

THE SAN FRANCISCO OFFICE OF LABOR STANDARDS ENFORCEMENT • CALIFORNIA LABOR
COMMISSIONER'S OFFICE • FOUNDATION FOR FAIR CONTRACTING

PRESENT

PREVAILING WAGE/LABOR COMPLIANCE WEBINAR

Thursday • October 13, 2022 • 9:00 a.m. – 4:30 p.m.

Time	Item	Speaker(s)
9:00 AM – 9:15 AM	Welcome and Opening Remarks	Jesse Jimenez
9:15 AM – 10:00 AM	The San Francisco Office of Labor Standards Enforcement <ul style="list-style-type: none"> ○ Presentation of SF Admin Code Ch. 23 & Ch. 21C ○ Citywide PLA 	Patrick Mulligan, Director of OLSE
10:00 AM – 10:45 AM	U.S. Department of Labor <ul style="list-style-type: none"> ○ Davis-Bacon Compliance Principles – Federal Requirements 	Rebecca Clark
10:45 AM – 11:00 AM	<i>Break</i>	
11:00 AM – 12:00 PM	Office of the Director – Legal Coverage	Ken Lau
12:00 PM – 12:15 PM	Pre-Qualification of Contractors	Susan Weaver
12:15 PM – 1:00 PM	<i>Lunch</i>	
1:00 PM – 2:00 PM	Awarding Body Responsibilities/Skilled and Trained Workforce	Sara Brown Jerry McClain
2:00 PM – 3:00 PM	Contractor Responsibilities	Eric Raktiprakorn Alfredo Roman
3:00 PM – 3:15 PM	<i>Break</i>	
3:15 PM – 3:30 PM	Department of Industrial Relations <ul style="list-style-type: none"> ○ Labor Enforcement Task Force ○ PW Strategic Enforcement Presentation 	Dominic Forrest
3:30 PM – 4:15 PM	Labor Commissioner's Office - Legal Updates	Lance Grucela David Cross
4:15 PM – 4:30 PM	Closing Remarks/Evaluations	Patrick Mulligan Jesse Jimenez



Prevailing Wage/Labor Compliance Webinar

Welcome!



Getting started...

Refer to your *Confirmation Email* for:

- Handout Location

<https://www.ffccalifornia.com/registration-handouts>

- Troubleshooting Zoom
- Call-In Telephone Numbers/Meeting Codes

- Nothing in this presentation represents the opinion of the Labor Commissioner's Office or the Department of Industrial Relations.

Disclaimer

- Anything you see or hear may or may not be true on your specific contract.
- You should do your due diligence when making any decision related to public works contracting.

Frequently asked questions



Question: Do prevailing wage requirements apply only to projects formally put out to bid by a public agency?

Answer: No, prevailing wage requirements can apply to projects not formally bid. They can also apply when the awarding agency is not a public agency.

Question: Contractors are now required to submit eCPRs. Are contractors still required to maintain certified payroll records?

Answer: Yes, eCPRs are a completely different requirement and do not contain all required information as set forth in Labor Code Section 1776.

Question: Do public agencies and contractors still need to provide “certified payroll records” upon request by a member of the public?

Answer: Yes, public agencies and contractors are still required to provide “certified payroll records” upon request, even if the contractor submitted eCPRs online. Remember, eCPRs are different than “certified payroll records.”

Question: Is it a good idea to monitor my own subcontractors?

Answer: Yes, higher-tier contractors are generally liable for their subcontractors' compliance with wages, apprenticeship, registration, etc.

Question: Public works laws are confusing and difficult. Where can I complain about these issues?

Answer: The California Legislature is responsible for creating these laws not the Labor Commissioner's Office or the Department of Industrial Relations.

Question: Since public works laws are so difficult, is it normal for contractors just starting out in public works to be given a break if mistakes are made?

Answer: No, not usually. If you are just starting out and do not feel comfortable with all the public works requirements, you may want to consider not bidding on public works projects until you know how to comply with all of the laws.

Question: Can you tell me one place that I can go to get answers to my prevailing wage questions?

Answer: www.ffccalifornia.com

A Few Final Reminders...

- The webinar may be recorded, but it is utilized for staff training purposes only.
- Speakers contact information will be provided in an email following the event.
- Please fill out the Evaluation/Survey.

Thank You for Joining the Webinar





Bridging the Gap

Davis-Bacon and the Bipartisan Infrastructure Law



WAGE AND HOUR DIVISION
UNITED STATES DEPARTMENT OF LABOR

dol.gov/agencies/whd
1-866-4-US-WAGE

Disclaimer

This presentation is intended as general information only and does not carry the force of legal opinion.

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Coverage

Davis-Bacon Act Coverage

Applies to contracts in excess of \$2,000 to which the Federal Government or the District of Columbia is a party for construction, alteration, and/or repair, including painting and decorating, of public buildings or public works.

Davis-Bacon Related Acts

Davis-Bacon (DB) requirements extended to numerous “related Acts” that provide federal assistance by

- Grants
- Loans
- Loan guarantees
- Insurance

Bipartisan Infrastructure Law

The Bipartisan Infrastructure Law will:

- Create an estimated 800,000 good-paying jobs that will expand the middle class
- Revitalize our nation's transportation, communications and utilities systems
- Build a more resilient, reliable, and environmentally sound future

DBRA Coverage of Bipartisan Infrastructure Law Construction Projects

The Bipartisan Infrastructure Law (BIL) applies Davis-Bacon labor standards to federally funded or assisted construction projects in three different ways

- Adding funding to programs previously authorized by an existing Davis-Bacon Related Act
- Adding new programs under the umbrella of an existing Davis-Bacon Related Act
- Including provisions which expressly provide that Davis-Bacon labor standards apply to all construction projects receiving funding under particular programs created by or funded through BIL

Projects subject to Davis-Bacon labor standards through BIL include:



Roads, bridges and public transit

- Includes Surface Transportation Reauthorization Act and Surface Transportation Investment Act funding
- Provides funding to replace and repair bridges
- Includes major project competitive grant programs
- Funds nation's transit system repair backlog
- Expands transit systems and supports clean transit



Airports, ports and waterways

- Increases funds for airport improvement grants for runways, gates, and taxiways
- Provides funding for airport terminal improvement
- Improves air traffic control infrastructure
- Supplies funding for waterway and coastal infrastructure, inland waterway improvements, port infrastructure, and land ports of entry



Water infrastructure, power and grid

- Increases funding for Drinking Water and Wastewater Infrastructure Act of 2021 and lead service line replacement
- Provides funding for grid reliability and resiliency
- Supports critical minerals and other supply chains for clean energy
- Includes funding for technologies like carbon capture, hydrogen, direct air capture, and energy efficiency



Enhanced disaster resiliency

- Supplies funding for cybersecurity, flood and wildfire mitigation, coastal resiliency, ecosystem restoration and heat stress
- Provides funding for home weatherization, prioritizing assistance for low-income individuals

Wage Determinations

Wage Determinations (WDs)

Davis-Bacon Wage Determinations (WDs) specify the prevailing wages, including fringe benefits, that prevail for the described classes of laborers and mechanics employed on construction projects of a similar character in the locality.

Two types of wage determinations: **General** and **Project**

- In almost all instances, general WDs are available on sam.gov and should be used in bid solicitations and contracts on which the Davis-Bacon labor standards apply.
- Project WDs should only be requested under certain circumstances

Selecting the Correct WDs-Type

Selecting and incorporating the appropriate general wage determination for the project type. Guidance provided in AAM 130.

- Building
- Residential
- Heavy
- Highway

Multiple wage determinations may apply where there are separate construction types and the different type of construction is at least 20 percent of the project cost or exceeds \$2.5 million – guidance provided in AAM 131 and 236

Selecting the Correct WDs-Date

Incorporate most current WD:

- Negotiated contracts (“RFPs”) – Time of award.
- Competitively bid contracts: In effect 10 days or more before opening of bids.
- Exceptions.
- If the contract is not awarded within 90 days of bid opening, any modification to the WD must be incorporated unless the federal agency requests and obtains an extension of the 90 day period.

Contracting Agency Responsibilities

- Ensure proper wage determination (WD) is identified and applied;
- Advise contractors which schedule of rates applies to various construction items; and
- After consulting with WHD, advise contractors regarding the duties performed by various crafts in the WD.

Interpreting General WDs

Useful information contained in a general wage determination:

- State and county
- Type of construction with description
- Record of modifications
- List of classifications and rates
- Basis for rates – Identifiers
 - Union Identifiers
 - Union Weighted Average Identifiers
 - SU Identifiers

Interpreting General WDs – Cover Sheet

General Decision Number: LA170002 01/20/2017 LA2

Superseded General Decision Number: LA20160002

State: Louisiana

Construction Type: Heavy

Counties: Acadia, Ascension, Bossier, Caddo, Calcasieu, East Baton Rouge, Lafayette, Lafourche, Livingston, Ouachita, Rapides, St Landry, St Martin, Terrebonne, Webster and West Baton Rouge Counties in Louisiana.

HEAVY CONSTRUCTION PROJECTS (includes flood control, water & sewer lines, and water wells; excludes elevated storage tanks, industrial construction-chemical processing, power plants, and refineries)

Note: Under Executive Order (EO) 13658, an hourly minimum wage of \$10.20 for calendar year 2017 applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2015. If this contract is covered by the EO, the contractor must pay all workers in any classification listed on this wage determination at least \$10.20 (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in calendar year 2017. The EO minimum wage rate will be adjusted annually. Additional information on contractor requirements and worker protections under the EO is available at www.dol.gov/whd/govcontracts.

Modification Number	Publication Date
0	01/06/2017
1	01/13/2017
2	01/20/2017

Interpreting General WDs – Identifiers

List of classifications and rates.

- Union Identifiers; and
- SU Identifiers.

Interpreting General WDs – Union IDs

Union identifiers - **ELEV0101-001 10/01/2017**

- Elevator Contractors: International Union
- Local 101 – Local union number
- 001 – internal processing number
- 10/01/2017 – Date the rate became effective on the CBA

Interpreting General WDs – Union Example

CARP 0055-001

11/01/2016

	Rates	Fringes
<ul style="list-style-type: none">• Carpenter (Acoustical Ceiling, Installation, and Dry Wall Hanging Only)	\$26.25	\$8.64
<ul style="list-style-type: none">• CBA rates are updated when CBA rates are changed		

Interpreting General WDs – Survey IDs

SU (Non-Union) Identifiers

SUCO2015-015 07/31/2015

SU: Survey Basis of Rate(s)

CO: Colorado

2015: Date of Survey

015: Internal Numbering

*** SU rates remain unchanged until new survey**

Interpreting General WDs – SU Example

SUCO2015-015

07/31/2015

	Rates	Fringes
Bricklayer	\$21.96	\$0.00
Carpenter	\$18.22	\$0.00

Interpreting General WDs – UAVG

UAVG- Union Weighted Average Identifiers

UAVG-CO-0016	01/01/2016	
	Rates	Fringes
Operator: Bulldozer.....	\$37.85	\$22.72

A UAVG rate prevails where 100% of the data reported for the classification is union data but because more than one union performed the work in the classification in the locality, no single majority prevailed.

UAVG rates are updated annually



Conformances

Conformances

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses

(29 CFR 5.5(a)(1)(ii)).

- The work to be performed by the proposed classification is not performed by a classification already in the wage determination (WD);
- The proposed wage rate must bear a reasonable relationship to WD rates; and
- The proposed classification is utilized in the area by the construction industry.

Unnecessary Conformance Actions

Conformance requests are not needed for bona fide:

- Apprentices
- Trainees
- Welders

Conformances: Contracting Agencies & Contractors

Pre-Bid/Pre-Award

- Review the WD
- Compare the WD with the project work
- Anticipate needed classifications
- Apply key criteria

Conformance Process - Contractor

After-Award:

- Identify needed classes;
 - At the pre-construction conference.
 - From certified payrolls.
- Advise agency of the needed classification;
- Complete Contractor Part of SF-Form 1444.
 - Apply Conformance Key Criteria.
- Forward SF-Form 1444 to agency for review, signature, and submission to DOL.

A photograph of three construction workers on a rooftop at sunset. The workers are wearing hard hats and safety vests, looking at blueprints. A large crane is visible in the background, and the sky is a mix of orange and blue. The foreground shows rebar and construction materials on the roof.

Compliance Principles

Wages and Fringe Benefits

All laborers and mechanics employed or working upon the site of the work must be paid at least the applicable prevailing wage rate for the classification of work performed as listed in the applicable wage determination or a rate approved in accordance with the “conformance process” set forth at 29 CFR 5.5(a)(1)(ii), without regard to skill.

Wages and Fringe Benefits-Classification

Laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill.

Laborers and mechanics who perform work in more than one classification may be paid the different applicable rates for the work they actually perform if the employer keeps an accurate record of the time spent working in each classification and pays accordingly.

Wages and Fringe Benefits-Pay Frequency

The laborers and mechanics working on the site of the work must be paid weekly, with the exception of fringe benefit contributions paid into a bona fide FB plan, which must be paid no less often than quarterly.

Wages and Fringe Benefits-Payment

Under DBA, FBs are a component of the DBA “prevailing wage.”

The prevailing wage obligation may be satisfied by:

- Paying the base hourly rate (BHR) and FB in cash (including negotiable instruments payable on demand);
- Contributing payments to a bona fide plan; or
- Any combination of the two.

Cash wages paid in excess of BHR may count to offset or satisfy the FB obligation

Overtime Pay

Contract Work Hours and Safety Standards Act (CWHSSA)

- Covers contracts over \$100,000 (\$150,000 for contracts procured under the Federal Acquisition Regulations) that require or involve the employment of laborers, mechanics, watchmen or guards on DBA or DBRA covered construction contracts
- Is self-executing (even if not stated in contract)
- Has no “site of work” limitation

Fair Labor Standards Act (FLSA) applies more broadly, with over 130 million workers subject to coverage.

Requirements of CWHSSA-General

Requires overtime pay for laborers, mechanics, guards, and watchmen at a rate of one and a half times the basic rate of pay for hours worked in excess of 40 in a workweek on covered contracts

- The basic rate of pay under CWHSSA is the straight time hourly rate
- The “basic rate” cannot be less than the basic hourly rate required in an applicable wage determination, not including any required fringe benefit amount.

Requirements of CWHSSA

- If an employee is paid a regular rate above the basic hourly rate (excluding fringe benefits or cash payments in lieu of fringe benefits), that regular rate will be considered the basic rate.
- Amounts paid to fulfill the fringe benefit portion of the prevailing wages listed in the applicable wage determination are excluded in computing overtime obligations under CWHSSA

Application of CWHSSA

CWHSSA applies to laborers, mechanics, guards and watchmen for the time spent **on covered contract work only**

- Total up all the time each employee spent working on covered contracts (off-site as well as on-site on DBA/DBRA projects)
- Exclude all commercial, non-government, non-covered work.
- Liquidated damages can be assessed per day for each laborer, mechanic, guard, or watchman not paid proper overtime

Certified Payrolls

Two separate contract clause requirements apply to “certified payrolls” for a project:

- The contractor shall submit weekly for any week in which any contract work is performed a copy of all payrolls.

29 CFR 5.5(a)(3)(ii)(A).

- Each weekly payroll submitted must be accompanied by a “Statement of Compliance.”

29 CFR 5.5(a)(3)(ii)(B).

Certified Payrolls-Reporting

Weekly payrolls must include specific information as required by 29 CFR 5.5(a)(3).

Weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose

The WH-347 form, with instructions, is at:

<https://www.dol.gov/agencies/whd/forms/wh347>

Investigations

The background image shows three construction workers in silhouette against a bright, orange-hued sunset sky. The worker on the left is wearing a white hard hat and a green safety vest, gesturing with his right hand. The worker in the center is wearing a dark hard hat and a green safety vest, holding a large sheet of blueprints. The worker on the right is wearing a tan hard hat and a red safety vest, holding a long tool. In the background, a construction crane is visible, and the overall scene is a construction site at dusk.

Investigations

DOL Functions/Responsibilities:

- Determining “prevailing wages”;
- Issuing regulations and standards to be observed by contracting agencies; and
- Perform oversight function and has independent authority to conduct investigations (contracting agencies also have the authority to conduct investigations)

Investigative Process

- Initial conference with employer.
- Examine certified payrolls.
- Examine basic payroll records.
- Check for compliance with apprenticeship and/or trainee requirements.
- Interview employees
- Determine if a conformance is necessary.
- Compute back wages and liquidated damages, if any
- Final conference with employer to discuss results of the investigation.

Withholding

- DBA and CWHSSA provide for withholding of contract funds to satisfy alleged wage underpayments pending resolution of a wage dispute. (40 U.S.C. § 3142(c)(3); 40 U.S.C. § 3702(d).)
- Withholding of contract funds is an effective enforcement tool in DBA/DBRA/CWHSSA cases.
- It protects the rights of covered workers to wages due them.

Withholding of Contract Funds

FAR guidance in 48 CFR Part 22 instructs that if the contracting officer believes a violation exists, or upon request of the Department of Labor:

- The contracting officer must withhold from payments due the contractor an amount equal to the estimated wage underpayment and estimated liquidated damages due under the CWHSSA.
(48 CFR 22.406-9(a))

Debarment

Occurs when a contractor is declared *ineligible* for future contracts due to:

- Violations of the DBA in disregard of its obligations to employees or subcontractors.
- Aggravated or willful violations under the labor standards provisions of Related Acts.
- Period of ineligibility is 3 years for DBA and up to 3 years for DBRA.
- The debarment process is given at 29 CFR 5.12(b)

Debarment Criteria

Debarment is considered when a contractor has:

- Submitted falsified certified payrolls;
- Required “kickbacks” of wages or back wages;
- Committed repeat violations;
- Committed serious violations;
- Misclassified covered workers in clear disregard of proper classification norms; and/or
- As a prime contractor, failed to ensure compliance by subcontractors.

Internet Sites

- Wage Determinations: <https://sam.gov>
- Wage and Hour Division: <http://www.dol.gov/agencies/whd/government-contracts>
- WHD Protections for Workers in Construction under the Bipartisan Infrastructure Law: <https://www.dol.gov/agencies/whd/government-contracts/protections-for-workers-in-construction>
- Resource Book: <http://www.dol.gov/agencies/whd/prevaling-wage-resource-book>
- Office of the Administrative Law Judges Law Library: <https://www.dol.gov/agencies/oalj/topics/libraries/LIBDBA>
- Prevailing Wage Topic videos: <https://www.dol.gov/agencies/whd/government-contracts/construction/presentations>

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- DOL Blog: blog.dol.gov



Public Works

State of California

Department of Industrial Relations

- 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 the Director – Research (OD Research)
 - 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

Office of the Director • Decisions and Determinations

Quick Links

Prevailing Wage

- ▶ Prevailing Wage Coverage Determinations
- ▶ Prevailing Wage Enforcement Decisions
- ▶ Prevailing Wage Determinations
- ▶ Prevailing Wage Regulations
- ▶ Prevailing Wage Hearing Regulations
- ▶ Prevailing Wage Training

Apprenticeship

- ▶ Apprenticeship Requirements
- ▶ Apprenticeship Regulations

Labor Compliance

- ▶ Labor Compliance Programs
- ▶ Labor Compliance Programs Regulations

Search

- ▶ Contractor Registration Search
- ▶ Public Works Project Search
- ▶ Electronic Certified Payroll Reports Search

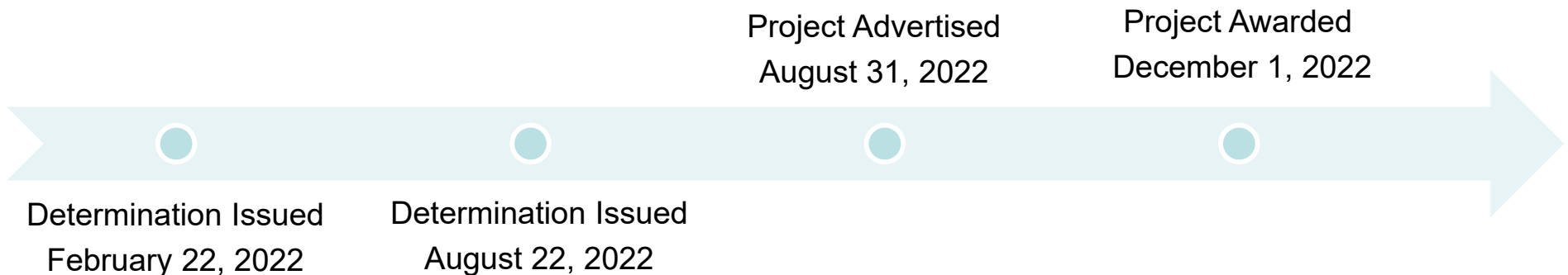
Registration

What exactly is the prevailing wage?



Prevailing Wage Determinations

- ☐ General PW determinations issued twice a year: Feb 22 and Aug 22.
- ☐ Residential PW determinations issued once a year: Dec 1.
- ☐ PW determinations effective 10 days after issuance.
- ☐ PW determination in effect on the bid advertisement date is applicable



What is a coverage determination?

- The DIR 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.

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

Which comes first?



