



**City of San Marcos**

**PRE-BID MEETING  
LABOR COMPLIANCE HANDOUT**

**San Marcos Training Tower**



# City of San Marcos

## **Labor Compliance Monitoring and Enforcement**

Gafcon, Inc. has been contracted by the City of San Marcos to monitor and enforce the State and Federal prevailing wage laws. Contractors will be required to pay prevailing wages, submit certified payroll, and ancillary documents. This Pre-Bid handout will provide an overview of the requirements. Contractors are also welcome to contact Gafcon with questions regarding the prevailing wage requirements.

## **Payment of Prevailing Wage Rates**

The award of a public works contract requires that all workers employed on the project be paid not less than the specified general prevailing wage rates by the contractor and its subcontractors (CA Labor Code Section 1770).

Prevailing Wage Determinations for Journeyman, Apprentices, and applicable increases can be found on the Department of Industrial Relations (DIR) website: <http://www.dir.ca.gov/OPRL/PWD/index.htm>.

Contractors are responsible for obtaining and complying with all applicable general prevailing wage rates for trades workers and any rate changes, which may occur during the term of the contract. Prevailing wage rates and rate changes are to be posted at the job site for workers to view.

Provision of any prevailing wage determinations are not exhaustive and may not include all applicable job classifications. It is the responsibility of the contractors to comply with California Labor Code 1770 et seq. Copies of the prevailing rate of per diem wages are on file at the City, available upon request or at <http://www.dir.ca.gov/OPRL/PWD/index.htm>.

### **Wage Determination Reminders:**

- If there is a # sign next to the Trade/Craft name it is an apprenticeable Trade/Craft.
- Be familiar with the expiration dates on all the wage determinations being used.
- A Single Asterisk (\*) next to the wage (Residential Determination) or Expiration Date of Determination (Commercial Determination) means that wage is effective for the duration of the contract.
- A Double Asterisk (\*\*) next to the wage (Residential Determinations) or Expiration Date of Determination (Commercial Determination) means a new rate has been determined. If work will extend past this date, the new rate must be paid on the effective date of the increase.
- Be familiar with the fine print.

### **Overtime**

Compensation for all hours worked in excess of eight hours per day and 40 hours during any one week should be not less than one-and-one-half times the basic rate of pay. For specific overtime requirements, please refer to the prevailing wage determinations.

### **Holidays**

Work performed on certain holidays may require the payment of overtime or double time. For specific holiday requirements, please refer to the prevailing wage determinations.

### **Saturday/Sunday Work**

Wage determinations may require the payment of overtime or double time for work performed on Saturdays and Sundays. For specific Saturday/Sunday requirements, please refer to the prevailing wage determinations.

## **Travel/Subsistence Payments**

Pursuant to CA Labor Code Sections 1773.1 and 1773.9, contractors shall make travel and/or subsistence payments to each worker to execute the work. You may obtain the travel and/or subsistence provisions at <https://www.dir.ca.gov/OPRL/DPreWageDetermination.htm>

## **Certified Payroll Records and Ancillary Documentation**

All contractors and subcontractors are required by CA Labor Code Section 1776 to keep and maintain weekly certified payroll records which must be submitted electronically to Gafcon by uploading to LCP Tracker (<http://www.lcptracker.com>). In addition to the certified payroll, all ancillary documents must be uploaded to LCP Tracker. Contractors will need to contact Gafcon prior to starting work to have their login set up and to be added to the project in LCP Tracker.

