor did any of the following in the past 12 months while unregistered:
 - bid or was awarded a public works project
 - worked on a public works project



32

- UNREGISTERED CONTRACTORS engaged in the performance of any PW contract

Labor Code § 1771.1(g): Shall forfeit, as a civil penalty, **\$100 for each day** of work performed in violation of the registration requirement, **not to exceed an aggregate penalty of \$8,000**

- HIGHER-TIERED CONTRACTOR that hires an unregistered lower tier subcontractor

Labor Code § 1771.1(h): Shall forfeit, as a civil penalty, **\$100 for each day the unregistered lower tier subcontractor performs work in violation of the registration requirement, not to exceed an aggregate penalty of \$10,000**

Registration penalties will be issued on a Civil Wage and Penalty Assessment (CWPA).



33

STOP ORDER (Labor Code §1771.1(j)):



“Where a contractor or subcontractor engages in the performance of any public work contract without having been registered in violation of the requirements of Section 1725.5 or this section, the Labor Commissioner shall issue and serve a **Stop Order** prohibiting the use of the unregistered contractor or the unregistered subcontractor **on all public works** until the unregistered contractor or unregistered subcontractor is registered. **The stop order shall not apply to work by registered contractors or subcontractors on the public work.**”



34



Failure to Observe Stop Order (Labor Code § 1771.1 (k)):

“**Failure** of a contractor or subcontractor, owner, director, officer, or managing agent of the contractor or subcontractor to observe a **Stop Order** issued and served upon him or her pursuant to subdivision (j) is **guilty of a misdemeanor** punishable by imprisonment in county jail not exceeding 60 days or by a fine not exceeding ten thousand dollars (\$10,000), or both.”



35

2. Pay the Prevailing Wage Rate to all Workers (Labor Codes § 1771, § 1774 and § 1813)

“The contractor to whom the contract is awarded, and any subcontractor under him, shall pay not less than the specified prevailing rates of wages to all workers employed in the execution of the contract.” (Labor Code § 1774)

Except for public works projects of one thousand dollars (\$1,000) or less (Labor Code § 1771)



36

Penalties for Paying Less than the Specified Prevailing Rates of Wages

- Contractor/Subcontractor shall forfeit not more than two hundred dollars (\$200) for each calendar day, for each worker paid less than prevailing wage rates
- Penalties will be issued on a Civil Wage and Penalty Assessment (CWPA)

