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San Mateo County Flood & Sea Level Rise Resiliency District

BOARD OF DIRECTORS

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City Representatives:

North Donna Colson
Central Diane Papan
South Lisa Gauthier
Coast Debbie Ruddock – **Vice Chair**
At-Large Maryann Moise Derwin

AGENDA

June 28, 2021

4:00 PM

1. Roll Call

2. Public Comment Persons wishing to address the Board on District-related matters not on this Agenda may speak for up to two minutes; comments on Agenda items shall be heard during that item for up to two minutes.

3. Action to Set the Agenda and Approve the Consent Agenda

- A. Adopt Resolution 2021-06-28-A approving and adopting a Labor Compliance Program for District projects
- B. Adopt Resolution 2021-06-28-B authorizing the Chief Executive Officer to execute change orders totaling no more than \$200,000 above the not-to-exceed amount in the construction contract for the Bayfront Canal and Atherton Channel Project
- C. Adopt a Drug-Free Workplace Policy for the District

4. Regular Business

- A. Approve the Fiscal Year 2021-22 Operating Budget, Flood Zones Budget, and Capital Projects Budget

5. Chair's Report*

6. CEO's Report*

7. Board Member Reports and Items for a Future Agenda*

8. Adjournment

* There is no written staff report for this item

Meeting information, and public access and communications

- During the meeting, public comment can be submitted at the appropriate time via Zoom Chat or by raising your hand, speaking if joining by phone, or email to board@onshoreline.org prior to 12:00 pm on the meeting day; please indicate the agenda item to which your comment applies and it will be read or summarized at the meeting by the Board Clerk.
- If you require assistance to participate in the meeting or wish to submit written communication to all Board Members regarding the meeting, please contact the Clerk of the Board by 9:00 am on the day of the meeting.
- Public records relating to an open session item on the agenda are available at least 72 hours prior to a Regular Board meeting or at least 24 hours prior to a Special Board meeting, when these records are distributed to Board members. Public records are available at the District office at 1700 South El Camino Real, Suite 502, San Mateo, CA 94402 and at www.onshoreline.org. To receive these documents electronically, please email board@onshoreline.org.

**San Mateo County Flood and Sea Level Rise Resiliency District
Agenda Report**

Date: June 28, 2021
To: San Mateo County Flood and Sea Level Rise Resiliency District Board of Directors
From: Len Materman, CEO
Subject: Adopt Resolution 2021-06-28-A Approving and Adopting a Labor Compliance Program for District Projects

Recommendation:

That the San Mateo County Flood and Sea Level Rise Resiliency District (“District”) Board of Directors (“Board”) adopt Resolution 2021-06-28-A approving and adopting a Labor Compliance Program for District projects.

Background and Discussion:

The California Department of Water Resources administers grant funding generated by the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006, known as Proposition 84. The District’s first major construction project, the Bayfront Canal and Atherton Channel Flood Protection and Ecosystem Restoration Project (“Project”), is funded, in part, through a \$1.1 million Proposition 84 grant to Redwood City.

Public Resources Code 75075 requires the District, as the contracting agency for the Project funded in part by Proposition 84, to adopt and enforce, or contract with a third party to enforce, a Labor Compliance Program (“Program”) that establishes a mechanism to ensure contractor compliance with prevailing wage labor and apprenticeship laws. Pursuant to Labor Code Section 1771.5(b), the Program must include the following:

- All bid invitations and public works contracts shall contain appropriate language concerning the requirements of public works projects, as set forth in Labor Code Section 1720, *et seq.*;
- A pre-job conference shall be conducted with the contractor and subcontractors to discuss federal and state labor law requirements applicable to the contract;
- Project contractors and subcontractors shall maintain and furnish, at a designated time, a certified copy of each weekly payroll containing a statement of compliance signed under penalty of perjury;
- The District shall review, and, if appropriate, audit payroll records to verify compliance with Labor Code Section 1720, *et seq.*;
- The District shall withhold contract payments when payroll records are delinquent or inadequate;
- The District shall withhold contract payments equal to the amount of underpayment and applicable penalties when, after investigation, it is established that underpayment has occurred;
- The District shall comply with any other prevailing wage monitoring and enforcement activities required of labor compliance programs by the Department of Industrial Relations (“DIR”).

To comply with these conditions, the District has hired a consulting firm, The Labor Compliance Managers (“TLCM”), through April 2022 to prepare, monitor, and enforce a Labor Compliance Procedures Manual. The attached Manual includes a Program that complies with state and federal oversight, enforcement, and reporting requirements for public works projects, including those funded by Proposition 84. The District intends to apply the requirements of this Program to this Project and future projects requiring a DIR-approved Program.

Upon approval and adoption by the Board, the District will submit this Program to the DIR for its approval.

Fiscal Impact on District Resources:

There is no fiscal impact on District resources associated with the approval and adoption of the Program.

Attachments:

Draft Resolution 2021-06-28-A and a Labor Compliance Procedures Manual for District Projects



DRAFT RESOLUTION NO. 2021-06-28-A

**RESOLUTION OF THE BOARD OF DIRECTORS OF THE
SAN MATEO COUNTY FLOOD AND SEA LEVEL RISE RESILIENCY DISTRICT
APPROVING AND ADOPTING A LABOR COMPLIANCE PROGRAM
FOR DISTRICT PROJECTS**

RESOLVED by the Board of Directors (the “Board”) of the San Mateo County Flood and Sea Level Rise Resiliency District (the “District”) that:

WHEREAS, the Bayfront Canal and Atherton Channel Flood Protection and Ecosystem Restoration Project (“Project”) is the District’s first major construction project; and

WHEREAS, the California Department of Water Resources has awarded a Proposition 84-funded grant of over \$1.1 million for the Project, which partially funds construction costs; and

WHEREAS, Public Resources Code 75075 requires an awarding body that awards any contract for a public works project financed in any part from funds made available pursuant to Proposition 84 to adopt and enforce, or contract with a third party to enforce, a labor compliance program pursuant to subdivision (b) of Labor Code Section 1771.5 for application to that public works project; and

WHEREAS, the District has contracted with The Labor Compliance Managers, a third-party consulting firm, to monitor and enforce the District’s approved Labor Compliance Program (“Program”); and

WHEREAS, the Program, once approved, will afford the District a mechanism to monitor and enforce its contractors’ compliance with California prevailing wage labor and apprenticeship laws; and

WHEREAS, the District intends to apply the requirements of the Program to the Project, as well as to future projects requiring a DIR-approved Program; and

WHEREAS, upon approval of this Resolution, the Program will be submitted to the Department of Industrial Relations (“DIR”) for its approval, as required by law.

NOW, THEREFORE, BE IT RESOLVED that the Board hereby approves and adopts the Program for District projects, and instructs the Chief Executive Officer, or designee(s), to submit the Program to the DIR for approval.

PASSED AND ADOPTED this 28th day of June, 2021, by the following vote:

AYES:

NOES:

ABSENT:

ATTEST:

APPROVED:

Clerk of the Board of Directors

Chair of the Board of Directors

**SAN MATEO COUNTY FLOOD & SEA
LEVEL RISE RESILIENCY DISTRICT**

OneShoreline
1700 S. El Camino Real, Suite 502
San Mateo, CA 94402

LABOR COMPLIANCE PROCEDURES MANUAL

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INTRODUCTION

The *San Mateo County Flood & Sea Level Rise Resiliency District* aka **OneShoreline** is submitting this Labor Compliance Program (LCP) manual for the purpose of describing procedures applicable to our labor compliance program enforcement and monitoring responsibilities on public works contracts using Proposition 84 funding. This LCP contains the labor compliance standards required by the State of California.

The California Labor Code Section 1770 *et seq* requires that all contractors on public works projects pay their workers based on the prevailing wage rates, which are determined for particular construction trades and crafts by county and issued by the Department of Industrial Relations (DIR).

The Awarding Body Labor Compliance Program shall comply with all LCP oversight, enforcement and reporting requirements in accordance with California Labor Code 1720, *et sec*, Title 8 of the California Code of Regulations 16000 *et seq.* and Public Resources Code §75075 applicable for Prop 84 projects. Should applicable sections of the Labor Code or Title 8 of the California Code of Regulations undergo alteration, amendment, or deletion, the LCP will modify the affected portions of this program accordingly.

Pursuant to Labor Code 1771.5(b) a labor compliance program shall include, but not be limited to, the following requirements:

- All bid invitations and public works contracts shall contain appropriate language concerning the requirements of this chapter (1720 *et sec*).
- A pre-job conference shall be conducted with the contractor and subcontractors to discuss federal and state labor law requirements applicable to the contract.
- Project contractors and subcontractors shall maintain and furnish, at a designated time, a certified copy of each weekly payroll containing a statement of compliance signed under penalty of perjury.
- The awarding body shall review, and, if appropriate, audit payroll records to verify compliance with this chapter.
- The awarding body shall withhold contract payments when payroll records are delinquent or inadequate.

- The awarding body shall withhold contract payments equal to the amount of underpayment and applicable penalties when, after investigation, it is established that underpayment has occurred.
- The awarding body shall comply with any other prevailing wage monitoring and enforcement activities that are required to be conducted by labor compliance programs by the Department of Industrial Relations.

Applicable Dates for Enforcement of the LCP:

The applicable dates for enforcement by an awarding body LCP is established by Section 16425 of the California Code of Regulations. Contracts are not subject to the jurisdiction of the LCP until after the Program has received initial or final approval from the Director of DIR.

PUBLIC WORKS SUBJECT TO PREVAILING WAGE LAWS

State prevailing wage rates apply to all public works contracts as set forth in Labor Code Sections 1720, et seq., and include, but are not limited to, such types of work performed as construction, alteration, demolition, installation, repair or maintenance work done under contract and paid for in whole or in part out of public funds. Construction includes work performed during the design and preconstruction phases of construction, including, but not limited to, inspection and land surveying work, and work performed during the post construction phases of construction, including, but not limited to, all cleanup work at the jobsite. For purposes of this paragraph, "installation" includes, but is not limited to, the assembly and disassembly of freestanding and affixed modular office systems. Tree removal in execution of a project is also considered public work requiring the payment of prevailing wages.

Awarding Body LCPs are required to establish procedures and systems to monitor and enforce compliance with prevailing wage laws.

The Labor Compliance Program will comply with Conflict of Interest requirements in accordance with CCR 17000.

All questions regarding the agency's Labor Compliance Program for Prop 84 Projects can be directed to the Lin Robertson, the Labor Compliance Administrator assigned to the Public Works project who can be contacted at:

The Labor Compliance Managers
2909 Nieman Boulevard #111
San Jose, CA 95148
(408) 516-7238 or lin.tlcm@gmail.com

CHAPTER 1 – Procedures Prior to Construction

Listed below are procedures traditionally implemented on public works projects prior to construction:

Bid Advertisement /Construction Contracts

The call for bids and the contract or purchase order must contain language appropriate to the requirements of prevailing wage law as contained in Labor Code sections 1720, et sec.

Per Labor Code 1771.1, a contractor or subcontractor shall not be qualified to bid on, be listed in a bid proposal, subject to the requirements of Section 4104 of the Public Contract Code or engage in the performance of any contract for public work, as defined in this chapter, unless currently registered and qualified to perform public work pursuant to Labor Code 1725.5. Notice of this requirement shall be included in all bid invitations and public works contracts, and a bid shall not be accepted, nor any contract or subcontract entered into without proof of the contractor or subcontractor's current registration to perform public work pursuant to Section 1725.5.

In addition, in accordance with Labor Code 1771.4, 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.

The Labor Commissioner may exempt a public works project from compliance with all or part of these requirements. Currently, the Labor Commissioner is not requiring contractors working on Proposition 84 projects to submit certified payroll records providing that the Awarding Body has a DIR approved LCP.

The first bid advertisement date of the project determines the applicable prevailing wages.

The prevailing wage rates applicable to the project shall also be included in bid advertisements and contracts. The prevailing wage rates can be found on the DIR website at: <http://www.dir.ca.gov/OPRL/DPreWageDetermination.htm>

Contractor Pre-Qualification

Contractors must register to work on Public Works Projects

Contractors that perform work on public works projects must register with DIR annually by June 30th of each year. There is an exemption for contractors that only work on small projects. *

Contractors will be subject to a registration and annual renewal fee that is currently set at 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. (The fee is non-refundable and applies to contractors and subcontractors who intend to bid or perform work on public works projects as defined under the Labor Code).

Contractors must meet minimum qualifications to be registered as eligible to bid and work on public works projects:

- Must have workers' compensation coverage for any employees and only use subcontractors who are registered public works contractors.
- Must have Contractors State License Board license if applicable to trade.
- Must have no delinquent unpaid wage or penalty assessments owed to any employee or enforcement agency.
- Must not be under federal or state debarment.
- Must 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.
- The registration fee is not related to any project. It is more like a license that enables the registrant to bid on and perform public works.
- DIR will post a list of registered contractors and subcontractors on its website so that awarding bodies and contractors will be able to comply with requirements to only use registered contractors and subcontractors.

Consequences of Failing to Register

- **First-time registration:** A penalty of \$2,000 applies when a contractor is registering for the first time and did any of the following in the past 12 months:
 - a. bid or was awarded a public works project
 - b. worked on a public works project
- **Late renewal (between July 1 and September 30):** If a contractor bid on, was awarded, or worked on a public works project after their registration expired:
 - a. a penalty of \$400 applies when the lapse in registration is accidental
 - b. a penalty of \$2,000 applies when the lapse in registration is not accidental

- **Renewal after September 30 or reactivation:** A penalty of \$2,000 applies when a contractor did any of the following in the past 12 months while unregistered:
 - a. bid or was awarded a public works project
 - b. worked on a public works project
- **Repeat violations:** Contractors who are found to be in violation of the registration requirement twice in 12 months can be disqualified from working in public works for up to 12 months at a time.
- A contract entered into with an unregistered contractor is subject to cancellation or the unregistered contractor may be replaced on a project.
- If the Labor Commissioner or his or her designee determines that a contractor or subcontractor engaged in the performance of any public work contract without having been registered in accordance with this section, the contractor or subcontractor shall forfeit, as a civil penalty to the state, one hundred dollars (\$100) for each day of work performed in violation of the registration requirement, not to exceed an aggregate penalty of eight thousand dollars (\$8,000) in addition to any penalty registration fee assessed.
- In addition to, or in lieu of, any other penalty or sanction authorized pursuant to this chapter, a higher tiered public works contractor or subcontractor who is found to have entered into a subcontract with an unregistered lower tier subcontractor to perform any public work in violation of the requirements of Section 1725.5 or this section shall be subject to forfeiture, as a civil penalty to the state, of one hundred dollars (\$100) for each day the unregistered lower tier subcontractor performs work in violation of the registration requirement.

Small Project Exemption

Small project exemption means that contractors who work exclusively on small projects are not required to register as public works contractors or file electronic certified payroll reports for those projects. However, prevailing wages must still be paid on projects with small project exemption. Contractors are still required to maintain certified payroll records on a continuous basis and provide those records to the Labor Commissioner's Office upon request. Small project exemption is applied based on the amount of the entire project, not a contractor's subcontracted amount of the project. Small project exemption applies for all public works projects that does not exceed: • \$25,000 for new construction, alteration, installation, demolition or repair • \$15,000 for maintenance

CHAPTER 2 – After Contract Awarded

Notification of Contract Award

In accordance with Labor Code 1773.3, an awarding body shall provide notice to the Department of Industrial Relations of any public works contract subject to the requirements of this chapter, 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.

The notice shall be transmitted electronically through the DIR's PWC-100 system and shall include the name of the contractor, any subcontractor listed on the successful bid, the bid and contract award dates, the contract amount, the estimated start and completion dates, job site location, and any additional information the department specifies that aids in administration and enforcement.

An awarding body that fails to provide the notice required by subdivision (a) or that enters into a contract with or permits an unregistered contractor or subcontractor to engage in the performance of any public work in violation of the requirements of Section 1771.1, shall, in addition to any other sanction or penalty authorized by law, be subject to a civil penalty of one hundred dollars (\$100) for each day in violation of either requirement, not to exceed an aggregate penalty of ten thousand dollars (\$10,000) for each project.

An awarding body shall withhold final payment due to the contractor until at least 30 days after all required information has been submitted, including, but not limited to, providing a complete list of all subcontractors. If an awarding body makes a final payment to a contractor after that time and an unregistered contractor or subcontractor is found to have worked on the project, the awarding body shall be subject to a civil penalty assessed by the Labor Commissioner of one hundred dollars (\$100) for each full calendar day of noncompliance, for a period of up to 100 days, for each unregistered contractor or subcontractor.

Whenever the Labor Commissioner determines that an awarding body 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 body shall be ineligible to receive state funding or financial assistance for any construction project undertaken by or on behalf of the awarding body for one year, as defined by subdivision (d) of Section 1782. The debarment procedures adopted by the Labor Commissioner pursuant to Section 1777.1 shall apply to any determination made under this subdivision.

A contractor or subcontractor shall not be liable for any penalties assessed against an awarding body pursuant to this section. An awarding body may not require a contractor

or subcontractor to indemnify or otherwise be liable for any penalties assessed against an awarding body pursuant to this section.

Pre-Job Conference

After the Awarding Body awards the public works contract and prior to the commencement of the work, a Pre-Job Conference shall be held by the Awarding Body with the contractor(s) and subcontractor(s). At that meeting, the Awarding Body's Labor Compliance Program Administrator will discuss the federal and state labor law requirements applicable to the contract. The federal and state labor law requirements applicable to the contract are composed of but not limited to the following items:

- (1) The contractor's duty to pay prevailing wages under Labor Code Section 1770 et seq., should the project exceed the exemption amounts;
- (2) The contractor's duty to employ registered apprentices on the public works project under Labor Code Section 1777.5;
- (3) The penalties for failure to pay prevailing wages (for non-exempt projects) and employ apprentices including forfeitures and debarment under Labor Code Sections 1775 and 1777.7;
- (4) The requirement to keep and submit copies upon request of certified payroll records under Labor Code Section 1776, and penalties for failure to do so under Labor Code Section 1776(g);
- (5) The prohibition against employment discrimination under Labor Code Section 1777.6; the Government Code, and Title VII of the Civil Rights Act of 1964;
- (6) The prohibition against accepting or extracting kickback from employee wages under Labor Code Section 1778;
- (7) The prohibition against accepting fees for registering any person for public work under Labor Code Section 1779; or for filling work orders on public works under Labor Code Section 1780;
- (8) The requirement to list all subcontractors under Public Contracts Code Section 4104;
- (9) The requirement to be properly licensed and to require all subcontractors to be properly licensed and the penalty for employing workers while unlicensed under Labor Code Section 1021 and under the California Contractors License Law, found at Business and Professions Code Section 7000 et seq;

(10) The prohibition against unfair competition under Business and Professions Code Sections 17200-17208;

(11) The requirement that the contractor be properly insured for Workers Compensation under Labor Code Section 1861;

(12) The requirement that the contractor abide by the Occupational, Safety and Health laws and regulations that apply to the particular construction project;

(13) The federal prohibition against hiring undocumented workers, and the requirement to secure proof of eligibility/citizenship from all workers.

(14) The requirement to provide itemized wage statements to employees under Labor Code Section 226.

(15) The requirement to register annually with the Department of Industrial Relations (DIR) and pay the required fee.

The contractor(s) and subcontractor(s) present at the meeting will be given the opportunity to ask questions of the LCP Administrator relative to any of the Labor Law Requirements on the Checklist. The Checklist of Labor Law Requirements will then be signed by the prime contractor's representative, subcontractor's representative, and the Awarding Body's LCP Administrator.

At the Pre-Job Conference, the LCP Administrator will provide the contractor(s) with two (2) copies of the Awarding Body's LCP package which includes: a copy of the approved LCP, the checklist of Labor Law Requirements, applicable Prevailing Wage Rate Determinations blank certified payroll report forms, fringe benefit statements, State apprenticeship requirements.

It will be the contractor's responsibility to provide copies of the LCP package to all subcontractors and to any substituted subcontractor performing work on the Awarding Body's project(s).

CHAPTER 3 – Contractor Responsibilities

Payment to Employees

A worker's rate for straight time hours must equal or exceed the rate specified in the contract by reference to the Prevailing Wage Rate Determinations for the class of work actually performed. The prevailing wage basic hourly straight time or overtime rate must be paid directly to the worker. The employer payment portion of the prevailing

wage may be paid either to the worker or irrevocably paid to a benefit plan on behalf of the worker as defined in Labor Code 1773.1.