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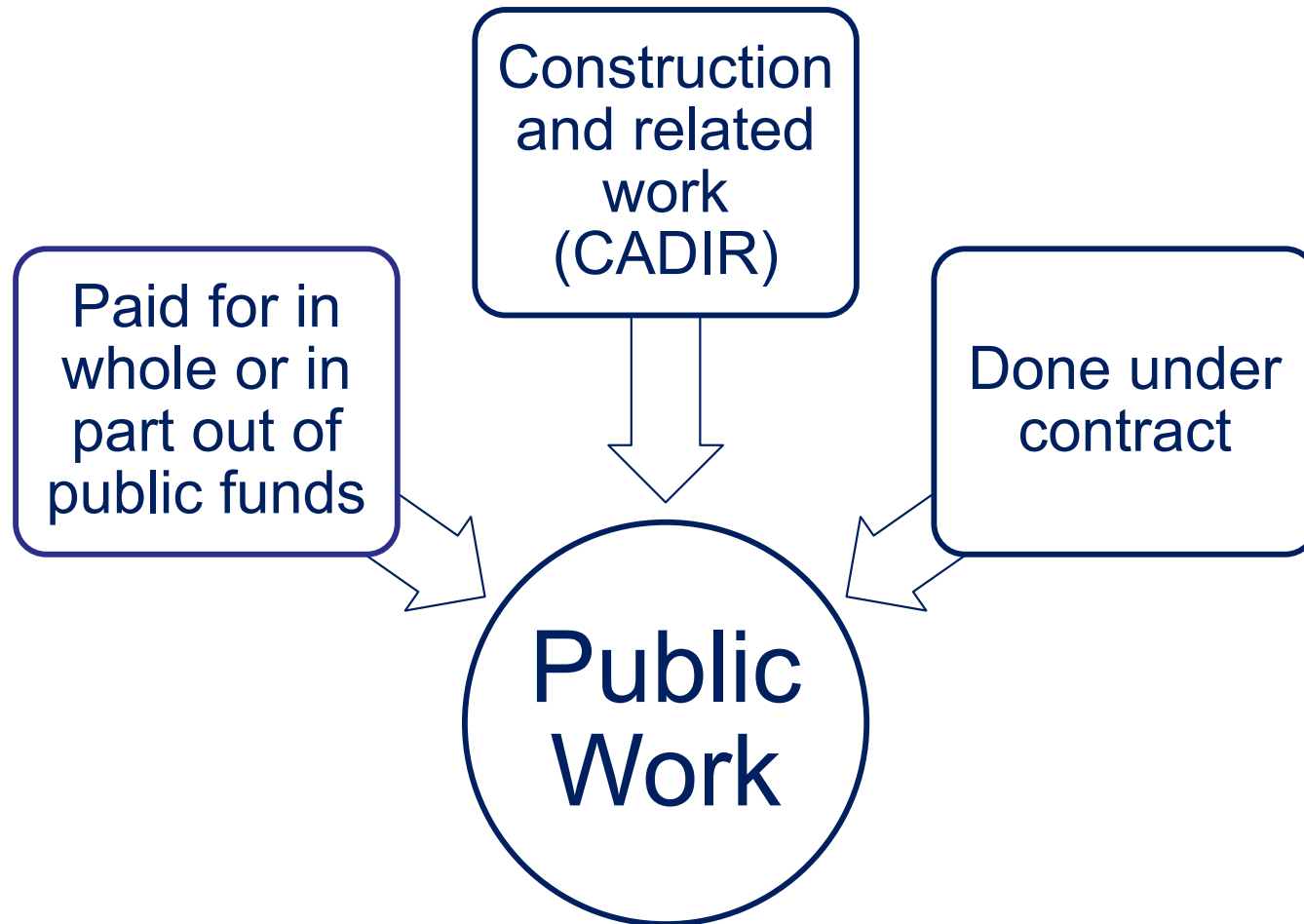
OR



"Chicken eggs in nest" by brittgow is licensed under CC BY 2.0.

Public Works
Coverage Determination

Prevailing Wage
Determination



Standard definition of “public works.”

Prevailing wages are required unless an exception applies.

Apprentices must be hired in a specified ratio unless an exception applies.



Labor Code Section 1720(a)(1)

- **C**-onstruction (includes preconstruction *and* post construction)
- **A**-lteration
- **D**-emolition
- **I**-nstallation (assembly/disassembly of modular office systems)
- **R**-epair

Labor Code section 1771

- Maintenance (defined in 8 CCR 16000)
 - Tree trimming, street sweeping, graffiti/homeless encampment removal

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***.

Paid for in whole or in part out of public funds

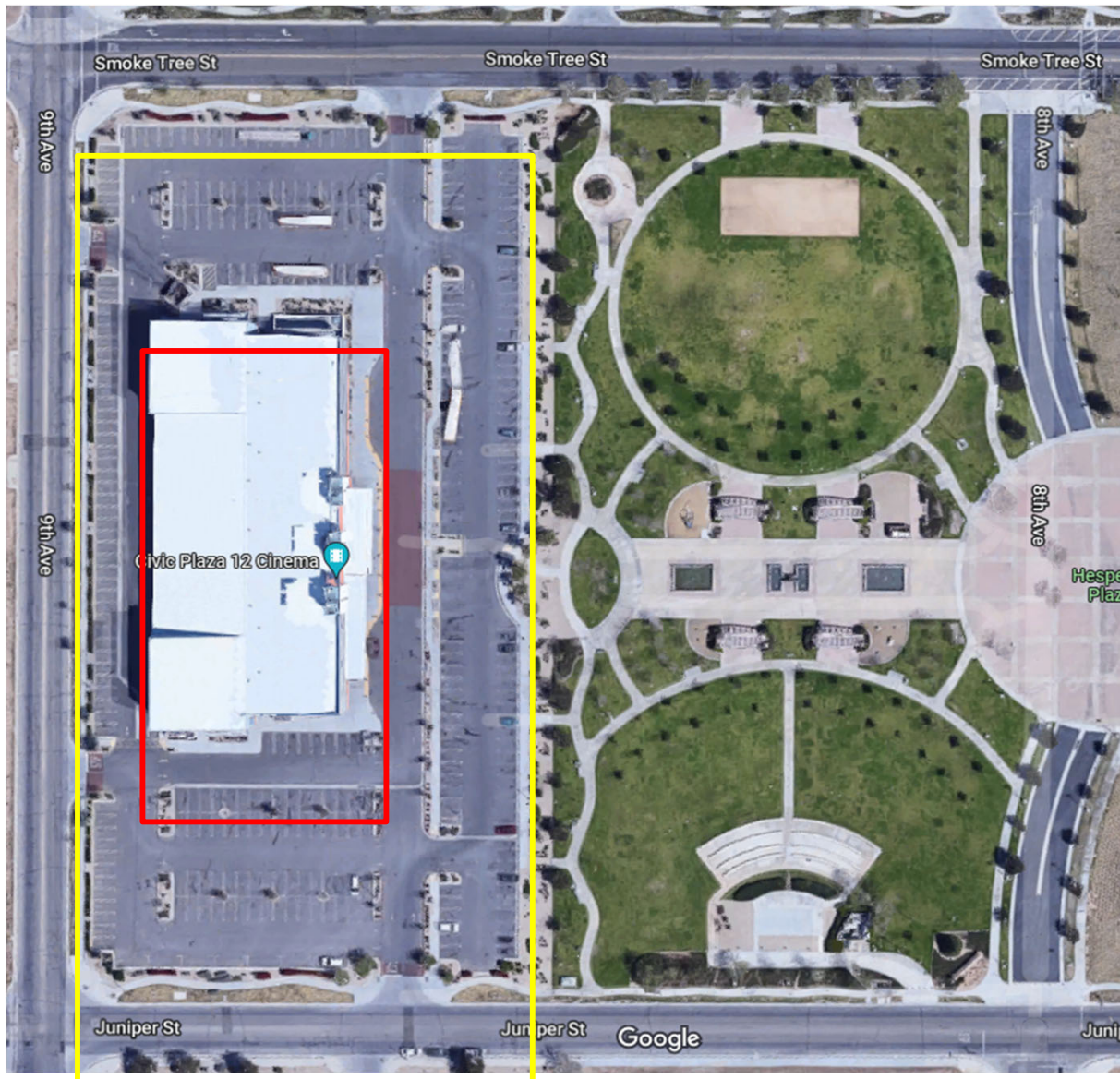
(Labor Code 1720(b))

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

Case Study



Hesperia sold red section to developer for \$101k

Hesperia built parking lot on yellow section

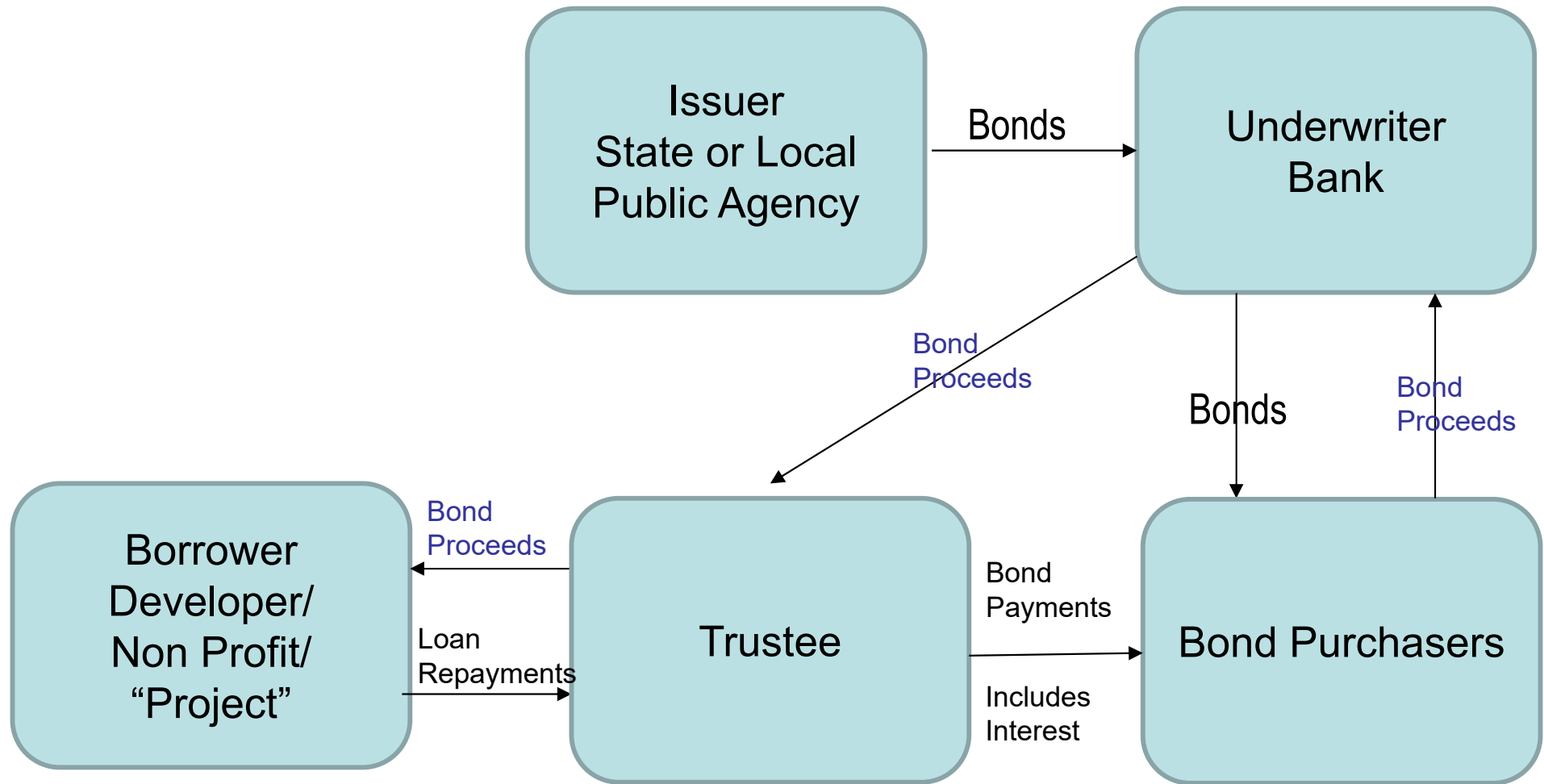
Hesperia gave \$101k to developer after theater was built

Hesperia provided \$1.8M in forgivable loans

Hesperia waived interest on loans in case of default

- For purposes of the prevailing wage law, public funds **do not** include:
- Proceeds from **Conduit Revenue Bonds**
 - Usually available to build schools, hospitals, and housing.
 - But see 1720.8 (charter schools) and 1720.7 (general acute care hospitals).
- **Low Income Housing Tax Credits**
 - LIHTC usually allocated by the CTCAC.

Conduit Revenue Bonds



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 on general acute care hospitals]
- Section 1720.8 [Work done on charter schools]
- Section 1720.9 [Hauling of ready-mixed concrete]

Section 1720.2 [Private construction leased to public entity]

- 1) Construction contract between private persons;
- 2) The property is privately owned; and
- 3) Upon completion of construction, more than 50% of the assignable square feet is leased to the public agency.
- 4) Either:
 - A) The lease entered into before construction contract; OR
 - B) Work done according to plans, specifications, or criteria furnished by public agency, and the lease entered into during, or upon completion of, the construction work.

Tenant Improvements Paid for by Private Landlord

Private Office Building
with 100,000 total sq. ft.

City of
Sacramento
60,000 sq. ft.

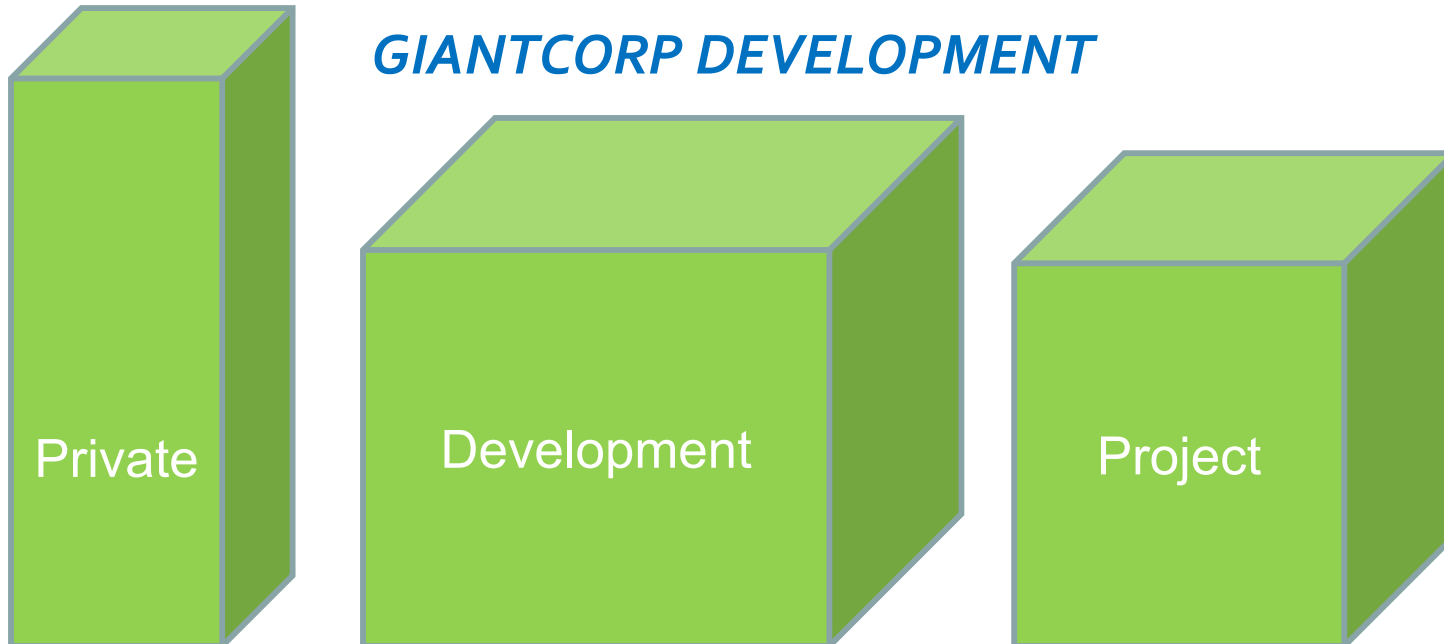
Tenant improvements done by the private landlord before the City even signs a lease.

Tenant improvements are done according to the City's specs. Lease is then signed.

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.

GIANTCORP DEVELOPMENT



Street Required as Condition of Regulatory Approval
Cost \$10M, Public Subsidy, \$11M

Section 1720(c)(5)(e) exception

*Unless the loan program or the public entity requires PW.

Affordable Housing Project (20-40-80)

- 1) At least 40% of the units
- 2) Made Available to Households Making No More than 80% of the Area Median Income
- 3) These restrictions are in place for at least 20 years **and**
- 4) Only form of public funds is a below market interest rate loan

1720(c)(5)(E) – Does the Exception Apply?

Affordable Housing Project has 100 units.

- ☐ 20 units for families making no more than 80% of the AMI.
- ☐ 15 units for families making no more than 60% of the AMI.
- ☐ 5 units for families making no more than 50% of the AMI.
- ☐ 60 market-rate units.
- ☐ Affordability restrictions are in place for 55 years.

Project receives LIHTCs, conduit revenue bonds proceeds, commercial bank loans, a 65-year ground lease for \$1 a year, and a 65-year loan from County for 1% interest. The public agencies are silent on PW requirements.

Miscellaneous Exceptions

- Section 1720.4 (Volunteers or Conservation Corps) (Sunsets **1/1/31**)
- Section 1720.5 (Graffiti Removal Work in the City of LA Done by a Community-Based Org Under Certain Circumstances) (Sunsets 1/1/24)
- 8 CCR 16000 (Janitorial, Custodial, Security Guards)

New Laws 2022

AB 1023: Penalties for failure to submit eCPRs

AB 140: New Strategic Enforcement Unit to boost enforcement of Labor Code on publicly funded projects

Select Bills

AB 1851: Hauling of materials for grading/paving/fill (**s**)

AB 1717: Fuel reduction (1/1/24) (**v**)

AB 2143: Large rooftop solar funded with NEM tariffs (1/1/24) (**s**)

SB 954: eCPRs (Taft Hartley and LMCCs) (7/1/24) (**s**)

SB 1295: Plugging and abandoning wells (**s**)

AB 2463: Volunteer/CCC exception (extend to 12/31/30) (**s**)

AB 2011: Affordable Housing and High Road Jobs Act of 2022 (**s**)

SB 978: Wildfire debris removal pre-qual (**s**)

AB 1886: Street sweeping (**d**)

**Office of the Director – Legal Unit
Public Works Inquiries**

PWCoverage@dir.ca.gov



Useful Links

- DIR's Public Works Home Page
 - <http://www.dir.ca.gov/Public-Works/PublicWorks.html>
- The Director's Public Works Decisions and Determinations
 - <https://www.dir.ca.gov/Division/Decisions-and-Determinations.html>
- 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/>

Office of the Director • Decisions and Determinations

Quick Links

Prevailing Wage

- ▶ Prevailing Wage Coverage Determinations
- ▶ Prevailing Wage Enforcement Decisions
- ▶ Prevailing Wage Determinations
- ▶ Prevailing Wage Regulations
- ▶ Prevailing Wage Hearing Regulations
- ▶ Prevailing Wage Training

Apprenticeship

- ▶ Apprenticeship Requirements
- ▶ Apprenticeship Regulations

Labor Compliance

- ▶ Labor Compliance Programs
- ▶ Labor Compliance Programs Regulations

Search

- ▶ Contractor Registration Search
- ▶ Public Works Project Search
- ▶ Electronic Certified Payroll Reports Search

Registration

2022 PREVAILING WAGE LABOR COMPLIANCE WEBINAR



KNOW YOUR DUTIES AND RESPONSIBILITIES
UNDER THE LAW

DISCLAIMER

California Department of Industrial Relations

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.



Our Goals



- PRE-QUALIFICATION OF CONTRACTORS
- LABOR COMMISSIONER MODEL QUESTIONNAIRE



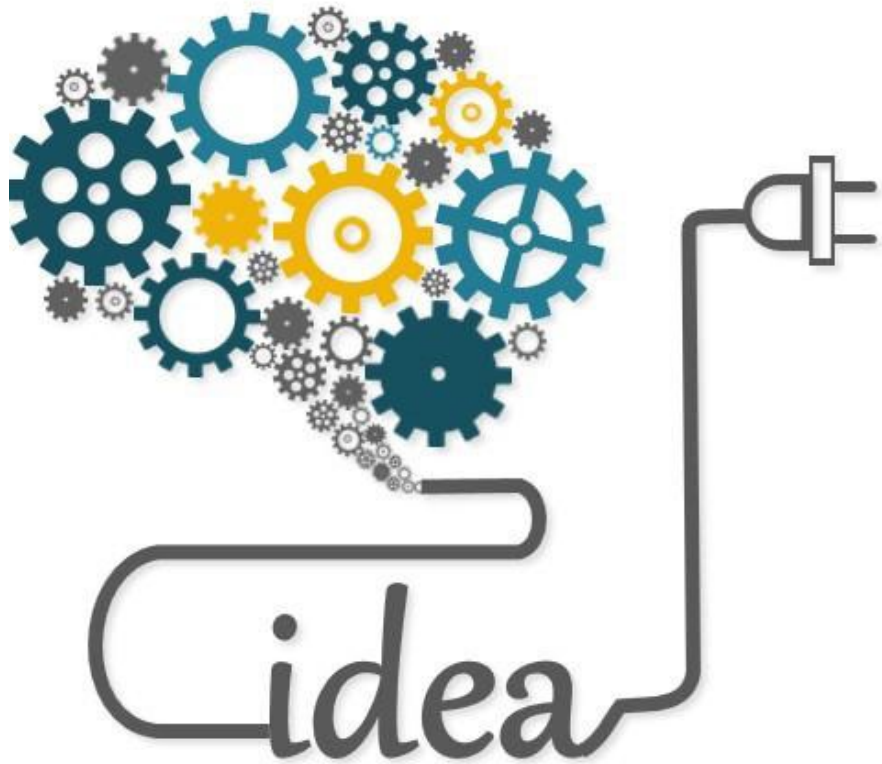


POLL QUESTION

As an Awarding Body, do you currently have a Pre-Qualification of Contractors system in place?