Certified payroll must include all of the required information as shown on the DIR's suggested format, the A-1-131 Public Works Payroll Reporting Form ([www.dir.ca.gov/dlse/Forms/PW/DLSEFormA-1-131.pdf](http://www.dir.ca.gov/dlse/Forms/PW/DLSEFormA-1-131.pdf)):

- Employee full name, address, social security number, DIR work classification
- Hourly rate of pay for straight time and overtime hours (if applicable)
- Gross Amount Earned, Deductions, Contributions, Net Amount, Check #
- Name of Contractor or Subcontractor
- License Number and Address
- Project or Contract Number
- Project and Location
- Self-Insured Certificate #/ Workers Compensation Policy #
- Statement of Compliance

All contractors and subcontractors are also required to submit payroll to the Department of Industrial Relations online eCPR submission portal: <http://www.dir.ca.gov/Public-Works/Certified-Payroll-Reporting.html>

**Sole Owners and Partners** are required to maintain certified payroll records containing all of the required information including proof of payment. The prime contractor may include a subcontractor on his/her payroll in order to meet the requirement

## **Statement of Non-Performance**

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. Non-Performance payroll must be included in the consecutive numbering of payroll.

Once work is complete on a project a payroll or non-performance marked as FINAL must be submitted.

## **Fringe Benefits Statement**

All contractors and subcontractors must submit a Fringe Benefit Statement which lists any fringe benefits paid to an approved third party plans, funds, or programs, such as health and welfare, vacation, holiday, training, dues and other. The Statement must show the applicable work classification, rates paid, and the third party's name and address.

Gafcon will review the certified payroll records and supporting documentation to ensure prevailing wage requirements are met. Contractors will be required to provide time sheets, itemized check stubs, cancelled checks, pay records, fringe benefit monthly reports and proof of payment (canceled checks).

## Apprenticeship Requirements

All public works contracts valued at \$30,000 or more carry an obligation to hire apprentices, unless the craft or trade does not require the use of apprentices, as indicated in the corresponding prevailing wage determination. This duty applies to all contractors and subcontractors on a project, even if their part of the project is less than \$30,000.

The Division of Apprenticeship Standards (DAS) provides assistance to contractors who need to employ apprentices on public works projects and may grant exemptions to the requirement to hire apprentices.

### Contractors' Responsibilities

- Submit contract award information for each craft required on the project using the [DAS 140 form](#)
  - If you are approved to train apprentices, you must send the contract award information to your apprenticeship committee.
  - If you are not approved to train apprentices, you must send the DAS 140 to [all apprenticeship committees](#) that can supply apprentices to the site of the public works project.
- Make [training fund contributions](#) in the amount established in the prevailing wage rate – either to the applicable apprenticeship committee, or the [California Apprenticeship Council \(CAC\)](#).
- Contact the applicable apprenticeship committee to request apprentices for each craft or trade on your project using the [DAS 142 form](#). The form must be submitted at least three business days before apprentices are required.
- Employ apprentices in the correct ratio. Be sure to employ one hour of apprentice work for every five hours performed by a journeyman level worker.

#### For More Information

- Please visit the [DAS page on public works](#) for information on apprenticeship requirements, forms, exemptions and training fund contributions.
- Contact: [DASpublicworks@dir.ca.gov](mailto:DASpublicworks@dir.ca.gov)
- [Frequently Asked Questions about apprenticeship](#)

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

For live website links to the above Apprenticeship Requirements section, please visit: <https://www.dir.ca.gov/Public-Works/Apprentices.html>

## Penalties

Penalties, including forfeitures and debarment, shall be imposed for contractor/subcontractor failure to pay prevailing wages, failure to maintain and submit accurate certified payroll records upon request, failure to employ apprentices, and for failure to pay employees for all hours worked at the correct prevailing wage rate, in accordance with Labor Code sections 1775, 1776, 1777.7, and 1813.

Failure to meet prevailing wages requirements may also result in the contractor being prohibited from bidding on public works projects for a period of three years.

## **Kickbacks and Acceptance of Fees Prohibited**

Pursuant to CA Labor Code section 1778, contractors and subcontractors are prohibited from accepting, taking wages illegally, or extracting “kickback” from employee wages.

Contractors and subcontractors are prohibited from exacting any type of fee for registering individuals for public work (CA Labor Code section 1779); or for filling work orders on public works contracts (CA Labor Code section 1780).

## **Job Site Visits and Worker Interviews**

Gafcon will perform random job site visits and interview workers throughout the project. The information gathered will be checked against the certified payroll to ensure compliance.