In accordance with Labor Code 1773.1, credits for employer payments (fringes) shall not reduce the obligation to pay the basic hourly straight time or overtime wages found to be prevailing. However, an increased employer payment contribution that results in a lower hourly straight time or overtime wage shall not be considered a violation of the applicable prevailing wage determination if all of the following conditions are met:

- (1) The increased employer payment is made pursuant to criteria set forth in collective bargaining agreement.
- (2) The basic hourly rate and increased employer payment are no less than the general prevailing rate of per diem wages and the general prevailing rate for holiday and overtime work in the director's general prevailing wage determination.
- (3) The employer payment contribution is irrevocable unless made in error.

All work performed in excess of eight hours per day, 40 hours per week, on Saturday, on Sunday, and on holidays shall be paid in accordance with the applicable Prevailing Wage Determination.

The hourly rate for hours worked in excess of 8 hours in a day or 40 hours in a workweek shall be paid at the applicable overtime rate (unless the wage determination provides for overtime after less than 8 hours). Any work performed on Saturday, Sunday, and/or a holiday or a portion thereof, must be paid the prevailing rate established for those days regardless of the fixed workweek.

Maintain and furnish Certified Payroll Records (CPRs)

a) Each contractor and subcontractor are required by labor code section 1776 to keep and maintain certified payroll records along with a Statement of Compliance. Public Works Payroll Reporting Form A-1-131 (Appendix D) or a form that contains the same information shall be used. A certified payroll reporting form can also be obtained from any office of the Department of Industrial Relations' Division of Labor Standards Enforcement (DLSE) or online at <https://www.dir.ca.gov/dlse/DLSEFormA-1-131.pdf>

Contractors and subcontractors on most public works projects are required to submit certified payroll records (CPRs) to the Labor Commissioner using DIR's electronic certified payroll reporting system <https://www.dir.ca.gov/Public-Works/Certified-Payroll-Reporting.html> unless they have been granted an exemption by the Labor Commissioner, e.g. **the project is funded with Prop 84 monies**, or the project is covered by a qualifying project labor agreement.

b) All certified payroll reports are to be submitted for review during the course of the contract and furnished at times designated in the contract or within 10 days of the request by the awarding body or their LCP administrator.

- All certified payroll records shall contain:
- Employee full name, address and social security number
- Work classification
- Amount paid per hour.
- If payments are made to any third-party trust, funds or plans for health and welfare, pension or vacation trusts, as part of the employer's prevailing wage obligation, then those payments should be indicated on the payroll report.
- The basic wage rate paid per hour plus the amounts contributed per hour for benefits, including training fund contributions, must at least equal the total prevailing rate required for that classification.
- Daily regular, overtime and holiday hours and weekly totals.
- Gross/net wages paid for this project/all projects.
- Contractor's full name and address.
- Project name and location.
- Dates of the payroll.
- Check or Direct Deposit #
- Certification statement or Statement of Compliance signed by a person with the authority to represent the company. This statement must declare under penalty of perjury that:
 - i) That the information contained in the payroll record is true and correct and
 - ii) the employer has complied with the requirements of labor code sections 1771, 1811 and 1815 for any work performed by his or her employees on the public works project.

It is important that each contractor and subcontractor write "FINAL" on the last submitted certified payroll record for the project. The contractor must complete a Non-Performance Report for each week in which no work is performed. All days worked on a project must be accounted for, including Saturdays, Sundays and holidays.

Time cards (completed by workers), front and back copies of cancelled payroll

checks, check stubs, daily logs, employee sign-in sheets, cancelled fringe benefit checks, fringe benefit statements, and/or any other record may be used by the LCP administrator or awarding body at any time to verify the accuracy of the certified payroll record and shall be provided by the contractor within 10 days following the receipt of a request for those records.

Full Accountability

Owner-operators are to be reported by the contractor employing them, rental equipment operators are to be reported by the rental company paying the workers' wages.

Sole owners and partners who work on a contract must also submit a certified payroll report listing the days and hours worked, and the trade classification descriptive of the work actually done.

Electronic submittals of certified payroll records

California Code of Regulations section 16404 expressly authorizes contractors and subcontractors to maintain and submit electronic payroll records, subject to the following conditions:

- a) The reports must contain all of the information required in Labor Code Section 1776 with the information organized in a manner that is similar or identical to how the information is reported on the Department of Industrial Relations suggested public works payroll form (Form A-1-131).
- b) The reports shall be in a format and use software that is readily accessible and available to contractors, awarding bodies, designated LCP administrators, and the Department of Industrial Relations.
- c) Reports submitted electronically must be either (1) in the form of a non-modifiable image or record that bears an electronic signature or includes a copy of any original certification made on paper, or alternatively (2) printed out and submitted on paper with an original signature.
- d) The requirements for redacting certain information shall be followed when certified payroll records are disclosed to the public pursuant to Labor Code Section 1776(e) whether the records are provided electronically or as hard copies; and
- e) No contractor or subcontractor shall be mandated to submit or receive electronic reports when it otherwise lacks the resources or capacity to do so, nor shall any

contractor or subcontractor be required to purchase or use proprietary software that cannot be generally available to the public.

In addition, the Labor Commissioner may at any time require a contractor working on a public works project to submit CPRs to the Division of Labor Standards and Enforcement.

Submit a Fringe Benefit Statement

The form, also known as a Statement of Employer Payments (PW 26 form or a form that includes the same information), must be completed by each contractor and subcontractor indicating whether they pay the employees in cash or whether payments are made irrevocably to a third-party trust, plan or fund for health and welfare benefits, vacation funds, or makes pension contributions. It must contain the fund or trust name, address, administrator, and amount per hour contributed and frequency of contributions for each classification of worker. Training fund contributions must be reported on this form. A copy of the PW 26 form can be downloaded from: <http://www.dir.ca.gov/dlse/DLSEForm-PW26.pdf>.

Supporting Documentation for Certified Payroll Records

Upon request of the Awarding Body or the Awarding Body LCP Administrator, payroll records can include supporting documents as described in California Code of Regulations CCR 16000 that can verify the payment of prevailing wages, including "all time cards, canceled checks, cash receipts, trust fund forms, books, documents, schedules, forms, reports, receipts or other evidences which reflect job assignments, work schedules by days and hours, and the disbursement by way of cash, check, or in whatever form or manner, of funds to a person(s) by job classification and/or skill pursuant to a public works project."

Apprentices

Contractor shall comply with apprentice requirements in accordance with Labor Code 1777.5 and 1777.6. The awarding agency shall monitor contractors for compliance with the applicable apprentice requirements and report any violations found to the Labor Commissioner's office for determination of penalties under Labor Code 1777.7

Provide a copy of Notices to the Division of Apprenticeship Standards (DAS Form 140)

Contractors not already approved to train apprentices must submit Contract Award Information (DAS 140) to every apprenticeship program in the geographic area of the public works project, for each craft you intend to employ on the project. You can find apprenticeship programs approved in specific geographic locations at the following link:

<http://www.dir.ca.gov/databases/das/pwaddrstart.asp> The Contract Award Information must be in writing and submitted to the applicable committee(s) within 10 days of the date of the prime or subcontract but in no event later than the first day the contractor has workers employed on the public works project.

Provide a copy of request(s) for apprentices (DAS Form 142)

All contractors must request dispatch of an apprentice from an apprenticeship program (for each apprenticeable craft or trade) by giving the program actual notice of at least 72 hours (excluding Saturdays, Sundays and Holidays) before the date on which apprentices are required on form DAS 142. In addition, all contractors must employ at least one (1) hour of apprentice work for every five (5) hours performed by a journeyman.

Provide verification of Training Fund contributions (CAC-2 Form)

Contractors who are awarded public works jobs must make training fund contributions in the amount established in the prevailing wage rate publication for journeymen and apprentices. Contractors who contribute to an apprenticeship program are entitled to a full credit in the amount of those contributions. Contractors who do not contribute to an approved apprenticeship program must send their contribution payments with a CAC2 form to the following address:

DIR – California Apprenticeship Council (CAC)
P.O. Box 511283
Los Angeles, CA 90051-7838

All training fund contribution payments to the California Apprenticeship Council should be accompanied by a California Apprenticeship Council approved online CAC2 form - <https://www.dir.ca.gov/DAS/tf/cac2.asp>. Training fund contributions to the Council are due and payable on the 15th day of the month for work performed during the preceding month. The contributions should be paid by check.

Contractor Responsibility for Subcontractors

Prime contractors are jointly and severally liable for underpayments of prevailing wages by their subcontractors. Subcontractors Certified payroll records shall be routinely reviewed by the Contractor for the payment of prevailing wage rates.

The contractor(s) shall be responsible for ensuring adherence to labor standards provisions by its subcontractor(s). Moreover, prime contractors may be held responsible for Labor Code violations by its subcontractors and be liable for penalties in accordance with Labor Code Section 1775 and 1813.

CHAPTER 4 – Overview of Prevailing Wage Labor Code Sections

In accordance with provisions of Section 1773 of the Labor Code, the Director of the Department of Industrial Relations has ascertained the general prevailing rate of wages and employer payments for health and welfare, pension, vacation, and similar purposes available to the particular craft, classification, or type of workers employed on the work. The General Prevailing Wage Determination is available on the web site of the Office of Policy Research & Legislation (OPRL):

<http://www.dir.ca.gov/OPRL/DPreWageDetermination.htm>.

Employees must be paid unconditionally, and not less than once each week, the full amounts which are due and payable for the period covered by the particular payday. The employer must establish a fixed workweek (Sunday through Saturday, for example) and an established payday (such as every Monday or the preceding day should such payday fall on a holiday). On each and every payday, each worker must be paid all sums due as of the end of the preceding workweek and must be provided with an itemized wage statement pursuant to Labor Code Section 226.

If an individual who works on the project is called a subcontractor, when in fact he/she is a journey level mechanic supplying only labor, such an individual would not be deemed a bona fide subcontractor and must be reported on the payroll of the prime contractor as a trade worker. Any person who does not hold a valid contractor's license cannot be a subcontractor, and anyone hired by that person is the worker of the general contractor for purposes of prevailing wage requirements, certified payroll reporting and workers' compensation laws.

A. Prevailing wage rate determinations

1) *Requirements*

a) The law requires that workers on a publicly-funded project must be paid the prevailing wage of the area in which the project is located. Prevailing wage rates are published twice each year as prevailing wage determinations. Some trades are issued Statewide, regionally (northern or southern California) and other sub-trades are issued by county in which the project is located.

b) Each wage determination for each classification of worker will indicate the basic wage rate and fringe benefit amounts which equal the total required wage for each classification of worker for straight time and overtime work.

c) When assistance is needed with a special or unknown classification, a written request should be submitted to the OPRL for them to make a determination.

d) The contractor is obligated to pay the full prevailing rate of per diem wages. He/she, however, may take credit for amounts up to the total of fringe benefit amounts listed as prevailing in the determination. The credit may be taken only for amounts which are actual payments irrevocably made as defined under the Employer Payments Section CCR 16000(1)-(3). If the total of employer payments for the fringe benefits listed is less than the aggregate amount in the wage determination, the contractor must pay the difference directly to the employee. No amount of credit for employer payments over the aggregate amount of employer payments shall be taken as a credit towards the basic hourly wage required to be paid.

However, an increased employer payment contribution that results in a lower hourly straight time or overtime wage shall not be considered a violation of the applicable prevailing wage determination if all of the following conditions are met:

- (1) The increased employer payment is made pursuant to criteria set forth in collective bargaining agreement.
- (2) The basic hourly rate and increased employer payment are no less than the general prevailing rate of per diem wages and the general prevailing rate for holiday and overtime work in the director's general prevailing wage determination.
- (3) The employer payment contribution is irrevocable unless made in error.

e) The determinations indicate the amount required for straight-time work, overtime, holiday, and Saturday and Sunday work. There may be special requirements for the payment of overtime and Saturday/Sunday work, and these requirements will be indicated by footnotes. These footnotes should be examined carefully.

f) There are separate determinations issued for apprentices on public works. These footnotes should also be examined carefully.

g) Each wage determination will indicate when the determination will expire and whether the rate will increase during the project. A single asterisk after the expiration date indicates the rate is good for the life of the project and there are no increases. A double asterisk after the expiration date indicates the rates for work performed after the expiration date has been pre-determined. These pre-determined increases will be included as an attachment in the "Increases" section for the wage determination. If work extends past the expiration date, the new rate increase(s) must be paid and should be incorporated into bid proposals for contracts at the time of bid.

2) *Overtime*

Work performed by employees on public works in excess of 8 hours per day and 40

hours per week must be paid for at not less than one-and-one-half times the basic rate of pay. Each wage determination will specify the wage rate required for overtime pay and possible exceptions (e.g. Asbestos Removal Workers). Failure to pay the required prevailing wage rates would be subject to required Labor Code Section 1813 penalties and as stipulated by the Department of Industrial Relations.

3) *Holidays*

Work performed on certain holidays may require the payment of overtime or double time regardless of whether the worker has worked over 8 hours per day or 40 hours per week. A list of designated holidays for each craft or classification of labor can be found on the Office of Policy Research & Legislation (OPRL) Web site at: <http://www.dir.ca.gov/OPRL/DPreWageDetermination.htm>. Each wage determination will specify the appropriate wage rate for holiday work.

4) *Saturday/Sunday work*

Most classifications of workers require the payment of overtime or double time for work performed on Saturdays and Sundays regardless of whether the worker has worked over 8 hours per day or 40 hours per week. Each wage determination will specify the required wage rate for this work. Pay attention to any footnotes that may contain exceptions or special requirements.

5) *Travel/subsistence payments*

As part of the contractor's prevailing wage obligation to pay the general prevailing rate of per diem, there may be a requirement to pay travel/subsistence. Many classifications require the payment of mileage or subsistence for traveling certain distances. These requirements are part of the prevailing wage determination as applicable for each craft/classification of worker. You can download those requirements from the OPRL Web site at: <http://www.dir.ca.gov/OPRL/DPreWageDetermination.htm>

6) *Owner, operator, partners*

The law prescribes that workers on a Public Works project receive prevailing wages. Owners, owner-operators, partners, or officers of corporations performing labor on a prevailing wage project must be paid prevailing wage rates. Owner-operators are individuals that own and operate their own machines or equipment. Owner-operators are not to be confused with Operating Engineer employees, who operate equipment owned by a company and are employees of that company.

If owner operators are incorporated, they must submit Certified Payroll Records. For example, J. Doe Compacting, Inc. is a corporation and its owner, Mr. John Doe is an

employee of the corporation who operates a compactor; J. Doe Compacting, Inc. must report Mr. Doe as an Operating Engineer and the company must submit CPRs for employee John Doe. However, if Mr. Doe, is a sole-proprietor Owner-Operator, is not incorporated, he must be included in the CPRs of the company that contracted him as an Owner-Operator or submit payrolls himself indicating himself as the worker.

B. Selecting the Correct Prevailing Wage Determination

The Prevailing Wage Determination published bi-annually (February 22 and August 22) is divided into Statewide, Northern and County Sections.

The link for the Statewide Wage Determinations provides the prevailing wage rates for classifications such as Boiler Maker, Iron Worker, etc. These classifications are applicable to workers who work throughout the State. The Statewide Prevailing Wage Determination Website is: <http://www.dir.ca.gov/OPRL/PWD/Statewide.html>

The link for the Northern Wage Determinations provides the prevailing wage rates for classifications such as Carpenter, Laborer, Operating Engineer, etc. These classifications are applicable to workers who work throughout Northern California. The Northern California Prevailing Wage Determination Website is: <http://www.dir.ca.gov/OPRL/PWD/Northern.html>.

Prevailing Wage determinations for each county are also provided.

The website for the California County Wage Determinations is:

<http://www.dir.ca.gov/OPRL/PWD/Determinations/Subtrades/jrnylist.html>.

Selecting that link for a county will show the basic crafts such as Electrician, Plumber, Painter, etc.

Prevailing wage rates for Apprentices can be found at:

<http://www.dir.ca.gov/OPRL/pwappwage/PWAppWageStart.asp>

Selecting the link listed on the previous page will show the rates for apprentices that are applicable for each county. Apprentices shall be permitted to work and be employed at the apprentice rate only when they are registered under a bona fide apprenticeship program with a State apprenticeship agency which is recognized the State Division of Apprenticeship Standards (DAS), per Labor Code Section 1777.5 (c). See next chapter for further information on Apprentice Requirements.

The appropriate prevailing wage rate for the contract/project is the applicable prevailing wage rate determination that was in effect on the date the project was first advertised for bid. The Prevailing Wage Determination in effect is applicable for the life of the project.

Prevailing wage rate determinations for journeymen and registered apprentices for construction crafts are issued by the Director of the California Department of Industrial Relations (DIR). The Director of DIR issues prevailing wage rate determinations for specific crafts twice each year, on February 22nd and August 22nd. The rates are effective 10 days after issuance. Predetermined wage increases may be included in a wage determination.

Bid advertisement date from February 22 to August 21 call for the determination that is listed as “yyyy-01” (yyyy stands for year, for example 2014-01). Dates from August 22 to February 1 call for the “yyyy-02” (2014-02).

CHAPTER 5 – Overview of Labor Code Sections 1777.5 and 1777.7

Apprentices shall be permitted to work in this capacity only when they are registered with a bona fide apprenticeship program registered with a State apprenticeship agency which is recognized by the State Division of Apprenticeship Standards (DAS). The definitions of Public Works pursuant to Labor Code Sections 1777.5 and 1777.7(a)(1) are documented below:

A. Labor Code § 1777.5

1) California Labor Code Section 1777.5 requires all Public Works contractors and subcontractors to comply with the following:

- a) Contractors must submit the contract award information in writing to each of the apprenticeship program sponsors in the area of your Public Works project within 10 days of the prime execution of the contract or subcontract, but in no event later than the first day in which the contractor has workers employed on the public work. Contractors may use form DAS 140. This is simply a notification of award, it is not automatically a request for dispatch of a registered apprentice.
- b) Apprentice to Journeyman ratios requirements is at least one (1) hour of apprentice work for every five (5) hours performed by a journeyman. Ratio requirements are subject to the approved bargaining agreements that are recognized by the Department of Industrial Relations and published in the Scope of Work section of the wage determination. All contractors must request for dispatch of an apprentice from an apprenticeship program (for each apprenticeable craft or trade) by giving the program actual notice of at least 72 hours (business days only) before the date on which apprentices are required. Contractors who are not already participating in an approved

program and who did not receive sufficient number of apprentices from their initial request must dispatch of apprentices from at least one other apprenticeship committee, if more than one exists in the area of the Public Works project. Go to: <http://www.dir.ca.gov/DAS/PublicWorksForms.htm> for information about programs in a specific area and trade. Contractors may use DAS Form 142 to make a written request for the dispatch of an apprentice.

Except for projects with less than 40 hours of journeyman work, a contractor must request and employ apprentices in no less than 8 hour increments. Please take note of California Code of Regulations, Title 8, § 230.1 (a) for all applicable requirements regarding apprenticeship requests and/or visit: <http://www.dir.ca.gov/DAS/DASApprenticesOnPublicWorksSummaryOfRequirements.htm>

- c) The prime contractor shall furnish to the awarding body written evidence of the registration of its and all subcontractors' training programs and apprentices, with the State of California, as well as the ratios allowed (as defined in the Labor Code and by DAS) and the wage required to be paid thereunder for the area of construction.
- d) Pre-apprentice trainees, trainees in non-apprenticeable crafts and others who are not duly registered as apprentices will not be permitted on Public Works projects unless they are paid full prevailing wage rates as journeypersons.
- e) Contractors who are awarded Public Works jobs must make training fund contributions in the amount established in the prevailing wage rate publication for journeymen and apprentices.
- f) Apprentices employed on Public Works projects must at all times work with or under the direct supervision of journeyperson(s).

B. Labor Code § 1777.7(a)(1)

Pursuant to California Labor Code 1777.7(a)(1), A contractor or subcontractor that is determined by the Labor Commissioner to have knowingly violated Section 1777.5 shall forfeit as a civil penalty an amount not exceeding one hundred dollars (\$100) for each full calendar day of noncompliance. The amount of this penalty may be reduced by the Labor Commissioner if the amount of the penalty would be disproportionate to the severity of the violation. A contractor or subcontractor that knowingly commits a second or subsequent violation of Section 1777.5 within a three-year period, where the noncompliance results in apprenticeship training not being provided as required by this

chapter, shall forfeit as a civil penalty the sum of not more than three hundred dollars (\$300) for each full calendar day of noncompliance. Notwithstanding Section 1727, upon receipt of a determination that a civil penalty has been imposed by the Labor Commissioner, the awarding body shall withhold the amount of the civil penalty from contract progress payments then due or to become due. The Labor Commissioner may also deny to the contractor or subcontractor, and to its responsible officers, the right to bid on or be awarded or perform work as a subcontractor on any public works contract for a period of up to one year for the first violation and for a period of up to three years for a second or subsequent violation. Each period of debarment shall run from the date the determination of noncompliance by the Labor Commissioner becomes a final order.