- a) Yes
- b) No



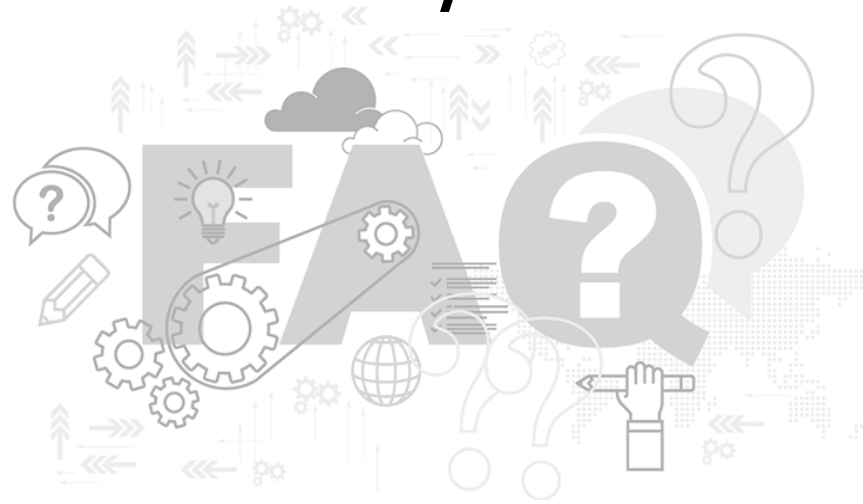


100%

***"Individual commitment to a group effort -- that is what makes a team work, a company work, a society work, a civilization work."
– Vince Lombardi***



Why Pre-Qualify Contractors ?



Purpose

- Contractors seeking to BID on Public Works Projects can be Pre-Qualified (PCC 20101)
- Stops Bad Actors BEFORE a contract is awarded and stops repeat violators from continuing to profit from wage theft

Importance

**Levels the Playing Field for
Law Abiding Contractors**

Value

- Allows Awarding Bodies to be Proactive
- Contracts are awarded only to Responsible Bidders
- Avoids Awarding Body Citations and Debarment





POLL QUESTION

What is a benefit of using the Labor Commissioner's Model Questionnaire ?

- a) It is a complete pre-qualification packet that meets all the requirements of the law
- b) It can be easily adopted and customized to an awarding bodies needs
- c) It can be used to enhance whatever pre-qualification system an awarding body already has in place
- d) All of the above



Page 93 of 282

Contractors who wish to be pre-qualified must submit a completed pre-qualification questionnaire to the awarding body for review. Contractors are required to provide any additional information and/or

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II. Role of the Department of Industrial Relations	2
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IV. Appeal Procedure	4
V. Application of The Public Records Act	5
VI. What Are the Law's Provisions Regarding Pre-qualification of Subcontractors	5
INSTRUCTIONS FOR AWARDING BODIES	6
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SOURCES FOR VERIFICATION OF INFORMATION GIVEN BY CONTRACTORS	39

SOURCES FOR VERIFICATION OF INFORMATION GIVEN BY CONTRACTORS

... (Select one): ☐ Corporate ☐ Venture

**FOR VERIFICATION OF INFORMATION
GIVEN BY CONTRACTORS**

WARNING NOTE: The information that will be given to public agencies by seeking pre-qualification is provided under oath, with the understanding that no providing of false information is, in itself, ground for disqualification. For Contractors coming from bidding on any public works project, registration will be accepted at face value in most instances. We expect that the information given in a questionnaire is provided for use where a public agency reviewing it in a questionnaire has specific reason to believe that one or more verified in this manner.

Information on contractor's DIR - Public Works

Contractor's DIR Public Works

Contractor Registration

A contractor's registration information may be used to verify a contractor's current status using the 10-
year **Public Works Contractor Registration**. One list of sources
may be used to find where a public agency review
is required for all instances. The list of sources
has specific reason to believe that one or more
of those reasons.

about a contractor's license(s)

used contractors, information
uses new issues
the License

ers' compensation insurance

workers' compensation, with the consent of the company. The names of companies that are not members of the Self-Insurance Plan, and the names of companies that are members of the Self-Insurance Plan, are listed on the web site for public information is: <http://www.sicpa.com>.

compensation insurance carriers
Reporting Bureau (WCIRB), 1221

ense numbers, classifications and expiration ☐

Registration Number(s):

for each license

[illegible]

LABOR COMMISSIONER'S MODEL QUESTIONNAIRE

Contractor

Completes the Pre-Qualification questionnaire

Submits the Pre-Qualification Questionnaire
and financial statements

Provides any additional
information/documentation

SUBMIT
STEP **1**

Awarding Body Reviews Section C "Essential Criteria"

Contractor is immediately DISQUALIFIED If:
Any answer to questions 1 through 6 is "NO"
Any answer to questions 7 through 13 is "YES"

REVIEW
STEP **2**

Awarding Body Reviews Section D "Prequalification Criteria Questions"

Contractor is PRE-QUALIFIED if:
All of the Contractor's responses to questions
1 through 21 are "0"

PRE-QUALIFY
STEP **3**



POLL QUESTION



Can a contractor that is not registered with DIR as a public works contractor for the current fiscal year be pre-qualified?

- a) Yes
- b) No



C. ESSENTIAL CRITERIA QUESTIONS

Circle Answer

1. Does your firm possess a valid and current California Contractor's or other professional license as required by law for the project or projects for which it intends to submit a bid?
2. Is your firm registered with DIR as a Public Works Contractor for the current fiscal year?
3. Does your firm have a liability insurance policy with a policy limit of at least \$1,000,000 per occurrence and \$2,000,000 aggregate?
4. Does your firm have current workers' compensation insurance policy as required by the Labor Code or is your firm legally self-insured pursuant to Labor Code section 3700 et. seq.?
5. Have you attached your firm's latest copy of reviewed or audited financial statements with accompanying notes and supplemental information? *

Yes No

Yes No

Yes No

Yes No

Yes No

NOTE: Financial statements that are not either reviewed or audited are not acceptable. A letter verifying availability of a line of credit may also be attached; however, it will be considered as supplemental information only, and is not a substitute for the required financial statements.

6. Have you attached a notarized statement from an admitted surety insurer (approved by the California Department of Insurance) authorized to issue bonds in the State of California, which states that: (a) your current bonding capacity is sufficient for the project for which you seek pre-qualification if you are seeking pre-qualification for a single project; or valid for a year if you are seeking pre-qualification valid for a year; and (b) your current available bonding capacity? **

Yes No

NOTE: Notarized statement must be from the surety company, not an agent or broker.





F. CERTIFICATION

Questionnaires submitted by corporations must be signed with the legal name of the corporation, followed by the name of the state of incorporation and by the signature and designation of the chairman of the board, president or any vice president, and then followed by a second signature by the secretary, assistant secretary, the chief financial officer or assistant treasurer. All persons signing must be authorized to bind the corporation in the matter. The name of each person signing shall also be typed or printed below the signature. Satisfactory evidence of the authority of each officer signing on behalf of a corporation shall be furnished.

Questionnaires submitted by partnerships must furnish the full name of all partners and must be signed in the partnership name by a general partner with authority to bind the partnership in such matters, followed by the signature and designation of the person signing. The name of the person signing shall also be typed or printed below the signature.

Each person signing below makes the following representations under penalty of perjury:

The submitter of the foregoing answers to the questionnaire has read the same and the matters stated therein are true to the best of his or her own personal knowledge. This information is provided for the purpose of qualifying to bid on the Project, and any individual, company or other agency named herein is hereby authorized to supply the awarding body with any information necessary to verify the prospective bidder's statements. By signing below, the submitter and the named contractor hereby grant permission to the [Public Entity] to contact any or all of the above listed persons or entities to confirm facts or otherwise investigate the above facts and issues.

The submitter understands that any statement which is proven to be false shall be grounds for immediate disqualification from bidding on the Project. The submitter whose signature appears below represents and warrants that he or she has authority to bind the named contractor.

I, _____ (Name), the undersigned, am the _____
(Title), with the authority to act for and on behalf of _____
(Contractor Entity Name), declare under penalty of perjury under the laws of the State of California that the foregoing information provided in this Pre-qualification Questionnaire is true, full, and correct.

I understand that making a false statement may result in disqualification from bidding on any public works project, registering as a Public Works Contractor with the Department of Industrial Relations, and may be grounds for termination of a public works contract.

Executed on this: _____ day of _____ at _____
(Date) (Month / Year) (City / State)

Name of Contractor Representative: _____

Signature of Contractor Representative: _____





Important Notes

Be Proactive

- Purpose of pre-qualifying is to make sure bad actors are stopped BEFORE a contract is awarded and repeat violators do not profit from wage theft

Level the Playing Field for Law Abiding Contractors

- Labor Commissioner Model Questionnaire is a complete pre-qualification packet that can be easily adopted and customized to an Awarding Bodies needs AND can be used to enhance whatever system an Awarding Body already has in place

Avoid Awarding Body Citations and Debarment



WWW.DIR.CA.GOV



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

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](#)

Have Questions?

Contact Us:

Publicworks@dir.ca.gov

Subject Line:

Pre-Qualification of
Contractors





Thank You



PREVAILING WAGE/LABOR COMPLIANCE WEBINAR

KNOW YOUR DUTIES AND RESPONSIBILITIES
UNDER THE LAW

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



DISCLAIMER

California Labor Commissioner's Office

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COMPLIANCE REQUIREMENTS

Labor Code & Title 8, CCR § 16000



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



POLL QUESTION #1

PROJECT REGISTRATION

Which of the following projects does not need to be registered, according to DIR requirements?

- A contract of \$30,000 for installation work
- A contract of \$26,000 for demolition work
- A contract of \$10,000 for maintenance work



POLL QUESTION #1 - ANSWER

PROJECT REGISTRATION

Which of the following projects does not need to be registered, according to DIR requirements?

- A contract of \$30,000 for installation work
- A contract of \$26,000 for demolition work
- A contract of \$10,000 for maintenance work

Registration requirements do 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



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



Public Works

Public works in general means:

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- 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

- Public Works Contractors: Renew Registration by June 30

[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](#)



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



California Department of
Industrial Relations
Division of Apprenticeship Standard / Division of Labor Standards Enforcement

CA.gov | Contact Us | DLSE

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

Home : [External Lookup](#)

Public Works Projects Registration (PWC-100) for all Awarding Agencies

Welcome to the PWC 100 form online application page. The PWC 100 form should be completed by the awarding body. The completion and the submission of this form fulfills the required public works project award notification as required by Labor Code sec. 1773.3 (replacing former DAS-13 notification) and 8 Cal. Code Reg. sec. 16451(a).

An awarding body or body awarding the contract means department, board, authority, officer or agent awarding a contract for public work. In most cases the awarding body is a unit of state or local government, such as a city, county, school district, water district, special district, or a state agency. However, in some cases the body awarding the contract may be a private entity that uses public funds for a public works construction project.

[Browser Support](#)


Please keep your login and password since you may only register once.


Sign In


Username or Email:

Password:

☐ Remember me on this computer


 **Sign In**

 **Forgot Password**


 **First Time User**

To create an account please select the First Time User button above.

Note that user ID and password are case sensitive.



Home :: Awards that Need to be Submitted :: Project Information :: Project Information 2 :: Contractor Information

 **Contractor Information**

Please enter all the information for the award

Options
[Help](#) [Update Account](#)
[Logout](#)

Project Manager

Email Address* First Name* MI Last Name* Title* Work Phone*

mail@mail.com Jane Smith Project Manager 123 - 456 - 7899 Ex

General Contractor 1

	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

[Add Contractor](#)



SEARCHING FOR A PUBLIC WORKS PROJECT



Public Works

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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**

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

[en Español](#)

Resources

- [Public Works Pre-Qualification of Contractors](#)
- [Apprenticeship Requirements](#)
- [Certified Payroll Reporting](#)
- [Enforcement of Public Works Law](#)
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- [More Resources](#)

Search

- [Find Public Works Projects](#)
- [Find Public Works Contractors](#)
- [Find Payroll Records](#)

Registration

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

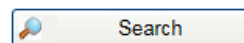


<https://www.dir.ca.gov/pwc100ext/ExternalLookup.aspx>

[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

...





California Department of
Industrial Relations
[Home](#) [Labor Law](#) [Cal/OSHA - Safety & Health](#) [Workers' Comp](#) [Self Insurance](#) [Apprenticeship](#) [Director's Office](#) [Boards](#)

[CA.gov](#) | [Contact Us](#) | [DLSE](#)
Division of Apprenticeship Standard / Division of Labor Standards Enforcement

[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 <				



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)**



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**



<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"/>	

[Search](#)[Reset](#)

Crafts (Select all that apply)

- ☐ Asbestos
- ☐ Boilermaker-Blacksmith

Registrations

Search Results:

[Previous](#)[Next](#)[Print PDF](#)[Export](#)[Add all to my list](#)[My List \(0\)](#)

Contractor Information

Legal Entity Name
A+ Construction
Legal Entity Type
Corporation
Status
Active
Registration Number
PW-LR-1000469801
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
Mike's Construction
License Number (s)
CSLB:1234567
CSLB:1234567
CSLB:1234567

Registration History

Effective Date	Expiration Date
03/04/19	06/30/19

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	PEO	PEO
PEO Information Name	Phone	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



POLL QUESTION #2

CONTRACTOR REGISTRATION

As an awarding body member, you know that contractors must be registered when bidding, being awarded, and working on public works projects.

Using the contractor registration histories and provided dates on the next slide, which contractor was correctly registered through the entire process?



POLL QUESTION #2

Registration History – Contractor A	
Effective Date	Expiration Date
8/10/2021	6/30/2022
7/1/2020	6/30/2021
1/1/2020	6/30/2020

Bid Date: 6/20/2021

Registration History – Contractor B	
Effective Date	Expiration Date
7/1/2021	6/30/2022
9/1/2020	6/30/2021
10/15/2019	6/30/2020

Award Date: 7/10/2021

Registration History – Contractor C	
Effective Date	Expiration Date
7/15/2021	6/30/2022
6/25/2021	6/30/2021
6/1/2020	6/30/2020

Project Dates: 8/1/2021-4/30/2022



POLL QUESTION #2 - ANSWER

Registration History – Contractor A	
Effective Date	Expiration Date
8/10/2021	6/30/2022
<u>7/1/2020</u>	<u>6/30/2021</u>
1/1/2020	6/30/2020

Bid Date: 6/20/2021

Registration History – Contractor B	
Effective Date	Expiration Date
7/1/2021	6/30/2022
<u>9/1/2020</u>	<u>6/30/2021</u>
10/15/2019	6/30/2020

Award Date: 7/10/2021

Registration History – Contractor C	
Effective Date	Expiration Date
7/15/2021	6/30/2022
<u>6/25/2020</u>	<u>6/30/2021</u>
6/1/2020	<u>6/30/2020</u>

Project Dates: 8/1/2021-4/30/2022



POLL QUESTION #2 - ANSWER

Registration History – Contractor A	
Effective Date	Expiration Date
<u>8/10/2021</u>	7/1/2022
7/1/2021	6/30/2021
1/1/2020	6/30/2020

Bid Date: 6/20/2021

Registration History – Contractor B	
Effective Date	Expiration Date
<u>7/1/2021</u>	<u>6/30/2022</u>
9/1/2020	6/30/2021
10/15/2019	6/30/2020

Award Date: 7/10/2021

Registration History – Contractor C	
Effective Date	Expiration Date
7/15/2021	6/30/2022
6/25/2021	6/30/2021
6/1/2020	6/30/2020

Project Dates: 8/1/2021-4/30/2022



POLL QUESTION #2 - ANSWER

Registration History – Contractor A	
Effective Date	Expiration Date
<u>8/10/2021</u>	6/30/2022
7/1/2021	6/30/2021
1/1/2020	6/30/2020

Bid Date: 6/20/2021

★ Registration History – Contractor B ★	
Effective Date	Expiration Date
<u>7/1/2021</u>	<u>6/30/2022</u>
9/1/2020	6/30/2021
10/15/2019	6/30/2020

Award Date: 7/10/2021

Registration History – Contractor C	
Effective Date	Expiration Date
7/15/2021	6/30/2022
6/25/2021	6/30/2021
6/1/2020	6/30/2020

Project Dates: 8/1/2021-
4/30/2022



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))



Compliance Requirement #5

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



Compliance Requirement #6

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



**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)**



Compliance Requirement #8

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



ENFORCEMENT

Labor Code §1773.3, §1771.1(j)



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



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.



POLL QUESTION #3

PENALTY CALCULATION

The Labor Commissioner's Office investigates a project and determines that there were two subcontractors, Contractor A and Contractor B, who performed work for ten days each without being registered.

According to Labor Code 1773.3, how much in penalties can be assessed against the awarding body?



POLL QUESTION #3 - ANSWER

PENALTY CALCULATION

2 unregistered subcontractors x 10 days x \$100 = \$2000

LC 1773.3: 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.



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..."



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 workers 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).)



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.



THANK YOU

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



SKILLED AND TRAINED WORKFORCE REQUIREMENTS

Public Works
California Labor Commissioner's Office
Department of Industrial Relations
July 14th, 2022



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.

Public Works



Additional Disclaimers

California Labor Commissioner's Office

- Presentation WILL NOT cover statutes and regulations that require use of Skilled and Trained Workforce.
 - Public Contract code 2600 does not require STW, but it provides the definition, compliance guidelines and enforcement measures.
 - Awarding Bodies/Public Entities should be aware which government code is applicable to agency.
- Apprenticeship requirements & STW requirements are separate requirements.
- Please bid on STW requirement projects only if confident compliance will be met.

Public Works



Skilled and Trained Workforce Requirement

Public Contract Code §2600



SKILLED AND TRAINED WORKFORCE REQUIREMENTS

Public Contract Code §2600(a) & §2600(b)

- Chapter applies when a public entity is required by statute or regulation to obtain an enforceable commitment that a bidder, contractor, or other entity will use a skilled and trained workforce to complete a contract or project.
 - Dz duglqj #Erglhv#dqg#sxeolf#qwlhv#kxog#eh#bz duh#ri#z klfk#wdwvhv#dqg#uhjxodwlrqv#dsso| #r#khludj hqf | #HG F /K VF /\$F F /\$X F #r#dq | #rkhu#jryhuqp hq#Erglv,
- A public entity may require a bidder or contractor to use a skilled and trained workforce to complete a contract or project regardless of whether the public entity is required to do so by a statute or regulation.

Public Works



Bidding Requirements & Enforceable Agreements

Public Contract Codes §2600, §2600.5
& §2602



BID REQUIREMENTS

Public Contract Code §2600(c) & §2600.5

- When a skilled and trained workforce is required by statute or regulation or by requirement of a public entity, the public entity **shall include in all bid documents and construction contracts** a notice that the project is subject to the skilled and trained workforce requirement.
- The failure of a public entity to provide a notice pursuant to subdivision (c) of Section 2600 shall not excuse either of the following:
 - The public entity from the **requirement to obtain an enforceable commitment** that a contractor will use a skilled and trained workforce to complete a contract or project.
 - A contractor from the obligation to use a skilled or trained workforce if such a requirement is imposed by a statute or regulation.



ENFORCEABLE AGREEMENTS

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.
 - Subcontractors should supply monthly reports to prime contractor and prime contractor will supply awarding body or public entity with report for all contractors.

Public Works



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

Public Contract Code §2601



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
- **Graduation Percentage Requirement:**
 - 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)

Public Works



WHO IS A “SKILLED JOURNEYPERSON”?