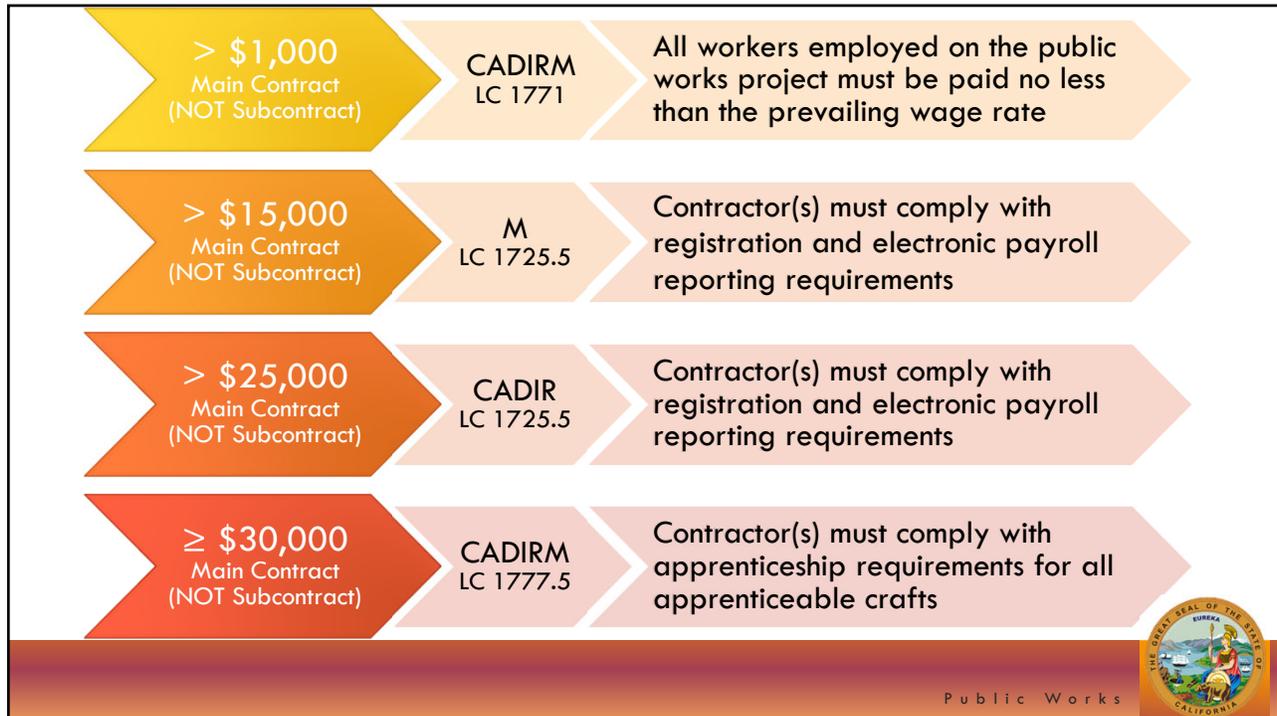


37

3. Comply with Apprenticeship Standards (Labor Code §1777.5)



38



39



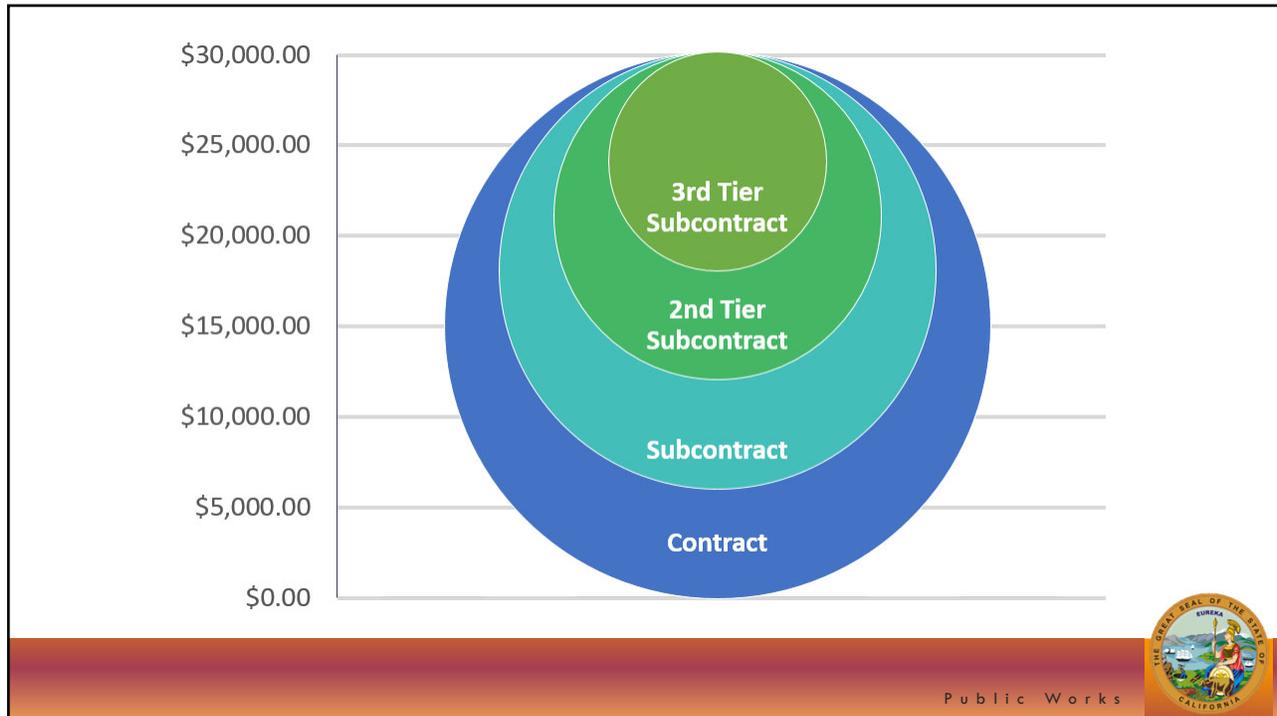
Employ apprentices in at least the minimum ratio

Pay required training fund rate to the applicable committee(s) or CAC.