CHAPTER 6 – Duties of the LCP Administrator

The Director of the Department of Industrial Relations:

- (1) Requires that labor compliance programs enforce compliance with prevailing wage requirements in a manner consistent with the Division of Labor Standards Enforcement.
- (2) Requires that labor compliance programs follow prescribed standards for review of certified payroll records and the processing of complaints
- (3) Requires that labor compliance programs enforce requirements with respect to apprentices
- (4) Requires that programs maintain records demonstrating reasonable and sufficient enforcement efforts for each project monitored by the program, and requiring compliance records to be retained for prescribed periods of time; and

We will monitor and enforce prevailing wage requirements on our projects in accordance with the provisions found in the California Code of Regulations for Labor Compliance Programs as follows:

CCR §16432 - Investigation Methods for Labor Compliance Programs

(a) The primary function of the Labor Compliance Program is to ensure that public works contractors comply with the prevailing wage requirements found in the Public Works Chapter of the Labor Code. This regulation is intended to establish minimum requirements which all Labor Compliance Programs shall meet or exceed in carrying out that function. Definitions found throughout this regulation are intended to provide Labor

Compliance Programs and representatives of the Department of Industrial Relations and the Division of Labor Standards Enforcement with common terminology as they each perform their respective roles in prevailing wage enforcement in furtherance of the Labor Code provisions establishing Labor Compliance Programs. This regulation is also intended to confirm that the proactive investigation methods, as described in detail herein, only comprise the minimum obligations required of Labor Compliance Programs to satisfy their duty to the Director to operate a Labor Compliance Program as specified in sections 16428 and 16434.

(b) Payroll records furnished by contractors and subcontractors in accordance with section 16421(a)(3) above, and in a format prescribed at section 16401 of Title 8 of the California Code of Regulations, shall be reviewed by the Labor Compliance Program as promptly as practicable after receipt thereof, but in no event more than 30 days after such receipt. "Review" for this purpose shall be defined as inspection of the records furnished to determine if (1) all appropriate data elements identified in Labor Code Section 1776(a) have been reported; (2) certification forms have been completed and signed in compliance with Labor Code Section 1776(b); and (3) the correct prevailing wage rates have been reported as paid for each classification of labor listed thereon, with confirmation of payment in the manner and to the extent described in subpart (c) below.

(c) "Confirmation" of payroll records furnished by contractors and subcontractors shall be defined as an independent corroboration of reported prevailing wage payments. Confirmation may be accomplished through worker interviews, examination of paychecks or paycheck stubs, direct confirmation of payments from third party recipients of "Employer Payments" (as defined at section 16000 of Title 8 of the California Code of Regulations), or any other reasonable method of corroboration. For each month in which a contractor or subcontractor reports having workers employed on the public work, confirmation of furnished payroll records shall be undertaken randomly for at least one worker for at least one weekly period within that month. Confirmation shall also be undertaken whenever complaints from workers or other interested persons or other circumstances or information reasonably suggest to the Labor Compliance Program that payroll records furnished by a contractor or subcontractor are inaccurate.

(d) Representatives of the Labor Compliance Program shall conduct in-person inspections at the site or sites at which the contract for public work is being performed ("On-Site Visits"). On-Site Visits may be undertaken randomly or as deemed necessary by the Labor Compliance Program but shall be undertaken during each week that workers are present at sites at which the contract for public work is being performed. All On-Site Visits shall include visual inspection of (1) the copy of the determination(s) of the Director of Industrial Relations of the prevailing wage rate of per diem wages required to be posted at each job site in compliance with Labor Code Section 1773.2, and (2) the Notice of Labor Compliance Program Approval required to be posted at the job site in accordance

with section 16429 above, listing a telephone number to call for inquiries, questions, or assistance with regard to the Labor Compliance Program. On-Site Visits may include other activities deemed necessary by the Labor Compliance Program to independently corroborate prevailing wage payments reported on payroll records furnished by contractors and subcontractors.

(e) An Audit, as defined herein, shall be prepared by the Labor Compliance Program whenever the Labor Compliance Program has determined that there has been a violation of the Public Works Chapter of the Labor Code resulting in the underpayment of wages. An "Audit" for this purpose shall be defined as a written summary reflecting prevailing wage deficiencies for each underpaid worker and including any penalties to be assessed under Labor Code Sections 1775 and 1813, as determined by the Labor Compliance Program after consideration of the best information available as to actual hours worked, amounts paid, and classifications of workers employed in connection with the public work. Such available information may include, but is not limited to, worker interviews, complaints from workers or other interested persons, all time cards, cancelled checks, cash receipts, trust fund forms, books, documents, schedules, forms, reports, receipts or other evidences which reflect job assignments, work schedules by days and hours, and the disbursement by way of cash, check, or in whatever form or manner, of funds to a person(s) by job classification and/or skill pursuant to a public works project. An Audit is sufficiently detailed when it enables the Labor Commissioner, if requested to determine the amount of forfeiture under section 16437, to draw reasonable conclusions as to compliance with the requirements of the Public Works Chapter of the Labor Code, and to enable accurate computation of underpayments of wages to workers and of applicable penalties and forfeitures. An Audit using the forms in Appendix B, when accompanied by a brief narrative identifying the Bid Advertisement Date of the contract for public work and summarizing the nature of the violation and the basis upon which the determination of underpayment was made, presumptively demonstrates sufficiency. Records supporting an Audit shall be maintained by the Labor Compliance Program to satisfy its burden of coming forward with evidence in administrative review proceedings under Labor Code Section 1742 and the Prevailing Wage Hearing Regulations found at sections 17201-17270 of Title 8 of the California Code of Regulations.

(f) After the Labor Compliance Program has determined that violations of the prevailing wage laws have resulted in the underpayment of wages and an audit has been prepared, notification shall be provided to the contractor and affected subcontractor of an opportunity to resolve the wage deficiency prior to a determination of the amount of forfeiture by the Labor Commissioner pursuant to these regulations. The contractor and affected subcontractor shall be provided at least 10 days following such notification to submit exculpatory information consistent with the "good faith mistake" factors set forth in Labor Code Section 1775(a)(2)(A)(i) and (ii). If, based upon the contractor's submission, the Labor Compliance Program reasonably concludes that the failure to pay the correct wages was a good faith mistake, and has no knowledge that the contractor

and affected subcontractor have a prior record of failing to meet their prevailing wage obligations, the Labor Compliance Program shall not be required to request the Labor Commissioner for a determination of the amount of penalties to be assessed under Labor Code Section 1775 if the underpayment of wages to workers is promptly corrected and proof of such payment is submitted to the Labor Compliance Program. For each instance in which a wage deficiency is resolved in accordance with this regulation, the Labor Compliance Program shall maintain a written record of the failure of the contractor or subcontractor to meet its prevailing wage obligation. The record shall identify the public works project, the contractor or affected subcontractor involved, and the gross amount of wages paid to workers to resolve the prevailing wage deficiency; and the record shall also include a copy of the Audit prepared pursuant to subpart (e) above along with any exculpatory information submitted to the Labor Compliance Program by the affected contractor or subcontractor.

Note: Authority cited: Section 1773.5, Labor Code. Reference: Sections 1742, 1771.5, 1773.1, 1773.2, 1775, 1776 and 1813, Labor Code.

The LCP Administrator has traditionally also initiated the following actions when monitoring Public Works projects:

1. Attain proof of general liability and workers' compensation insurance. Evidence of required workers compensation insurance should be part of the permanent project file.
2. Verify that contractors filed a Public Works Contract Award Form (DAS Form 140) with the Division of Apprenticeship Standards as notification of a new public works contract award to approved prime contractor and Request for Dispatch of Apprentices (DAS Form 142)
3. When funding sources require both State and Federal prevailing wage compliance, the higher standard applies. Both wage determinations should be kept in the file of the general contractor and compared to ensure the higher standards apply as needed with the payment of prevailing wages.
4. Collect a listing of all subcontractors including lower tier subs, fringe benefit statements, verification of Apprentice registrations, and all relevant DAS forms for each contractor, preferably 10 days after the Notice to Proceed has been issued, or with the first certified payroll record submitted in the timeframe required for the Public Works project.
5. Review weekly certified payroll records submitted by contractors in accordance with CCR Section 16432 rules.

Certified payroll records must be kept by the contractor in accordance with labor code section 1776, and furnished at times designated in the contract, or within 10 days of request by the LCP Contracts administrator representing the awarding body. The prime contractor shall be responsible for the review and submission of copies of certified payroll records of all subcontractors. A review of payroll records and, if necessary, audits to verify compliance with the statutory requirements shall be conducted and documented. It is recommended that contract payments not be made when payroll records are delinquent or inadequate. In worst case scenarios, the LCP Contracts Administrator can recommend the assessment of Labor Code Section 1776(h) penalties for continued non-compliance (by prime contractors only). The penalty is \$100 per worker per day until full compliance is effectuated. All final payroll records should be marked "FINAL" by contractors.

6. Monitor contractor activities on project sites and interview construction employees weekly in accordance with Section 16432 rules.

- Conduct random onsite prevailing wage inspections by interviewing construction employees to confirm their hourly wage and classifications and documenting relevant information observed on the project site.
- The Project Superintendent should keep a daily record of the number of workers at the job site. Job classifications should be included. The awarding body may also request that the inspector of record (IOR) include this information in the daily report form.
- Daily Sign-In Sheets can also be requested especially when investigating complaints regarding an underpayment of prevailing wages.
- All prime contractors should be required to submit a daily superintendent report verifying contractor and subcontractor activities. Information about the number of workers and their classifications should be listed in the superintendent daily activity report.

7. As per CCR §16434(b), LCP administrator shall complete the following procedures:

Upon receipt of a written complaint alleging that a contractor or subcontractor has failed to pay prevailing wages as required by the Labor Code, the Labor Compliance Program shall do all of the following:

(1) Within 15 days after receipt of the complaint, send a written acknowledgment to the complaining party that the complaint has been received and identifying the name, address, and telephone number of the investigator assigned to the complaint;

(2) Within 15 days after receipt of the complaint, provide the affected contractor with the notice required under Labor Code section 1775(c) if the complaint is against a subcontractor;

(3) Notify the complaining party in writing of the resolution of the complaint within ten days after the complaint has been resolved by the Labor Compliance Program;

(4) Notify the complaining party in writing at least once every 30 days of the status of a complaint that has not been resolved by the Labor Compliance Program; and

(5) Notify the complaining party in writing at least once every 90 days of the status of a complaint that has been resolved by the Labor Compliance Program but remains under review or in litigation before another entity.

The LCP Administrator should also complete the following procedures:

a) Gather supporting documents from all available sources and analyze for authenticity, as well as interview workers to validate complaints.

b) Conduct a complete certified payroll record (CPR) and/or project audit. Review certified payroll records for errors, inconsistencies, discrepancies, falsification, misclassification, under-reporting, and any other omissions that render the records inaccurate where needed by comparing the inspector of records daily log with all available records.

c) Audit certified payroll records, inspector logs, contract documents and any other relevant information needed to verify compliance with prevailing wage determinations and other labor compliance requirements.

d) When an underpayment of prevailing wages is found, calculate back wages and penalties using the proper wage determinations and trade classifications pursuant to the Department of Industrial Relations' Office of Policy Research & Legislation (OPRL).

e) Review findings with contractors and provide them wage restitution requirements in accordance with CCR Section 16432 rules.

f) In accordance with CCR Section 16432, use a Public Works Investigation Worksheet, which includes a Public Works Audit Worksheet and Prevailing Wage Determination Summary that will be used to submit a Request for Approval of Forfeiture to the Department of Industrial Relations' Division of Labor Standards Enforcement (DLSE).

g) Write a complete summary of investigation with a statement of findings for

submission of a Request for Approval of Forfeitures to the Department of Industrial Relations' Division of Labor Standards Enforcement if contractor does not voluntarily pay the amount found due, as well as to the Director's office in the subsequent Annual Report.

8. Upon receipt of approval of the Request for Approval of Forfeitures from the DLSE, issue a Notice to Withhold Contract Payment (NWCP) for continued non-compliance in accordance with the Labor Code and California Code of Regulations.
9. Conduct settlement negotiations.
10. Testify on behalf of the awarding agency in review hearings and in litigation.
11. Collect and disburse wages and penalties in accordance with Labor Code Section 1743.
12. Report violations to the Labor Commissioner and recommend debarment proceedings in cases where egregious violations are willful in nature are repeated.
13. Prior to final release of the funds, the contract administrator must verify that all required contractor documentation has been received and that all outstanding prevailing wage deficiencies have been corrected. The most important aspect of enforcement is the withholding of back wages owed to workers and penalties for non-compliance. It is of utmost importance to follow the Labor Codes and California Regulations in all procedures to assure that your case is legally sound.

CHAPTER 7 – Case Review and Document Collection

Below is an outline of the critical steps for document collection which should be performed by the LCP Administrator for the awarding agency. These steps should be routinely applied in every prevailing wage violation case and particularly for those cases that lead to the filing of a Notice of Withholding of Contract Payments:

1) Copy of worker complaint

- ✓ Notes from worker interview.
- ✓ Calendar of dates and hours worked.
- ✓ Copies of check stubs or other form of proof of underpayment.
- ✓ Document all attempts to authenticate the complaint.
- ✓ Other supporting documentation where necessary.

2) Copy of all correspondence to contractor

- ✓ Job-start meeting checklist.
- ✓ Initial notification of complaint.
- ✓ Invitation to review the preliminary findings.
- ✓ Request for additional documentation such as canceled checks, check stubs, time cards, cash receipts, ledgers, etc.
- ✓ Log of all calls to contractor with notes about the content of discussion.

3) Certified payroll records

- ✓ Job-start meeting checklist.
- ✓ Initial notification of complaint.
- ✓ Invitation to review the preliminary findings.
- ✓ Request for additional documentation such as canceled checks, check stubs, time cards, cash receipts, ledgers, etc.
- ✓ Log of all calls to contractor with notes about the content of discussion.

4) Inspector's daily log

- ✓ Or another detailed record of work performed by date and the numbers of workers on project.
- ✓ For the period of time covered in the complaint.

5) Correct prevailing wage determination and applicable increases

- ✓ For each classification appearing in the audit.

6) Scope of work for trade classifications used

- ✓ From Office of Policy Research & Legislation (OPRL)

7) Tabulation of bids

- ✓ Advertisement date(s).
- ✓ List of subcontractors.
- ✓ Contract award amounts.
- ✓ Description of project.

8) Notice to proceed

- ✓ Official project start and completion dates.
- ✓ Duration of project.

9) Notice of completion (if applicable)

- ✓ With date stamp showing when it was recorded.
- ✓ Any withholding or action must take place within 180 days from the date of recording.
- ✓ Another 180 days is granted beyond this date if funds are still available in contract.

10) Surety company information

- ✓ The surety is entitled to receive a copy of any action taken or Notice of Withholding of Contract Payments filed.

11) Contractor's previous record of violations (if applicable)

- ✓ Formal actions and withholdings.
- ✓ Informal actions and withholdings.

12) The Notice of Withholding of Contract Payments (if applicable)

- ✓ Always attach a copy of the audit spreadsheet.

13) Release of Notice of Withholding of Contract Payments

- ✓ Returns withheld funds.
- ✓ Filed when a case is settled in whole or part.
- ✓ Filed when it is determined the violation did not occur.

14) Memo to file

- ✓ Explains circumstances and reasons for case closure without action.
- ✓ Provides explanation and reasons for settlement and spells any agreements reached with contractor or other parties.

CHAPTER 8 – Audit

In order to achieve compliance on Public Works projects, audits shall be conducted routinely by the LCP Administrator and should be conducted upon request by interested parties:

1. Labor Commissioner
2. Complainants
3. Unions
4. Contractor(s)
5. Workers
6. Member of the general public

When the LCP Administrator receives a complaint, a labor standards investigation file shall be opened and all procedures pursuant to CCR 16434(b) should be completed.

If after reviewing all documents and interviewing workers and other witnesses, it is revealed that a violation of the Labor Code has occurred, an audit shall be conducted.

The audit should consist of:

- 1) A comparison of payroll records to the best available information as to the actual hours worked;
- 2) The classification of workers employed on the construction contract;
- 3) A review of fringe benefit payments.

The report will include whether the violation appears to be willful. Examples of willful violations include some of the following:

1. Failure to Comply with Prevailing Wage Rate Requirements

Failure to comply with prevailing wage rate requirements (as set forth in Labor Code and awarding body contracts) is determined a willful violation whenever less than the stipulated basic hourly rate is paid to trade workers, or if overtime, Holiday, rate, fringe benefits and/or employer payments are paid at a rate less than stipulated.

2. Falsification of Payroll Records, misclassification of work, and/or failure to:

Falsification of Payroll Records, misclassification of work, and/or failure to accurately report hours of work is characterized by deliberate underreporting of hours of work, underreporting the head count, stating that the proper prevailing wage rate was paid when it in fact was not, misclassifying the work performed by the worker, and any other deliberate and/or willful act which results in the falsification or inaccurate reporting of payroll records.

3. Failure to Submit Certified Payroll Records:

Prime contractor shall be responsible for the submission of certified payroll records for itself and all subcontractors, of any tier, within ten (10) days of the week ending date of each week. The prime contractor and subcontractors have 10 days upon notification by the awarding body or their representative in which to submit basic records and/or to correct inaccuracies or omissions that have been detected by the review of records.

4. Failure to Pay Fringe Benefits:

Fringe benefits are defined as the amounts stipulated for employer payments or trust fund contributions and are determined to be part of the required prevailing wage rate. Failure to pay or provide fringe benefits and/or make trust fund contributions on a timely basis is equivalent payment of less than the stipulated wage rate. Should back wages be due and there is no agreement on payment after meeting with the contractors, the LCP Contracts Administrator shall report the matter to the Labor Commissioner as a willful violation, upon completion of an investigation and audit.

5. Failure to pay the Correct Apprenticeship Rate and/or misclassifications of workers as Apprentices:

Failure to pay the correct apprenticeship rate as a result of:

- ✓ Classifying a worker as an apprentice when not properly registered
- ✓ Employing apprentices outside of the prescribed ratios is equivalent

6. Taking of Kickbacks:

Accepting or extracting kickbacks from employee wages under Labor Code Section 1778 constitutes a felony and may be prosecuted by the appropriate enforcement agency.

CHAPTER 9 – Penalties

Penalties may be assessed in an amount up to \$200 per man per day for each underpayment violation of the prevailing wage law. As part of the Request for Approval of Forfeiture process, the DLSE determines the amount of penalties an LCP may assess against a contractor. See Labor Code Section 1775:

(a) (1) The contractor and any subcontractor under the contractor shall, as a penalty to the state or political subdivision on whose behalf the contract is made or awarded, forfeit not more than two hundred dollars (\$200) for each calendar day, or portion thereof, for each worker paid less than the prevailing wage rates as determined by the director for the work or craft in which the worker is employed for any public work done under the contract by the contractor or, except as provided in subdivision (b), by any subcontractor under the contractor.

(2) (A) The amount of the penalty shall be determined by the Labor Commissioner based on consideration of both of the following:

(i) Whether the failure of the contractor or subcontractor to pay the correct rate of per diem wages was a good faith mistake and, if so, the error was promptly and voluntarily corrected when brought to the attention of the contractor or subcontractor.

(ii) Whether the contractor or subcontractor has a prior record of failing to meet its prevailing wage obligations.

(B) (i) The penalty may not be less than forty dollars (\$40) for each calendar day, or portion thereof, for each worker paid less than

the prevailing wage rate, unless the failure of the contractor or subcontractor to pay the correct rate of per diem wages was a good faith mistake and, if so, the error was promptly and voluntarily corrected when brought to the attention of the contractor or subcontractor.

(ii) The penalty may not be less than eighty dollars (\$80) for each calendar day, or portion thereof, for each worker paid less than the prevailing wage rate, if the contractor or subcontractor has been assessed penalties within the previous three years for failing to meet its prevailing wage obligations on a separate contract, unless those penalties were subsequently withdrawn or overturned.

(iii) The penalty may not be less than one hundred twenty dollars (\$120) for each calendar day, or portion thereof, for each worker paid less than the prevailing wage rate, if the Labor Commissioner determines that the violation was willful, as defined in subdivision (c) of Section 1777.1.

(C) If the amount due under this section is collected from the contractor or subcontractor, any outstanding wage claim under Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 against that contractor or subcontractor shall be satisfied before applying that amount to the penalty imposed on that contractor or subcontractor pursuant to this section.

(D) The determination of the Labor Commissioner as to the amount of the penalty shall be reviewable only for abuse of discretion.