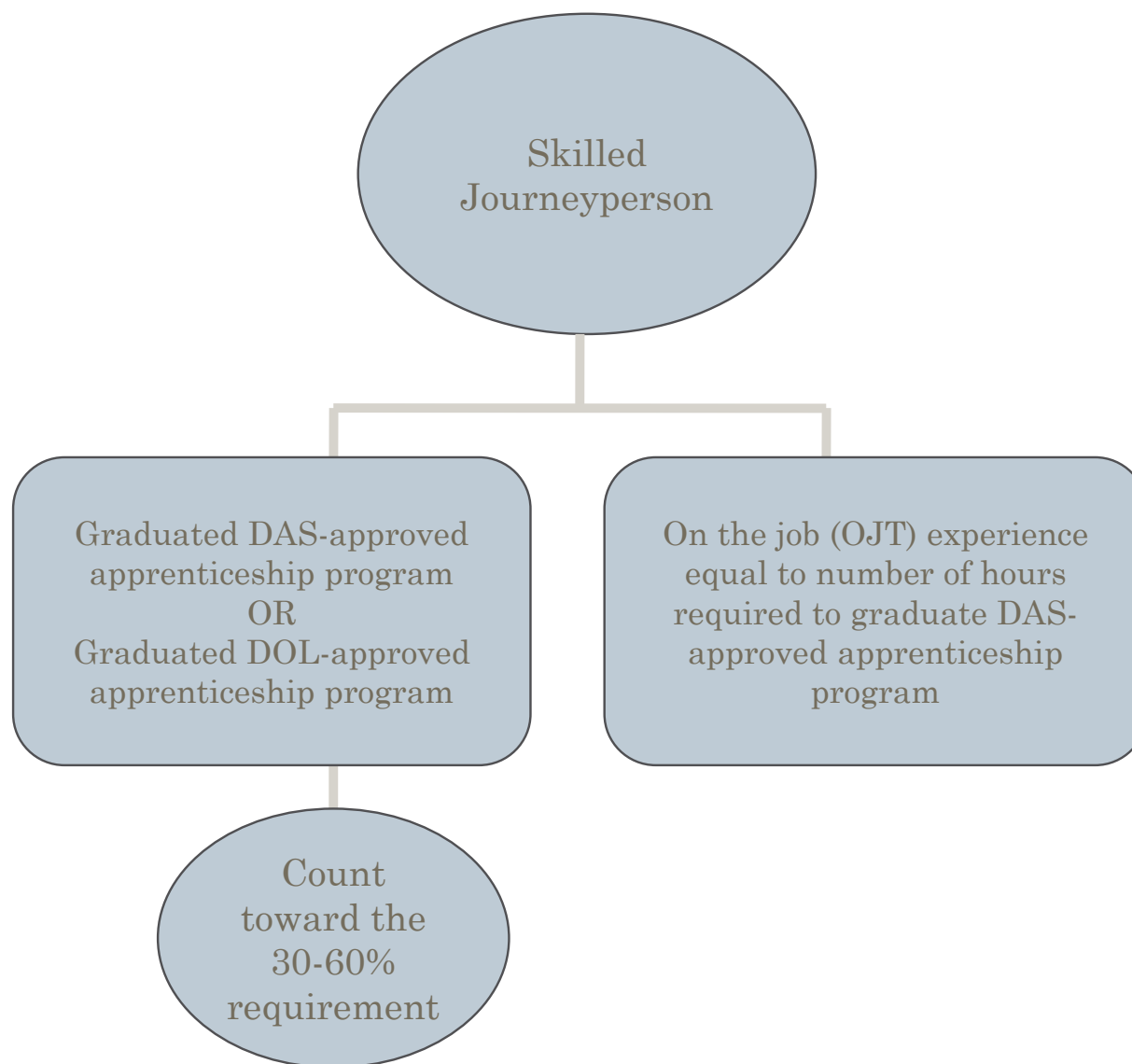
Public Contract Code §2601(e)

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**
- **Workers that have not graduated from an approved apprenticeship program or do not have the required on the job training hours are not considered skilled journeypersons and should not be allowed to work on skilled and trained workforce requirement projects.**

Public Works







POLL QUESTION #1

SKILLED AND TRAINED WORKFORCE

A skilled and trained workforce includes all of the following except?

- A. DIR registered apprentices
- B. Journeymen who have graduated from an approved apprenticeship program
- C. Journeymen who have the number of on the job hours needed to graduate from an apprenticeship program
- D. Unregistered apprentices or Journeymen with no on the job training



POLL QUESTION #1

SKILLED AND TRAINED WORKFORCE

A skilled and trained workforce includes all of the following except?

- A. DIR registered apprentices
- B. Journeymen who have graduated from an approved apprenticeship program
- C. Journeymen who have the number of on the job hours needed to graduate from an apprenticeship program
- D. Unregistered apprentices or Journeymen with no on the job training



POLL QUESTION #2

SKILLED AND TRAINED WORKFORCE

A skilled journeyperson who has worked the number of on the job hours required to graduate from an approved apprenticeship program may be counted in the graduation percentage requirement?

- A. Yes
- B. No
- C. Not Sure



POLL QUESTION #2

SKILLED AND TRAINED WORKFORCE

A skilled journeyperson who has worked the number of on the job hours required to graduate from an approved apprenticeship program may be counted in the graduation percentage requirement?

- A. Yes
- B. No
- C. Not Sure

STW Apprenticeship Graduation Requirement



Graduation Percentage Requirement

Applies to <u>work performed</u> on or after:	% 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)

P u b l i c W o r k s



Graduation Percentage Requirement

Period Beginning	Period Ending	Classification	Minimum Graduation Percentage Required
1/1/2017	12/31/2017	Teamster	0.00%
		All Others	30.00%
1/1/2018	12/31/2018	Teamster	0.00%
		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	30.00%
		All Others	40.00%
1/1/2019	12/31/2019	Teamster	0.00%
		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	30.00%
		All Others	50.00%
1/1/2020	N/A	Teamster	0.00%
		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	30.00%
		All Others	60.00%

Public Works



POLL QUESTION #3

Applies to <u>work performed</u> on or after:	% of journeypersons who must be graduates of apprenticeship program:	Not applicable to work performed by the following trades/occupations:
January 1, 2017	30%	Teamster.
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.
January 1, 2019	50%	Same as above. (Including Teamster.)
January 1, 2020	60%	Same as above. (Including Teamster.)

Based on the graduation percentage chart, a project bid on June 1st, 2019 using the Carpenter craft would have which graduation percentage requirement for this craft?

- A. 50%
- B. 30%
- C. 40%
- D. 60%
- E. Not Sure

POLL QUESTION #3

Applies to <u>work performed</u> on or after:	% of journeypersons who must be graduates of apprenticeship program:	Not applicable to work performed by the following trades/occupations:
January 1, 2017	30%	Teamster.
January 1, 2018	40%	Acoustical installer, bricklayer, <u>carpenter</u> , 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.
January 1, 2019	50%	Same as above. (Including Teamster.)
January 1, 2020	60%	Same as above. (Including Teamster.)

Based on the graduation percentage chart, a project bid on June 1st, 2019 using the Carpenter craft would have which graduation percentage requirement for this craft?

- A. 50%
- B. 30%
- C. 40%
- D. 60%
- E. Not Sure

APPRENTICESHIP GRADUATION PERCENTAGE REQUIREMENT

- The graduation percentage requirement may be satisfied by **EITHER** using the **head count** of apprenticeship program graduates or **percentage of hours worked** by apprenticeship program graduates in a particular **calendar month**:
- The method used to calculate the graduation percentage can be changed month to month based on the contractors workforce on that month and which calculation will allow them to meet the graduation percentage requirement.



APPRENTICESHIP GRADUATION PERCENTAGE REQUIREMENT

- **Head Count** - 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.
 - Example: Graduation percentage requirement - 60%
 - Contractor employs 10 Skilled Journeypersons:
 - 6 skilled journeypersons must be graduates of apprenticeship program.
 - 4 skilled journeypersons may have on the job hours.
 - 6 apprenticeship program graduates out of 10 skilled journeypersons = 60% graduation requirement met

$$\frac{\text{Total number of Graduated J/M}}{\text{Total number of J/M (Graduates+OJT)}} = \% \text{ of Graduated J/M}$$



APPRENTICESHIP GRADUATION PERCENTAGE REQUIREMENT

- **Hours Worked Percentage Count** – The percentage of hours of work performed by Skilled Journeypersons employed by the contractor or subcontractor on the project, who met the graduation requirement is at least equal to the required graduation percentage.
 - Example: Graduation percentage requirement - 60%
 - Hours worked in a month: 100 hours
 - At least 60 hours must be worked by graduates of apprenticeship program to meet requirement.
 - 40 hours may be worked by skilled journeypersons with on the job hours.
 - 60hrs worked by apprenticeship graduates/100hrs worked in total = $0.6 \times 100 = 60\%$ graduation requirement met.

$$\frac{\text{Total hours performed by Graduated J/M}}{\text{Total hours performed by J/M (Graduates+OJT)}} = \text{\% of hours performed by Graduated J/M}$$



POLL QUESTION #4

SKILLED AND TRAINED WORKFORCE

Classification	Total Number of Skilled Journeypersons	Number of Skilled Journeypersons Graduated From Apprenticeship Program	Number of Skilled Journeypersons With On The Job Training	Graduation Percentage Requirement
Laborer	13	6	7	60%

Does this workforce meet the skilled and trained workforce graduation percentage requirement for the month?

- A. Yes
- B. No
- C. Not sure

POLL QUESTION #4

SKILLED AND TRAINED WORKFORCE

Classification	Total Number of Skilled Journeypersons	Number of Skilled Journeypersons Graduated From Apprenticeship Program	Number of Skilled Journeypersons With On The Job Training	Graduation Percentage Requirement
Laborer	13	6	7	60%

Does this workforce meet the skilled and trained workforce graduation percentage requirement for the month?

- A. Yes
- B. No – $6 / 13 = 46\%$
- C. Not sure

EXCEPTIONS TO THE APPRENTICESHIP GRADUATION PERCENTAGE REQUIREMENT

- **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.
- 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.



EXCEPTIONS TO THE APPRENTICESHIP GRADUATION PERCENTAGE REQUIREMENT

- 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.



Monthly Report Compliance & Public Entity/Awarding Body Obligations Under Public Contract Code §2602.



Monthly Reports & Awarding Body Obligations

Public Contract Code §2602



FAILURE TO PROVIDE OR INCOMPLETE MONTHLY REPORT

Public Contract Code §2602(b)

- If the prime contractor fails to provide the monthly report, or provides an incomplete one, the 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 **prime contractor may withhold the same amount from the subcontractor** until the subcontractor provides a complete report and the AB 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.

Public Works



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 contractor 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 a plan to achieve substantial compliance with the STW requirement is submitted
 - AB may reject the plan as insufficient and explains the reasons for the rejection within a reasonable time.

Public Works



MONTHLY REPORT FAILING TO DEMONSTRATE COMPLIANCE

Public Contract Code §2602(c)

- If a **monthly report does not demonstrate compliance** with the STW requirements or the **plan for substantial compliance submitted is rejected** by the awarding body then **AB is required** to do the following:
- **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.

Public Works





POLL QUESTION #5

SKILLED AND TRAINED WORKFORCE

A contractor provides a monthly report in which a subcontractor fails to meet the STW requirements and a plan for substantial completion which the awarding body finds is insufficient and will not allow the subcontractor to meet the STW requirements, what should the awarding body do now?

- A. Withhold amount equal to 150 percent (150%) of the value of the monthly billing for the subcontractor that failed to comply with the STW requirements.
- B. Forward a copy of the monthly report to the Labor Commissioner for issuance of a Civil Wage and Penalty Assessment.
- C. Forward a copy of the plan to achieve “substantial compliance” (if any), and its response to that plan (if any) to the Labor Commissioner.
- D. All of the above.



POLL QUESTION #5

SKILLED AND TRAINED WORKFORCE

A contractor provides a monthly report in which a subcontractor fails to meet the STW requirements and a plan for substantial completion which the awarding body finds is insufficient and will not allow the subcontractor to meet the STW requirements, what should the awarding body do now?

- A. Withhold amount equal to 150 percent (150%) of the value of the monthly billing for the subcontractor that failed to comply with the STW requirements.
- B. Forward a copy of the monthly report to the Labor Commissioner for issuance of a Civil Wage and Penalty Assessment.
- C. Forward a copy of the plan to achieve “substantial compliance” (if any), and its response to that plan (if any) to the Labor Commissioner.
- D. All of the above.

The Labor Commissioner's Enforcement Process Under Public Contract Code §2603.



PENALTIES UNDER CONTRACT CODE §2603

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.



PENALTIES UNDER CONTRACT CODE §2603

- 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.



LABOR COMMISSIONER'S ENFORCEMENT PROCESS

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.**



SKILLED AND TRAINED WORKFORCE STATUTE & FAQ LINKS

Summary of Skilled and Trained Workforce Statutes:

<https://www.dir.ca.gov/Public-Works/ADA-Compliant-STW-Chart-without-New-PRC-Provision.pdf>

Skilled and Trained Workforce Frequently Asked Questions:

<https://www.dir.ca.gov/Public-Works/ADA-Compliant-STW-FAQ.pdf>



THANK YOU!

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



PREVAILING WAGE LABOR COMPLIANCE WEBINAR CONTRACTOR RESPONSIBILITIES

Public Works
California Labor Commissioner's Office
Department of Industrial Relations
October 5, 2022



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.



Contractor Responsibilities

Prevailing
Wage

>\$1,000

Contractor
Registration

>\$15,000

M

>\$25,000

CADIR

Labor Code 1771, 1725.5, and 1777.5

Apprenticeship

≥\$30,000



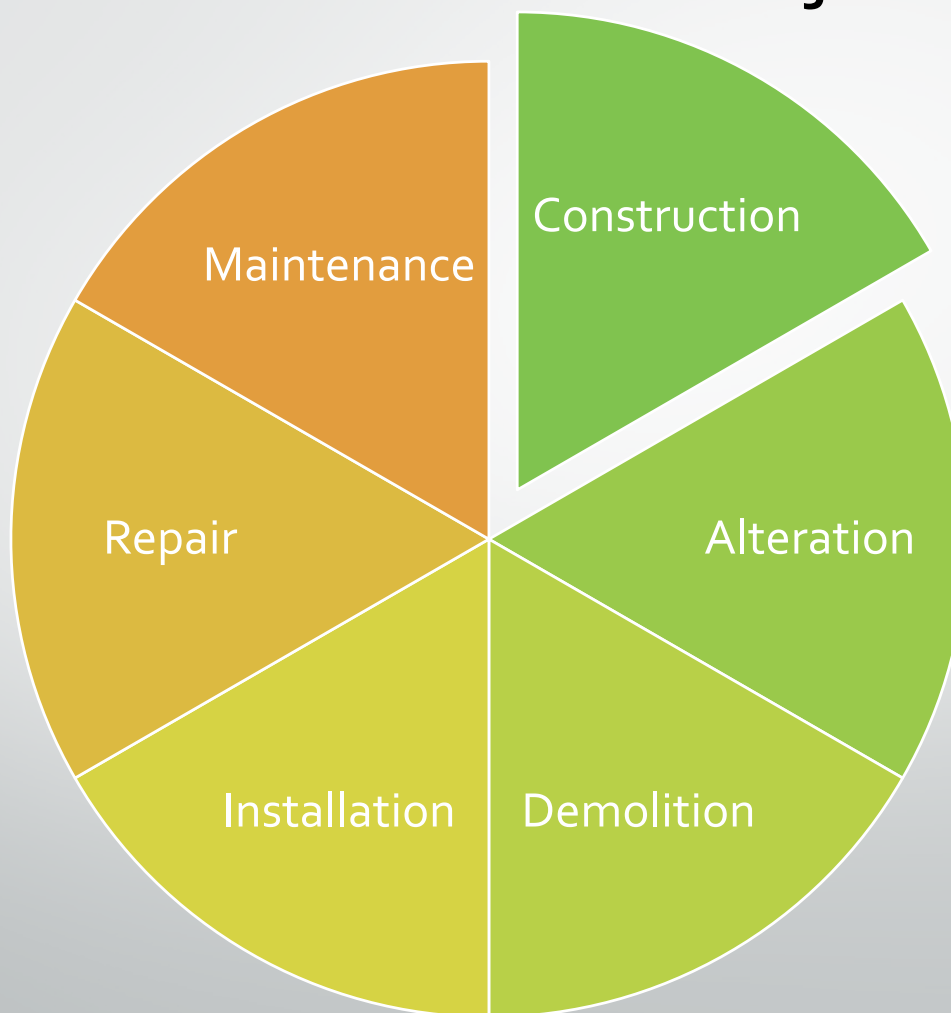
Who is a Public Works Contractor?



Labor Code(s) 1720(1) and 1722.1



Public Works Project



Construction (expanded)

Preconstruction

- Design
- Site Assessment
- Feasibility Study
- Inspection
- Land Surveying

Postconstruction

- Cleanup



Polling Question 1

What is the threshold for the prevailing wage requirement when performing covered work?

- a) When the project costs more than \$1,000
- b) When the general or specialty contract costs more than \$1,000
- c) When the subcontract costs more than \$1,000



\$1,000.00

\$800.00

\$600.00

\$400.00

\$200.00

\$0.00

2nd Tier
Contractor

1st Tier
Contractor

General
Contractor

Public
Works
Project

Labor Code 1771

>\$1,000



Pay Prevailing Wages



Labor Codes 1771, 1774 and 1813



Prevailing Wage

Bid Date or
Contract Date



Location
of Work



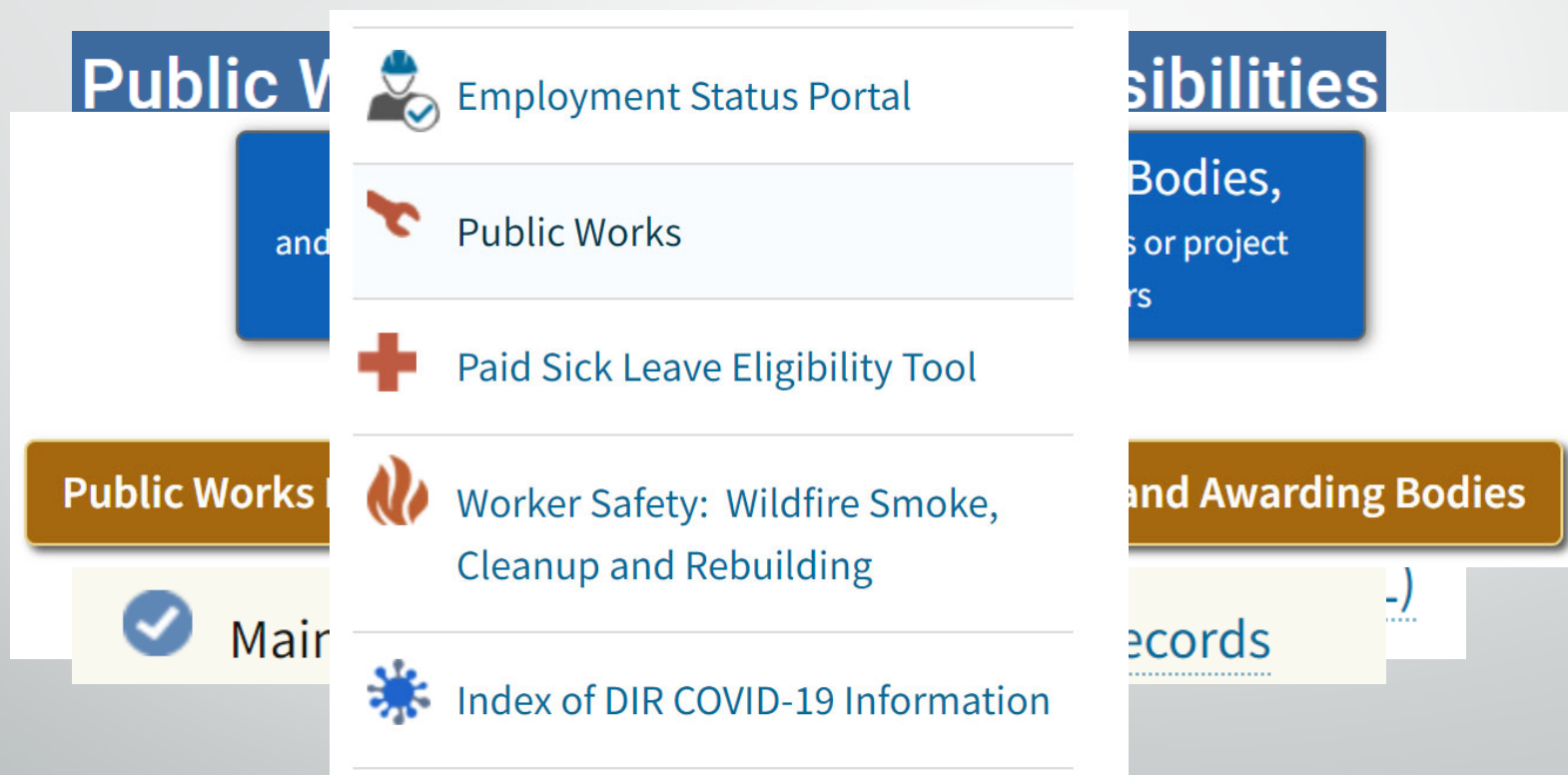
Work
Classification



Applicable
Wage
Determination



Prevailing Wage Determinations Navigating Website



Prevailing Wage Determinations Navigating Website

Office of the Director :: Director's General Prevailing Wage Determinations

Director's General Prevailing Wage Determinations

- [2022-2 General prevailing wage determinations menu \(journeyman\)](#)

Most recent journeyman wage determination published

Most recent apprentice wage determination published

Journeyman wage determinations published in prior periods

Residential wage determinations published in prior periods

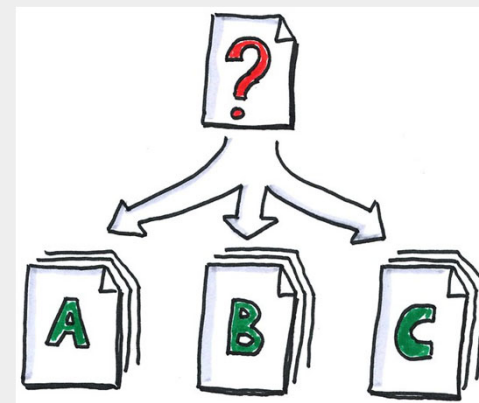
- [Frequently asked questions - Off-Site Hauling](#)
- [Still have questions on prevailing wage?](#)

September 2022



Journeyman Wage Determinations

Step one	<u>Statewide</u>	First examine if your craft's determination is among the basic trades that apply to most counties in California.
Step two (A)	<u>Northern California</u>	If you have not found your craft in step one, check this area to see if your craft's determination is one of Northern California's basic trades.
Step two (B)	<u>Southern California</u>	If you have not found your craft in step one, check this area to see if your craft's determination is one of Southern California's basic trades.
Step three	<u>San Diego</u>	After following steps one and two (B), examine this area if your project is in San Diego County.
Step four	<u>County Determinations</u> (subtrades)	If you have not found your craft in steps 1, 2, or 3, choose the county where work is being performed to examine the subtrades.