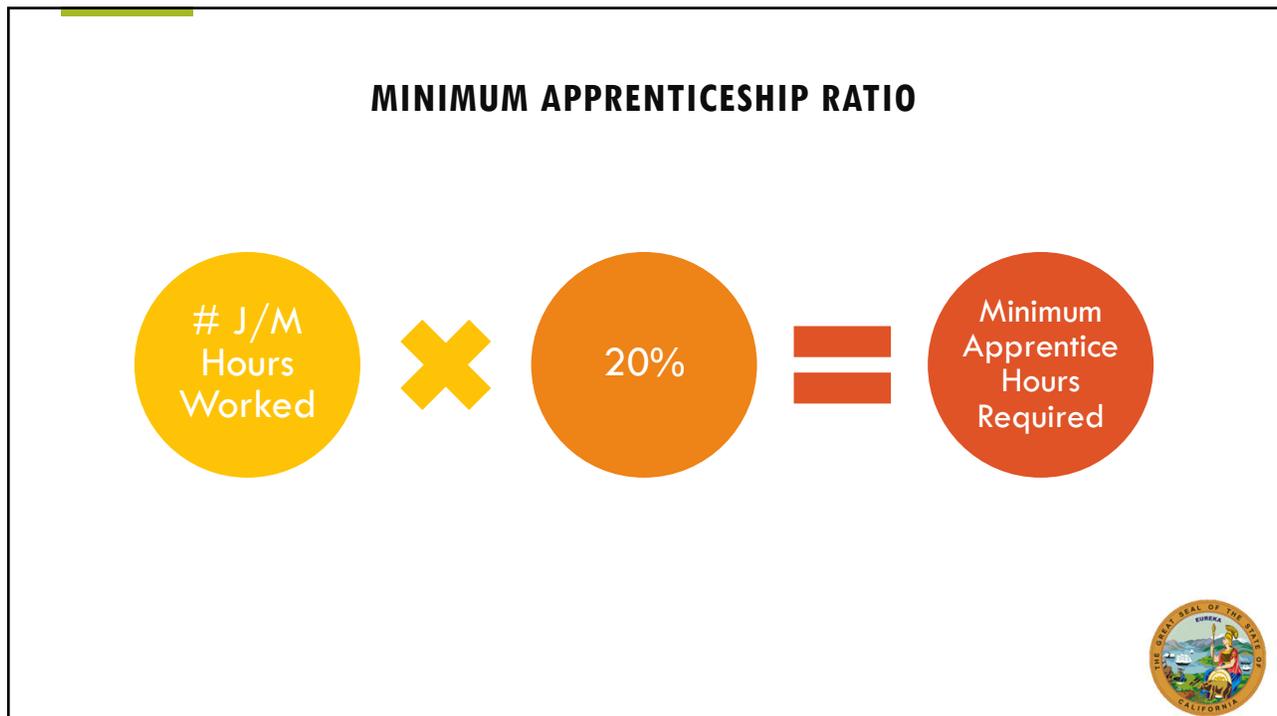
Notify applicable apprenticeship committees of contract award information



40



41



42

#Journeyman Hours Worked

Daily Straight Time ≤8hrs	Weekly Straight Time ≤40hrs	Daily Overtime >8hrs	Weekly Overtime >40hrs
Included in Ratio Calculation		Not Included in Ratio Calculation	



43

Saturdays, Sundays, Holidays

Daily Straight Time ≤8hrs	Weekly Straight Time ≤40hrs	Daily Overtime >8hrs	Weekly Overtime >40hrs
Included in Ratio Calculation		Not Included in Ratio Calculation	



44

Apprentice Hours Worked

Daily
Straight
Time
≤8hrs

Weekly
Straight
Time
≤40hrs

Daily
Overtime
>8hrs

Weekly
Overtime
>40hrs

Included in Ratio Calculation



45

 REQUEST FOR DISPATCH OF AN APPRENTICE – DAS 142 FORM DO NOT SEND THIS FORM TO DAS	
<p>You may use this form to request dispatch of an apprentice from the Apprenticeship Committee in the craft or trade in the area of the public work. Go to: http://www.dir.ca.gov/databases/das/pwaddrstart.asp for information about programs in your area and trade. You may also consult your local Division Apprenticeship Standards (DAS) office whose telephone number may be found in your local directory under California, State of, Industrial Relations, Division of Apprenticeship Standards. <u>Except for projects with less than 40 hours of journeyworkers work, you must request and employ apprentices in no less than 8 hour increments.</u></p> <p style="text-align: center;">List one occupation/craft per form</p>	
Date: _____ To Applicable Apprenticeship Committee: Name: _____ Address: _____ _____ Tel. No. _____ Fax No. _____	Contractor Requesting Dispatch: Name: _____ Address: _____ _____ License No. _____ PWC Registration Number: _____ Tel. No. _____ Fax No. _____

46

AT LEAST 72 HOURS NOTICE REQUIRED

The diagram consists of three circles connected by mathematical symbols. The first circle is yellow and contains the text "Total Hours of Notice". To its right is a yellow minus sign. The second circle is orange and contains the text "Saturday/Sunday/Holiday Hours". To its right is an orange equals sign. The third circle is red and contains the text "≥72 Hours Notice".