(E) The difference between the prevailing wage rates and the amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than the prevailing wage rate shall be paid to each worker by the contractor or subcontractor, and the body awarding the contract shall cause to be inserted in the contract a stipulation that this section will be complied with.

(b) If a worker employed by a subcontractor on a public works project is not paid the general prevailing rate of per diem wages by the subcontractor, the prime contractor of the project is not liable for any penalties under subdivision (a) unless the prime contractor had knowledge of that failure of the subcontractor to pay the specified prevailing rate of wages to those workers or unless the prime contractor fails to comply with all of the following requirements:

(1) The contract executed between the contractor and the subcontractor for the performance of work on the public works project shall include a copy of the provisions of this section and Sections 1771, 1776, 1777.5, 1813, and 1815.

(2) The contractor shall monitor the payment of the specified

general prevailing rate of per diem wages by the subcontractor to the employees, by periodic review of the certified payroll records of the subcontractor.

(3) Upon becoming aware of the failure of the subcontractor to pay his or her workers the specified prevailing rate of wages, the contractor shall diligently take corrective action to halt or rectify the failure, including, but not limited to, retaining sufficient funds due the subcontractor for work performed on the public works project.

(4) Prior to making final payment to the subcontractor for work performed on the public works project, the contractor shall obtain an affidavit signed under penalty of perjury from the subcontractor that the subcontractor has paid the specified general prevailing rate of per diem wages to his or her employees on the public works project and any amounts due pursuant to Section 1813.

(c) The Division of Labor Standards Enforcement shall notify the contractor on a public works project within 15 days of the receipt by the Division of Labor Standards Enforcement of a complaint of the failure of a subcontractor on that public works project to pay workers the general prevailing rate of per diem wages.

Failure to pay required overtime wages will result in the assessment of \$25 per worker per violation, per Labor Code Section 1813 as shown below:

The contractor or subcontractor shall, as a penalty to the state or political subdivision on whose behalf the contract is made or awarded, forfeit twenty-five dollars (\$25) for each worker employed in the execution of the contract by the respective contractor or subcontractor for each calendar day during which the worker is required or permitted to work more than 8 hours in any one calendar day and 40 hours in any one calendar week in violation of the provisions of this article. In awarding any contract for public work, the awarding body shall cause to be inserted in the contract a stipulation to this effect. The awarding body shall take cognizance of all violations of this article committed in the course of the execution of the contract, and shall report them to the Division of Labor Standards Enforcement.

A contractor may be assessed a penalty for failure to submit certified payroll records per Labor Code Section 1776 as shown below:

1776.(h) The contractor or subcontractor has 10 days in which to comply subsequent to receipt of a written notice requesting the records enumerated in subdivision (a). In the

event that the contractor or subcontractor fails to comply within the 10-day period, he or she shall, as a penalty to the state or political subdivision on whose behalf the contract is made or awarded, forfeit one hundred dollars (\$100) for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. Upon the request of the Division of Labor Standards Enforcement, these penalties shall be withheld from progress payments then due. A contractor is not subject to a penalty assessment pursuant to this section due to the failure of a subcontractor to comply with this section

1777. Any officer, agent, or representative of the State or of any political subdivision who willfully violates any provision of this article, and any contractor, or subcontractor, or agent or representative thereof, doing public work who neglects to comply with any provision of section 1776 is guilty of a misdemeanor.

Debarment against a contractor may be enforced by the DLSE for willful violations. Please see below information extracted directly from Labor Code Section 1777.1:

(a) Whenever a contractor or subcontractor performing a public works project pursuant to this chapter is found by the Labor Commissioner to be in violation of this chapter with intent to defraud, except Section 1777.5, the contractor or subcontractor or a firm, corporation, partnership, or association in which the contractor or subcontractor has any interest is ineligible for a period of not less than one year or more than three years to do either of the following:

(1) Bid on or be awarded a contract for a public works project.

(2) Perform work as a subcontractor on a public works project.

(b) Whenever a contractor or subcontractor performing a public works project pursuant to this chapter is found by the Labor Commissioner to have committed two or more separate willful violations of this chapter, except Section 1777.5, within a three-year period, the contractor or subcontractor or a firm, corporation, partnership, or association in which the contractor or subcontractor has any interest is ineligible for a period up to three years to do either of the following:

(1) Bid on or be awarded a contract for a public works project.

(2) Perform work as a subcontractor on a public works project.

(c) Whenever a contractor or subcontractor performing a public

works project has failed to provide a timely response to a request by the Division of Labor Standards Enforcement, the Division of Apprenticeship Standards, or the awarding body to produce certified payroll records pursuant to Section 1776, the Labor Commissioner shall notify the contractor or subcontractor that, in addition to any other penalties provided by law, the contractor or subcontractor will be subject to debarment under this section if the certified payroll records are not produced within 30 days after receipt of the written notice. If the commissioner finds that the contractor or subcontractor has failed to comply with Section 1776 by that deadline, unless the commissioner finds that the failure to comply was due to circumstances outside the contractor's or subcontractor's control, the contractor or subcontractor or a firm, corporation, partnership, or association in which the contractor or subcontractor has any interest is ineligible for a period of not less than one year and not more than three years to do either of the following:

(1) Bid on or be awarded a contract for a public works project.

(2) Perform work as a subcontractor on a public works project.

(d) A willful violation occurs when the contractor or subcontractor knew or reasonably should have known of his or her obligations under the public works law and deliberately fails or refuses to comply with its provisions.

(e) The Labor Commissioner shall publish on the commissioner's Internet Web site a list of contractors who are ineligible to bid on or be awarded a public works contract, or to perform work as a subcontractor on a public works project pursuant to this chapter. The list shall contain the name of the contractor, the Contractors' State License Board license number of the contractor, and the effective period of debarment of the contractor. Contractors shall be added to the list upon issuance of a debarment order and the commissioner shall also notify the Contractors' State License Board when the list is updated. At least annually, the commissioner shall notify awarding bodies of the availability of the list of debarred contractors. The commissioner shall also place advertisements in construction industry publications targeted to the contractors and subcontractors, chosen by the commissioner, that state the effective period of the debarment and the reason for debarment. The advertisements shall appear one time for each debarment of a contractor in each publication chosen by the commissioner. The

debarred contractor or subcontractor shall be liable to the commissioner for the reasonable cost of the advertisements, not to exceed five thousand dollars (\$5,000). The amount paid to the commissioner for the advertisements shall be credited against the contractor's or subcontractor's obligation to pay civil fines or penalties for the same willful violation of this chapter.

(f) For purposes of this section, "contractor or subcontractor" means a firm, corporation, partnership, or association and its responsible managing officer, as well as any supervisors, managers, and officers found by the Labor Commissioner to be personally and substantially responsible for the willful violation of this chapter.

(g) For the purposes of this section, the term "any interest" means an interest in the entity bidding or performing work on the public works project, whether as an owner, partner, officer, manager, employee, agent, consultant, or representative. "Any interest" includes, but is not limited to, all instances where the debarred contractor or subcontractor receives payments, whether cash or any other form of compensation, from any entity bidding or performing work on the public works project, or enters into any contracts or agreements with the entity bidding or performing work on the public works project for services performed or to be performed for contracts that have been or will be assigned or sublet, or for vehicles, tools, equipment, or supplies that have been or will be sold, rented, or leased during the period from the initiation of the debarment proceedings until the end of the term of the debarment period. "Any interest" does not include shares held in a publicly traded corporation if the shares were not received as compensation after the initiation of debarment from an entity bidding or performing work on a public works project.

(h) For the purposes of this section, the term "entity" is defined as a company, limited liability company, association, partnership, sole proprietorship, limited liability partnership, corporation, business trust, or organization.

(i) The Labor Commissioner shall adopt rules and regulations for the administration and enforcement of this section.

Per Labor Code Section 1742.1 liquidated damages may be assessed as shown below:

(a) After 60 days following the service of a civil wage and

penalty assessment under Section 1741 or a notice of withholding under subdivision (a) of Section 1771.6, the affected contractor, subcontractor, and surety on a bond or bonds issued to secure the payment of wages covered by the assessment or notice shall be liable for liquidated damages in an amount equal to the wages, or portion thereof, that still remain unpaid. If the assessment or notice subsequently is overturned or modified after administrative or judicial review, liquidated damages shall be payable only on the wages found to be due and unpaid.

Additionally, if the contractor or subcontractor demonstrates to the satisfaction of the director that he or she had substantial grounds for appealing the assessment or notice with respect to a portion of the unpaid wages covered by the assessment or notice, the director may exercise his or her discretion to waive payment of the liquidated damages with respect to that portion of the unpaid wages. Any liquidated damages shall be distributed to the employee along with the unpaid wages. Section 203.5 shall not apply to claims for prevailing wages under this chapter.

(b) Notwithstanding subdivision (a), there shall be no liability for liquidated damages if the full amount of the assessment or notice, including penalties, has been deposited with the Department of Industrial Relations, within 60 days following service of the assessment or notice, for the department to hold in escrow pending administrative and judicial review. The department shall release such funds, plus any interest earned, at the conclusion of all administrative and judicial review to the persons and entities who are found to be entitled to such funds.

(c) The Labor Commissioner shall, upon receipt of a request from the affected contractor or subcontractor within 30 days following the service of a civil wage and penalty assessment under Section 1741, afford the contractor or subcontractor the opportunity to meet with the Labor Commissioner or his or her designee to attempt to settle a dispute regarding the assessment without the need for formal proceedings. The awarding body shall, upon receipt of a request from the affected contractor or subcontractor within 30 days following the service of a notice of withholding under subdivision (a) of Section 1771.6, afford the contractor or subcontractor the opportunity to meet with the designee of the awarding body to attempt to settle a dispute regarding the notice without the need for formal proceedings. The settlement meeting may be held in person or by telephone and

shall take place before the expiration of the 60-day period for seeking administrative review. No evidence of anything said or any admission made for the purpose of, in the course of, or pursuant to, the settlement meeting is admissible or subject to discovery in any administrative or civil proceeding. No writing prepared for the purpose of, in the course of, or pursuant to, the settlement meeting, other than a final settlement agreement, is admissible or subject to discovery in any administrative or civil proceeding. The assessment or notice shall advise the contractor or subcontractor of the opportunity to request a settlement meeting.

As per Labor Code Section 1777: "Any officer, agent, or representative of the State or of any political subdivision who willfully violates any provision of this article, and any contractor, or subcontractor, or agent or representative thereof, doing public work who neglects to comply with any provision of section 1776 is guilty of a misdemeanor."

Also, per Labor Code Section 1778: "Every person, who individually or as a representative of an awarding or public body or officer, or as a contractor or subcontractor doing public work, or agent or officer thereof, who takes, receives, or conspires with another to take or receive, for his own use or the use of any other person any portion of the wages of any workman or working subcontractor, in connection with services rendered upon any public work is guilty of a felony."

CHAPTER 10 – Enforcement Action

The LCP Administrator has a duty to enforce prevailing wage compliance using:

- The California Labor Code section 1720 – 1861, et seq.
- California Code of Regulations 16000, et seq.
- Prevailing Wage Decisions and Coverage Determinations issued by the Director for guidance for similar issues.

The LCP will take enforcement action necessary to enforce the under payment of prevailing wages. The methods used are prescribed by the above statutes and regulations and include investigation, audits and withholding of contract payments to assure workers are made whole and assessed penalties are paid.

The following chapters describe the specific methods that the LCP will use to monitor prevailing wages projects under the authority of the LCP and enforce compliance with prevailing wage laws.

CHAPTER 11 – Withholding Procedures

§16435. Withholding Contract Payments When Payroll Records are Delinquent or Inadequate.

(a) "Withhold" means to cease payments by the Awarding Body, or others who pay on its behalf, or agents, to the general contractor. Where the violation is by a subcontractor, the general contractor shall be notified of the nature of the violation and reference made to its rights under Labor Code Section 1729.

(b) "Contracts." Except as otherwise provided by agreement, only contracts under a single master contract, including a Design-Build contract, or contracts entered into as stages of a single project, may be the subject of withholding.

(c) "Delinquent payroll records" means those not submitted on the date set in the contract.

(d) "Inadequate payroll records" are any one of the following:

(1)A record lacking any of the information required by Labor Code Section 1776;

(2)A record which contains all of the required information but is not certified, or is certified by someone who is not an agent of the contractor or subcontractor;

(3)A record remaining uncorrected for one payroll period, after the Labor Compliance Program has given the contractor or subcontractor notice of inaccuracies detected by audit or record review. However prompt correction will stop any duty to withhold if such inaccuracies do not amount to 1 percent of the entire Certified Weekly Payroll in dollar value and do not affect more than half the persons listed as workers employed on that Certified Weekly Payroll, as defined in Labor Code Section 1776 and section 16401 of Title 8 of the California Code of Regulations.

(e) The withholding of contract payments when payroll records are delinquent or inadequate is required by Labor Code Section 1771.5(b)(5), and it does not require the prior approval of the Labor Commissioner. The Awarding Body shall only withhold those payments due or estimated to be due to the contractor or subcontractor whose payroll records are delinquent or inadequate, plus any additional amount that the Labor Compliance Program has reasonable cause to believe may be needed to cover a back

wage and penalty assessment against the contractor or subcontractor whose payroll records are delinquent or inadequate; provided that a contractor shall be required in turn to cease all payments to a subcontractor whose payroll records are delinquent or inadequate until the Labor Compliance Program provides notice that the subcontractor has cured the delinquency or deficiency.

(f) When contract payments are withheld under this section, the Labor Compliance Program shall provide the contractor and subcontractor, if applicable, with immediate written notice that includes all of the following: (1) a statement that payments are being withheld due to delinquent or inadequate payroll records, and that identifies what records are missing or states why records that have been submitted are deemed inadequate; (2) specifies the amount being withheld; and (3) informs the contractor or subcontractor of the right to request an expedited hearing to review the withholding of contract payments under Labor Code Section 1742, limited to the issue of whether the records are delinquent or inadequate or the Labor Compliance Program has exceeded its authority under this section.

(g) No contract payments shall be withheld solely on the basis of delinquent or inadequate payroll records after the required records have been produced.

(h) In addition to withholding contract payments based on delinquent or inadequate payroll records, penalties shall be assessed under Labor Code Section 1776(h) for failure to timely comply with a written request for certified payroll records. The assessment of penalties under Labor Code Section 1776(h) does require the prior approval of the Labor Commissioner under section 16436 of these regulations.

§16435.5 Withholding Contract Payments When, After Investigation, It Is Established That Underpayment or Other Violation Has Occurred.

(a) "Withhold" and "contracts" have the same meaning set forth in Sections 16435(a) and 16435(b) of these regulations.

(b) Where the violation is by a subcontractor, the general contractor shall be notified of the nature of the violation and reference made to its rights under Labor Code Section 1729.

(c) "Amount equal to the underpayment" is the total of the following determined by payroll review, audit, or admission of contractor or subcontractor:

- (1) The difference between amounts paid workers and the correct General Prevailing Rate of Per Diem Wages, as defined in Labor Code Section 1773, and determined to be the prevailing rate due workers in such craft, classification or trade in which they were employed and the

amounts paid;

(2) The difference between amounts paid on behalf of workers and the correct amounts of Employer Payments, as defined in Labor Code Section 1773.1 and determined to be part of the prevailing rate costs of contractors due for employment of workers in such craft, classification or trade in which they were employed and the amounts paid;

(3) Estimated amounts of "illegal taking of wages";

(4) Amounts of apprenticeship training contributions paid to neither the program sponsor's training trust nor the California Apprenticeship Council;

(5) Estimated penalties under Labor Code Sections 1775, 1776, and 1813.

(d) The withholding of contract payments when, after investigation, it is established that underpayment or other violations have occurred requires the prior approval of the Labor Commissioner under Sections 16436 and 16437 of these regulations.

§16436. Forfeitures Requiring Approval by the Labor Commissioner.

(a) For purposes of this section and section 16437 below, "forfeitures" means the amount of wages, penalties, and forfeitures assessed by the Labor Compliance Program and proposed to be withheld pursuant to Labor Code section 1771.6(a), and includes the following: (1) the difference between the prevailing wage rates and the amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than the prevailing wage rate by the contractor or subcontractor; and (2) penalties assessed under Labor Code Sections 1775, 1776 and 1813.

(b) If the aggregate amount of forfeitures assessed as to a contractor or subcontractor is less than \$1000.00, the forfeitures shall be deemed approved by the Labor Commissioner upon service and the Labor Commissioner's receipt of copies of the following: (1) the Notice of Withholding of Contract Payments authorized by Labor Code Section 1771.6(a); (2) an Audit as defined in section 16432(e) of these regulations, and (3) a brief narrative identifying the Bid Advertisement Date of the contract for public work and summarizing the nature of the violation, the basis of the underpayment, and the factors considered in determining the assessment of penalties, if any, under Labor Code Section 1775.

(c) For all other forfeitures, approval by the Labor Commissioner shall be requested and obtained in accordance with section 16437 below.

§16437. Determination of Amount of Forfeiture by the Labor Commissioner.

(a) Where the Labor Compliance Program requests a determination of the amount of forfeiture, the request shall include a file or report to the Labor Commissioner which contains at least the information specified in subparts (1) through (9) below. Appendix D is a suggested format for a Request for Approval of Forfeiture under this section.

(1) Whether the public work has been accepted by the awarding body and whether a valid notice of completion has been filed, the dates if any when those events occurred, and the amount of funds being held in retention by the Awarding Body;

(2) Any other deadline which if missed would impede collection;

(3) Evidence of violation, in narrative form;

(4) Evidence of violation obtained under section 16432 of these regulations and a copy of the Audit prepared in accordance with section 16432(e) setting forth the amounts of unpaid wages and applicable penalties;

(5) Evidence that before the forfeiture was sent to the Labor Commissioner (A) the contractor and subcontractor were given the opportunity to explain why there was no violation, or that any violation was caused by good faith mistake and promptly corrected when brought to the contractor or subcontractor's attention, and (B) the contractor and subcontractor either did not do so or failed to convince the Labor Compliance Program of its position;

(6) Where the Labor Compliance Program seeks not only wages but also a penalty as part of the forfeiture, and the contractor or subcontractor has unsuccessfully contended that the cause of violation was a good faith mistake that was promptly corrected when brought to the contractor or subcontractor's attention, a short statement should accompany the proposal for a forfeiture, with a recommended penalty amount pursuant to Labor Code Section 1775(a);

(7) Where the Labor Compliance Program seeks only wages or a penalty less than \$200 per day as part of the forfeiture because the contractor or subcontractor has successfully contended that the cause of the violation was a good faith mistake that was promptly corrected when brought to the contractor or subcontractor's attention, the file should include the evidence as to the contractor or subcontractor's knowledge of his or her obligation, including the program's communication to the contractor or subcontractor of the obligation in the bid invitations, at the pre-job conference agenda

and records, and any other notice given as part of the contracting process. With the file should be recommended penalty amounts, pursuant to Labor Code Section 1775(a);

(8) The previous record of the contractor and subcontractor in meeting their prevailing wage obligations; and

(9) Whether the Labor Compliance Program has been granted approval on only an interim or temporary basis under sections 16425 or 16426 above or whether it has been granted extended approval under section 16427 above.

(b) The file or report shall be served on the Labor Commissioner as soon as practicable after the violation has been discovered, and not less than 30 days before the final payment, but in no event not less than 30 days before the expiration of the limitations period set forth in Labor Code Section 1741.

(c) A copy of the recommended forfeiture and the file or report shall be served on the contractor and subcontractor at the same time as it is sent to the Labor Commissioner. The Labor Compliance Program may exclude from the documents served on the contractor and subcontractor copies of documents secured from the contractor or subcontractor during an audit, investigation, or meeting if those are clearly referenced in the file or report.

(d) The Labor Commissioner shall affirm, reject, or modify the forfeiture in whole or in part as to the wages and penalties due.

(e) The Labor Commissioner's determination of the forfeiture is effective on one of the two following dates:

(1) For all programs other than those having extended authority under section 16427 of these regulations, on the date the Labor Commissioner serves by first class mail, on the Labor Compliance Program, on the Awarding Body if different, on the contractor and on the subcontractor, if any, an endorsed copy of the proposed forfeiture, or a newly drafted forfeiture statement which sets out the amount of forfeiture approved. Service on the contractor or subcontractor is effective if made on the last address supplied by the contractor or subcontractor in the record. The Labor Commissioner's approval, modification or disapproval of the proposed forfeiture shall be served within 30 days of receipt of the proposed forfeiture.