## **Payment Withholds**

Failure to comply with the Prevailing Wage and Apprenticeship Requirements may result in Gafcon recommending payment withholds until all outstanding issues are resolved.

Labor Code §1776(h) states: *“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.”*

## **ADDITIONAL INFORMATION**

### ***NAME & ADDRESS OF PUBLIC AGENCY AWARDING CONTRACT:***

**City of San Marcos  
201 Mata Way  
San Marcos, CA 92069**

### ***USEFUL WEBSITES:***

Department of Industrial Relations = [www.dir.ca.gov](http://www.dir.ca.gov)

Office of Policy, Research, and Legislation = [www.dir.ca.gov/OPRL](http://www.dir.ca.gov/OPRL)

Division of Apprenticeship Standards = [www.dir.ca.gov/DAS](http://www.dir.ca.gov/DAS)

Prevailing Wage Determinations = [www.dir.ca.gov/OPRL/DPreWageDetermination.htm](http://www.dir.ca.gov/OPRL/DPreWageDetermination.htm)

Division of Apprenticeship Standards  
Apprenticeship Programs = [www.dir.ca.gov/databases/das/aigstart.asp](http://www.dir.ca.gov/databases/das/aigstart.asp)

eCPR Website = [www.dir.ca.gov/Public-Works/Certified-Payroll-Reporting.html](http://www.dir.ca.gov/Public-Works/Certified-Payroll-Reporting.html)

Public Works Contractor Registration = <https://efiling.dir.ca.gov/PWCR>

LCP Tracker = <http://www.lcptracker.com>

### ***CONTACTS FOR INFORMATION:***

Office of Policy, Research, and Legislation  
Prevailing Wage Hotline = (415) 703-4774

Division of Apprenticeship Standards = [DAS@dir.ca.gov](mailto:DAS@dir.ca.gov)

DLSE – ECPR or General Questions = [publicworks@dir.ca.gov](mailto:publicworks@dir.ca.gov)

### ***GAFCON LCP Contact Information:***

Janel Farmer = (858) 875-0024  
Labor Relations Project Manager [jfarmer@gafcon.com](mailto:jfarmer@gafcon.com)  
Gafcon, Inc.  
5960 Cornerstone Ct West, Ste 100  
San Diego, CA 92121

## FAQ's- PREVAILING WAGE

### General Information

#### **What does public works mean?**

Under the Labor Code, public works in general refers to:

- Construction, alteration, demolition, installation, maintenance, or repair work,
- Done under contract, and
- Paid for in whole or in part out of public funds

It can include preconstruction and post-construction activities related to a public works project.

#### **What are prevailing wages, and who must receive them?**

All workers employed on public works projects must be paid the prevailing wage determined by the Director of the DIR according to the type of work and location of the project. The prevailing wage rates are usually, but not always, based on rates specified in collective bargaining agreements.

### Contractors and Contractor Registration

#### **Who is a public works contractor?**

A public works contractor is anyone who bids on or enters into a contract to perform work that requires the payment of prevailing wages. It includes subcontractors who have entered into a contract with another contractor to perform a portion of the work on a public works project. It includes sole proprietors and brokers who are responsible for performing work on a public works project, even if they do not have employees or will not use their own employees to perform the work.

#### **Who needs to register as a public works contractor?**

Anyone who fits within the definition of public works contractor (above) is required to register with the DIR.

#### **Is a contractor who only does Davis-Bacon work under federal contracts required to register?**

Registration is required only to bid or work on public works projects that are subject to the prevailing wage requirements of the State of California. Registration is not required for projects that are awarded by and under the complete control of the federal government. However, federally funded or assisted projects that are controlled or carried out by awarding bodies in California are subject to the state's prevailing wage laws and therefore require registration.



## **Are there any exceptions to the registration requirement?**

The contractor registration requirement does not apply to contractors working solely on public works projects awarded prior to April 1, 2015. Some exceptions allow contractors to bid on federally funded projects or submit joint venture bids without first being registered, as long as the contractors that are parties to the joint venture and the joint venture are registered at the time the contract is awarded.