47

PUBLIC WORKS CONTRACT AWARD INFORMATION

Contract award information must be sent to your Apprenticeship Committee if you are approved to train. **If you are not approved to train, you must send the information (which may be this form) to ALL applicable Apprenticeship Committees in your craft or trade in the area of the site of the public work. Go to: <http://www.dir.ca.gov/databases/das/pwaddrstart.asp> for information about programs in your area and trade.** You may also consult your local Division of Apprenticeship Standards (DAS) office whose telephone number may be found in your local directory under California, State of, Industrial Relations, Division of Apprenticeship Standards.

Do not send this form to the Division of Apprenticeship Standards.

NAME OF YOUR COMPANY	CONTRACTOR'S STATE LICENSE NO.
MAILING ADDRESS- NUMBER & STREET, CITY, ZIP CODE	AREA CODE & TELEPHONE NO.
NAME & ADDRESS OF PUBLIC WORKS PROJECT	DATE YOUR CONTRACT EXECUTED
	DATE OF EXPECTED OR ACTUAL START OF PROJECT
NAME & ADDRESS OF PUBLIC AGENCY AWARDING CONTRACT	ESTIMATED NUMBER OF JOURNEYMEN HOURS
	OCCUPATION OF APPRENTICE
THIS FORM IS BEING SENT TO: (NAME & ADDRESS OF APPRENTICESHIP PROGRAM(S))	ESTIMATED NUMBER OF APPRENTICE HOURS
	APPROXIMATE DATES TO BE EMPLOYED

48

This is not a request for dispatch of apprentices.

Contractors must make a separate request for actual dispatch, in accordance with Section 230.1(a) California Code of Regulations

Check One Of The Boxes Below

1. We are already approved to train apprentices by the _____
Apprenticeship Committee. We will employ and train under their Standards. Enter name of the Committee

2. We will comply with the standards of _____
Apprenticeship Committee for the duration of this job only. Enter name of the Committee

3. We will employ and train apprentices in accordance with the California Apprenticeship Council regulations, including § 230.1 (c) which requires that apprentices employed on public projects can only be assigned to perform work of the craft or trade to which the apprentice is registered and that the apprentices must at all times work with or under the direct supervision of journeyman/men.

Signature _____ Date _____

Typed Name _____

Title _____

**State of California - Department of Industrial Relations DIVISION
OF APPRENTICESHIP STANDARDS**

DAS 140 (REV. 1/04)

49

	Minimum Ratio	Contract Award Information	Maximum Ratio	Journeyman On Duty
Box 1	One apprentice hour for every five journeyman hours	May be sent only to applicable apprenticeship committee(s) that approved the contractor	May be found in the apprenticeship standards under which the contractor has agreed to be bound by. Calculated at the end of the project and not on a daily basis.	Not applicable but will enforce DAS approved apprenticeship standards
Box 2		Must be sent to all applicable apprenticeship committees		Not applicable will enforce DAS approved apprenticeship standards
Box 3				Not applicable



50



- 1** Monitor contractor's payroll records to ensure apprentices are reported in the correct ratio.
- 2** Verify training funds were paid for all Applicable crafts.
- 3** Request proof that contract award information was submitted for all contracted work.



51



- 1** Minimum Ratio
- 2** Training Funds
- 3** Contract Award Information



52

Penalties for Noncompliance with Apprenticeship Standards

- Contractor/Subcontractor shall forfeit not more than one hundred dollars (\$100) for each full calendar day of noncompliance
- Contractor/Subcontractor shall forfeit not more than three hundred dollars (\$300) for each full calendar day of noncompliance for a second or subsequent violation within a three (3) year period
- Penalties will be issued on a Civil Wage and Penalty Assessment (CWPA)



53

4. Maintain and Furnish Payroll Records [Labor Codes §1771.4(a) (3) and §1776]



54

Payroll Records:

- “Each contractor and subcontractor shall keep accurate payroll records...”(Labor Code § 1776)
- Required Information (Labor Code §1776)

DLSE Form A-1-131 - Public Works Payroll Form may be used (Title 8, C.C.R. section §16401)

- Form use optional as long as all required information is included



55

DIR California Department of Industrial Relations **PUBLIC WORKS PAYROLL REPORTING FORM** Page of

NAME OF CONTRACTOR OR SUBCONTRACTOR		CONTRACTOR'S LICENSE NO. SPECIALTY LICENSE NO.		ADDRESS															
PAYROLL NO.		FOR WEEK ENDING DAY		SELF-INSURED CERTIFICATE NO. PROJECT OR CONTRACT NO.															
				WORKER'S COMPENSATION POLICY NO. PROJECT AND LOCATION:															
(1) NAME, ADDRESS AND SOCIAL SECURITY NUMBER OF EMPLOYEE	(2) NO. OF WEEKS WITH EMPLOYMENT	(3) WORK CLASSIFICATION	(4) DATE					(5) TOTAL HOURS	(6) HOURLY RATE OF PAY	(7) GROSS AMOUNT EARNED	(8) DEDUCTIONS, CONTRIBUTIONS AND PAYMENTS							(9) NET WGS PAID FOR WEEK	CHECK NO.
			M	T	W	TH	F				S	S	TRNG.	FUND. ADMIN.	DCS	TRAV. EXP.	SAVINGS		

The form is available to download on the DIR website by searching “A-1-131” in the search bar.