(2) For programs with extended authority under section 16427 above, approval is effective 20 days after the requested forfeitures are served upon the Labor Commissioner, unless the Labor Commissioner serves a notice upon the parties,

within that time period, that this forfeiture request is subject to further review. For such programs, a notice that approval will follow such a procedure will be included in the transmittal of the forfeiture request to the contractor. If the Labor Commissioner notifies the parties of a decision to undertake further review, the Labor Commissioner's final approval, modification or disapproval of the proposed forfeiture shall be served within 30 days of the date of notice of further review.

§16438. Deposits of Penalties and Forfeitures Withheld.

- (a) Where the involvement of the Labor Commissioner has been limited to a determination of the actual amount of penalty, forfeiture or underpayment of wages, and the matter has been resolved without litigation by or against the Labor Commissioner, the Labor Compliance Program shall deposit penalties and forfeitures with the Awarding Body.
- (b) Where collection of fines, penalties or forfeitures results from administrative proceedings or court action to which the Labor Commissioner and Awarding Body or its Labor Compliance Program are both parties, the fines, penalties or forfeitures shall be divided between the general funds of the state and the Awarding Body, as the Hearing Officer or court may decide.
- (c) All penalties recovered in administrative proceedings or court action brought by or against the Labor Commissioner and to which the Awarding Body or its Labor Compliance Program is not a party, shall be deposited in the general fund of the state.
- (d) All wages and benefits which belong to an employee and are withheld or collected from a contractor or subcontractor, either by withholding or as a result of administrative proceedings or any court action, and which have not been paid to the employee or irrevocably committed on the employee's behalf to a benefit fund, shall be deposited with the Labor Commissioner, who shall handle such wages and benefits in accordance with Labor Code Section 96.7.

16439. Request for Review of a Labor Compliance Program Enforcement Action; Settlement Authority.

- (a) A contractor or subcontractor may request a settlement meeting pursuant to Labor Code Section 1742.1(b) and may request review of a Labor Compliance Program enforcement action in accordance with Labor Code Sections 1771.6(b) and 1742 and the regulations found at sections 17201-17270 of Title 8 of the California Code of Regulations. The Labor Compliance Program shall have the rights and responsibilities of the Enforcing Agency (as defined in section 17202(f) of Title 8 of the California Code of Regulations), in responding to such a request for review, including but not limited to the obligations to serve notices, transmit

the Request for Review to the hearing office, and provide an opportunity to review evidence in a timely manner, to participate through counsel in all hearing proceedings, and to meet the burden of establishing prima facie support for the Notice of Withholding of Contract Payments.

(b) If a contractor or subcontractor seeks review of a Labor Compliance Program enforcement action, the Labor Commissioner may intervene to represent the Awarding Body, or to enforce relevant provisions of the Labor Code consistent with the practice of the Labor Commissioner, or both.

(c) Except in cases where the Labor Commissioner has intervened pursuant to subpart (b) above, the Labor Compliance Program shall have the authority to prosecute, settle, or seek the dismissal of any Notice of Withholding of Contract Payments issued pursuant to Labor Code Section 1771.6 and any review proceeding under Labor Code Section 1742, without any further need for approval by the Labor Commissioner. Whenever a Labor Compliance Program settles in whole or in part or seeks and obtains the dismissal of a Notice of Withholding of Contract Payments or a review proceeding under Labor Code Section 1742, the Labor Compliance Program shall document the reasons for the settlement or request for dismissal and shall make that documentation available to the Labor Commissioner upon request.

CHAPTER 12 – Frequently asked Questions (FAQs)

Q. Who must receive prevailing wages on public works projects?

A. The prevailing wage must be paid to all workers on public works projects, including partners who are performing the work.

Q. What is the penalty for not paying the prevailing wage?

A. This is defined in Labor Code Section 1775.

Q. How often are Certified Payroll Records due and who should receive them?

A. Certified Payroll Records should be sent each week to the awarding body or their LCP Contracts Administrator.

Q. As a contractor or subcontractor when should I hire and train apprentices?

A. When employing workers in an apprenticeable craft or trade, the contractor or subcontractor must apply to the appropriate joint apprenticeship committee for certification to employ and train apprentices in the affected industry. Contractors not signatory to a trust agreement shall contribute a training fee to the California

Apprenticeship Council for each hour worked on the project. Awards of less than thirty thousand dollars or 20 working days are exempt from this provision.

Q. How do I know what is the correct prevailing wage rate?

A. The current prevailing wage rates are available on the internet at: <http://www.dir.ca.gov/OPRL/DPreWageDetermination.htm>. A copy is available from the contracting department.

Q. How do I know what is the correct craft or classification for the work my employees are doing?

A. The Scope of Work for each craft is listed on the DIR website and on some of the wage determinations. If you have questions about the type of work that may be performed by each craft, please call the Labor Compliance Administrator for the awarding agency, i.e., Lin Robertson at (408) 516-7238.

Q. If owners or partners work on a project do they have to be paid prevailing wages?

A. Yes, anyone who works on a project must be paid the prevailing wage rate for all hours worked. This does not include office staff and supervisor who are not hands on employees.

Q. What should I do if an employee performs more than one type of work each day?

A. You must keep accurate records of how many hours the employee works in each classification. The employee must be paid the prevailing wage rate for each craft, classification, and type of work performed. If accurate records are not kept, the highest wage rate may be required.

Q. What if an employee is just learning a trade or is just a helper on the project. Can I pay him/her a lesser wage?

A. No. All employees must be paid the prevailing wage rate for the type of work they perform. Only apprentices who are enrolled in a state-approved program are allowed to be paid less than journeyman rates (which are higher). Applicable wage rates for apprentices apply.

Q. What happens if I don't understand the prevailing wage rates?

A. If you are unsure of the rates you should pay, you should contact the Labor Compliance Administrator for the awarding agency for clarification, or you can call the Department of Industrial Relations, Office of Policy Research & Legislation (OPRL) at (415) 703-4774.

Q. What is the methodology for determining the prevailing wage rates?

A. The prevailing wage rate is the basic hourly rate paid on public works projects to a majority of workers engaged in a particular craft, classification or type of work within the locality and the nearest labor market area (if a majority of such workers are paid at a

Checklist of Labor Law Requirements

(CCR Title 8, Section 16421)

Ultimately the prime contractor is liable for their sub and specialty contractors. This checklist is a useful tool for the prime contractor to ensure that their sub and specialty contractors know their responsibilities on public works projects. Contractors who understand and comply with the law are more likely to deliver the job on time, on budget and done right the first time. We suggest the prime contractor encourage completion of this checklist by their sub and specialty contractors.

NAME (PRINT) _____ DATE _____
COMPANY _____ PHONE _____
ADDRESS _____ FAX _____
CITY _____ STATE _____ ZIP CODE _____
PROJECT MANAGER _____ SUPERINTENDENT/FOREMAN _____
CERTIFIED PAYROLL _____ PHONE/EXT. _____
CONTRACTOR LICENSE NO. _____ EXP. DATE _____ SPECIALTY LICENSE NO. _____
SELF-INSURED CERTIFICATE NO. _____ WORKERS COMP. POLICY NO. _____
PROJECT NAME _____ PROJECT #/BID PACKAGE# _____
AWARDING BODY _____ ADVERTISEMENT DATE _____
IF SUB-CONTRACTING, LIST YOUR PRIME/GENERAL CONTRACTOR _____
CONTRACT AWARD AMOUNT _____

THE FEDERAL AND STATE LABOR LAW REQUIREMENTS APPLICABLE TO THE CONTRACT ARE COMPOSED OF, BUT NOT LIMITED TO, THE FOLLOWING:

Payment of Prevailing Wage Rates

The contractor to whom the contract is awarded and its subcontractors hired for the public works project are required to pay not less than the specified general prevailing wage rates to all workers employed in the execution of the contract. *Labor Code Section 1770 et seq.*

The contractor is responsible for ascertaining and complying with all current general prevailing wage rates for crafts and any rate changes that occur during the life of the contract. Information on all prevailing wage rates and all rate changes are to be posted at the job site for all workers to view. Additionally, current wage rate information can be found at the DLSR web site, www.dir.ca.gov/dlsr/statistics_research.html.

Apprentices

It is the duty of the contractor and subcontractors to employ registered apprentices on the public works project and to comply with all aspects of *Labor Code Section 1777.5*, relating to Apprentices on Public Works. (1) Notify approved apprenticeship programs of contract award; (2) employ apprentices; (3) pay training fund contributions.

Penalties

There are penalties required for contractor's/subcontractor's failure to pay prevailing wages and for failure to employ apprentices, including forfeitures and debarment under *Labor Code Sections 1775; 1776; 1777.1; 1777.7 and 1813*.

Certified Payroll Reports

Under *Labor Code Section 1776*, contractors and subcontractors are required to keep accurate payroll records showing the name, address, social security number and work classification of each employee and owner performing work; also the straight time and overtime hours worked each day for each week, the fringe benefits, and, the actual per diem wage paid to each owner, journey person, apprentice worker or other employee hired in connection with the public works project.

This requirement includes and applies to all subcontractors performing work on Awarding Body projects even if their portion of the work is less than one half of one percent (0.05%) of the total amount of the contract.

The certified payroll records shall contain the same data fields listed on the *Public Works Payroll Reporting Form (A-1-131)* and contain or is accompanied by a declaration made under penalty of perjury. (*California Code of Regulations, Section 16401*).

Prime Contractors are responsible for submittal of their payrolls and those of their respective subcontractors as one package. Any payroll not submitted in the proper form will be rejected. In the event that there has been no work performed during a

Checklist of Labor Law Requirements, continued

given week, the Certified Payroll Report shall be annotated: "No work" for that week or a Non-Performance Statement must be submitted.

Employee payroll records shall be certified and shall be made available for inspection at all reasonable hours at the principal office of the contractor/subcontractor, or shall be furnished to any employee, or his/her authorized representative on request, pursuant to *Labor Code Section 1776*.

Under *Labor Code Section 1776(g)* there are penalties required for contractor's/subcontractor's failure to maintain and submit copies of certified payroll records on request.

Nondiscrimination in Employment

There exist prohibitions against employment discrimination under *Labor Code Sections 1735 and 1777.6*, the *Government Code*, the *Public Contracts Code*, and *Title VII of the Civil Rights Act of 1964*.

Kickbacks Prohibited

Contractors and subcontractors are prohibited from recapturing wages illegally by accepting or extracting "kickbacks" from employee wages under *Labor Code Section 1778*.

Acceptance of Fees Prohibited

There exists a prohibition against contractor/subcontractor acceptance of fees for registering any person for public work under *Labor Code Section 1779*; or for filling work orders on public works contracts pursuant to *Labor Code Section 1780*.

Listing of Subcontractors

All prime contractors are required to list properly all subcontractors hired to perform work on the public works projects covering more than one-half of one percent, pursuant to *Government Code Section 4104*.

Proper Licensing

Contractors are required to be licensed properly and to require that all subcontractors be properly licensed. Penalties are required for employing workers while unlicensed under *Labor Code Section 1021* and under the California Contractor License Law found at *Business and Professions Code Section 7000 et seq.*

Unfair Competition Prohibited

Contractors and sub-contractors are prohibited from engaging in unfair competition as specified under *Business and Professions Code Sections 17200 to 17208*.

Workers Compensation Insurance

Labor Code Section 1861 requires that contractors and subcontractors be insured properly for Workers Compensation.

OSHA

Contractors and subcontractors are required to abide by the Occupational, Safety and Health laws and regulations that apply to the particular construction project.

Proof of Eligibility/Citizenship

The federal prohibition against hiring undocumented workers, and the requirement to secure proof of eligibility/citizenship from all workers, is required.

Itemized Wage Statement

Labor Code Section 226 requires that employees be provided with itemized wage statements.

CERTIFICATION

I acknowledge that I have been informed and am aware of the foregoing requirements and that I am authorized to make this certification on behalf of _____

(COMPANY NAME)

I fully understand that failure to comply with any of the above requirements may subject me, or my company, to penalties as provided above.

Contractor _____ (SIGNATURE) _____ (DATE)

Awarding Agency /Labor Compliance Program _____ (SIGNATURE) _____ (DATE)

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.dlr.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**

Explanation to box 1 - 3 on form DAS 140

- Box 1 is for contractors who are already approved to train by an apprenticeship program (signatory/member).
- Box 2 indicates that a contractor is willing to comply with a program's Standards for the current project only. This generally means that the fringe benefits and the training funds will be paid to that Committee's Trust Fund. It also allows a contractor to take advantage of a more generous maximum ratio than the CAC Standards, but does not affect the minimum ratio of 1 apprentice hour for every 5 journeyman hours.
- Box 3 means that a contractor will be governed by the regulations of the California Apprenticeship Council. Generally this means that the minimum and maximum ratio for apprentices is the same – 1 apprentice hour for every 5 journeyman hours per each craft, totaled at the end of the project. It also means the Training Fund Contribution is usually paid to the California Apprenticeship Council.



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 journeyman work, you must request and employ apprentices in no less than 8 hour increments.**

Date: _____	Contractor Requesting Dispatch:
To Applicable Apprenticeship Committee:	Name: _____
Name: _____	Address: _____
Address: _____	_____
_____	License No. _____
Tel. No. _____ Fax No. _____	Tel. No. _____ Fax No. _____

Project Information:

Contract No. _____

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: _____

*You may use this form to make your written request for the dispatch of an apprentice. Requests for dispatch must be in writing and submitted at least 72 hours in advance (excluding weekends and holidays) via first class mail, fax or email. **Proof of submission may be required.** Please take note of California Code of Regulations, Title 8, § 230.1 (a) for all applicable requirements regarding apprenticeship requests and/or visit <https://www.dir.ca.gov/das/PublicWorksForms.htm>*

DAS 142 (Revised 12/11)


**TRAINING FUND
CONTRIBUTIONS**
*California Apprenticeship
Council*
Transaction ID: 728508
Total Amount: \$214.47

Please Mail this form and your check payable to the
California Apprenticeship Council to:

State of California
Department of Industrial Relations
California Apprenticeship Council
P.O. Box 511283
Los Angeles, CA 90051-7838

Contractor License: 123456

Contractor's Name & Address:
Test Contractor
123 Main ST
San Francisco, CA 94120

Report Period: 1/1/2019 to 1/31/2019
Contract/Project No: NONE
Jobsite: Name of Public Works Project

Remittance for the Following Projects

<u>COUNTY</u>	<u>CLASSIFICATION</u>	<u>HOURS</u>	<u>CONTRIBUTION RATE</u>	<u>AMOUNT</u>
SANTA CRUZ	LABORERS	210.00	\$0.45	\$94.50
SANTA CRUZ	CARPENTERS	129.00	\$0.93	\$119.97

Submitter Contact Information

<u>Submitter's name</u>	<u>Submitter's title</u>	<u>Email address</u>	<u>Phone #</u>
John Doe	Payroll Manager	testcontractor@yahoo.com	555-555-5555

Generated: 5/14/2019

Department of Industrial Relations

Apprenticeship Standards | CAC - Training Fund Contributions

CAC - Training Fund Contributions

You must enter all requested information in order to ensure successful submission and processing of your payment.

Training Fund Contributions are due on the 15th of each month.

All fields with * are required. If no Project ID number use None.

If there is no work for a particular month you do not need to submit a CAC2 form with zero amount for that month.

You must use the **BUTTON** on the bottom of the page to submit for an invoice coupon.

TO NAVIGATE BETWEEN FIELDS, DO NOT HIT RETURN OR ENTER KEY AFTER EACH ENTRY. USE THE TAB KEY INSTEAD.

You need to have a working printer currently connected to your computer in order to print the complete paper form in the end of this session so that you can mail it with your payment.

Training Fund Contributions Form CAC2

Date: 5/14/2019

CLEAR FORM

Contractor/Sub Contractor making contributions	Contractor	Period covered by contribution (from - to)	Jobsite Location (Including County)
--	------------	--	-------------------------------------

* Name: Test Contractor	* License Number: 123456	* Period Start: 01/01/2019	If applicable, give name of hospital, building, etc. Name of Public Works Proj
----------------------------	-----------------------------	-------------------------------	---

* Address: 123 Main ST	* Contract/Project Number: 555-555-5555	* Period End: 01/31/2019 (MM/DD/YYYY)	Comments:
---------------------------	--	---	-----------

San Francisco

* State: CA

* ZIP: 94120

* Name of the submitting party:	* Submitter's Title:	* Submitter's Email:	* Submitter's Phone e.g., (999) 999-999
John Doe	Payroll Manager	testcontractor@yahoo.com	555-555-5555

Instructions: You may want to use the keyboard TAB key to navigate the fields and the Up ^ | Down v ARROW keys to select a list item.

	* County of Work	* Classification	* Hours (min.: 0.5; max: 9 999.99)	* Rate (min.: 0.01; max: \$9.99)
*1)	SANTA CRUZ ▼	LABORERS ▼	210	\$ 0.45
2)	SANTA CRUZ ▼	CARPENTERS ▼	129	\$ 0.93
3)	Select a county ▼	Select an occupation ▼		\$
4)	Select a county ▼	Select an occupation ▼		\$
5)	Select a county ▼	Select an occupation ▼		\$
6)	Select a county ▼	Select an occupation ▼		\$
7)	Select a county ▼	Select an occupation ▼		\$
8)	Select a county ▼	Select an occupation ▼		\$
9)	Select a county ▼	Select an occupation ▼		\$

- 10) \$
- 11) \$
- 12) \$
- 13) \$
- 14) \$
- 15) \$
- 16) \$
- 17) \$
- 18) \$
- 19) \$
- 20) \$

Footnote 1 – If you are unable to locate the occupation in the pull down menu, please click on this link:
<http://www.dir.ca.gov/databases/das/pwaddrstart.asp> for specific information assistance.

TOTAL AMOUNT: \$ 214.47

**BEFORE SUBMITTING FOR THE INVOICE COUPON,
please carefully review again ALL THE ENTRIES above
and CORRECT any errors as needed.**

You MUST re-enter the green code below and submit.
(Note: INCORRECT code will VOID your entry.)

Wrong code

75728

Re-Submit with the Green Code

Please send all contributions to:

Department of Industrial Relations
California Apprenticeship Council
P.O. Box 511283
Los Angeles, CA 90051-7838

April 2018

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Statement of Employer Payments



Date:		In Reply, Refer to Case No:
Prime:		
Subcontractor:		
PROJECT NAME:		
PROJECT CONTRACT NO.:		County/location:

HEALTH AND WELFARE

NAME OF PLAN _____ Address, City and Zip _____

ADMINISTRATOR _____ Address, City and Zip _____

CLASSIFICATION(S) USED _____

CONTRIBUTION PER CLASSIFICATION PER HOUR _____

CONTRIBUTIONS: WEEKLY _____ MONTHLY _____ QUARTERLY _____ ANNUALLY _____

PENSION

NAME OF PLAN _____ Address, City and Zip _____

ADMINISTRATOR _____ Address, City and Zip _____

CLASSIFICATION(S) USED _____

CONTRIBUTION PER CLASSIFICATION PER HOUR _____

CONTRIBUTIONS: WEEKLY _____ MONTHLY _____ QUARTERLY _____ ANNUALLY _____

VACATION/HOLIDAY

NAME OF PLAN _____ Address, City and Zip _____

ADMINISTRATOR _____ Address, City and Zip _____

CLASSIFICATION(S) USED _____

CONTRIBUTION PER CLASSIFICATION PER HOUR _____

CONTRIBUTIONS: WEEKLY _____ MONTHLY _____ QUARTERLY _____ ANNUALLY _____

TRAINING

NAME OF PLAN _____ Address, City and Zip _____

ADMINISTRATOR _____ Address, City and Zip _____

CLASSIFICATION(S) USED _____

CONTRIBUTION PER CLASSIFICATION PER HOUR _____

CONTRIBUTIONS: WEEKLY _____ MONTHLY _____ QUARTERLY _____ ANNUALLY _____

IF YOU USE OTHER PLANS NOT LISTED ABOVE, YOU MAY USE THE BACK OF THIS FORM TO PROVIDE THIS ADDITIONAL INFORMATION



PUBLIC WORKS PAYROLL REPORTING FORM

NAME OF CONTRACTOR: OR SUBCONTRACTOR:		CONTRACTORS LICENSE NO.: _____ ADDRESS: _____ SPECIALTY LICENSE NO.: _____																		
		PAYROLL NO.: _____			FOR WEEK ENDING:			SELF-INSURED CERTIFICATE NO.: _____		PROJECT OR CONTRACT NO.: _____										
		DAY M T W T H F S S			DATE		WORKERS' COMPENSATION POLICY NO.: _____		PROJECT AND LOCATION: _____											
(1) NAME, ADDRESS AND SOCIAL SECURITY NUMBER OF EMPLOYEE	(2) NO. OF WITHHOLDING EXEMPTIONS	(3) WORK CLASSIFICATION	(4)		(5) TOTAL HOURS		(6) HOURLY RATE OF PAY		(8) DEDUCTIONS, CONTRIBUTIONS AND PAYMENTS				(9) NET WGS PAID FOR WEEK	CHECK NO.						
			HOURS WORKED EACH DAY		GROSS AMOUNT EARNED		(7)													
									THIS PROJECT	ALL PROJECTS	FED. TAX	FICA (SOC. SEC.)	STATE TAX	SDI	VAC/ HOLIDAY	HEALTH & WELF.	PENSION			
											TRAINING	FUND ADMIN	DUES	TRAV/ SUBS.	SAVINGS	OTHER*	TOTAL DEDUC-TIONS			
									THIS PROJECT	ALL PROJECTS	FED. TAX	FICA (SOC. SEC.)	STATE TAX	SDI	VAC/ HOLIDAY	HEALTH & WELF.	PENSION			
											TRAINING	FUND ADMIN	DUES	TRAV/ SUBS.	SAVINGS	OTHER*	TOTAL DEDUC-TIONS			
									THIS PROJECT	ALL PROJECTS	FED. TAX	FICA (SOC. SEC.)	STATE TAX	SDI	VAC/ HOLIDAY	HEALTH & WELF.	PENSION			
											TRAINING	FUND ADMIN	DUES	TRAV/ SUBS.	SAVINGS	OTHER*	TOTAL DEDUC-TIONS			

S - STRAIGHT TIME
 O - OVERTIME
 SDI - STATE DISABILITY INSURANCE

*OTHER - Any other deductions, contributions and/or payments whether or not included or required by prevailing wage determinations must be separately listed. Use extra sheet(s) if necessary.