Wage Determination Examined

Craft: Drywall Installer/Lather (Carpenter)[#]

Determination:

Issue Date:

August 22, 2021

Effective Date:

September 1, 2021

Expiration:

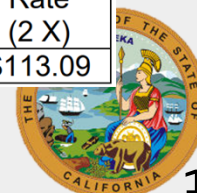
Will be superseded by a new determination issued by the Director of Industrial Relations. Contact the Office of the Director of Industrial Relations at (916) 703-4774 for the new rates after 10 days from the expiration date, if no subsequent determination is issued.

Localities:

All localities within Imperial, Inyo, Kern, Los Angeles, Mono, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara and Ventura counties.

Wages and Employer Payments:

Classification (Journeyman)	Basic Hourly Rate	Health and Welfare	Pension	Vacation and Holiday ^a	Training	Other ^b	Hours	Total Hourly Rate	Daily Overtime Hourly Rate (1 ½ X) ^c	Saturday Overtime Hourly Rate (1 ½ X) ^c	Sunday/ Holiday Overtime Hourly Rate (2 X)
Drywall Installer/Lather	\$44.44	\$8.00	\$5.66	\$7.16	\$0.62	\$2.77	8.0	\$68.65	\$90.87	\$90.87	\$113.09



Issue Date Vs. Effective Date

February 2022						
Sun	Mon	Tue	Wed	Thu	Fri	Sat
		22	23	24	25	26
27	28					
March 2022						
Sun	Mon	Tue	Wed	Thu	Fri	Sat
		1	2	3	4	

August 2022						
Sun	Mon	Tue	Wed	Thu	Fri	Sat
	22	23	24	25	26	27
28	29	30	31			
September 2022						
Sun	Mon	Tue	Wed	Thu	Fri	Sat
				1		

December 2022						
Sun	Mon	Tue	Wed	Thu	Fri	Sat
				1	2	3
4	5	6	7	8	9	10
11						



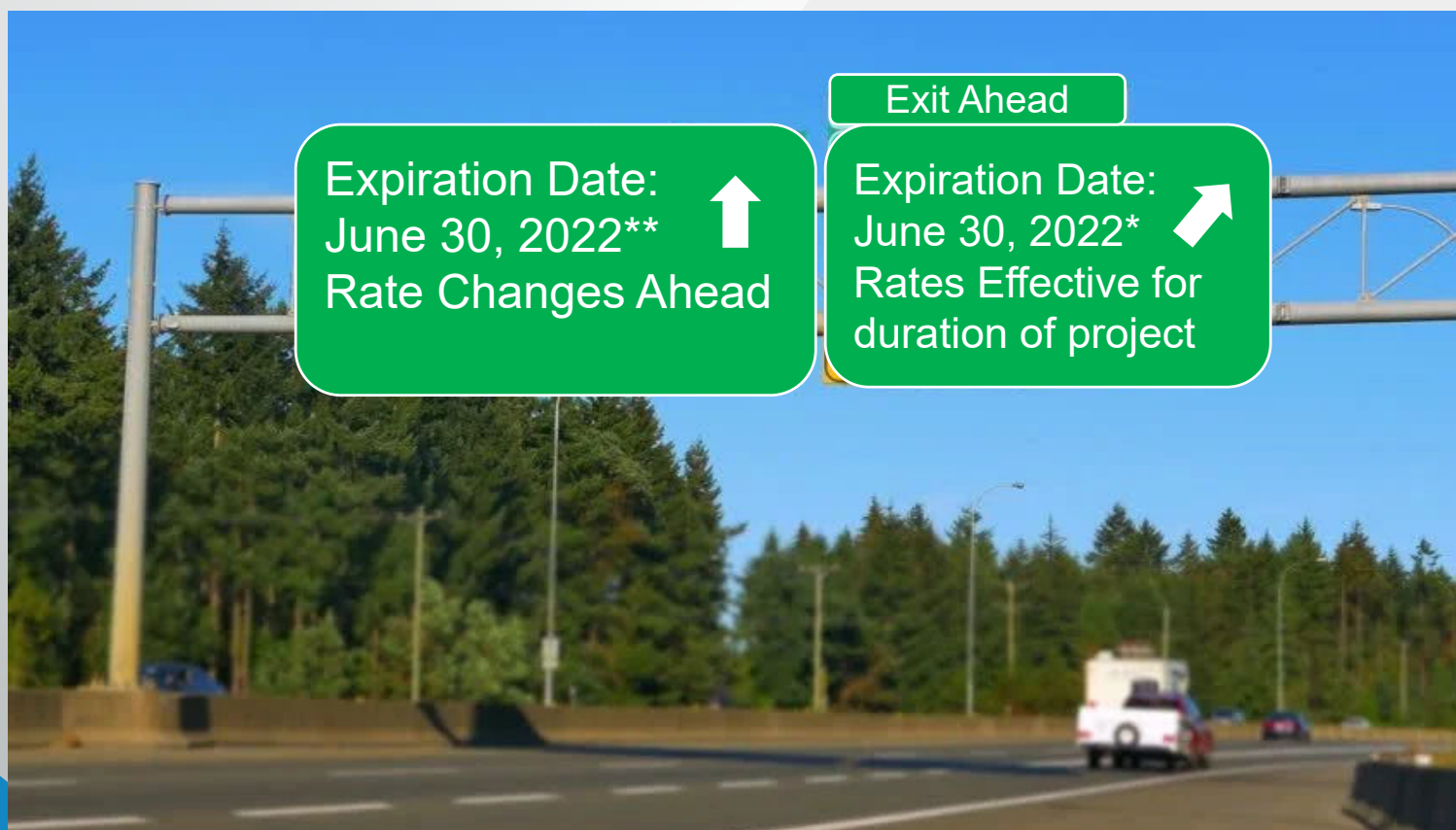
Polling Question 2

On a wage determination, what symbol indicates a predetermined increase?

- a) A single asterisk (*) next to the expiration date
- b) A double asterisk (**) next to the expiration date
- c) A pound sign or hashtag (#) next to the craft/classification



Fixed (*) Vs. Variable (**) Wage Determinations



Wage Determination Examined

Craft: Drywall Installer/Lather (Carpenter)#

Determination:
SC-31-X-41-2021-1

Issue Date:
August 22, 2021

Expiration date of determination:
June 30, 2022*

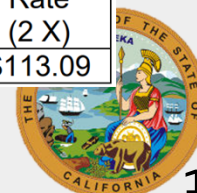
by a new determination issued by the Director of Industrial Relations. Contact the Office of the
the new rates after 10 days from the expiration date, if no subsequent determination is issued.

Localities:

All localities within Imperial, Inyo, Kern, Los Angeles, Mono, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara and Ventura counties.

Wages and Employer Payments.

Classification (Journeyman)	Basic Hourly Rate	Health and Welfare	Pension	Vacation and Holiday ^a	Training	Other ^b	Hours	Total Hourly Rate	Daily Overtime Hourly Rate (1 ½ X) ^c	Saturday Overtime Hourly Rate (1 ½ X) ^c	Sunday/ Holiday Overtime Hourly Rate (2 X)
Drywall Installer/Lather	\$44.44	\$8.00	\$5.66	\$7.16	\$0.62	\$2.77	8.0	\$68.65	\$90.87	\$90.87	\$113.09



Polling Question 3

Given the information below, which one of the following options **do not** result in an underpayment?

Basic Hourly Rate	\$40
Employer Payments (excluding training fund)	\$10

- a) Pay the worker \$50 per hour
- b) Pay the worker \$30 per hour and contribute \$20 per hour to the worker in the form of fringe benefits
- c) Pay the worker \$45 per hour and contribute \$5 per hour in the form of fringe benefits
- d) (a) and (c)



Wage Determination Examined

Craft: Drywall Installer/Lather (Carpenter)#

Determination:

SC-31-X-41-2021-1

Issue Date:

August 22, 2021

Expiration date of determination:

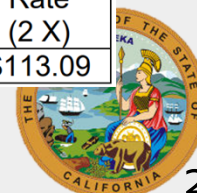
June 30, 2022* Effective until superseded by a new determination issued by the Director of Industrial Relations. Contact the Office of the Director - Research Unit (415) 703-4774 for the new rates after 10 days from the expiration date, if no subsequent determination is issued.

Localities:

All localities within Imperial, Inyo, Kern, Los Angeles, Mono, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara and Ventura counties.

Wages and Employer Payments

Wages and Employer Payments								Hours	Total Hourly Rate	Daily Overtime Hourly Rate (1 ½ X) ^c	Saturday Overtime Hourly Rate (1 ½ X) ^c	Sunday/ Holiday Overtime Hourly Rate (2 X)
Classification (Journeyman)	Basic Hourly Rate	Pension	Vacation and Holiday	Training	Other							
Drywall Installer/Lather	\$44.44	\$8.00	\$5.66	\$7.16	\$0.62	\$2.77	8.0	\$68.65	\$90.87	\$90.87	\$113.09	



Scope, Holiday, Travel, Increases

COUNTY

Determination	Holidays, scope of work, travel & subsistence	Predetermined increase
Blacksmith	Select One ▾	No increase *
Hauling To/From (Site)	Select One	Increase

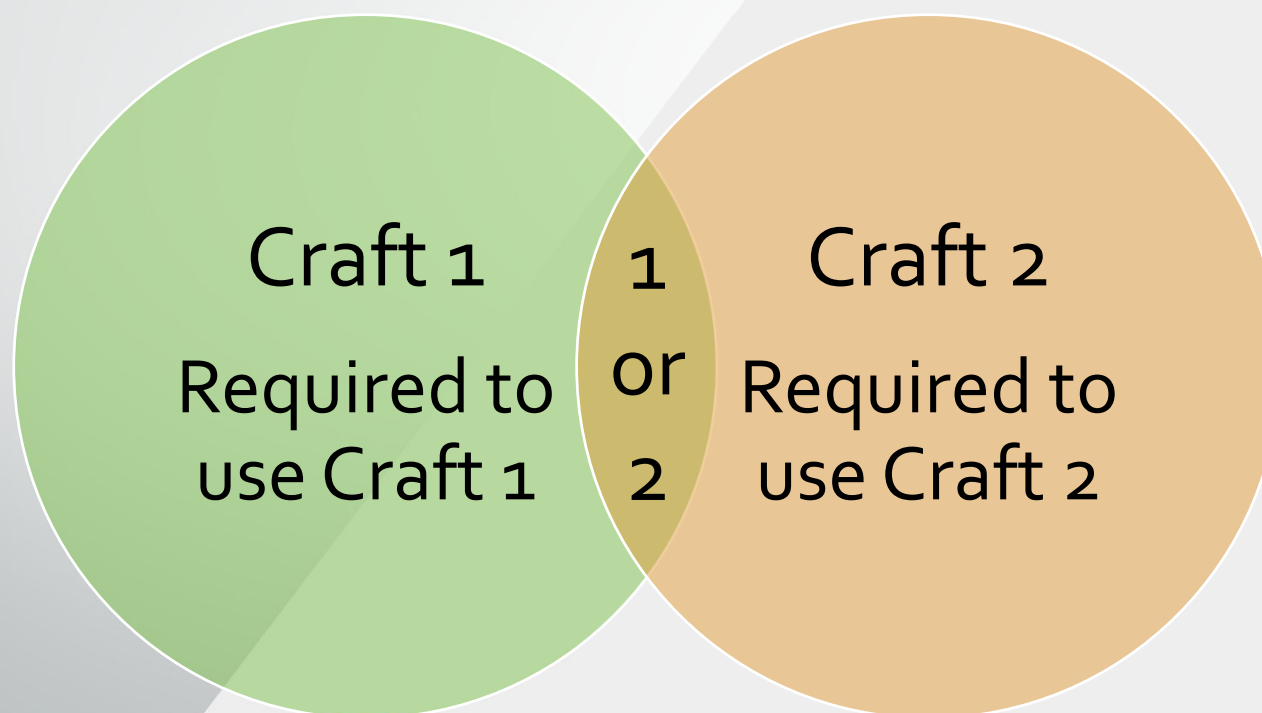
Holidays
Scope
Travel

County	Predetermined increase
Alameda	Increase
Alpine	Increase

REGION

CRAFT	CLASSIFICATION	HOLIDAY PROVISIONS	SCOPE OF WORK PROVISIONS	TRAVEL & SUBSISTENCE PROVISIONS
#BRICKLAYER, BLOCKLAYER:	BRICKLAYER, BLOCKLAYER, STONEMASON	Holidays	Scope of Work	Travel & Subsistence

Work Classification Overlap



Polling Question 4

There is a predetermined increase (**) indicated on an apprentice wage determination, however the details of the increase were not provided. What rates should you use for work that continues past the expiration date?

- a) Continue using the same rates for the duration of the project
- b) Continue using the same rates until the next wage determination is published
- c) Contact the Office of the Director - Research Unit at statistics@dir.ca.gov and request the breakdown of the predetermined increase



Office of the Director – Research Unit



Our staff is working remotely and is available to take public inquiries – please see the [Contact Us](#) page for information on how to reach us.

For Prevailing Wage questions, please send your inquiry to Statistics@dir.ca.gov provide the following information with your inquiry.

- Your name
- Company or agency name
- Email address
- A summary of your question(s)
- Bid Advertisement Date
- Craft(s)/Classification(s)
- County Location of the Project



Contractor Responsibilities

Prevailing
Wage

>\$1,000

Contractor
Registration

>\$15,000
M

>\$25,000
CADIR

Labor Code 1771, 1725.5, and 1777.5

Apprenticeship

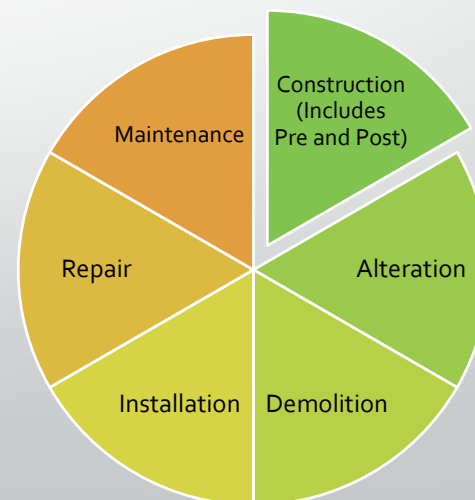
≥\$30,000



Register as a Public Works Contractor



BID		
		AMT
	General Contractor	\$\$\$
	Subcontractor 1	\$\$
	Subcontractor 2	\$\$
	Total	\$\$\$\$



Labor Codes(s) 1725.5 & 1771.1



Polling Question 5

How may a contractor maximize the period that their contractor registration is valid for?

- a) Make sure their registration is valid as of July 1st of each year (the start of the fiscal year)
- b) Renew their contractor registration during the early renewal period (May 1 - June 30)
- c) Register for more than one fiscal period at a time
- d) All of the above



Fiscal Periods for Registrations

- Registrations can be renewed to be active during one, two, or three fiscal periods and to engage in the performance of public works contracts
- Participating in these activities without an active registration will result in a lapse in registration
- \$400 non-refundable fee per fiscal period



Public Works Registration Navigating Website

Public Works Contractor Responsibilities

- ✓ Register as a public works contractor
- ✓ Pay prevailing wages
- ✓ Follow apprenticeship requirements
- ✓ Maintain and submit certified payroll records



Index of DIR COVID-19 Information

Bodies



Contractor Registration

Who Is Eligible to Register?

Contractors must meet the following requirements to register:

- Have workers' compensation coverage for any employees and only use subcontractors who are registered public works contractors.
- Have Contractors State License Board license if applicable to trade.
- Not have any delinquent unpaid wage or penalty assessments owed to any employee or enforcement agency.
- Not be under federal or [state debarment](#).
- Not be in prior violation of this registration requirement once it becomes effective. However, for the first violation in a 12-month period, a contractor may still qualify for registration by paying an additional penalty.

Register or Renew

Public works contractors can register or renew for one, two, or three fiscal years (July 1-June 30) for a fee of \$400, \$800 or \$1,200

- Create a [log in account](#) on the contractor registration system.
- To link your account to a previous public works registration, click "Link Existing Registration" on My Dashboard.
- Search for your previous registration number at: [Public Works Contractor Registration Search](#)

Please note: credit card payments can be processed within 24 hours while other forms of payment may delay registration up to eight weeks. See below for consequences of failing to register.

Resources:

- [User's Guide to the Public Works Contractor Registration System](#)

Links

- ▶ [Summary of Skilled and Trained Workforce \("STW"\) Statutes](#)
- ▶ [Frequently Asked Questions on Skilled and Trained Workforce \("STW"\) Requirements](#)
- ▶ [Awarding Bodies](#)
- ▶ [Contractors](#)
- ▶ [Apprenticeship Requirements](#)
- ▶ [Certified Payroll Reporting](#)
- ▶ [Enforcement of Public Works Law](#)
- ▶ [Labor Compliance Programs](#)

- ▶ [Trained Workforce \("STW"\) Requirements](#)
- ▶ [Frequently Asked Questions](#)
- ▶ [Prevailing Wage Training and Tutorials](#)
- ▶ [Public Works Contacts](#)
- ▶ [Get Public Works Email Updates](#)



Public Works Contractor Registration System

My Registration Dashboard

[Department of Industrial Relations \(DIR\)](#)

My Dashboard

Select a Registration Type

New

Link Existing Registration

Select a Registration Type

Car Wash

Providers – Child Performer Services

Minors – Entertainment Work Permit

Farm Labor

Garment

Janitorial

Production – Entertainment Permit to Employ

Public Works Contractor Registration

Talent Agency

em, click **Link Existing Registration**.

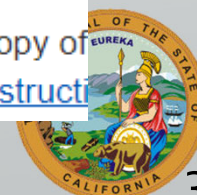
wn menu above and click **New**.

n number. You cannot edit once the application stat


available 90-days (**60-days for Entertainment Wor**

• To pay registration fees, click the **Pay Now** link in the Registration # column.

- Car Wash: To complete the registration process, you must print the submitted application or a copy of response, please return to attach the IRS Clearance letter to your application. [IRS form 8821 Instruct](#)



Public Works Contractor Registration System


State of California
Department Of Industrial Relations

My Registration Dashboard

John Doe

[Department of Industrial Relations \(DIR\)](#)

My Dashboard

Select a Registration Type ▼
New
Link Existing Registration

Instructions:

- To transfer an active registration from the old system, click **Link Existing Registration**.
- To start a new application, select from the dropdown menu above and click **New**.
- To revise the existing registration, click **Update**.
- To edit a saved application, click on the registration number.
- To renew an application, click **Renew**. Link will be available 90 days before the license expiration date.
- To pay registration fees, click the **Pay Now** link in the Registration details.
- Car Wash: To complete the registration process, you must print the IRS response, please return to attach the IRS Clearance.

Status Definitions

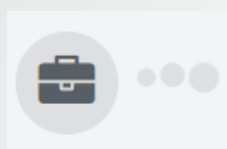
Reload page

- Incomplete - Not yet submitted
- Pending Payment - Payment needed before submission
- Submitted/Resubmitted - Application paid for & submitted
- Approved - Approved by DLSE
- Renewed - Nearing expiration, look for new incomplete application

Actions	Business Name / Individual Person	Registration #	Registration Type	Registration Date	Expiration Date	Payment Status	Balance Due	Registration Duration	
Update Pay Now	ABC Contractors Co.	1234567890	Public Works	06/22/22	Active	07/01/22	06/30/23	Paid / No Balance Due	0.00
Update	ABC Contractors Co.	1234567890	Public Works	07/01/21	Expired	07/01/21	06/30/22	Paid / No Balance Due	0.00



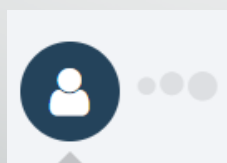
Public Works Contractor Registration System



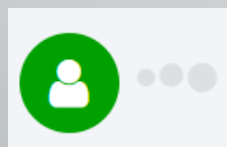
Not Started



Incomplete



In Progress



Complete



Contractor Registration

Who Is Eligible to Register?

Contractors must meet the following requirements to register:

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- Have Contractors State License Board license if applicable to trade.
- Not have any delinquent unpaid wage or penalty assessments owed to any employee or enforcement agency.
- Not be under federal or [state debarment](#).
- Not be in prior violation of this registration requirement once it becomes effective. However, for the first violation in a calendar year, the contractor will be required to complete a registration course.

If you have not created a new account since April 3, 2019, you must follow the steps below:

- Create a [log in account](#) on the contractor registration system.
- To link your account to a previous public works registration, click "Link Existing Registration" on My Dashboard.
- Search for your previous registration number at: [Public Works Contractor Registration Search](#)

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- ▶ [Awarding Bodies](#)
- ▶ [Contractors](#)
- ▶ [Apprenticeship Requirements](#)
- ▶ [Certified Payroll Reporting](#)
- ▶ [Enforcement of Public Works Law](#)

Workforce

Skilled and

Trained Workforce ("STW") Requirements

- ▶ [Frequently Asked Questions](#)
- ▶ [Prevailing Wage Training and Tutorials](#)
- ▶ [Public Works Contacts](#)
- ▶ [Get Public Works Email Updates](#)



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

Input Label

You can verify registrations using this field alone

Legal name, CSLB number, DBA, Registration number

To Date:(mm/dd/yyyy)

mm / dd / yyyy

Search Reset

Crafts (Select all that apply)

- ☐ Asbestos
- ☐ Boilermaker-Blacksmith
- ☐ Bricklayer/ Brick Tender
- ☐ Carpenter
- ☐ Carpet, Linoleum, Resilient
Tile Layer
- ☐ Cement Mason
- ☐ Consultant
- ☐ Driver (On/Off Hauling)
- ☐ Drywall
Installer/Lather/Finisher
- ☐ Electrical Utility
- ☐ Electrician
- ☐ Elevator Constructor
- ☐ Field Surveyor
- ☐ General Building
- ☐ General Engineering

Registrations

Search Results:

Print PDF Export

Type in the **10 digit registration #**, or
6 digit CSLB Number, or
Legal Entity Name,
Or **DBA**

Previous Next

Add all to my list My List (0)



Input Label

1234567890

on Co.