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Contractor Requirements

Furnish Electronic Certified Payroll Records (eCPR)

California Labor Code § 1771.4(a)(3)

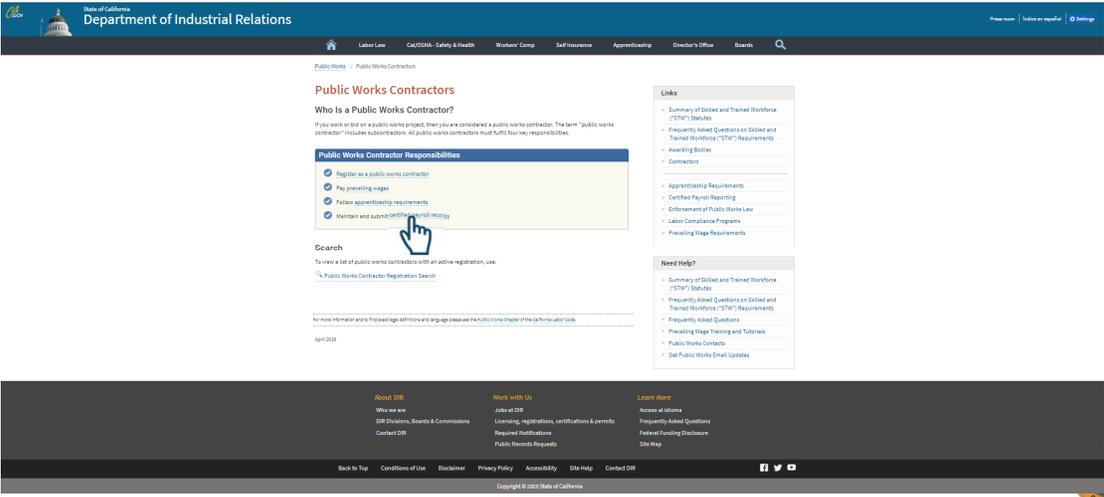
“All contractors and subcontractors must furnish electronic certified payroll records directly to the Labor Commissioner”

Does not apply to projects of \$25,000 or less when the project is for construction, alteration, demolition, installation, or repair work or for projects of \$15,000 or less when the project is for maintenance work. However, you are required to retain records for at least 3 years after completion of the work



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Contractor Requirements



The screenshot shows the Department of Industrial Relations website. The main heading is "Contractor Requirements". Below the heading, there is a navigation bar with links for Labor Law, Cal/OSHA - Safety & Health, Workers' Comp, Self Insurance, Apprenticeship, Director's Office, and Boards. The main content area is titled "Public Works Contractors" and includes a section "Who is a Public Works Contractor?" with a definition. Below that is a "Public Works Contractor Responsibilities" section with a list of tasks: Register as a public works contractor, Pay prevailing wages, Follow apprenticeship requirements, and Maintain and submit eCPR records. A hand cursor is pointing to the "Maintain and submit eCPR records" item. To the right, there are "Links" and "Need Help?" sections with various resource links. The footer contains "About DIR", "Work with Us", "Learn More", and "Back to Top" links.

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Contractor Requirements

State of California
Department of Industrial Relations
Home | Search reports | Settings

Labor Law
CAL/OSHA - Safety & Health
Workers' Comp
Self Insurance
Apprenticeship
Director's Office
Boards

Certified Payroll Reporting

Contractors and subcontractors on most public works projects are required to submit certified payroll records (CPRs) to the Labor Commissioner using DIR's electronic certified payroll reporting system.

A few categories of public works projects are exempt from reporting online to DIR.

Submit Payroll Records

Enter Payroll Online
Submit Payroll in XML File

NOTE: If you would like to save or print the information you enter in the online certified payroll record, click on the PDF icon that appears on your confirmation page.

Find Payroll Records Online

Payroll records are available to using the "Find Payroll" Search tool. Confidential information has been removed.