CERTIFICATION MUST be completed
 (See reverse side)

NOTICE TO PUBLIC ENTITY

For Privacy Considerations

Fold back along dotted line prior to copying for release to general public (private persons).

(Paper Size then 8-1/2 x 11 inches)

I, _____, the undersigned, am the
(Name - print)

_____ with the authority to act for and on behalf of
(Position in business)

_____, certify under penalty of perjury
(Name of business and/or contractor)

that the records or copies thereof submitted and consisting of _____
(Description, number of pages)

are the originals or true, full, and correct copies of the originals which depict the payroll record(s)
of the actual disbursements by way of cash, check, or whatever form to the individual or
individuals named.

Date: _____

Signature: _____

A public entity may require a stricter and/or more extensive form of certification.

Comisionado de Labor, Estado de California

Departamento de Relaciones Industriales
División de Enfozamiento de Normas Laborales

DIVISION USE ONLY/SÓLO PARA USO DE LA DIVISIÓN:	
TAKEN BY: _____	CASE # _____
DATE TAKEN: _____	ASSIGNED TO: _____
OFFICE: _____	DATE RECEIVED: _____
	DATE ASSIGNED: _____

RECLAMO DE TRABAJADORES DE OBRAS PÚBLICAS

La siguiente información es importante y se debe proporcionar.

Información del Reclamante/Trabajador			
1. NOMBRE	2. APELLIDO	3. N° DE TELEFONO (DOMICILIO)	4. N° DE TELEFONO (TRABAJO/CELULAR)
5. DIRECCIÓN DE CONTACTO		6. CIUDAD	7. ESTADO/ CÓDIGO POSTAL
8. DIRECCIÓN DE CORREO ELECTRÓNICO			

Información del Proyecto
Nota: Se debe completar un formulario separado para cada proyecto en el que usted alega una violación de los salarios prevalectes.
9. NOMBRE DEL PROYECTO (Si se conoce)
10. UBICACIÓN DEL PROYECTO. DOMICILIO, CIUDAD, CONDADO

Reclamo Contra	
11. NOMBRE DE LA EMPRESA/CONTRATISTA/EMPLEADOR	12. N° DE LICENCIA ESTATAL DEL CONTRATISTA
13. DIRECCIÓN (Incluyendo Código Postal)	14. N° DE TELEFONO DE LA EMPRESA
15. NOMBRE DE LA PERSONA A CARGO / TITULO	16. DIRECCIÓN DE CORREO ELECTRÓNICO
17. ¿SIGUE USTED TRABAJANDO PARA ESTE CONTRATISTA?	

Organismo Acreditador	
18. NOMBRE DE LA AGENCIA PUBLICA/ Organismo Acreditador	
19. DIRECCIÓN DEL ORGANISMO ACREDITADOR	20. N° DE TELEFONO
21. NOMBRE DE LA PERSONA A CARGO / TITULO	22. DIRECCIÓN DE CORREO ELECTRÓNICO
23. FECHA DE INICIO DEL PROYECTO	24. FECHA ESTIMADA DE FINALIZACIÓN
25. FECHA DE AVISO DE FINALIZACION DEL CONTRATO?	

Contratista General (Contratista Principal)	
26. NOMBRE DEL CONTRATISTA GENERAL	27. N° DE LICENCIA ESTATAL DE CONTRATISTA
28. DIRECCIÓN	29. N° DE TELEFONO DE LA EMPRESA
30. NOMBRE DE LA PERSONA A CARGO / TITULO	31. DIRECCIÓN DE CORREO ELECTRÓNICO

Asuntos
32. EXPLICACIÓN BREVE DE LOS ASUNTOS: (Marcar todas las casillas correspondientes)
<input type="checkbox"/> Sin pago / Pago insuficiente de Salarios <input type="checkbox"/> Viaje y subsistencia no pagados <input type="checkbox"/> Horas trabajadas no reportadas correctamente
<input type="checkbox"/> Horas extras/sábado/domingo/días festivos no pagados <input type="checkbox"/> Clasificación del trabajador incorrecta <input type="checkbox"/> Cheque sin fondos
<input type="checkbox"/> Beneficios suplementarios no pagados <input type="checkbox"/> otro _____

(Continúa en la siguiente página)

Información de Empleo

33. ¿CUÁL FUE SU TÍTULO O CLASIFICACIÓN DE TRABAJO?

34. ¿QUÉ TIPO DE TRABAJO REALIZÓ USTED? POR FAVOR EXPLIQUE SUS TAREAS O DEBERES.

35. ¿QUÉ HERRAMIENTAS UTILIZÓ PARA REALIZAR SUS FUNCIONES DE TRABAJO?

36. ¿CÓMO LE PAGARON? Cheque Efectivo Deposito Directo Otro

37. ¿LE DIERON UN TALÓN DE CHEQUE? Sí No

38. ¿CON QUÉ FRECUENCIA LE PAGARON? Por Día Semanal Cada 2 Semanas Mensual Quincenal Otro

39. ¿CUÁNTO LE PAGARON? \$ _____ Por Hora Por Día Por Semana

40. LE PAGARON (Marcar todas las casillas correspondientes)

Tarifa de sobretiempo No ___ Sí ___ \$ _____ Tarifa de Sábado No ___ Sí ___ \$ _____

Tarifa de doble tiempo No ___ Sí ___ \$ _____ Tarifa de Domingos/Días Festivos No ___ Sí ___ \$ _____

41. ¿SU EMPLEADOR CONSERVÓ LOS REGISTROS DE NOMINA Y HORAS TRABAJADAS?

Sí No No Sabe

42. ¿QUIÉN TUVO POSESIÓN DE ESTOS REGISTROS?

43. ¿CONSERVÓ USTED UN REGISTRO PRECISO DE SUS HORAS TRABAJADAS?

Sí No

44. ¿FECHAS EN LAS QUE TRABAJÓ EN ESTE PROYECTO:

45. ¿TRABAJÓ USTED EN OTRO PROYECTO MIENTRAS TRABAJÓ EN ESTE PROYECTO?

Sí No

46. SI LA RESPUESTA ES SÍ, ¿PARA QUIÉN? ¿DÓNDE? ¿CUÁNDO? HORAS:

47. ¿RECIBIO PAGO DE VIAJE Y ESTANCIA?

No Sí \$ _____

48. INFORMACIÓN DE COMPAÑEROS de TRABAJO/TESTIGOS:

Estimar el número de trabajadores con los que usted trabajaba en este proyecto: _____

¿Puede usted proporcionar nombres, direcciones, números telefónicos y tipo de trabajo de otros trabajadores? Por favor enumere sus nombres abajo.

NOMBRE DEL TRABAJADOR	DIRECCIÓN	N °DE TELEFONO	TIPO DE TRABAJO REALIZADO
1)			
2)			
3)			

Por medio de este documento declaro que toda la información proporcionada es correcta y verdadera al mejor de mis conocimientos

MI NOMBRE PUEDE SER UTILIZADO EN ESTA INVESTIGACIÓN. Sí No

Firma

Fecha

Labor Commissioner, State of California

Department of Industrial Relations
Division of Labor Standards Enforcement

DIVISION USE ONLY:	
TAKEN BY: _____	CASE # _____
DATE TAKEN: _____	ASSIGNED TO: _____
OFFICE: _____	DATE RECEIVED: _____
	DATE ASSIGNED: _____

PUBLIC WORKS – WORKER COMPLAINT

The following information is important and must be provided.

Complainant/Worker Information			
1. FIRST NAME	2. LAST NAME	3. HOME TEL. NO.	4. WORK/CELLULAR NO
5. CONTACT ADDRESS		6. CITY	7. STATE/ ZIP CODE
		8. EMAIL ADDRESS	

Project Information	
Note: A separate form must be completed for each project in which you are alleging a violation of prevailing wages.	
9. PROJECT NAME (If known)	
10. LIST THE ADDRESSES OF THE PROJECT WHERE YOU PERFORMED WORK:	

Complaint Against		
11. NAME OF BUSINESS/CONTRACTOR/EMPLOYER		12. CONTRACTOR'S STATE LIC. NO
13. ADDRESS		14. BUSINESS TEL. NO
15. NAME OF PERSON IN CHARGE/ TITLE	16. EMAIL ADDRESS	17. ARE YOU STILL WORKING FOR THIS CONTRACTOR?

Awarding Body		
18. NAME OF PUBLIC AGENCY/AWARDED CONTRACT ENTITY		
19. ADDRESS		20. BUSINESS TEL. NO
21. NAME OF PERSON IN CHARGE/ TITLE		22. EMAIL ADDRESS
23. DATE PROJECT BEGAN	24. ESTIMATED COMPLETION DATE	25. DATE OF NOTICE OF COMPLETION

General Contractor (Prime Contractor)		
26. NAME OF GENERAL CONTRACTOR		27. CONTRACTOR'S STATE LIC.
28. ADDRESS		29. BUSINESS TEL. NO
30. NAME OF PERSON IN CHARGE/ TITLE		31. EMAIL ADDRESS

Issues		
32. BRIEF EXPLANATION OF ISSUES: (Check all applicable boxes)		
<input type="checkbox"/> Non-payment /Underpayment of wages	<input type="checkbox"/> Not paid travel and subsistence	<input type="checkbox"/> Under reporting of hours
<input type="checkbox"/> Unpaid overtime/Sat/Sun/Holiday rate	<input type="checkbox"/> Misclassification of worker	<input type="checkbox"/> Insufficient fund check
<input type="checkbox"/> Fringe benefits not paid	<input type="checkbox"/> Other	

Employment Information

33. WHAT WAS YOUR JOB TITLE?

34. DESCRIBE YOUR JOB DUTIES?

35. WHAT TOOLS DID YOU USE TO PERFORM YOUR JOB DUTIES?

36. HOW WERE YOU PAID? Check Cash Direct Deposit Other

37. WERE YOU GIVEN A CHECK STUB? Yes No

38. HOW OFTEN WERE YOU PAID? Daily Weekly Bi-weekly Monthly Semi-Monthly Other

39. HOW MUCH WERE YOU PAID? \$ _____ Per Hour Per Day Per Week

40. WERE YOU PAID: (Please check all applicable boxes)

Overtime Rate No ___ Yes ___ \$ _____ Saturday Rate No ___ Yes ___ \$ _____

Double Time Rate No ___ Yes ___ \$ _____ Sun/Holiday Rate No ___ Yes ___ \$ _____

41. DID YOUR EMPLOYER KEEP TIME AND PAYROLL RECORDS? Yes No Do Not Know

42. WHO WAS IN POSSESSION OF THESE RECORDS?

43. DID YOU KEEP AN ACCURATE RECORD OF YOUR HOURS WORKED? Yes No

44. DATES YOU WORKED ON THIS PROJECT:

45. DID YOU WORK ON ANOTHER PROJECT AT THE SAME TIME YOU WORKED ON THIS PROJECT? Yes No

46. IF YES, FOR WHO? _____ WHERE? _____ WHEN? _____ HOURS _____

47. DID YOU RECEIVE TRAVEL AND SUBSISTENCE PAYMENT? NO YES, IF YES, HOW MUCH? \$ _____

48. LIST CO-WORKERS/WITNESS INFORMATION:

Estimated number of workers who you are working with in this project: _____

Please provide names, addresses, telephone numbers, and type of work of other workers? Please list their names below. Use additional sheets as necessary.

Name of Worker	Address	Telephone No.	Types of Work Performed
1)			
2)			
3)			

I hereby certify that this is a true statement to the best of my knowledge and belief.

MY NAME MAY BE USED IN THIS INVESTIGATION. Yes No

Signature

Date

Labor Compliance Program Regulations – Appendix B

Audit Record Worksheets [8 Cal. Code Reg. §16432]

- Public Works Investigation Worksheet
- Public Works Audit Worksheet
- Prevailing Wage Determination Summary

PREVAILING WAGE DETERMINATION SUMMARY

CODE NO.	CLASSIFICATION	Effective Date	HOURLY RATE	Contributions	TRAINING	TIME 1/2	SUNDAY	HOLIDAY / TRAVEL & SUBSISTENCE	Other hourly Requirements
1									
2									
3									
4									
5									
6									
7									
8									
9									
10									
11									
12									

WAGE DETERMINATION INFORMATION

CODE NO.	CLASSIFICATION	WAGE DETERMINATION NO.
1		
2		
3		
4		
5		
6		
7		
8		
9		
10		
11		
12		

Suggested Single Project Labor Compliance Review and Enforcement Report Form

[Appendix C following 8 CCR §16434]

Awarding Body: _____

Project Name: _____

Name of Approved Labor Compliance Program: _____

Bid Advertisement Date: _____

Acceptance Date: _____

Notice of Completion Recordation Date: _____

Summary of Labor Compliance Activities

1. Contract Documents Containing Prevailing Wage Requirements (Identify)

2. Prejob Conference(s) -- Attach list(s) of attendees and dates

3. Notification to Project Workers of Labor Compliance Program's Contact Person. (Explain Manner of Notification for each project work site.)

4. Certified Payroll Record Review

- a. CPRs Received From:

Contractor/Subcontractor

For weeks ending ("w/e") through w/e

b. Classifications identified in CPRs and applicable Prevailing Wage Determinations

<u>Classification</u>	<u>Determination No.</u>
_____	_____
_____	_____
_____	_____
_____	_____

5. Further investigation or audit due to CPR review, information or complaint from worker or other interested person, or other reason:

a. Independent Confirmation of CPR Data

<u>Contractor/Subcontractor</u>	<u>Worker Interviews (Yes/No)</u>	<u>Reconciled CPRs with Pay-checks or Stubs (Yes/No)</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

b. Employer Payments (Health & Welfare, Pension, Vacation/Holiday) Confirmation

<u>Contractor/Subcontractor</u>	<u>Recipients of Employer Payments</u>	<u>Written confirmation Obtained (Yes/No)</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

c. Contributions to California Apprenticeship Council or Other Approved Apprenticeship Program

<u>Contractor/Subcontractor</u>	<u>Recipients of Contributions</u>	<u>Written confirmation Obtained (Yes/No)</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

d. Additional Wage Payments or Training Fund Contributions Resulting from Review of CPRs

<u>Contractor/Subcontractor</u>	<u>Additional amounts Paid to Workers</u>	<u>Additional Training Fund</u>	<u>Explanation</u>
_____	_____	_____	*
_____	_____	_____	*
_____	_____	_____	*
_____	_____	_____	*

* Use separate page(s) for explanation

6. Complaints Received Alleging Noncompliance with Prevailing Wage Requirements.

<u>Name of Complainant</u>	<u>Date Received</u>	<u>Resolution or Current Status</u>
_____	_____	*
_____	_____	*
_____	_____	*
_____	_____	*

*Use separate page(s) to explain resolution or current status

7. Requests for Approval of Forfeiture to Labor Commissioner

<u>Contractor/Subcontractor</u>	<u>Date of Request</u>	<u>Approved/Modified/Denied</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

8. Litigation Pending Under Labor Code Section 1742

<u>Contractor/Subcontractor</u>	<u>DIR Case Number</u>
_____	_____
_____	_____
_____	_____

9. (Check one): _____ Final report this project _____ Annual report this project

Authorized Representative for Labor Compliance Program

Labor Compliance Program Regulations – APPENDIX D

REQUEST FOR APPROVAL OF FORFEITURE -- Suggested format

1. AWARDING BODY / THIRD PARTY LCP:

Name and Contact Information:	Date of Request:
Name and Contact Information for Awarding Body if different from LCP:	LCP Approval Status (specify if either interim or temporary or if LCP has extended authority):

2. PROJECT INFORMATION:

Project Name:	Contract Number:
Project Location:	
Bid Advertisement Dates:	Estimated Date Project is to be completed:
Acceptance Date of Project by the Awarding Body:	Notice of Completion/Date Recorded with County Recorder:
Other Relevant Deadline (specify):	Amount being held in Retention:

3. CONTRACTOR INFORMATION:

Name and address of Affected Contractor:	Name and address of Affected Subcontractor:
General Description of Scope of Work of the Entire Project:	
General Description of Scope of Work covered in the proposed Forfeiture (describe and attach relevant portions of contract or subcontract):	

4. LABOR COMPLIANCE PROGRAM INVESTIGATION AND FINDINGS:

Total Amount of Request for Notice of Withholding of Contract Payments:			
Wages Due:	Training Funds Due:	Total Penalties Due:	Potential Liquidated Damages [Wages + Training Funds]:
LC 1775 Penalties Due:	LC 1813 Penalties Due:	LC 1776 Penalties Due:	Other:

[Provide narrative summaries covering the following]:

- A. *Statement of Issues.*
- B. *Investigative Report (detailed narrative including but not limited to how the investigation was conducted including worker declarations, reviewing certified payroll records, verification of employer payment contributions, etc.).*
- C. *Audit Report (detailed explanation of how audit was completed addressing each of the issues above).*
- D. *Affected contractor and subcontractor information (how affected contractor and subcontractor were informed of potential violations; summary of their response with respect to violations and penalty issues; and any other information considered in determining recommended penalties).*
- E. *Recommended penalties under Labor Code Section 1775(a) and basis for recommendation, including how factors in subsection (a)(2) of Section 1775 were applied to arrive at the recommended amount(s).*

ATTACHMENTS

- 1. Audit Summary (Appendix B)
- 2. 1st Bid Advertisement Publication
- 3. Notice of Completion
- 4. Scope of Work
- 5. Complaint form(s) and Declarations, if any

Send the Request and all Attachments to:

Division of Labor Standards Enforcement
Bureau of Field Enforcement
Attn.: Regional Manager
300 Oceangate Blvd., No. 850
Long Beach, CA 90802

COPIES OF THIS REQUEST, INCLUDING ALL ATTACHMENTS, SHALL BE SERVED ON THE AFFECTED CONTRACTOR AND AFFECTED SUBCONTRACTOR AT THE SAME TIME THAT IT IS SENT TO THE DIVISION OF LABOR STANDARDS ENFORCEMENT.

Labor Compliance Program <hr/> <hr/> <hr/> <hr/> Phone: Fax:	(SEAL)
Date:	In Reply Refer to Case No.:

Notice of Withholding of Contract Payments

Awarding Body	Work Performed in County of
Project Name	Project No.
Prime Contractor	
Subcontractor	

After an investigation concerning the payment of wages to workers employed in the execution of the contract for the above-named public works project, the Labor Compliance Program for _____ (Awarding Body) has determined that violations of the California Labor Code have been committed by the contractor and/or subcontractor identified above. In accordance with Labor Code sections 1771.5 and 1771.6, the Labor Compliance Program hereby issues this Notice of Withholding of Contract Payments.