Search Reset

Crafts (Select all that apply)

- ☐ Asbestos
- ☐ Boltermaker-Blacksmith
- ☐ Bricklayer/Brick Tender
- ☐ Carpenter
- ☐ Carpet, Linoleum, Resilient Tile Layer
- ☐ Cement Mason
- ☐ Consultant
- ☐ Driver (On/Off Hauling)
- ☐ Drywall Installer/Lather/Finisher
- ☐ Electrical Utility
- ☐ Electrician
- ☐ Elevator Constructor
- ☐ Field Surveyor
- ☐ General Building
- ☐ General Engineering
- ☐ Glazier
- ☐ Inspector/Field Soils, Material Tester
- ☐ Iron Worker

Registrations

Search Results: 1 found

Showing Page 1 of 1

Previous

Next

Print PDF Export

Add all to my list

My List (0)

ABC Contractors Co.

View Details

+ Add to My List

Detail:

Registration Number: 1234567890

Status: Active

CSLB Number: 654321

Legal Entity Type: Corporation

Mailing Address: ABCD Drive
Long Beach
CA 99999

County: Los Angeles

Craft: Laborer

Email: JDoe@abccontractor.com

DBA

Name

ABC Construction Co.

Registration History

Effective Date	Expiration Date
7/1/2022	6/30/2025
7/1/2019	6/30/2022
5/15/2018	6/30/2019
5/26/2017	6/30/2018
5/31/2016	6/30/2017
7/2/2015	6/30/2016
7/1/2014	6/30/2015



Input Label

From Date:(mm/dd/yyyy)

To Date:(mm/dd/yyyy)

legal name, CSLB number, DBA, Registration number

mm / dd / yyyy

mm / dd / yyyy

County

City

Search

Reset

Crafts (Select all that apply)

☐ Asbestos

☐ Boltermaker-Blacksmith

☐ Bricklayer/Brick Tender

☐ Carpenter

☐ Carpet, Linoleum, Resilient Tile Layer

☐ Cement Mason

☐ Consultant

☐ Driver (On/Off Hauling)

☐ Drywall Installer/Lather/Finisher

☐ Electrical Utility

☐ Electrician

☐ Elevator Constructor

☐ Field Surveyor

☐ General Building

☐ General Engineering

☐ Glazier

☐ Inspector/Field Solls, Material Tester

☐ Iron Worker

Registrations

Search Results: 1 found

Showing Page 1 of 1

Previous

Next

Print PDF

Export

Add all to my list

My List (0)

ABC Contractors Co.

Detail:

Registration Number: 1234567890

Status: Active

Legal Entity Type: Corporation

Mailing Address: ABCD Drive
Long Beach
CA 99999

County: Los Angeles

Craft: Laborer

Email: JDoe@abccontractor.com

DBA

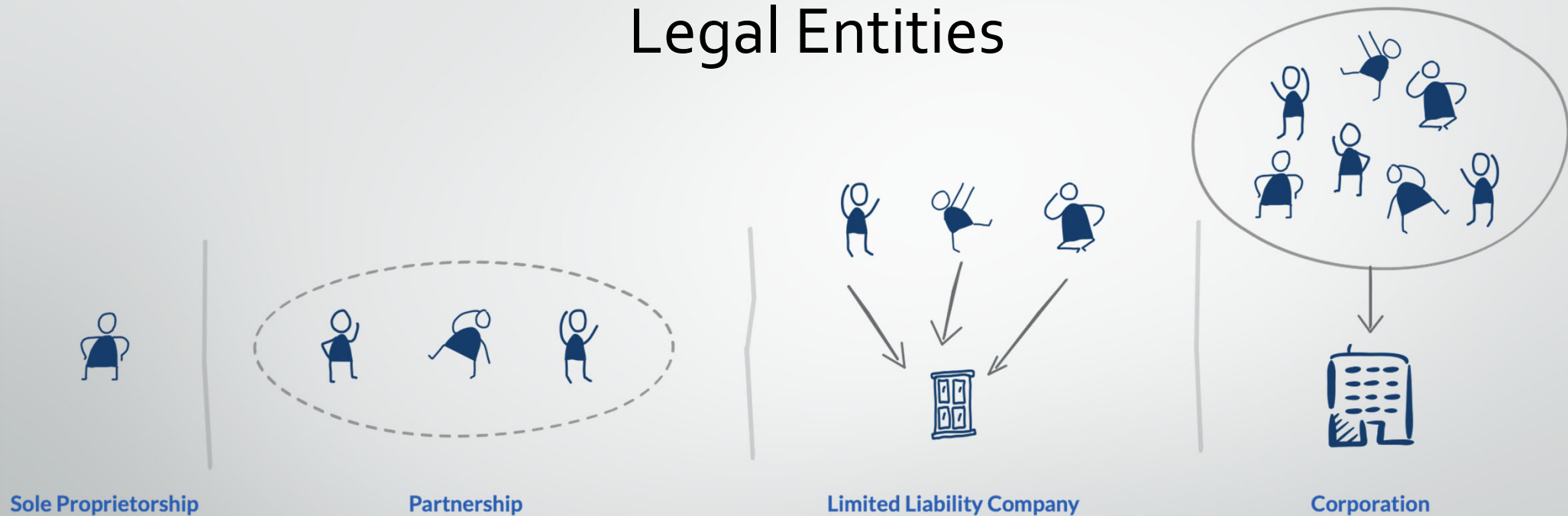
Name

ABC Construction Co.

Registration History

Effective Date	Expiration Date
7/1/2022	6/30/2025
5/31/2018	6/30/2019
6/22/2017	6/30/2018
6/3/2016	6/30/2017
6/11/2015	6/30/2016
7/1/2014	6/30/2015

Public Works Contractor Registration Legal Entities



- Public Works Contractor Registrations are valid *per* legal entity
- A transition to different legal entity type will require a new registration



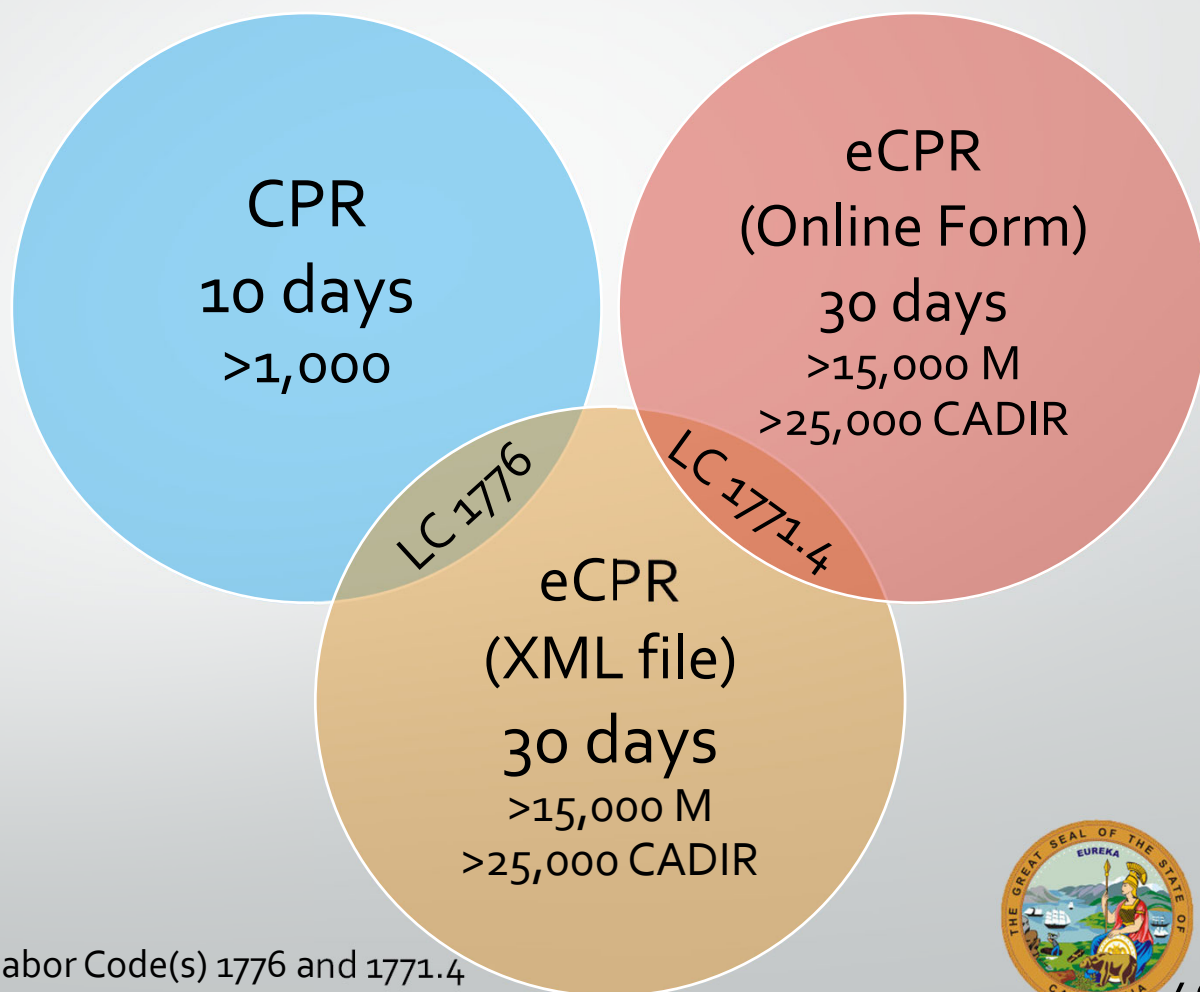
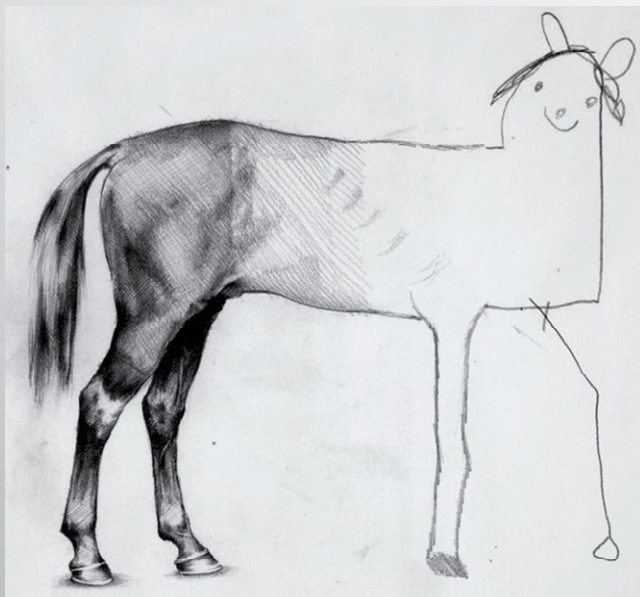
Polling Question 6

Which of the following should you do in order to comply with the requirements of a Labor Code 1776 request for certified payroll records?

- a) Ensure the payroll records are certified under penalty of perjury
- b) Ensure the payroll records include at least the same information identified in the DLSE Sample Payroll Reporting Form (A-1-131)
- c) Ensure the payroll records are submitted within ten (10) calendar days from receipt of request
- d) All of the above



Maintain and Furnish Payroll Records



Labor Code(s) 1776 and 1771.4



Contractor Responsibilities

Prevailing
Wage

>1,000

Contractor
Registration

>15,000
M

>25,000
CADIR

Labor Code 1771, 1725.5, and 1777.5

Apprenticeship

≥30,000





Notify apprenticeship committees of contract award information



Employ apprentices in at least the minimum ratio



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

\$30,000.00

\$25,000.00

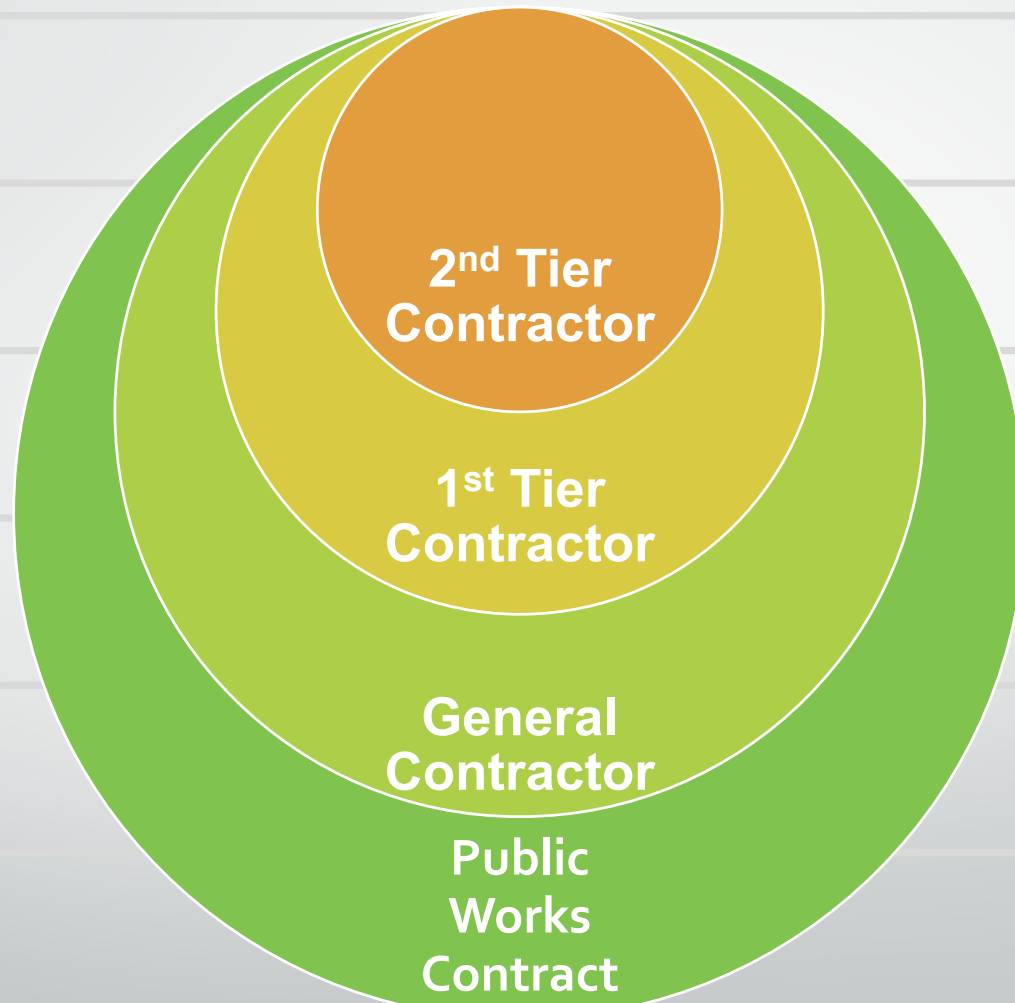
\$20,000.00

\$15,000.00

\$10,000.00

\$5,000.00

\$0.00



Labor Code 1777.5
≥\$30,000



Polling Question 7

On a wage determination, what does the pound symbol (#) next to the name of the craft indicate?

- a) A predetermined increase takes effect after the expiration date
- b) The rates are valid for the duration of the project
- c) The craft is apprenticeable
- d) The craft is **not** apprenticeable



Wage Determination Examined

Craft: Drywall Installer/Lather (Carpenter)#

Indicates apprenticeable classification

Determination:

SC-31-X-41-2021-1

Issue Date:

August 22, 2021

Expiration date of determination:

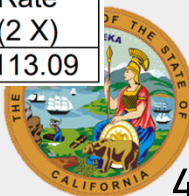
June 30, 2022* Effective until superseded by a new determination issued by the Director of Industrial Relations. Contact the Office of the Director - Research Unit (415) 703-4774 for the new rates after 10 days from the expiration date, if no subsequent determination is issued.

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Wages and Employer Payments:

Classification (Journeyman)	Basic Hourly Rate	Health and Welfare	Pension	Vacation and Holiday ^a	Training	Other ^b	Hours	Total Hourly Rate	Daily Overtime Hourly Rate (1 ½ X) ^c	Saturday Overtime Hourly Rate (1 ½ X) ^c	Sunday/ Holiday Overtime Hourly Rate (2 X)
Drywall Installer/Lather	\$44.44	\$8.00	\$5.66	\$7.16	\$0.62	\$2.77	8.0	\$68.65	\$90.87	\$90.87	\$113.09



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 AWARDED 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

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**

	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 apprenticeship committee 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 a CAC Regulation but will enforce DAS approved apprenticeship standards
Box 2		Must be sent to all applicable apprenticeship committees		
Box 3			Not Applicable Not a CAC Regulation	Apprentices must work with or under a journeyman at all times.



#Journeyman Hours Worked

Daily
Straight
Time
 $\leq 8\text{hrs}$

Weekly
Straight
Time
 $\leq 40\text{hrs}$

Daily
Overtime
 $> 8\text{hrs}$

Weekly
Overtime
 $> 40\text{hrs}$

Used to Calculate
Minimum Apprentice
Hours Required

Excluded from
Minimum Ratio
Calculation



Apprentice Hours Worked

Daily
Straight
Time
 $\leq 8\text{hrs}$

Weekly
Straight
Time
 $\leq 40\text{hrs}$

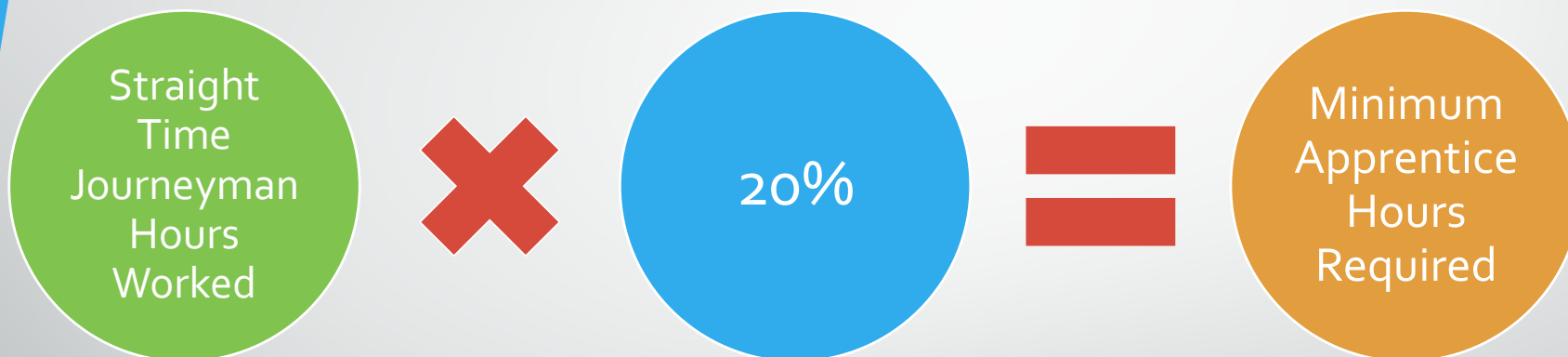
Daily
Overtime
 $> 8\text{hrs}$

Weekly
Overtime
 $> 40\text{hrs}$

Used to Satisfy
Apprentice Hours Required



Minimum Apprenticeship Ratio





REQUEST FOR DISPATCH OF AN APPRENTICE – DAS 142 FORM

DO NOT SEND THIS FORM TO DAS

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. **Except for projects with less than 40 hours of journeymen work, you must request and employ apprentices in no less than 8 hour increments.**

List one occupation/craft per form

Date: _____

Contractor Requesting Dispatch:

To Applicable Apprenticeship Committee:

Name: _____

Name: _____

Address: _____

Address: _____

License No. _____

Tel. No. _____ **Fax No.** _____

PWC Registration Number: _____

Tel. No. _____ **Fax No.** _____

Project Information: PWC Project Number _____ Contract Number _____

Total Contract Amount. _____ **Sub-Contract Amount** _____

Name of the Project: _____

Address: _____

Dispatch Request Information:

Number of Apprentice(s) Needed: _____ **Craft or Trade:** _____

Date Apprentice(s) to Report: _____ **(72 hrs. notice required)** **Time to Report:** _____

Name of Person to Report to: _____

Address to Report to: _____

At Least 72 Hours' Notice Required



Polling Question 8

If a Request for Dispatch (Form DAS 142) is submitted to an apprenticeship committee on Friday at 5 p.m. for an apprentice to report on Monday at 7 a.m., How many hours should be **excluded** to correctly calculate the hours of notice the committee was given? Assume there are no holidays during the period.

- a) 24 hours should be excluded
- b) 48 hours should be excluded
- c) 72 hours should be excluded
- d) No hours should be deducted

Friday	Saturday	Sunday	Monday
5 p.m.			7 a.m.