Contractors who work exclusively on small public works projects are not required to register as a public works contractor or file electronic certified payroll reports for those projects. Contractors are still required to maintain certified payroll records on a continuous basis and provide them to the Labor Commissioner's Office upon request. Additionally, awarding agencies are not required to submit the notice of contract award through DIR's PWC-100 system on projects that fall within the small project exemption. The small project exemption applies for all public works projects that do not exceed:

- \$25,000 for new construction, alteration, installation, demolition or repair
- \$15,000 for maintenance

## **Who is eligible to register?**

Contractors must meet the following requirements to register:

- Have workers' compensation coverage for any employees and only use subcontractors who are registered public works contractors.
- Have a Contractors State License Board license if applicable to trade.
- Have no delinquent unpaid wage or penalty assessments owed to any employee or enforcement agency.
- Not be under federal or state [debarment](#).
- Not be in prior violation of this registration requirement once it becomes effective. However, for the first violation in a 12-month period, a contractor may still qualify for registration by paying an additional penalty.

## **How much does registration cost, and how long does it last?**

Registration costs \$400 and covers one fiscal year (July 1–June 30), regardless of the date on which a contractor registers. Registration is renewable annually.

## **What if I don't register (i.e., what are the consequences of noncompliance)?**

Contractors who are required to register but fail to do so are ineligible to bid or work on a public works contract and can be removed from any public works project on which they currently are working. For a single violation in a 12-month period, a contractor who is otherwise eligible may still register by paying a \$2,000 penalty in addition to the \$400 registration fee. Registered contractors who inadvertently fail to renew by June 30, but continue to work on public works after that date, have a 90-day grace period to renew retroactively by paying a \$400 penalty in addition to the registration renewal fee.





### **How long does it take for DIR to process contractor registrations, verify submitted information, and post contractor information in the registration list that is accessible online?**

This process can take less than 24 hours if registration fees (including penalties, if applicable) are paid by credit card. Verification of payment by other means can take up to eight weeks.

### **How can a list of all registered contractors be obtained?**

The name and registration number of any contractor who has registered with the DIR can be found using the public works [contractor search tool](#). An up-to-date list of all registered contractors can be obtained by entering the percentage symbol, %, in the "Contractor Legal Name" field.

### **I forgot to print out the contractor coupon, can I still mail in the check or do I have to start over? If I can still mail in the check, where should I mail it to?**

You do not need to start over. You may mail the check to: State of California, Department of Industrial Relations, Public Works Contractor Registration Unit, P.O. Box 511215, Los Angeles, California 90051-3013. Please include the contractor registration number.

## Awarding Bodies

### **What is an awarding body?**

An awarding body is the entity that awards a contract for public works and is sometimes known as the project owner. The awarding body can be any kind of public agency (state, county, city, school board, water district, etc.) or a private entity using public funds (Labor Code, section 1722).

### **Do all trades need to be identified on the PWC-100 at the time projects are registered?**

Awarding bodies should list information for all trades identified when they register projects (using the PWC-100 form). Awarding bodies are not required to provide information that is not available at the time of project registration.

### **What happens if an awarding body does not register a project within five days of awarding the contract for a public works project?**

Failure to provide timely notice can jeopardize an awarding body's ability to obtain state funding for a project. It can also compromise important objectives of the public works laws. An official who intentionally ignores this requirement may be subject to criminal prosecution.

### **If an awarding body has an annual open purchase order for over \$1,000 for a registered contractor, does it need to report that contract only once a year?**

Yes, an awarding body can report the master agreement to comply with the PWC-100 notice requirements. Individual task orders do not need to be reported.



**What if an awarding body has a single small job for \$250 or a series of jobs with the same contractor/vendor that total over \$1,000?**

Prevailing wage requirements apply to public works projects over \$1,000. The law does not permit jobs to be parceled in order to avoid the \$1,000 threshold. If the awarding body knows that total yearly project costs or projects awarded to the same vendor will exceed \$1,000, that vendor must be registered with the DIR as a public works contractor, and the contract for those projects should be registered using the PWC-100 form.