Resources

- Watch the CPR Tutorial
- Online Form User Guide
- XML Upload User Guide

Software Requirements for XML Files

- Create your own XML file using the CPR XML schema V1.3.
 - Download and use the XML schema file.
 - View a sample XML file.
- OR
- Use compatible software to create certified payroll records in XML format. Although DIR does not endorse or guarantee their products, the following vendors offer software for submitting certified payroll records in XML:
 - Amicus Systems, LLC | Certified Payroll Solutions
 - Quantum Business Tools, LLC | eForm | eForms | eForm | eFormbridge
 - Laborteam | eCPA | eComply Solutions LLC
 - Prism Compliance Management | Quantum Software Solutions Inc.
 - Sunburst Software Solutions, Inc.

Vendors who want their products to be added to the list should contact publicworks@dir.ca.gov.

Links

- Summary of Skilled and Trained Workforce (STW) Statutes
- Frequently Asked Questions on Skilled and Trained Workforce (STW) Requirements
- Awarding Bids
- Contractors
- Apprenticeship Requirements
- Certified Payroll Reporting
- Enforcement of Public Works Law
- Labor Compliance Programs
- Prevailing Wage Requirements

Need Help?

- Summary of Skilled and Trained Workforce (STW) Statutes
- Frequently Asked Questions on Skilled and Trained Workforce (STW) Requirements
- Frequently Asked Questions
- Prevailing Wage Training and Tutorials
- Public Works Contacts
- Get Public Works Email Updates

For more information and to find exact legal definitions and language please see the Public Works Chapter of the California Labor Code.

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Contractor Requirements

State of California
Department of Industrial Relations
Home | Search reports | Settings

Labor Law
CAL/OSHA - Safety & Health
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- XML Upload User Guide

Software Requirements for XML Files

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 - Download and use the XML schema file.
 - View a sample XML file.
- OR
- Use compatible software to create certified payroll records in XML format. Although DIR does not endorse or guarantee their products, the following vendors offer software for submitting certified payroll records in XML:
 - Amicus Systems, LLC | Certified Payroll Solutions
 - Quantum Business Tools, LLC | eForm | eForms | eForm | eFormbridge
 - Laborteam | eCPA | eComply Solutions LLC
 - Prism Compliance Management | Quantum Software Solutions Inc.
 - Sunburst Software Solutions, Inc.

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Contractor Requirements

State of California CA.gov | Contact DIR | Press Room

Department of Industrial Relations

Home Labor Law Cal/OSHA Safety & Health Workers' Comp Self Insurance Apprenticeship Director's Office Boards

Public Works

eCPR Search

Enter search criteria:

To run a search, enter your search text in **gpa** or more of the optional fields below, and enter the dates of your search in the Date Range (To and From) fields.
You can also type part of a word in any optional field to run a wildcard search. For example, if you enter "San" as your search for Awarding Body, your search result set will contain Awarding Body names including "Santa Maria", "San Francisco" and "Sandstone, Inc".

*indicates a required field

<p>DIR Project ID: <input style="width: 90%;" type="text" value="example: 12345"/></p> <p>Awarding Body: <input style="width: 90%;" type="text"/></p> <p>Project Name: <input style="width: 90%;" type="text"/></p> <p>*Date Range From: <input style="width: 90%;" type="text" value="MMDDYYYY"/></p>	<p>PWCR Number: <input style="width: 90%;" type="text" value="10-digit registration number"/></p> <p>Contractor Name: <input style="width: 90%;" type="text"/></p> <p>County: <input style="width: 90%;" type="text" value="Select a County"/></p> <p>*Date Range To: <input style="width: 90%;" type="text" value="MMDDYYYY"/></p>
--	---