Polling Question 9

How can you confirm that a worker is a DAS registered apprentice?

- a) Using the DAS apprentice search database
- b) Ask the worker if they are an apprentice and take their word for it
- c) An inexperienced worker is an apprentice by default



Apprenticeship Status and Safety Training Certification

Apprenticeship status certification for public works

Enter search string (LLLLF9999) here

SmitM1234

Search



How to compile the search string:

The search string is a total of nine letters and numbers (no characters ' , - , etc): the first four letters of the last name (use spaces to make four letters if the last name is shorter than four letters), the first letter of the first name and the last four digits of the social security number (LLLLF9999). Letters can be entered as lower or upper case.

Examples:

Uncle Sam ssn 123-45-6789 would be entered as Sam U6789

Goddess Minerva ssn 123-45-5555 would be entered as MineG5555

Richard Al-Ham ssn 111-44-1111 would be entered as AlhaR1111

Robert O'Brian ssn 111-22-3333 would be entered as OBriR3333

James McHenry ssn 555-66-1234 might be entered as McHeJ1234 or Mc HJ1234

<https://www.dir.ca.gov/das/appcertpw/AppCertSearch.asp>



STATE OF CALIFORNIA

Gavin Newsom, Governor

DEPARTMENT OF INDUSTRIAL RELATIONS
DIVISION OF APPRENTICESHIP STANDARDS

P.O. Box 420603
 San Francisco, CA 94142-0603



To whom it may concern:

The Division of Apprenticeship Standards hereby certifies that, according to transactions recorded as of August 25, 2019, the below named individual is registered with the State of California as an apprentice in the occupation during the period between the start date and the end date or completion (comp) date listed below. If there is no end date for an occupation, the Apprentice is currently registered in that occupation. Occupations marked with an asterisk (*) are certified as apprenticeable occupations for Public Works projects. For individuals who have completed an approved 20 hour safety training, the course and the date completed are listed below.

Name

Mason Smith
 Mason Smith

Occupation

* Cement Mason
 * Cement Mason

Action

Start
 Comp

Effective Date

03-02-2016
 12-25-2017

Cert. id

SmitMI234
 SmitMI234

If you have any questions please contact your local Division of Apprenticeship Standards office.

Glen Forman
 Deputy Chief



Wage Determination Examined

Craft: Drywall Installer/Lather (Carpenter)#

Determination:

SC-31-X-41-2021-1

Issue Date:

August 22, 2021

Expiration date of determination:

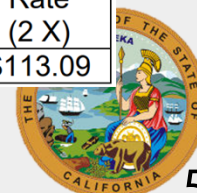
June 30, 2022* Effective until superseded by a new determination issued by the Director of Industrial Relations. Contact the Office of the Director - Research Unit (415) 703-4774 for the new rates after 10 days from the expiration date, if no subsequent determination is issued.

Localities:

All localities within Imperial, Inyo, Kern, Los Angeles, Mono, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara and Ventura counties.

Wages and Employer Payments:

Classification (Journeyman)	Basic Hourly Rate	Health and Welfare	Pension	Vacation and Holiday ^a	Training		Hours	Total Hourly Rate	Daily Overtime Hourly Rate (1 ½ X) ^c	Saturday Overtime Hourly Rate (1 ½ X) ^c	Sunday/ Holiday Overtime Hourly Rate (2 X)
						^b					
Drywall Installer/Lather	\$44.44	\$8.00	\$5.66	\$7.16	\$0.62	\$2.77	8.0	\$68.65	\$90.87	\$90.87	\$113.09



CAC - Public works Training Fund Search

Training Fund Search

This search function allows awarding agencies, labor and contract compliance organizations, contractors, and other interested parties to view and print a specific contractor's Training Fund contribution paid to the California Apprenticeship Council for the previous 48 months. The payment of the training funds is regulated by California Labor Code 1777.5(m)(1)

Please enter the contractor's license number to begin search.

If you do not know the contractor's license number you may search for it at this site: www.cslb.ca.gov

For employers without a Contractor's license you may look up the id number that was assigned

Don't see your recent training contribution in the payment history?

Possible reasons:

1) Wrong Remit address, our current remit address is as follows:

Department of Industrial Relations

California Apprenticeship Council

P. O. Box 511283

Los Angeles, CA 90051-7838

dir.ca.gov/CAC/trainingfund/Tfsearch.html



STATE OF CALIFORNIA

Gavin Newsom, Governor

CALIFORNIA APPRENTICESHIP COUNCIL

P.O. Box 420603
 San Francisco, CA 94142-0603
 (415) 703-4920



Re: Training Fund Contribution Inquiry for:

ACME, Inc.
 9876 Ocean Blvd
 Long Beach, CA 90802

Lic.# 987654

To whom it may concern:

The California Apprenticeship Council hereby certifies that, according to transactions recorded as of August 25, 2019, the training fund contributions shown below have been received from the contractor above during the last four years. The contributions are sorted by County, Check date, Project and Occupation.

County	Occupation	Check date	Amount in \$
Project			
Los Angeles	Cement Masons	04/05/2017	97.92
SP-98765			
Los Angeles	Laborers	04/05/2017	142.14
SP-98765			

If you have any questions please contact the Division of Apprenticeship Standards. trainingfund@dir.ca.gov

A handwritten signature in black ink, appearing to read 'Glen Forman'.

Glen Forman
 for the Secretary, California Apprenticeship Council



Contractor Responsibilities

Prevailing
Wage

>\$1,000

Contractor
Registration

>\$15,000
M

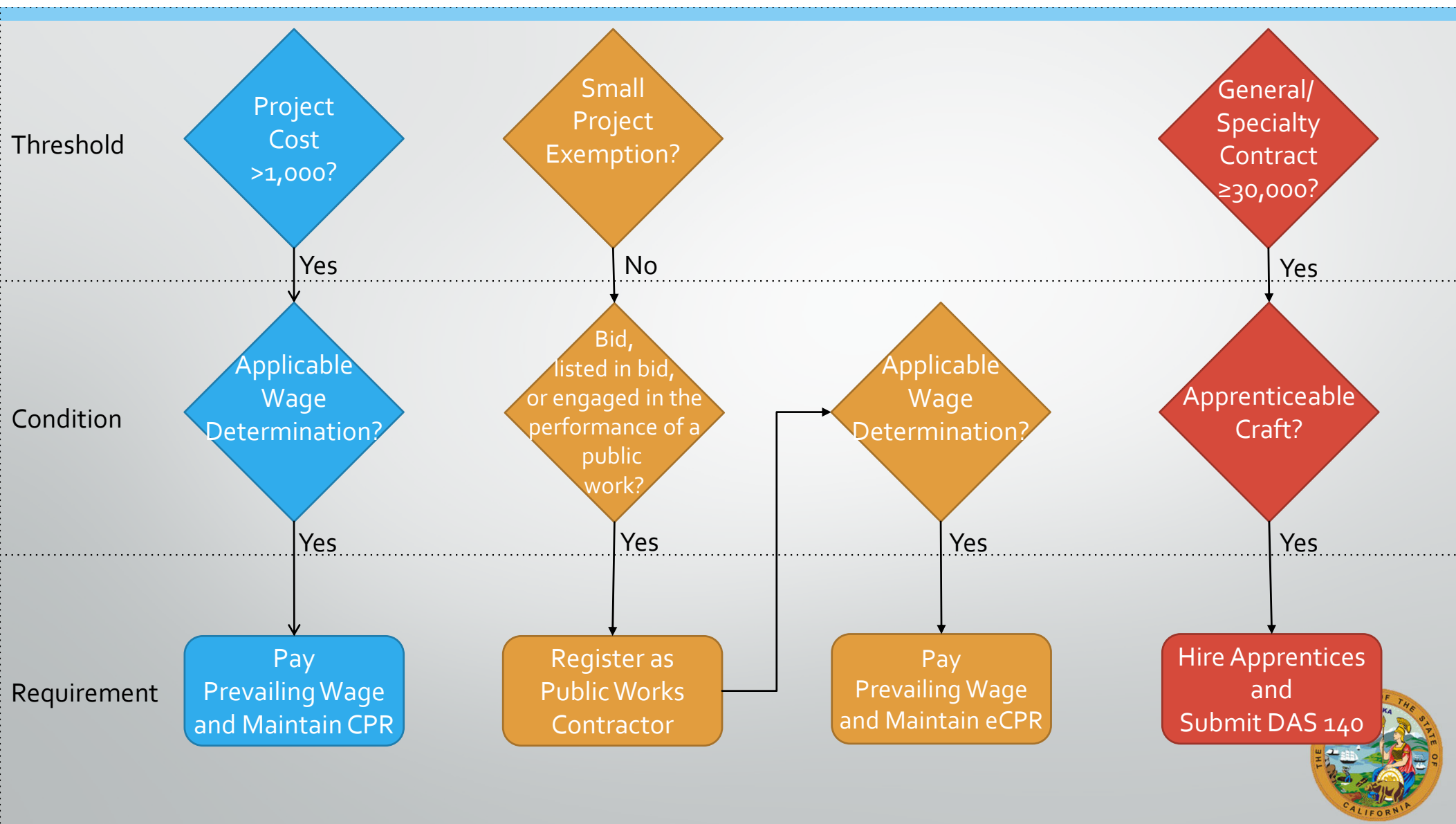
>\$25,000
CADIR

Labor Code(s) 1771, 1725.5, and 1777.5

Apprenticeship

≥\$30,000





Contractor Responsibilities

Prevailing Wage

≤\$200 Per
Calendar Day of
Noncompliance
Per Worker

Contractor Registration

Subcontracting With
Unregistered Contractor
\$100/day 10,000/project

Engaged in Performance
of Public Work Contract
\$100/day \$8,000/project

Apprenticeship

≤\$300 Per
Calendar Day of
Noncompliance

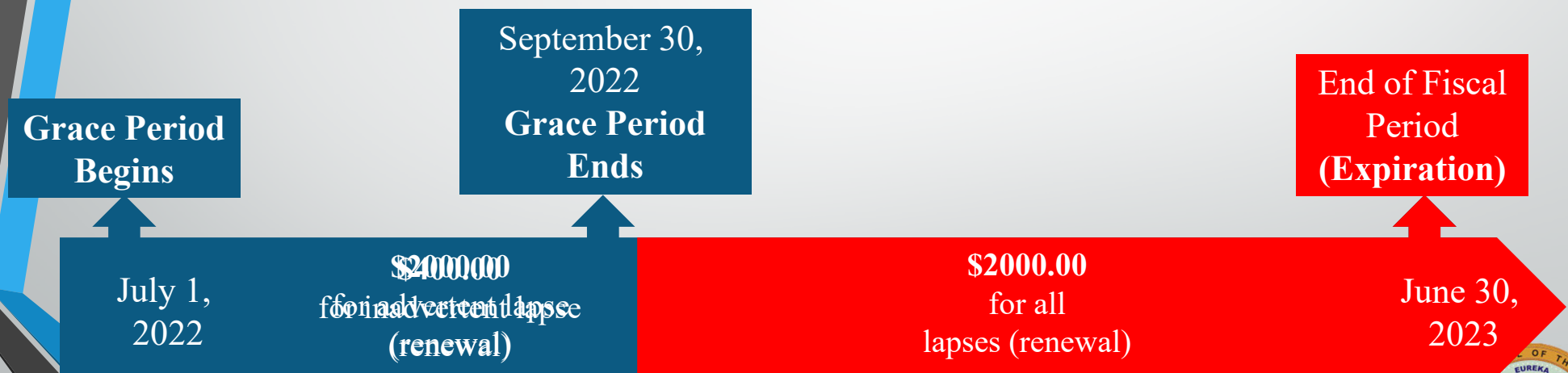
Labor Code(s) 1775(a) (1), 1771.1 (g) and (h) (1), and 1777.7



Contractor Responsibilities

Late Renewal:

- Grace period: **\$400.00** penalty for an *inadvertent lapse*, **\$2000.00** penalty if lapse is *not inadvertent*
- After Grace Period: **\$2000.00** for all lapses



Labor Code 1725.5



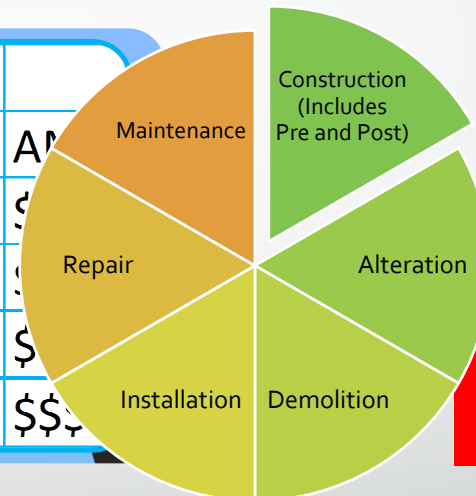
Contractor Responsibilities

Late Registration:

- **\$2000.00** penalty for a *lapse* for *first time registration*



BID	
Contractor	\$
Contractor 1	\$
Contractor 2	\$
Total	\$



Beginning
Fiscal Period
(Effective)

July 1,
2022

**\$2000.00 for a
lapse in registration**

End of Fiscal
Period
(Expiration)

June 30,
2023

Labor Code 1725.5



Thank you for attending!



General questions or system issues?

Labor Commissioner's Office - publicworks@dir.ca.gov

- System issues? Provide screenshots and contact information for user experiencing the issues
- Identify the system in the subject line.
 - PWCR (Public Works Contractor Registration)
 - eCPR (Electronic Certified Payroll Reporting)
 - PWC-100 (Project Registration)

The work I am engaged in requires prevailing wages, what is the applicable craft?

Office of the Director – Research Unit - statistics@dir.ca.gov

Request a wage determination. Provide county, bid date, and scope of work

Is my specific project a public work? The work I am engaged in is innovative and not found in any scope of work provision, am I required to pay prevailing wages?

Office of the Director – Legal Unit - pwcoverage@dir.ca.gov

Request a coverage determination. Provide as much documentation as possible (contract, funding source, lease information, scope of work, etc.)



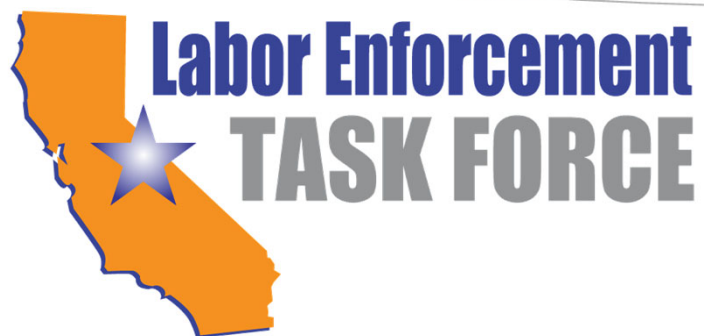
LETF Strategic Enforcement of Public Works Construction

Dominic Forrest

Chief, Labor Enforcement Task Force



State of California
Gavin Newsom
Governor



The Labor Enforcement Task Force, under the direction of the Department of Industrial Relations, is a coalition of California State government enforcement agencies that work together and in partnership with local agencies to combat the underground economy. In this joint effort, information and resources are shared to ensure employees are paid properly and have safe work conditions and honest, law-abiding businesses have the opportunity for healthy competition.

Combating the Underground Economy

LETF: The benefits of joint enforcement

- Coordinate across multiple agencies
- Share data, information, and resources
- Ensure employees are paid properly and have safe work conditions
- Provide honest, law-abiding businesses the opportunity for healthy competition
- Minimize business interruption through joint inspection
- Target enforcement on employers violating the law

LETF Strategic Enforcement Partner Agencies

- Department of Industrial Relations
 - Division of Occupational Safety & Health (Cal/OSHA)
 - Labor Commissioner's Office (DLSE)

LETF Strategic Enforcement Partner Agencies cont.

- Employment Development Department (EDD)
 - Main LETF partner for multiple industries
- Contractors State License Board (CSLB)
 - Key partner for construction enforcement
- California Department of Insurance (CDI)
 - Collaboration on insurance fraud cases
- Local District Attorneys
 - Collaboration enables investigation and prosecution of wage theft cases and other labor law violations through the exchange of information and resources.

AB 140

SEC. 26. Section 1785 is added to the Labor Code, to read:

1785. (a) The director shall establish and maintain a strategic enforcement unit focused on construction, alteration, and repair projects. The unit shall enhance the department's enforcement of this code in construction, alteration, and repair projects, including projects funded pursuant to Section 50675.1.3 of the Health and Safety Code and other publicly funded residential construction projects. The unit shall have primary responsibility for enforcement of this code in construction projects subject to Section 50675.1.3 of the Health and Safety Code. Any funds appropriated to the department for purposes of this section shall be administered and allocated by the director.

(b) The strategic enforcement unit described in subdivision (a) shall provide technical assistance to local public entities related to both of the following:

- (1) Best practices for monitoring and enforcing requirements pertaining to construction, alteration, and repair projects paid for in whole or in part out of public funds, including, but not limited to, this chapter.
- (2) Outreach and engagement with workers, employers, and state certified apprenticeship programs connected to construction, alteration, and repair projects.

Strategic Enforcement of Public Works Projects

Pursuant to Assembly Bill 175 (Chapter 255, 2021), funding was appropriated from the Labor and Workforce Development Fund to support DIR in strategic enforcement focused on construction, alteration, and repair projects, subject to the provisions of Section 1785 of the Labor Code. This funding would provide enhanced strategic enforcement to target employers in the construction industry working on public works projects who are noncompliant with various labor laws.