**If an agency is subject to the California Uniform Public Construction Cost Accounting Act (Public Contract Code, section 22002), which excludes "maintenance work" from its definition of "public project," do contractors hired for maintenance work still need to register? Are public agencies required to report projects that do not go through the competitive bidding process, such as emergency work and maintenance projects?**

Public agencies are not required to report maintenance projects and emergency work. Contractors on maintenance projects that are part of public works projects are required to continue paying prevailing wages, but are not required to register with the DIR.

**What is the process for projects funded through Proposition 84? Is the contracting agency required to register (i.e., fill out the PWC-100 form), and will the contractors and subcontractors be required to submit/upload certified payroll records to the Labor Commissioner?**

Awarding bodies must provide project information to DIR using the PWC-100 form on all public works projects regardless of the funding source, including projects funded by Proposition 84. Certified payroll records are required for Proposition 84 projects, and awarding bodies are still required to have a DIR-approved Labor Compliance Program (LCP) for those projects. Contractors on these Proposition 84 projects must submit certified payroll records to both the DIR and the LCP.

**If an awarding body is awarded a contract directly by a federal agency, must it comply with California public works law?**

The awarding body must pay careful attention to whether the project is administered and controlled by the federal agency or the federal agency is only providing financial support or assistance to a project under the direction and control of a state or local agency. California's prevailing wage requirements do not apply to projects awarded by and under the complete control of the federal government. However, federally funded or assisted projects that are controlled or carried out by awarding bodies in California, including most highway construction projects, are subject to the state's prevailing wage laws. Those projects must comply with state requirements, including contractor and project registration, reporting certified payroll records, and payment of California's prevailing wage rates, if they exceed corresponding Davis-Bacon rates.



## Are awarding bodies required to use registered contractors or submit a PWC-100 for any of the following?

- Professional service contracts
- Mechanics who service vehicles at the local dealership or auto shop
- Engineering firms or construction managers hired to manage public works projects
- Design consultants, architects, and engineers performing professional design services
- Material or product suppliers
- BIM (Building Information Modeling) or CAD (Computer-Aided Design) consultants
- Consultants providing Division of State Architect inspection services;
- Trucking companies and truck drivers
- Furniture dealers who deliver and install furniture
- Community Conservation Corps certified by the California Conservation Corps

Awarding bodies are required to use registered contractors and register the project for any work subject to prevailing wage requirements. California's public works prevailing wage requirements extend broadly to workers employed "in the execution of the public works contract" (Labor Code, section 1774). Coverage is not necessarily limited to work performed at the construction site by those in traditional construction trades. Awarding bodies and other interested parties can ask DIR's Director to make a formal determination on whether a particular work or project is subject to public works requirements. [public works coverage determinations](#) issued by the Director since 2002 are available online.

## Apprenticeship

### Do I have to employ apprentices on all public works projects?

- Contractors working on a public works project valued at \$30,000 or more have an obligation to hire apprentices. With few exceptions, this duty applies to all contractors and subcontractors on a project, even if their part of the project is valued at less than \$30,000. These exceptions include:
  - General contractors whose contract is worth under \$30,000.
  - When the craft or trade is not appropriate for apprentices.
  - When the contractor holds a sole proprietor license and personally performs all the work from start to finish, unassisted.
- In the case of a federal project when funding does not include any city, county, or state monies and that is not administered, controlled, or carried out by awarding bodies in California.



## Labor Compliance Programs

### What is a Labor Compliance Program?

Labor Compliance Programs (LCPs) are entities that are approved by the DIR to monitor and enforce compliance with state prevailing wage laws on public works projects as described in Labor Code section 1771.5 (b). As of 2016, LCPs were only required for public works projects funded in whole or in part by Proposition 84 (Safe Drinking Water, etc., Bond Act of 2006) as well as for certain older projects under a handful of other statutes. The DIR also continues to oversee four "legacy" LCPs that were approved prior to 2000.