Reset
Search

About DIR

- Who we are
- DIR Divisions, Boards & Commissions
- Contact DIR

Work with Us

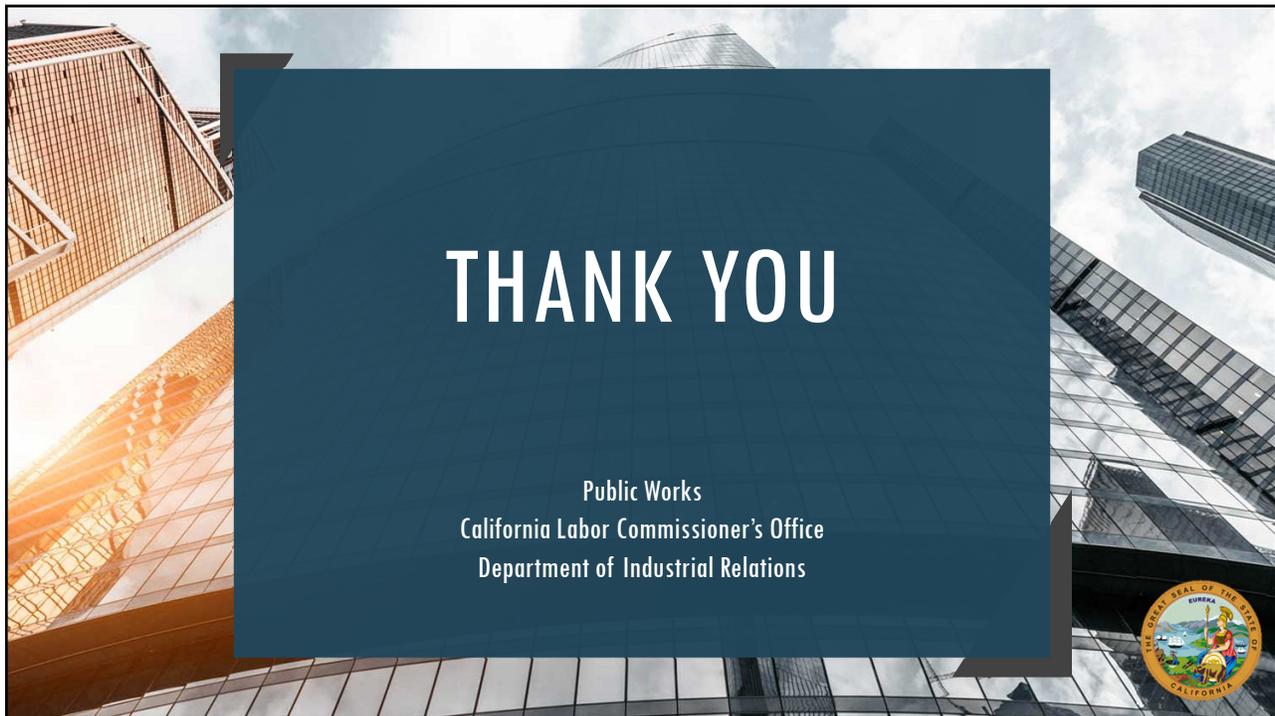
- Licensing, registrations, certifications & permits
- Notification of activities
- Public Records Act

Learn More

- Site Map
- Frequently Asked Questions
- Jobs at DIR



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THANK YOU

Public Works
California Labor Commissioner's Office
Department of Industrial Relations



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Davis-Bacon Compliance Principles



U.S. Department of Labor
Employment Standards Administration




1



DBA/DBRA Compliance Principles

- Laborers and mechanics
- Area Practice
- Site of the work
- Fringe Benefits
- Truck drivers
- Federal contracts: PCA interaction with DBA
- Apprentices Trainees & Helpers
- Computing overtime pay



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Laborers and Mechanics

- Workers whose duties are manual or physical in nature
- Includes apprentices, trainees, and helpers
- For CWHSSA, includes watchmen and guards



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Laborers and Mechanics

- Does not include:
 - Timekeepers, inspectors, architects, engineers
 - Bona fide executive, administrative, and professional employees as defined under FLSA
- Working foremen are generally non-exempt
 - must be paid the Davis Bacon (DB) rate for the classification of work performed if not 541 exempt



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Site of the Work

- Davis-Bacon applies only to laborers and mechanics employed “directly upon the site of the work”
- A three-part definition applies to determine the scope of the term “site of the work”



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Site of the Work Definition ¶1

- DBA applies only to workers on the “site of the work”
 - The physical place or places where the construction called for in the contract will remain after work has been completed; and,
 - Any other site where a **significant** portion of the building or work is constructed, *provided that* such site is established specifically for the contract



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Site of the Work Definition ¶2

- “Site of the work” also includes job headquarters, tool yards, batch plants, borrow pits, etc., *provided* they are:
 - Located adjacent or virtually adjacent to the “site of the work” described in paragraph 1 and
 - Dedicated exclusively or nearly so to the performance of the contract or project
 - Except if they are excluded – see next slide



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Site of the Work Definition ¶3

- “Site of the work” does not include a contractor’s or subcontractor’s
 - permanent home office, branch locations, fabrication plants, tool yards, etc.,
 - whose location and continuance in operation are determined without regard to a particular covered project.