The nature of the violations of the Labor Code and the basis for the assessment are as follows:

The Labor Compliance Program has determined that the total amount of wages due is: \$ _____

The Labor Compliance Program has determined that the total amount of penalties assessed under Labor Code sections 1775 and 1813 is: \$ _____

The Labor Compliance Program has determined that the amount of penalties assessed under Labor Code section 1776 is: \$ _____

LABOR COMPLIANCE PROGRAM

By: _____

Notice of Right to Obtain Review - Formal Hearing

In accordance with Labor Code sections 1742 and 1771.6, an affected contractor or subcontractor may obtain review of this Notice of Withholding of Contract Payments (NWCP) by transmitting a written request to the office of the Labor Compliance Program that appears below within 60 days after service of the notice. **To obtain a hearing, a written Request for Review must be transmitted to the following address:**

Labor Compliance Program

Review Office-Notice of Withholding of Contract Payments

A **Request for Review** either shall clearly identify the Notice of Withholding of Contract Payments from which review is sought, including the date of the notice, or it shall include a copy of the notice as an attachment, and shall also set forth the basis upon which the notice is being contested. In accordance with Labor Code section 1742, the contractor or subcontractor shall be provided an opportunity to review evidence to be utilized by the Labor Compliance Program at the hearing within 20 days of the Labor Compliance Program's receipt of the written **Request for Review**.

Failure by a contractor or subcontractor to submit a timely Request for Review will result in a final order which shall be binding on the contractor and subcontractor, and which shall also be binding, with respect to the amount due, on a bonding company issuing a bond that secures the payment of wages and a surety on a bond. Labor Code section 1743.

In accordance with Labor Code section 1742(d), a certified copy of a final order may be filed by the Labor Commissioner in the office of the clerk of the superior court in any county in which the affected contractor or subcontractor has property or has or had a place of business. The clerk, immediately upon the filing, shall enter judgment for the State against the person assessed in the amount shown on the certified order.

(continued on next page)

Opportunity for Settlement Meeting

In accordance with Labor Code Section 1742.1 (c), the Labor Compliance Program shall, upon receipt of a request from the affected contractor or subcontractor within 30 days following the service of this Notice of Withholding of Contract Payments, afford the contractor or subcontractor the opportunity to meet with the Labor Compliance Program's designee to attempt to settle a dispute regarding this Notice. The settlement meeting may be held in person or by telephone and shall take place before the expiration of the 60-day period for seeking a hearing as set forth above under the heading Notice of Right to Obtain Review. No evidence of anything said or any admission made for the purpose of, in the course of, or pursuant to, the settlement meeting is admissible or subject to discovery in any administrative or civil proceeding. No writing prepared for the purpose of, in the course of, or pursuant to, the settlement meeting, other than a final settlement agreement, is admissible or subject to discovery in any administrative or civil proceeding. This opportunity to timely request an informal settlement meeting is **in addition** to the right to obtain a formal hearing, and a settlement meeting may be requested even if a written **Request for Review** has already been made. Requesting a settlement meeting, however, does not extend the 60-day period during which a formal hearing may be requested.

A written request to meet with the Labor Compliance Program's designee to attempt to settle a dispute regarding this notice must be transmitted to _____ at the following address:

Liquidated Damages

In accordance with Labor Code section 1742.1 (a), after 60 days following the service of this Notice of Withholding of Contract Payments, the affected contractor, subcontractor, and surety on a bond or bonds issued to secure the payment of wages covered by the notice shall be liable for liquidated damages in an amount equal to the wages, or portion thereof that still remain unpaid. If this Notice subsequently is overturned or modified after administrative or judicial review, liquidated damages shall be payable only on the wages found to be due and unpaid. If the contractor or subcontractor demonstrates to the satisfaction of the Director of the Department of Industrial Relations that he or she had substantial grounds for believing this Notice to be an error, the Director shall waive payment of the liquidated damages.

Notwithstanding the above, in accordance with Labor Code 1742.1 (b), there shall be no liability for liquidated damages if the full amount found due in this Notice, including penalties, has been deposited with the Department of Industrial Relations, within 60 days following service of this Notice, for the Department to hold in escrow pending administrative and judicial review. The Department shall release such funds, plus any interest earned, at the conclusion of all administrative and judicial review to the persons and entities who are found to be entitled to such funds.

In lieu of a cash deposit, the contractor may post an undertaking with the Department in full amount of the Notice of Withholding of Contract Payments. The undertaking shall be on the condition that, if any decision is issued by the Director upholding this Notice in any respect, the contractor shall pay the amount owed pursuant to a decision that is final under Labor Code Section 1742, unless the parties have executed a settlement agreement for the payment of some other amount, in which case the contractor shall pay the

amount that the contractor is obligated to pay under the terms of the settlement agreement. The undertaking must provide that if the contractor fails to pay the amount owed within 10 days of the date the decision is final or the execution of the settlement agreement, a portion of the undertaking equal to the amount owed, or the entire undertaking if the amount exceeds the undertaking is forfeited to the Labor Commissioner for the State of California for the purpose of satisfying the amounts owed under this Notice. A payment bond obtained by a contractor for the public works project which is the subject to this Notice shall not be accepted as an undertaking unless the following two conditions are completely satisfied: (1) the payment bond provides the payment of the full amount of this Notice, including but not limited to, all wages, training, trust contributions, and penalties, and (2) the conditions of payment set forth above are expressly agreed to by the affected contractor(s) and the surety which issued the payment bond. The undertaking should be forwarded to the Department as directed below. The Department's Accounting Office will hold the undertaking until the administrative and judicial review is completed. The disbursement of the bond funds will follow the same process as described above for a cash deposit.

Deposits must be made by check or money order payable to the Department of Industrial Relations with a letter and a copy of the Notice of Withhold Contract Payments and mailed to:

Department of Industrial Relations
Attention Cashiering Unit
P.O. Box 420603
San Francisco, CA 94142

The Amount of Liquidated Damages Available Under this Notice is \$_____.

Distribution:

Prime Contractor
Subcontractor
Surety(s) on Bond

Attach:

Audit Summary
Proof of Service

Request to review evidence

To: _____

From: _____

Regarding Notice of Withholding of Contract Payments Dated _____

Our Case No.: _____

The undersigned hereby requests an opportunity to review evidence to be utilized by the Labor Compliance Program at the hearing on the Request for Review.

Phone No.: _____
Fax No.: _____

LCP Contact Information	Awarding body seal if applicable
Date:	Re: Request for Review dated

Notice of Transmittal

To: Department of Industrial Relations
Office of the Director-Legal Unit
Attention: Lead Hearing Officer
P. O. Box 420603
San Francisco, CA 94142-0603

Enclosed herewith please find a Request for Review, dated _____, and received by the _____, (LCP Administrator with LCP ID number) for the _____ School District, on (date). Also enclosed please find the following:

- ____ Copy of Notice of Withholding of Contract Payments
- ____ Copy of Audit Summary

By: _____
LCP Administrator Rep

cc: Prime Contractor:
Affected Contractor:
Surety(s) on Bond:

Please be advised that the attached Request for Review identified above has been received and transmitted to the address indicated. Please be further advised that the governing procedures applicable to these hearings are set forth at Title 8, California Code of Regulations sections 17201-17270. These hearings are not governed by Chapter 5 of the Government Code, commencing with section 11500.

LABOR COMPLIANCE PROGRAM ANNUAL REPORT

Format for Awarding Body that enforces its own Labor Compliance Program for some but not all projects

Report for the reporting period _____ to _____
(mm/dd/yyyy) (mm/dd/yyyy)

1. Name of Labor Compliance Program (LCP):	
2. LCP I.D. Number (assigned by DIR):	3. Date of Initial Approval:
4. Contact person (include name, title, address, telephone, fax, and e-mail, if available):	
5. Did LCP perform any LC § 1771.5 enforcement activities during the 12 months in the reporting period? Please check one: <input type="checkbox"/> Yes If Yes, proceed to item 6 on the next page <input type="checkbox"/> No If No, complete the information below, sign the form and submit to DIR, Office of the Director, Attn: LCP Special Assistant, 1515 Clay Street, 17th Floor, Oakland CA 94612	
What suggestions do you have for the Department of Industrial Relations to better assist you with your program in the coming year? (attach additional sheets if necessary)	
SUBMITTED BY:	
Signature _____	Name and Title _____
	Date _____

LCP-ARI

C. For any amount identified in item B for which approval of forfeiture not requested from the Labor Commissioner, please explain below.

Project Name	Amount Assessed	Amount Recovered	Explanation
Total			

D. For any amount identified in item B for which approval of forfeiture was requested from the Labor Commissioner, please provide the following:

Project Name	Amount Assessed			Amount Recovered		
	LC § 1776(g)	LC § 1775	LC § 1813	LC § 1776(g)	LC § 1775	LC § 1813
Total						

E. Identify cases that are or were the subject of LC § 1742 proceedings.

Project Name	Contractor	Nature of Violation	ODL Case #	Current Status

F. Did you refer any contractor to the Labor Commissioner for debarment per LC § 1777.1?

Please check one: Yes No

If yes, identify affected contractor(s) or subcontractor(s) and date(s) of referral: _____

G. Did you refer any apprenticeship violation to the Division of Apprenticeship Standards (DAS)?

Please check one: Yes No

If yes, identify affected contractor(s) or subcontractor(s) and date(s) of referral: _____

STATEMENT OF ECONOMIC INTERESTS
COVER PAGE

Please type or print in ink.

NAME OF FILER (LAST) _____ (FIRST) _____ (MIDDLE) _____

1. Office, Agency, or Court

Agency Name *(Do not use acronyms)* _____

Division, Board, Department, District, if applicable _____ Your Position _____

► If filing for multiple positions, list below or on an attachment. *(Do not use acronyms)*

Agency: _____ Position: _____

2. Jurisdiction of Office *(Check at least one box)*

- | | |
|---|---|
| <input type="checkbox"/> State | <input type="checkbox"/> Judge or Court Commissioner (Statewide Jurisdiction) |
| <input type="checkbox"/> Multi-County _____ | <input type="checkbox"/> County of _____ |
| <input type="checkbox"/> City of _____ | <input type="checkbox"/> Other _____ |

3. Type of Statement *(Check at least one box)*

- | | |
|---|--|
| <input type="checkbox"/> Annual: The period covered is January 1, 2016, through December 31, 2016. | <input type="checkbox"/> Leaving Office: Date Left ____/____/____
<i>(Check one)</i> |
| -or- | <input type="radio"/> The period covered is January 1, 2016, through the date of leaving office. |
| The period covered is ____/____/____, through December 31, 2016. | -or- |
| <input type="checkbox"/> Assuming Office: Date assumed ____/____/____ | <input type="radio"/> The period covered is ____/____/____, through the date of leaving office. |
| <input type="checkbox"/> Candidate: Election year _____ and office sought, if different than Part 1: _____ | |

4. Schedule Summary (must complete) ► Total number of pages including this cover page: _____

Schedules attached

- | | |
|--|--|
| <input type="checkbox"/> Schedule A-1 - Investments – schedule attached | <input type="checkbox"/> Schedule C - Income, Loans, & Business Positions – schedule attached |
| <input type="checkbox"/> Schedule A-2 - Investments – schedule attached | <input type="checkbox"/> Schedule D - Income – Gifts – schedule attached |
| <input type="checkbox"/> Schedule B - Real Property – schedule attached | <input type="checkbox"/> Schedule E - Income – Gifts – Travel Payments – schedule attached |

-or-

None - No reportable interests on any schedule

5. Verification

MAILING ADDRESS _____ STREET _____ CITY _____ STATE _____ ZIP CODE _____
(Business or Agency Address Recommended - Public Document)

DAYTIME TELEPHONE NUMBER _____ E-MAIL ADDRESS _____
 () _____

I have used all reasonable diligence in preparing this statement. I have reviewed this statement and to the best of my knowledge the information contained herein and in any attached schedules is true and complete. I acknowledge this is a public document.

I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date Signed _____
(month, day, year)

Signature _____
(File the originally signed statement with your filing official.)

SCHEDULE A-2
Investments, Income, and Assets
of Business Entities/Trusts
(Ownership Interest is 10% or Greater)

▶ 1. BUSINESS ENTITY OR TRUST

Name _____

Address (Business Address Acceptable) _____

Check one
 Trust, go to 2 Business Entity, complete the box, then go to 2

GENERAL DESCRIPTION OF THIS BUSINESS

FAIR MARKET VALUE IF APPLICABLE, LIST DATE:

\$0 - \$1,999 _____ / _____ / 16 _____ / _____ / 16
 \$2,000 - \$10,000 ACQUIRED DISPOSED
 \$10,001 - \$100,000
 \$100,001 - \$1,000,000
 Over \$1,000,000

NATURE OF INVESTMENT
 Partnership Sole Proprietorship _____ Other _____

YOUR BUSINESS POSITION _____

▶ 1. BUSINESS ENTITY OR TRUST

Name _____

Address (Business Address Acceptable) _____

Check one
 Trust, go to 2 Business Entity, complete the box, then go to 2

GENERAL DESCRIPTION OF THIS BUSINESS

FAIR MARKET VALUE IF APPLICABLE, LIST DATE:

\$0 - \$1,999 _____ / _____ / 16 _____ / _____ / 16
 \$2,000 - \$10,000 ACQUIRED DISPOSED
 \$10,001 - \$100,000
 \$100,001 - \$1,000,000
 Over \$1,000,000

NATURE OF INVESTMENT
 Partnership Sole Proprietorship _____ Other _____

YOUR BUSINESS POSITION _____

▶ 2. IDENTIFY THE GROSS INCOME RECEIVED (INCLUDE YOUR PRO RATA SHARE OF THE GROSS INCOME TO THE ENTITY/TRUST)

\$0 - \$499 \$10,001 - \$100,000
 \$500 - \$1,000 OVER \$100,000
 \$1,001 - \$10,000

▶ 2. IDENTIFY THE GROSS INCOME RECEIVED (INCLUDE YOUR PRO RATA SHARE OF THE GROSS INCOME TO THE ENTITY/TRUST)

\$0 - \$499 \$10,001 - \$100,000
 \$500 - \$1,000 OVER \$100,000
 \$1,001 - \$10,000

▶ 3. LIST THE NAME OF EACH REPORTABLE SINGLE SOURCE OF INCOME OF \$10,000 OR MORE (Attach a separate sheet if necessary.)

None or Names listed below

▶ 3. LIST THE NAME OF EACH REPORTABLE SINGLE SOURCE OF INCOME OF \$10,000 OR MORE (Attach a separate sheet if necessary.)

None or Names listed below

▶ 4. INVESTMENTS AND INTERESTS IN REAL PROPERTY HELD OR LEASED BY THE BUSINESS ENTITY OR TRUST

Check one box:
 INVESTMENT REAL PROPERTY

Name of Business Entity, if Investment, or Assessor's Parcel Number or Street Address of Real Property _____

Description of Business Activity or City or Other Precise Location of Real Property _____

FAIR MARKET VALUE IF APPLICABLE, LIST DATE:

\$2,000 - \$10,000 _____ / _____ / 16 _____ / _____ / 16
 \$10,001 - \$100,000 ACQUIRED DISPOSED
 \$100,001 - \$1,000,000
 Over \$1,000,000

NATURE OF INTEREST
 Property Ownership/Deed of Trust Stock Partnership

Leasehold _____ Yrs. remaining Other _____

Check box if additional schedules reporting investments or real property are attached

▶ 4. INVESTMENTS AND INTERESTS IN REAL PROPERTY HELD OR LEASED BY THE BUSINESS ENTITY OR TRUST

Check one box:
 INVESTMENT REAL PROPERTY

Name of Business Entity, if Investment, or Assessor's Parcel Number or Street Address of Real Property _____

Description of Business Activity or City or Other Precise Location of Real Property _____

FAIR MARKET VALUE IF APPLICABLE, LIST DATE:

\$2,000 - \$10,000 _____ / _____ / 16 _____ / _____ / 16
 \$10,001 - \$100,000 ACQUIRED DISPOSED
 \$100,001 - \$1,000,000
 Over \$1,000,000

NATURE OF INTEREST
 Property Ownership/Deed of Trust Stock Partnership

Leasehold _____ Yrs. remaining Other _____

Check box if additional schedules reporting investments or real property are attached

Comments: _____

SCHEDULE C
Income, Loans, & Business
Positions
 (Other than Gifts and Travel Payments)

CALIFORNIA FORM 700
 FAIR POLITICAL PRACTICES COMMISSION

Name _____

▶ 1. INCOME RECEIVED

NAME OF SOURCE OF INCOME _____

ADDRESS (Business Address Acceptable) _____

BUSINESS ACTIVITY, IF ANY, OF SOURCE _____

YOUR BUSINESS POSITION _____

GROSS INCOME RECEIVED No Income - Business Position Only
 \$500 - \$1,000 \$1,001 - \$10,000
 \$10,001 - \$100,000 OVER \$100,000

CONSIDERATION FOR WHICH INCOME WAS RECEIVED
 Salary Spouse's or registered domestic partner's income
 (For self-employed use Schedule A-2.)
 Partnership (Less than 10% ownership. For 10% or greater use
 Schedule A-2.)
 Sale of _____
 (Real property, car, boat, etc.)
 Loan repayment
 Commission or Rental Income, list each source of \$10,000 or more

 (Describe)
 Other _____
 (Describe)

▶ 1. INCOME RECEIVED

NAME OF SOURCE OF INCOME _____

ADDRESS (Business Address Acceptable) _____

BUSINESS ACTIVITY, IF ANY, OF SOURCE _____

YOUR BUSINESS POSITION _____

GROSS INCOME RECEIVED No Income - Business Position Only
 \$500 - \$1,000 \$1,001 - \$10,000
 \$10,001 - \$100,000 OVER \$100,000

CONSIDERATION FOR WHICH INCOME WAS RECEIVED
 Salary Spouse's or registered domestic partner's income
 (For self-employed use Schedule A-2.)
 Partnership (Less than 10% ownership. For 10% or greater use
 Schedule A-2.)
 Sale of _____
 (Real property, car, boat, etc.)
 Loan repayment
 Commission or Rental Income, list each source of \$10,000 or more

 (Describe)
 Other _____
 (Describe)

▶ 2. LOANS RECEIVED OR OUTSTANDING DURING THE REPORTING PERIOD

* You are not required to report loans from commercial lending institutions, or any indebtedness created as part of a retail installment or credit card transaction, made in the lender's regular course of business on terms available to members of the public without regard to your official status. Personal loans and loans received not in a lender's regular course of business must be disclosed as follows:

NAME OF LENDER* _____

ADDRESS (Business Address Acceptable) _____

BUSINESS ACTIVITY, IF ANY, OF LENDER _____

HIGHEST BALANCE DURING REPORTING PERIOD
 \$500 - \$1,000
 \$1,001 - \$10,000
 \$10,001 - \$100,000
 OVER \$100,000

INTEREST RATE _____% None

TERM (Months/Years) _____

SECURITY FOR LOAN
 None Personal residence
 Real Property _____
 Street address _____
 City _____
 Guarantor _____
 Other _____
 (Describe)

Comments: _____

SCHEDULE D
Income – Gifts

Name _____

▶ NAME OF SOURCE *(Not an Acronym)*

ADDRESS *(Business Address Acceptable)*

BUSINESS ACTIVITY, IF ANY, OF SOURCE

DATE (mm/dd/yy)	VALUE	DESCRIPTION OF GIFT(S)
___/___/___	\$ _____	_____
___/___/___	\$ _____	_____
___/___/___	\$ _____	_____

▶ NAME OF SOURCE *(Not an Acronym)*

ADDRESS *(Business Address Acceptable)*

BUSINESS ACTIVITY, IF ANY, OF SOURCE

DATE (mm/dd/yy)	VALUE	DESCRIPTION OF GIFT(S)
___/___/___	\$ _____	_____
___/___/___	\$ _____	_____
___/___/___	\$ _____	_____

▶ NAME OF SOURCE *(Not an Acronym)*

ADDRESS *(Business Address Acceptable)*

BUSINESS ACTIVITY, IF ANY, OF SOURCE

DATE (mm/dd/yy)	VALUE	DESCRIPTION OF GIFT(S)
___/___/___	\$ _____	_____
___/___/___	\$ _____	_____
___/___/___	\$ _____	_____

▶ NAME OF SOURCE *(Not an Acronym)*

ADDRESS *(Business Address Acceptable)*

BUSINESS ACTIVITY, IF ANY, OF SOURCE

DATE (mm/dd/yy)	VALUE	DESCRIPTION OF GIFT(S)
___/___/___	\$ _____	_____
___/___/___	\$ _____	_____
___/___/___	\$ _____	_____

▶ NAME OF SOURCE *(Not an Acronym)*

ADDRESS *(Business Address Acceptable)*

BUSINESS ACTIVITY, IF ANY, OF SOURCE

DATE (mm/dd/yy)	VALUE	DESCRIPTION OF GIFT(S)
___/___/___	\$ _____	_____
___/___/___	\$ _____	_____
___/___/___	\$ _____	_____

▶ NAME OF SOURCE *(Not an Acronym)*

ADDRESS *(Business Address Acceptable)*

BUSINESS ACTIVITY, IF ANY, OF SOURCE

DATE (mm/dd/yy)	VALUE	DESCRIPTION OF GIFT(S)
___/___/___	\$ _____	_____
___/___/___	\$ _____	_____
___/___/___	\$ _____	_____

Comments: _____

SCHEDULE E

Income – Gifts

Travel Payments, Advances, and Reimbursements

Name _____

- Mark either the gift or income box.
- Mark the "501(c)(3)" box for a travel payment received from a nonprofit 501(c)(3) organization or the "Speech" box if you made a speech or participated in a panel. These payments are not subject to the gift limit, but may result in a disqualifying conflict of interest.
- For gifts of travel, provide the travel destination.