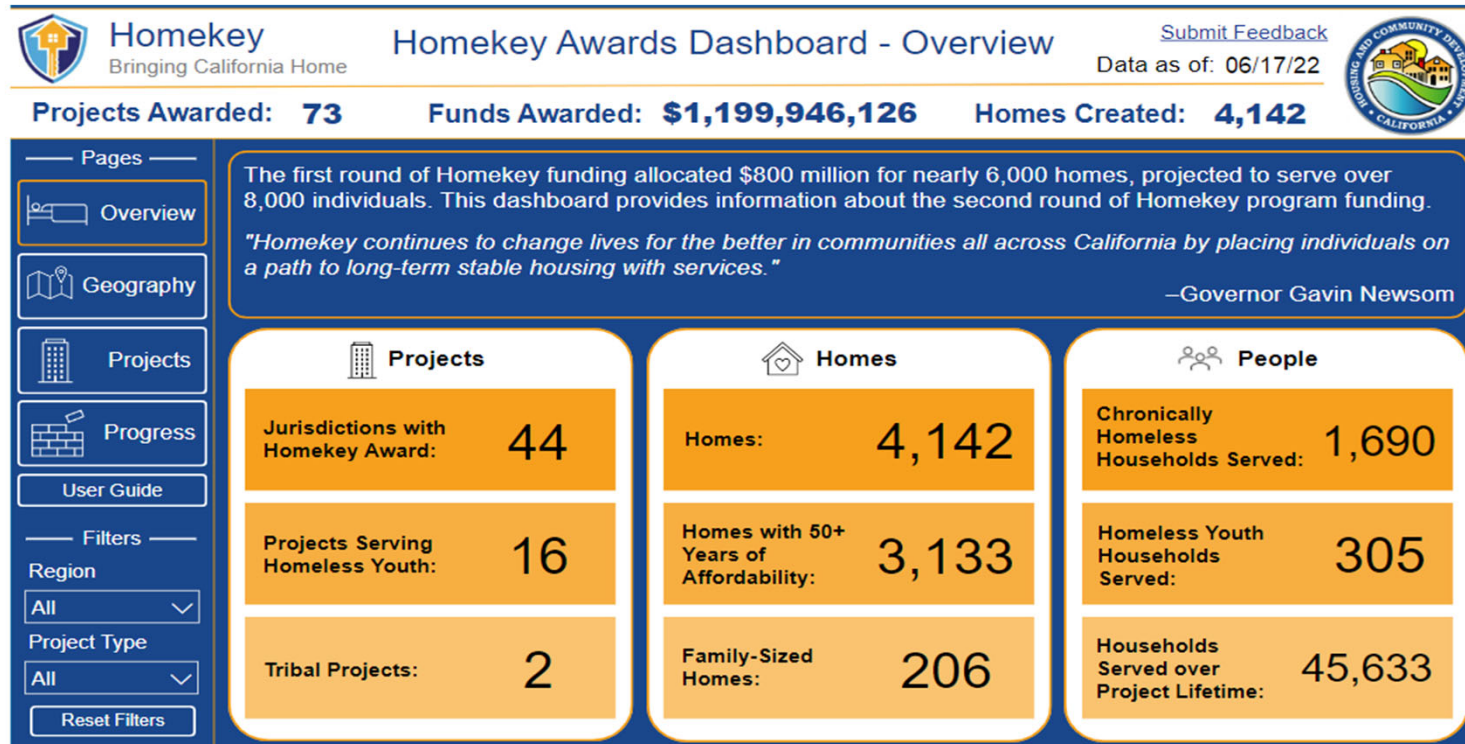
Homekey
Bringing California Home

Background

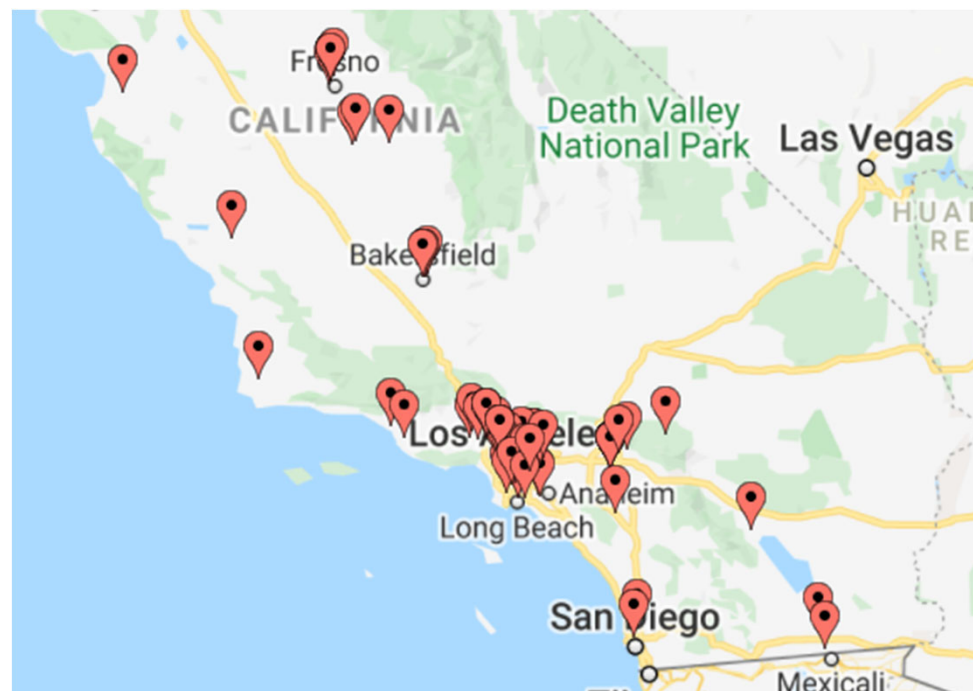
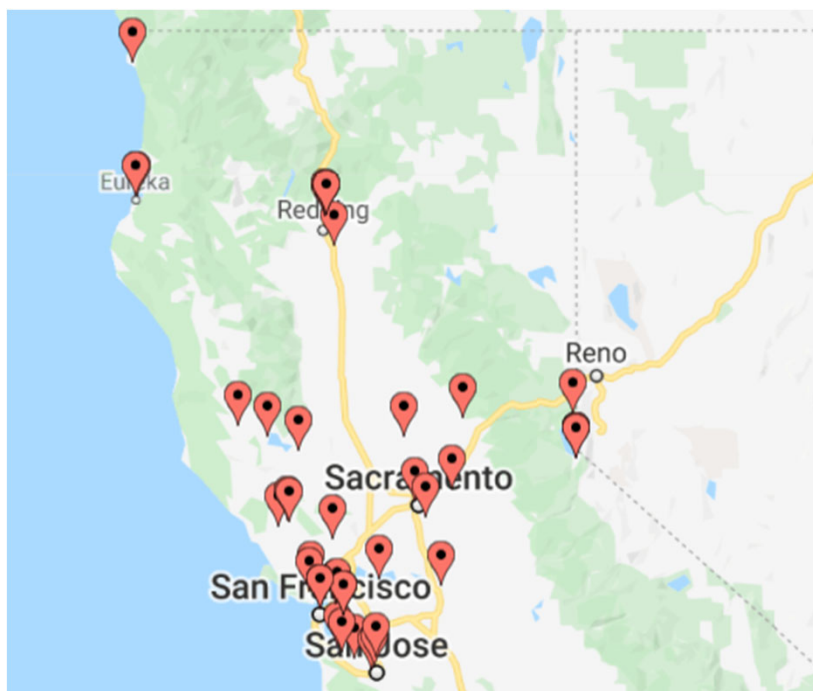
Building on the success of both [Project Roomkey](#) and the first round of Homekey, Homekey Round 2 continues a statewide effort to sustain and rapidly expand housing for persons experiencing homelessness or at risk of homelessness, and who are, thereby, inherently impacted by COVID-19 and other communicable diseases.

Administered by the California Department of Housing and Community Development (HCD), approximately \$1.4 billion (FY 2021-22) in grant funding will be made available to local public entities, including cities, counties, or other local public entities, such as housing authorities or Tribal Entities within California.

Homekey Round 2 Overview



Homekey Project Sites



LETF Strategic Enforcement-Non Homekey

In addition to the focus on Homekey, LETF is also implementing strategic enforcement of non-Homekey related public works residential job sites. DLSE PW is reviewing all current and new complaints, and leads, to determine if they meet the criteria for joint enforcement operations at active on-site residential construction projects.

Resources

Complete list of awarded Homekey Round 2 projects

<https://homekey.hcd.ca.gov/sites/default/files/2022-02/Awardee-Funding-List-HK-B6.pdf>

Frequently Asked Questions regarding Homekey Projects

<https://www.hcd.ca.gov/grants-funding/active-funding/homekey/docs/homekey-frequently-asked-questions.pdf>

DIR- LETF

www.dir.ca.gov/letf

Hotline: 855-297-5322

Email: LETF@dir.ca.gov

HOT TOPICS

Public Works Legal 2022

Disclaimer

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.

California's "Affordable Housing" Crisis.

"California has a housing supply and affordability crisis of historic proportions. The consequences of failing to effectively and aggressively confront this crisis are hurting millions of Californians, robbing future generations of the chance to call California home, stifling economic opportunities for workers and businesses, worsening poverty and homelessness, and undermining the state's environmental and climate objectives."

Gov. Code §65589.5 (a)(2)(A).

The “Streamlined Ministerial Approval Process” of Gov. C. §65913.4 imposes a non-public work prevailing wage & “skilled & trained workforce” obligation.



See: California Dept. of Housing & Community Development’s “Streamlined Ministerial Approval Guidelines,” dated March 30, 2021, at <https://www.hcd.ca.gov/policy-research/docs/sb-35-guidelines-update-final.pdf>

Gov. Code §65913.4 (k) (6) makes this law applicable to cities and counties, *including a charter city, a charter county, and a “charter city and county”*.

Imposes a *non-public works* “prevailing wage” obligation and an obligation to employ a “skilled and trained workforce”, to specified multi-family housing projects. See: “Streamlined Ministerial Approval Guidelines,” dated March 30, 2021, at <https://www.hcd.ca.gov/policy-research/docs/sb-35-guidelines-update-final.pdf>

- This presentation *does not* cover the process for determining eligibility of development projects, nor the elements requiring differing percentages of “skilled & trained workforce” obligations depending on the craft, but will familiarize you with:
 - The scope of “Prevailing Wage” obligation under Gov. Code §65913.4;
 - Potential confusion with established housing exemptions/exclusions; and
 - Potential conflict with alternative workweek schedules.

DLSE enforcement of Gov. C. § Gov. C. §65913.4 (a) (8) (i).



If the developer certified that the *entirety* of the project is a public work for purposes of Labor Code §1720 et seq., then the "usual" public works laws apply, including the obligation to pay prevailing wages and to employ apprentices.

If developer certified that “all construction workers employed in the execution of the development” will be paid prevailing wages:



All of the following apply to the portions of the development that are not a public work:

1. Developer shall ensure that the PW requirement is in all contracts for the performance of the work;
2. All contractors and subcontractors shall pay all construction workers employed in the execution of the work at least the general prevailing wages, except that apprentices registered in programs approved by DAS may be paid the applicable apprentice prevailing rate;
3. All contractors and subcontractors shall maintain CPRs per Labor C. §1776 & make them available for inspection and copying; and
4. DLSE may issue a CWPA within 18 months after completion *of the development* and if DLSE does so, the contractor, subcontractor, and surety are liable for LDs as set forth in Lab. Code §1742.1.

Distinctions in DLSE enforcement of Gov. C. §65913.4 from traditional Public Works enforcement.

Maintenance and inspection of CPRs and DLSE enforcement via CWPA *do not apply* if all contractors and subcontractors on the project are covered by a PLA, as defined in Pub. Contract C. §2500 (b)(1).

Despite Lab. C. §1773.1 (c)(2) requirement that employer payments not reduce the obligation to pay the hourly straight or overtime prevailing wage, this requirement *shall not apply* if otherwise provided in a CBA covering the worker.* Also, the requirement to pay at least the PW rate *does not preclude the use of an alternative workweek schedule adopted pursuant to Lab. C. §§ 511 or 514.* Gov. C. §65913.4 (a)(8)(A)(ii)(VI).

*Gov. C. §65913.4 (a)(8)(A)(ii)(VI), unlike Lab. C. §1773.1 (c) (3), *does not require* that the employer payment contribution be “irrevocable unless made in error.”

See: California Dept. of Housing & Community Development's "Streamlined Ministerial Approval Guidelines," dated March 30, 2021, at <https://www.hcd.ca.gov/policy-research/docs/sb-35-guidelines-update-final.pdf>

SCOPE OF "SKILLED AND TRAINED WORKFORCE" OBLIGATION UNDER GOV. CODE §65913.4 (a)(8)(B)

Certain multi-family housing developments that are not 100% "subsidized* affordable housing" must use a "skilled and trained workforce" (as defined in Pub. Contract C., "Chapter 2.9" (§§ 2600 et seq.)). "Subsidized," as defined in Gov. C. §65913.4, subd. (k) (10), means units that are price or rent restricted such that they are permanently affordable to households meeting the definition of very low and lower income, as defined in Health & Safety Code §§ 50079.5 and 50105.

What is a “skilled and trained workforce”?

(Public Contract Code §2601)

A STW meets ALL of the following conditions:

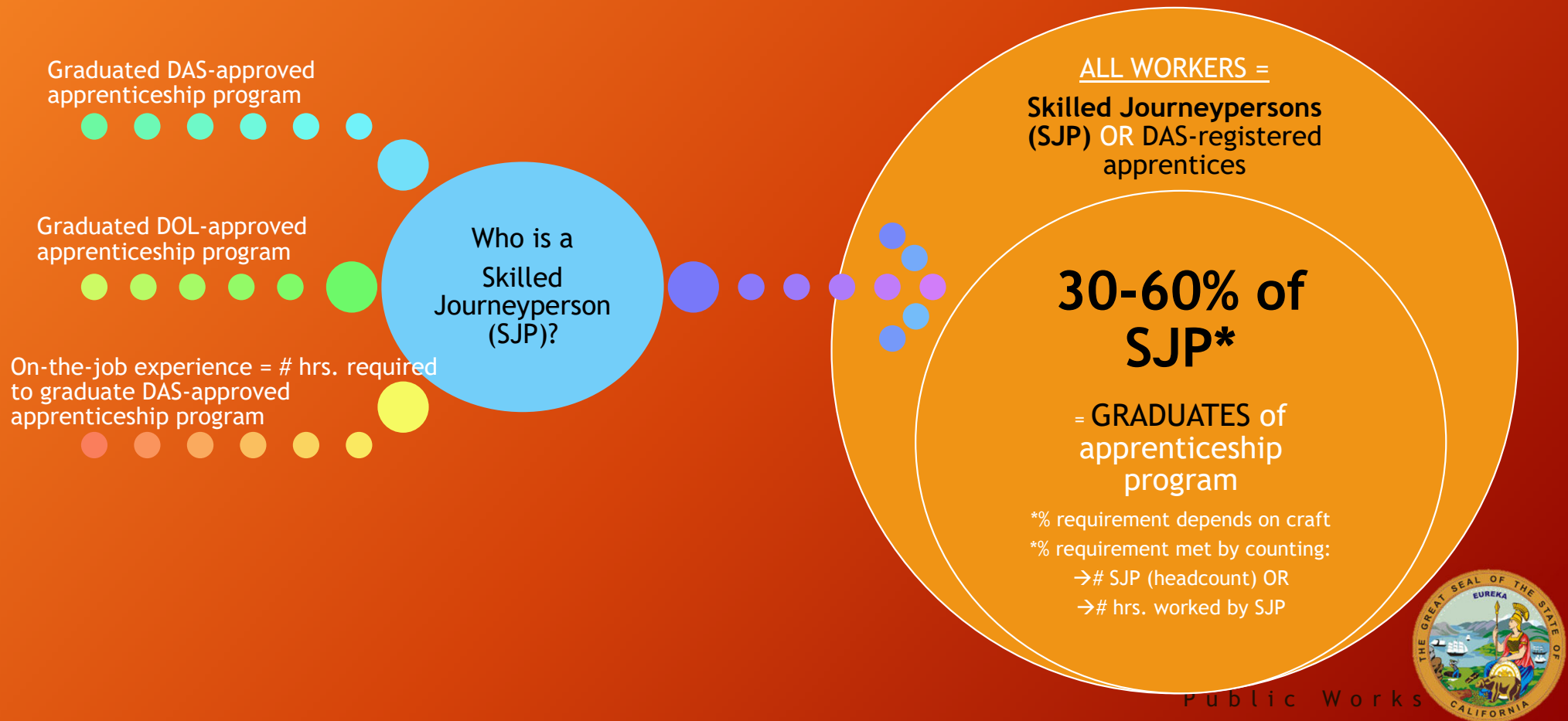
- ALL workers performing work in an apprenticeable occupation in the building and construction trades are EITHER:
 - Skilled Journeypersons OR
 - DAS-Registered Apprentices
- 30% - 60% of ALL Skilled Journeypersons must be graduates of apprenticeship program.
 - Graduation percentage requirement varies 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.

What is a “skilled and trained workforce”?

[For Visual Learners]



Why the “Streamlined Ministerial Process”

- Why would a project developer want to deal with prevailing wage laws and the skilled & trained workforce requirements.
- The Streamlined process ministerial process allows developments to cut through red tape to get their projects approved.

Department of Housing & Community Development ("HCD") Programs.

Multifamily Housing Program (Health & Saf. Code, Div. 31, Part 2, Chapt. 37, §§50675 et seq.): To be eligible for a MHP loan, a sponsor "shall" agree to pay prevailing wages with respect to construction assisted with the loan. (Health & Saf. Code §50675.4, subd. (c)(2).)

Transit-Oriented Development Implementation Program: Requires that loans for the development of rental housing made through this program be administered consistent with the *Multifamily Housing Program* (i.e., "shall" agree to pay prevailing wages . . .) (Health & Saf. Code §53562 (b)(3), effective Jan. 1, 2022.)

Rental Construction Incentive Program (Health & Saf. Code §50745 et seq.): Establishes that any rental housing development assisted pursuant to this article "shall" be governed by a regulatory agreement that "shall include" a requirement that prevailing wage rates be paid with respect to construction of the rental housing development. (See, Health & Saf. Code §50749, subd. (b); and Ca. Code of Regs., tit. 25, §7802.)

HCD Programs - continued.

Joe Serna Jr. Farmworker Housing Grant Program. Requires that HCD makes funds available from, and administers loans under, this program "in a manner consistent with the *Multifamily Housing Program*." (Health & Saf. Code §50517.5 (a) (1) (A) (ii) & (iii), effective Jan. 1, 2022.)

Veterans and Affordable Housing Bond Act of 2018 (Health & Saf. Code, Part 16, §5400 et seq. together with Mil. & Vet. Code §998.600 et seq.): Establishes that programs funded with bond proceeds shall, when allocating financial support, *give preference to projects that are "public works" . . . and other projects on which all construction workers will be paid at least the general prevailing rate of per diem wages as determined by the Director of Industrial Relations.* (Health & Saf. Code 54009 (emphasis added).)

For links to various HCD Guidelines to these programs and others see: https://www.hcd.ca.gov/grants-funding/docs/admin_memo21-06_stacking_prohibition_repeal.pdf

HCD Programs-Continued

- Project Homekey is an HCD program to sustain and rapidly expand housing for persons experiencing homelessness or at risk of homelessness.
- Project Homekey - most projects funded by this grant will be considered a public works. It will require the contractor be registered with DIR and the payment of prevailing wages.
- Project Homekey - may require the use of a skilled and trained workforce.

Effect of funding conditions on “public works” analysis
under Labor Code §1720.

Labor Code §1720 (c) exempts 5 categories of private development projects as “public work” otherwise defined under subdivision (b).

However, Labor Code §1720 (c) (1) and (c) (5) excludes *from the exemption*:

(1) Private residential projects built on private property . . . [if] *the projects are built pursuant to an agreement with a state agency, a redevelopment agency, a successor agency to a redevelopment agency when acting in that capacity, or a local public housing authority.*

. . .

(5) *[Where] otherwise required by a public funding program . . .*

Keep these exclusions in mind and take them into account where the funding conditions of the various HCD programs apply to require the payment of prevailing wages.

Where preemption of HUD-funded work on Public Housing Authority owned or leased property applies, HUD requires:

“Any solicitation of bids or proposals issued by the PHA and any contract executed by the PHA for development, maintenance, and modernization of the project *shall* include a statement that any (state) prevailing wage rate . . . is inapplicable to the contract and shall not be enforced against the contractor or any subcontractor . . .”

(29 C.F.R. §965.101 (b). Emphasis added.)

LINKS TO CALIFORNIA DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT PROGRAM GUIDELINES

[Multifamily Housing Program Final Guidelines \(ca.gov\) at p. 23, Section 7316, para. \(e\)
- "Construction Requirements"](#)

[INFILL INFRASTRUCTURE GRANT GUIDELINES at p. 38, Section 314, "Prevailing Wages"](#)

[Transit-Oriented Development Guidelines - 4.30.2020 \(ca.gov\) at p. 30, para. E](#)

[Permanent Local Housing Allocation Program Non-Entitlement Local Government
Competitive Notice of Funding Availability, Amended Nov. 6, 2020, at p. 12, para. D,
"State Prevailing Wages"](#)

[No Place Like Home Program Round 3 Guidelines \(ca.gov\), at p. 42, Section 213; and p.
60, Section 304](#)

LINKS TO CALIFORNIA DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT PROGRAM GUIDELINES

[Housing for a Healthy California Final Guidelines- Amended, at p. 30, Section 119, para. \(a\) Federal Overlays \(includes required compliance with state prevailing wage laws\).](#)

[Affordable Housing and Sustainable Communities Program, Round 5 Guidelines, amended 2/24/2021, at p. 53, Section 113 - "Prevailing Wages"](#)

[Home Investment Partnerships Program, Notice of Funding Availability \(ca.gov\), at p. 44, Section VII, para. A "Federal Overlays"; and p. 46](#)

[Updated Streamlined Ministerial Approval Process \(ca.gov\) at p.12, para. 4 \(A\); p. 21, para. d \(1\) \(A\) & d \(1\) \(B\); and pgs. 24-28, Section 403 "Labor Provisions"](#)

[Homekey Program Guidelines](#)

Residential vs. Commercial projects & rates.

Contractors must be familiar with applicable PW regulations
(Title 8, Cal. Code of Regs. §16001)

Title 8, Calif. Code of Regs., §16001, subds. (d) & (e) define “residential” and “commercial” projects as follows:

(d) **Residential Projects.** Residential projects consisting of *single family homes and apartments up to and including four stories* are subject to payment of [PWs] when paid for in whole or in part out of public funds, including federally-funded or assisted residential projects controlled or carried out by an awarding body. . . .

(e) **Commercial Projects.** All non-residential construction projects including new work, additions, alterations, reconstruction and repairs. *Includes residential projects over four stories.*

[Emphasis added.]

Definitions summarized in recent Residential Prevailing Wage Determinations

EXAMPLE:

“This residential determination applies only to the residential portion of the project meeting this definition. Construction of any structures or ancillary facilities on the project that does not meet this definition requires the payment of the general commercial prevailing wage rates. The general *commercial prevailing wage rates apply to all residential projects consisting of buildings of five or more stories*. The residential prevailing wage rates apply to all residential projects consisting of buildings *up to and including four stories*.” (Emphasis added.)

(RESIDENTIAL DETERMINATION: R-23-31-2-2021-1.)

Assembly Bill 1023

Submission of Electronic Certified Payroll Records (eCPR)

AB 1023

Assembly Bill 1023 (AB 1023) became effective on January 1, 2022.

- AB 1023 amends Labor Code §1771.4 to clarify the requirement that contractors and subcontractors on public works projects furnish electronic certified payroll records (eCPRs) to the Labor Commissioner and create new penalties for a contractor's failure to do so.
- Existing law required eCPRs to be submitted on at least a monthly basis since 2014 (SB 854). The Labor Commissioner has required contractors to report certified payroll information online using DIR's electronic certified payroll reporting system.
- A few projects are exempt from the requirement to submit eCPRs to the DIR:
 - 1) "Small projects" which are projects that do not exceed \$25,000 for construction, alteration, installation, demolition or repair, or \$15,000 for maintenance work.
 - 2) Projects covered by a qualifying project labor agreement.
 - 3) Projects monitored by a legacy Labor Compliance Program (Caltrans, City of Los Angeles, Los Angeles Unified School District, and County of Sacramento).

AB 1023

- Submission of eCPRs is a separate and distinct requirement from other reporting obligations of contractors and subcontractors. For example, a contractor must provide certified copies of documents within 10 days of the Labor Commissioner's written request. (Labor Code §1776(d).) Conversely, a contractor who provides payroll records in response to a written request from the Labor Commissioner is still required to submit eCPRs on a monthly basis. (See Office of the Labor Commissioner Public Works Manual, §3.1.6.)
- AB 1023 makes a contractor or subcontractor who fails to furnish eCPRs at least monthly liable for penalties of \$100 per day, up to \$5,000 per project. (Labor Code §1771.4(a)(3)(B).) Penalties only accrue against the actual contractor or subcontractor that failed to furnish eCPRs. These penalties are enforced through the CWSA process. (Labor Code §1741.)
- AB 1023 clarifies the term "monthly" as being "at least once every 30 days while work is being performed on the project and within 30 days after the final day of work performed on the project." (Labor Code §1771.4(a)(3)(A)(i).)