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Truck Drivers

- Truck drivers of the contractor or subcontractor are covered by Davis-Bacon for time:
 - Spent driving on the “site of the work,” and
 - Spent loading or unloading materials and supplies on the “site of the work,” if such time is more than *de minimis*



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Truck Drivers

- Truck drivers are also covered when:
 - Transporting materials and supplies between a facility that is part of the “site of the work” and the actual construction site; or
 - Transporting portions of a building or work between a site where a significant portion of the project is being constructed and the physical place where the building or work will remain



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Truck Drivers

- Truck drivers are not covered in the following instances:
 - Material delivery truck drivers while off the “site of the work”
 - Truck drivers of a contractor or subcontractor traveling between a commercial facility and the Davis-Bacon job when they are off the “site of the work”
 - Truck drivers whose time spent on the “site of the work” is *de minimis* for pick-up or drop off



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Truck Drivers Owner-Operators

- DOL has an enforcement position with respect to *bona fide* owner-operators of trucks who are independent contractors (an owner-operator is a person who owns and drives a truck). Certified payrolls including the names of such owner-operators do not need to show the hours worked or the rates paid, only the notation “owner-operator”.
- This position does not apply to owner-operators of other equipment such as bulldozers, cranes, etc.



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Apprentices

- Persons individually registered in a bona fide apprenticeship program registered with DOL or a DOL approved State apprenticeship agency
- Include individuals in their first 90 days of probationary employment as an apprentice
- DOL regulations: 29 CFR 5.2(n)(1) and 5.5(a)(4)(i)



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Trainees

- Persons registered and receiving on-the-job training in a construction occupation under a program that has been approved in advance by DOL's Employment Training Administration (ETA)
- DOL regulations: 29 CFR 5.2(n)(2) and 5.5(a)(4)(ii)



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Apprentices and Trainees

- Are laborers and mechanics, but are not listed on the WD
- Permitted to be used on covered projects and paid less than the journeyman rate when:
 - Individually registered in an approved apprenticeship or training program
 - Paid the percentage of hourly rate required by the apprenticeship or training program



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Apprentices and Trainees

- Paid the FB's specified in the approved program, or the full amount of FB's listed on the WD, if the program is silent; and,
- Within the allowable ratio specified in the approved program for the number of apprentices or trainees to journeymen



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Helpers

- May be employed if:
 - Duties are clearly defined and distinct from other classifications on the WD
 - An established prevailing practice in the area,
 - Not employed in an informal training program
- May be added to WD if all above conditions are met; no WD class performs the work



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Area Practice Surveys

- Used to determine proper classification of workers on Davis-Bacon projects
- Limited Area Practice survey is acceptable when the prevailing practice is clear based upon preliminary data
- Full Area Practice Survey is necessary when preliminary data indicate varied classification practices



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Conducting a “Full” Area Practice Survey

- Identify the similar projects (same type of construction) in progress during year prior to WD lock-in-date in local area of project in question
- Identify firms that performed the work in question and contact those that are either open-shop or union based on the wage rates in the WD
- From each relevant firm contacted (open shop or union), determine the week in which greatest number of workers performed the work in question and how they were classified



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Conducting a “Full” Area Practice Survey

- Compile the relevant information received, tally the relevant employment data, and total the number of workers in each classification that performed the work in question
- Only union sector data can be used to support a union classification and rate on the WD
- Only open shop sector can support use of non-union classification and rate on WD
- The classification with clear majority (60%) is proper (local prevailing) classification for the work



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Wages & Fringe Benefits

- DBA: the term “wages” or “prevailing wages” includes:
 - The basic hourly rate (BHR)
 - Contractor contributions *irrevocably* made to a trustee or third party pursuant to a bona fide fringe benefit (FB) fund, plan, or program
 - The rate of costs the contractor reasonably anticipates in providing bona fide FB’s where certain conditions are met



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Fringe Benefits

- Under DBA, FB’s are a component “prevailing wage”
- The WD obligation may be satisfied by:
 - Paying the BHR and FB in cash
 - Contributing payments to a bona fide plan
 - Any combination of the two



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Fringe Benefits

- Must be paid weekly for all hours worked
- Cash wages paid in excess of BHR may count to offset or satisfy the FB obligation (unlike under SCA)



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Examples of Fringe Benefits

- Life Insurance
- Health Insurance
- Pension
- Vacation
- Holiday
- Sick Leave



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Discharging DB Prevailing Wage Obligation

- If WD requires a prevailing wage of \$14.50 (\$12.00 BHR plus \$2.50 in FB's), the contractor can comply by paying:
 - \$14.50 in cash wages; or
 - \$12.00 plus \$2.50 in bona fide FB; or
 - \$11.00 plus \$3.50 in bona fide FBs



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Computing Overtime Hours (CWHSSA Earnings)

An employee worked 44 hours as electrician,
where WD BHR is \$12.00 plus \$2.50 in FB's:

44 hours	X	\$ 2.50		= \$110.00	FB's
44 hours	X	\$12.00		= \$528.00	BHR
4 hours	X	\$12.00/2		= \$ 24.00	OT
				\$662.00	



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