<p>▶ NAME OF SOURCE <i>(Not an Acronym)</i></p> <p>_____ ADDRESS <i>(Business Address Acceptable)</i></p> <p>_____ CITY AND STATE</p> <p><input type="checkbox"/> 501 (c)(3) or DESCRIBE BUSINESS ACTIVITY, IF ANY, OF SOURCE</p> <p>_____ DATE(S): ____/____/____ - ____/____/____ AMT: \$_____ <i>(If gift)</i></p> <p>▶ MUST CHECK ONE: <input type="checkbox"/> Gift -or- <input type="checkbox"/> Income</p> <p><input type="radio"/> Made a Speech/Participated in a Panel</p> <p><input type="radio"/> Other - Provide Description _____</p> <p>▶ If Gift, Provide Travel Destination _____</p>	<p>▶ NAME OF SOURCE <i>(Not an Acronym)</i></p> <p>_____ ADDRESS <i>(Business Address Acceptable)</i></p> <p>_____ CITY AND STATE</p> <p><input type="checkbox"/> 501 (c)(3) or DESCRIBE BUSINESS ACTIVITY, IF ANY, OF SOURCE</p> <p>_____ DATE(S): ____/____/____ - ____/____/____ AMT: \$_____ <i>(If gift)</i></p> <p>▶ MUST CHECK ONE: <input type="checkbox"/> Gift -or- <input type="checkbox"/> Income</p> <p><input type="radio"/> Made a Speech/Participated in a Panel</p> <p><input type="radio"/> Other - Provide Description _____</p> <p>▶ If Gift, Provide Travel Destination _____</p>
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Comments: _____

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Chapter 8. Office of the Director
Subchapter 3. Payment of Prevailing Wages upon Public Works
Article 6. Certified Payroll Records: Requests, Content, and Cost

[New Query](#)

§16401. Reporting of Payroll Requests.

(a) Reporting Format. The format for reporting of payroll records requested pursuant to Labor Code Section 1776 shall be on a form provided by the public entity. Copies of the forms may be procured at any office of the Division of Labor Standards Enforcement (DLSE) throughout the state and/or:

Division of Labor Statistics & Research P.O. Box 420603 San Francisco, CA 94101

ATTENTION: Prevailing Wage Unit

Acceptance of any other format shall be conditioned upon the requirement that the alternate format contain all of the information required pursuant to Labor Code Section 1776. If, however, the contractor does not comply with the provisions of Labor Code Section 1776, the Labor Commissioner may require the use of DIR's suggested format, "Public Works Payroll Reporting Form" (Form A-1-131).

(b) Words of Certification. The form of certification shall be as follows: I, _____ (Name-print) the undersigned, am _____ (position in business) with the authority to act for and on behalf of _____, (name of business and/or contractor) certify under penalty of perjury that the records or copies thereof submitted and consisting of _____ (description, no. of pages) are the originals or true, full and correct copies of the originals which depict the payroll record(s) of the actual disbursements by way of cash, check, or whatever form to the individual or individuals named. Date: _____
 Signature: _____

A public entity may require a more strict and/or more extensive form of certification.

NOTE: Authority cited: Sections 54 and 1773.5, Labor Code. Reference: Section 1776, Labor Code.

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Chapter 8. Office of the Director

Subchapter 3. Payment of Prevailing Wages upon Public Works

Article 6. Certified Payroll Records: Requests, Content, and Cost

New Query

§16402. Cost.

The cost of preparation to each contractor, subcontractor, or public entity when the request was made shall be provided in advance by the person seeking the payroll record. Such cost shall be \$1 for the first page of the payroll record and 25 cents for each page thereafter, plus \$10 to the contractor or subcontractor for handling costs. Payment in the form of cash, check or certified money order shall be made prior to release of the documents to cover the actual costs of preparation.

NOTE: Authority cited: Section 1776, Labor Code. Reference: Section 1776(h), Labor Code.

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Chapter 8. Office of the Director
Subchapter 3. Payment of Prevailing Wages upon Public Works
Article 6. Certified Payroll Records: Requests, Content, and Cost

New Query

§16403. Privacy Considerations.

(a) Records received from the employing contractor shall be kept on file in the office or entity that processed the request for at least 6 months following completion and acceptance of the project. Thereafter, they may be destroyed unless administrative, judicial or other pending litigation, including arbitration, mediation or other methods of dispute resolution, are in process. Copies on file shall not be obliterated in the manner prescribed in subdivision (b) below;

(b) copies provided to the public upon written request shall be marked, obliterated or provided in such a manner that the name, address and Social Security number, and other private information pertaining to each employee cannot be identified. All other information including identification of the contractor shall not be obliterated;

(c) the public entity may affirm or deny that a person(s) was or is employed on a public works contract (by a specific contractor) when asked, so long as the entity requires such information of an identifying nature which will reasonably preclude release of private or confidential information.

NOTE: Authority cited: Sections 54, 1773.5 and 1776, Labor Code. Reference: Section 1776, Labor Code.

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**San Mateo County Flood and Sea Level Rise Resiliency District
Agenda Report**

Date: June 28, 2021
To: San Mateo County Flood and Sea Level Rise Resiliency District Board of Directors
From: Len Materman, CEO
Subject: Adopt Resolution 2021-06-28-B Authorizing CEO to Execute Change Orders for the Bayfront Canal and Atherton Channel Project

Recommendation:

That the San Mateo County Flood and Sea Level Rise Resiliency District (“District”) Board of Directors (“Board”) adopt Resolution 2021-06-28-B authorizing the Chief Executive Officer (“CEO”) to execute change orders totaling no more than \$200,000 above the not-to-exceed amount in the construction contract for the Bayfront Canal & Atherton Channel Flood Protection and Ecosystem Restoration Project (“Project”).

Background and Discussion:

On April 26, 2021, the Board authorized the CEO to enter into Agreement 2021-04-26-GRC (“Agreement”) with Granite Rock Company to construct the Project. The not-to-exceed amount under the Agreement is \$6,864,983, with a term ending approximately April 22, 2022.

Construction is now underway and, as is the case with nearly every construction project, change orders are expected. However, the authority granted to the CEO regarding the Agreement did not include the authority to approve change orders that would bring the amount of the Agreement over \$6,864,983. The California Department of Water Resources has awarded a grant of over \$1.1 million for the Project, provided that construction is completed by December 31, 2021. Thus, avoiding construction-related delays is critical.

To help avoid such delays and ensure change orders are approved in a timely manner, staff recommends that the Board authorize the CEO to enter into change orders for the Project that increase the District’s maximum fiscal obligation under the Agreement by no more than \$200,000 in the aggregate, which is less than 3% of the not-to-exceed amount, subject to the CEO reporting back to the Board regarding all such change orders at the Board’s next meeting following approval. This, staff believes, will provide the CEO with reasonable flexibility while maintaining Board oversight.

Fiscal Impact on District Resources:

Approval of this resolution will allow the CEO to execute change orders totaling no more than \$200,000 above the current \$6,864,983 not-to-exceed amount in the Agreement. The funds provided by the Memorandum of Understanding between the funding agencies approved by the Board on November 9, 2020 are sufficient to cover this amount.

Attachment:

Draft Resolution 2021-06-28-B Authorizing CEO to Execute Change Orders for the Bayfront Canal and Atherton Channel Project



DRAFT RESOLUTION NO. 2021-06-28-B

**RESOLUTION OF THE BOARD OF DIRECTORS OF THE
SAN MATEO COUNTY FLOOD AND SEA LEVEL RISE RESILIENCY DISTRICT
AUTHORIZING THE CHIEF EXECUTIVE OFFICER TO ENTER INTO CHANGE ORDERS
FOR THE BAYFRONT CANAL & ATHERTON CHANNEL PROJECT**

RESOLVED, by the Board of Directors (the “Board”) of the San Mateo County Flood and Sea Level Rise Resiliency District (the “District”) that:

WHEREAS, on April 26, 2021, the Board authorized the Chief Executive Officer (“CEO”) to enter into Agreement 2021-04-26-GRC (“Agreement”) with Granite Rock Company to construct the Bayfront Canal & Atherton Channel Flood Protection and Ecosystem Restoration Project (“Project”) for an amount not to exceed \$6,864,983 through a term ending approximately April 22, 2022; and

WHEREAS, this authorization granted to the CEO did not include the authority to enter into change orders for the Project that, if approved, could exceed the District’s maximum fiscal obligation of \$6,864,983 under the Agreement; and

WHEREAS, construction of the Project is now underway and the Board recognizes that the CEO should have reasonable flexibility to approve change orders for the Project in order to help avoid construction-related delays; and

WHEREAS, the Board desires to grant the CEO authority to enter into change orders for the Project that increase the District’s maximum fiscal obligation under the Agreement by no more than \$200,000 in the aggregate, which is less than 3% of the existing \$6,864,983 not-to-exceed amount, subject to the CEO reporting back to the Board regarding all such change orders at its next meeting.

NOW, THEREFORE, BE IT RESOLVED, that the CEO, or designee(s), is authorized to enter into, and take all steps necessary to implement, change orders for the Project that increase the District’s maximum fiscal obligation under the Agreement by no more than \$200,000 in the aggregate, and the CEO shall report back to the Board regarding all such change orders at the Board’s next meeting following approval of the change order(s).

PASSED AND ADOPTED this 28th day of June, 2021, by the following vote:

AYES:

NOES:

ABSENT:

ATTEST:

APPROVED:

Clerk of the Board of Directors

Chair of the Board of Directors

San Mateo County Flood and Sea Level Rise Resiliency District
Agenda Report

Date: June 28, 2021
To: San Mateo County Flood and Sea Level Rise Resiliency District Board of Directors
From: Len Materman, CEO
Subject: Adopt a Drug-Free Workplace Policy for the District

Recommendation:

That the San Mateo County Flood and Sea Level Rise Resiliency District (“District”) Board of Directors (“Board”) approve and adopt a Drug-Free Workplace Policy for the District.

Background and Discussion:

Government Code Section 8355 requires all recipients of State grants to certify that they will provide a drug-free workplace. To comply with this requirement, and to reflect the District’s position on drug and alcohol use in the workplace, staff has developed a Drug-Free Workplace Policy (“Policy”). The Policy is intended to deter informal practices that may exist in connection with drug and alcohol problems.

As required by Section 8355(a)(2), the Policy informs employees about: (1) the dangers of drug (and alcohol) abuse in the workplace; (2) the District’s policy of maintaining a drug-free workplace; (3) available counseling, rehabilitation, and employee assistance programs; and (4) penalties that may be imposed for drug and alcohol abuse violations. Further, as required by Section 8355(a)(1), the Policy includes a statement notifying employees that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited in the workplace and specifies that actions will be taken against employees for violations of the prohibition.

If approved, this Policy will take effect immediately, will be posted on the District’s website, and each employee shall receive a copy for their records.

Fiscal Impact on District Resources:

There is no fiscal impact on District resources associated with the adoption of this Policy.

Attachment:

Draft Drug-Free Workplace Policy



San Mateo County Flood and Sea Level Rise Resiliency District

Draft Drug-Free Workplace Policy

Purpose

This Drug-Free Workplace Policy (Policy) reflects the San Mateo County Flood and Sea Level Rise Resiliency District's (District) position regarding drugs and alcohol in the workplace. The Policy is intended to support employees that have a drug or alcohol problem, and deter the use of illegal drugs or alcohol in the workplace and practices that do not result in solutions to this problem.

Policy

It is the District's policy to provide a drug-free workplace, as the abuse of drugs and alcohol adversely affects health, safety, security, and productivity, as well as public confidence and trust. The District recognizes that a drug or alcohol problem exists when it interferes with job performance.

The District further recognizes that a drug or alcohol problem is treatable, and that the social stigma often associated with drug and alcohol problems is inappropriate and can be an impediment to effective treatment. Employees who suspect that they may have a drug or alcohol problem are encouraged to seek counseling, rehabilitation, and/or other appropriate assistance, and all employees are assured that they will not suffer any employment-related repercussions by seeking help or referral to deal with a drug or alcohol-related problem.

Supervisors should not attempt to diagnose a drug or alcohol problem of an employee. Supervisor-initiated referral for diagnosis and treatment should be based strictly on unsatisfactory job performance or attendance problems resulting from apparent behavioral issues, whatever their nature. It will be the responsibility of the employee to comply with the referral for diagnosis and to cooperate with the prescribed treatment. An employee's refusal to accept diagnosis or treatment, or failure to respond to treatment, will be handled in the same manner as other problems when job performance or attendance continues to be adversely affected.

Employees with drug or alcohol problems will receive the same consideration and opportunities for treatment that are presently extended to employees with any other problems. The District recognizes each employee's right to confidentiality and privacy, and the pertinent information and records of employees with a drug or alcohol problem will be preserved in the same manner as all other confidential records.

Implementation of this Policy will not require or result in any special regulations, privileges, or exemptions from the standard administrative practices applicable to job performance requirements.

The illegal manufacture, distribution, dispensation, possession, or use of a controlled substance, and/or illegally acting under the influence of a controlled substance, is prohibited in the workplace.

Employees may be penalized, up to termination of employment, for violating this Policy, and must notify the District within five (5) days of any criminal conviction for a drug statute violation occurring in the workplace.

San Mateo County Flood and Sea Level Rise Resiliency District Agenda Report

Date: June 28, 2021
To: San Mateo County Flood and Sea Level Rise Resiliency District Board of Directors
From: Len Materman, CEO
Subject: Approve the Draft Fiscal Year 2021-22 Operating Budget, Flood Zones Budget, and Capital Projects Budget

Recommendation:

That the San Mateo County Flood and Sea Level Rise Resiliency District (“District”) Board of Directors (“Board”) approve the Draft Fiscal Year 2021-22 Operating Budget, Flood Zones Budget, and Capital Projects Budget.

Background and Discussion:

At the last Board meeting on May 24, 2021, we discussed the District’s current fiscal year (FY2020-21) budgets and early drafts of the upcoming fiscal year (FY2021-22) budgets in order to lay the groundwork for Board approval at the June 28 meeting of the FY2021-22 budgets of revenues and expenses that reflect our staffing and priorities in advance of the beginning of the next fiscal year on July 1st. At this Board meeting, we will discuss in detail the proposed budgets attached to the Agenda Report.

The District’s first (FY2020-21) Operating Budget approved by the Board on June 8, 2020, included separate columns for general administration and project-related activities associated with the County’s former Flood Resilience Program. For next year’s (FY2021-22) Operating Budget -- included as Attachment 1 to this Agenda Report -- I have simplified this by combining revenue and expenses related to District operations and staffing, similar to the approach of many public agencies. District operating revenue includes annual contributions by the County and all twenty cities within it consistent with these agencies’ three-year commitment to support the District’s start-up period, plus an additional \$500,000 from County Measure K funds. Despite increased activity, we are holding District operating expenses next year to \$1.5 million. This will result in a surplus that, when combined with the surplus from FY2020-21, builds up reserves to almost \$2.7 million on June 30, 2022. Building this surplus is important to ensure funding for District operations beyond the three-year start up period.

Last June, the Board also approved an FY2020-21 Budget for Active Flood Zones to cover activities within the three long-standing flood zones along Colma, San Bruno, and San Francisquito creeks. That budget separated the County from other consultants providing services to the District. For the new FY2021-22 Flood Zones Budget -- included as Attachment 2 to this Agenda Report -- the costs of all consultants, including the County, are now incorporated into the same expense categories. The two largest expense categories in the proposed FY2021-22 Flood Zones Budget are for the planning, design, and construction of maintenance projects and for the debt service on bond funding that the County used to pay for previous capital projects along Colma Creek.

Since the District’s initial budgets were approved one year ago, we have initiated new regional projects and awarded a contract to begin construction of the Bayfront Canal and Atherton Channel Flood Protection and Ecosystem Restoration Project. Thus, it makes sense to create a separate Capital Projects Budget -- included as Attachment 3 to this Agenda Report. This first Capital Projects Budget includes the Bayfront Canal and Atherton Channel Project and the Burlingame-Millbrae Project. Our project to create an Early Warning System and Emergency Action Plans throughout the county is largely not a capital investment and is included within our Operating Budget. If other capital efforts, such as around Redwood Shores or the Pillar Point area, require District funding, this can be accomplished through a mid-year Board amendment to the Capital Projects Budget.

Impact on District Resources: None

Attachments: Draft Fiscal Year 2021-22 Operating Budget, Flood Zones Budget, and Capital Projects Budget

San Mateo County Flood & Sea Level Rise Resiliency District

Operating Budget

Proposed for Fiscal Year 2021-22

Budget Item	Proposed Amount
REVENUE	
County and City Contributions	1,995,000
State Contributions	291,000
Interest Earned	6,780
Total Revenue	2,292,780
EXPENSES	
<i>Personnel</i>	
Salary & Related Costs	767,112
Medicare and Social Security	51,092
Retirement Benefits	111,389
Medical, Dental, Vision Benefits	68,392
Contribution to Insurance Plans	3,279
Personnel Costs	1,001,264
Portion of Personnel costs reallocated to Flood Zones & Capital Projects	(110,000)
Net Personnel Costs	891,264
<i>Operations & Support</i>	
Office Lease and Supplies	114,403
Computers and Software	8,000
Advertising and Legal Notices	1,000
Meetings, Travel and Membership Dues	10,000
Contract - Legal Services	75,000
Contract - Audit Services	60,000
Contract - Admin & Financial Services	85,000
Contract - Projects	230,000
Outreach	55,000
Miscellaneous Expenses	10,000
Operations and Support	648,403
Portion of Operations & Support costs reallocated to Flood Zones	(17,649)
Net Operations and Support	630,754
Total Expenses	1,522,018
Total Revenue minus Total Expenses	770,762
Reserves from prior (2020-21) fiscal year	1,913,500
Estimated reserves at end of FY2021-22	2,684,262

San Mateo County Flood & Sea Level Rise Resiliency District

Flood Zones Budget

Proposed for Fiscal Year 2021-22

Budget Item	Colma Creek	San Bruno Creek	San Francisquito Creek
REVENUE			
Taxes (Secured Property)	3,409,734	285,543	359,703
Rent and interest income	107,805	12,543	2,576
Inter-governmental revenue	22,225	1,296	1,291
Total Revenue	3,539,764	299,382	363,571
EXPENSES			
General administration of Flood Zones	120,000	15,500	15,300
Utilities	0	14,500	0
Maintenance planning, design & construction	2,333,473	350,000	25,000
Capital Projects planning & design	350,000	0	0
Capital Projects construction	0	0	0
Other contract services	20,000	0	0
Debt service on a bond	1,502,500	0	0
Annual contribution to SFCJPA	0	0	337,240
Other fees, including membership	2,000	600	600
General Liability Insurance	5,000	1,300	0
Total Expenses	4,332,973	381,900	378,140
Total Revenue minus Total Expenses	(793,209)	(82,518)	(14,569)
Reserves from prior fiscal year	29,628,664	3,728,909	808,483
Estimated Reserves at end of FY2021-22	28,835,455	3,646,391	793,914

Attachment 3

San Mateo County Flood & Sea Level Rise Resiliency District

Capital Projects Budget

Proposed for Fiscal Year 2021-22

PROJECT	REVENUE			EXPENSES	SURPLUS OR (DEFICIT)
	Local governments	State or Federal (through local partners)	Total		
Bayfront Canal & Atherton Channel	6,988,000 *	1,135,000	8,123,000		
Consultant Contracts				718,000	
Construction Contracts				6,865,000	
District Staff Time				65,000	
<u>Total</u>	<u>6,988,000</u>	<u>1,135,000</u>	<u>8,123,000</u>	<u>7,648,000</u>	<u>475,000 **</u>
Burlingame-Millbrae-SFO Shoreline	60,000	75,000	135,000		
Consultant Contracts				125,000	
District Staff Time				10,000	
<u>Total</u>	<u>60,000</u>	<u>75,000</u>	<u>135,000</u>	<u>135,000</u>	<u>0</u>
All Capital Projects	7,048,000	1,210,000	8,258,000	7,783,000	475,000

* Local governments revenue amount has been reduced by \$467,000 to cover project expenses incurred in FY20-21

** Surplus of \$475,000 is for construction contingency, maintenance, and mitigation monitoring