## Certified Payroll Reporting

### Who must submit certified payroll records?

All contractors and subcontractors working on public works projects (except for those listed below) must submit electronic certified payroll records to the Labor Commissioner. The Labor Commissioner has exempted the following projects from the requirement:

(a) Projects monitored by the following legacy Labor Compliance Programs:

- California Department of Transportation (Caltrans)
- City of Los Angeles
- Los Angeles Unified School District
- County of Sacramento

(b) Projects covered by a qualifying project labor agreement.

(c) Projects covered by the small project exemption. The small project exemption applies for all public works projects that do not exceed:

- \$25,000 for new construction, alteration, installation, demolition or repair
- \$15,000 for maintenance

### Is the electronic certified payroll reporting system the only way to submit certified payroll records to the Labor Commissioner?

Yes. All contractors must submit their certified payroll records to the Labor Commissioner using the DIR's online system. It offers two options for submitting certified payroll records: entering the information directly using the online form or uploading xml files.

### Is every company responsible for submitting its own payroll for each project on which it is working?

Yes. Each contractor and subcontractor must submit certified payroll records directly to the Labor Commissioner using DIR's online system



### **When/how frequently must the certified payroll records be submitted?**

Certified payroll records must be submitted at least monthly (within a month after the end of the payroll period) or more frequently if more frequent submission is required by the contract with the awarding body. The best practice is to submit the records weekly or at the conclusion of each payroll period.

### **If the awarding body has not registered the project with the DIR, how can I submit my certified payroll records?**

Projects must be registered with the DIR using the PWC-100 form in order for contractors and subcontractors to submit certified payroll records for those projects. You should contact the awarding body to confirm that the project was registered. If the awarding body has not registered the project, you should ask it to complete the registration as soon as possible. If you have made this request, but the awarding body still has not registered the project, please contact the DIR for further assistance at [publicworks@dir.ca.gov](mailto:publicworks@dir.ca.gov).

### **If I am required to submit certified payroll records to a union, to the prime contractor, or to the awarding body or a Labor Compliance Program, do I still have to submit certified payroll records to the DIR?**

Yes. Submitting certified payroll records to other agencies does not fulfill the requirement to submit certified payroll records to the Labor Commissioner/DIR.

### **How do I identify the public works project that I am working on (or will be working on) on the reports?**

Public works projects have a unique DIR Project ID, often referred to as the "PWC-100" number. Any registered project can be located in the DIR's searchable database of public works projects. Entering just a few pieces of information in the search tool should yield a list that includes your project.

### **I am an owner/operator, sole proprietor, or business owner, and I do not receive payroll checks or pay myself an hourly salary. How do I handle certified payroll reporting for my own work, and how do I determine how much I am being paid for that work?**

Even if you are paid by salary, draw, or contract payments, you still should be able to provide the following information for any work you perform on public works projects: (a) your name, address, and SSN (or FEIN, if you have no SSN); (b) the work classification for your prevailing wage work; (c) the hourly rate for that classification; (d) the number of hours that you performed that work; and (e) the estimated amount paid to you for your labor for that work. To calculate how much you were paid for your own labor, subtract all your other expenses (including materials, pro rata share of business overhead, and payments to other workers or subcontractors) from the gross contract price. The net amount should be your labor cost, and it should be equal to or higher than the compensation required for your work classification (determined by multiplying your work hours by the applicable rates) in order to comply with prevailing wage requirements.

### **Can I review the payroll record before I submit it?**

At any time before you sign the record, you can use the navigation tools to review and modify it. After the record is signed, you will no longer be able to access or change it.



### **Can I view and print out all certified payroll records associated with a project?**

All electronic certified payroll records submitted to the DIR can be viewed and printed in fully redacted form after locating them with the certified payroll records search tool. If you would like to save or print an unredacted (complete) version of your own payroll record, you must click on the PDF icon that appears on the confirmation page. After you close that page, the unredacted version will no longer be available.

### **Which information is redacted (omitted) from electronic certified payroll records that are available to the public?**

Full redaction removes all personal, identifiable employee information (name, address, phone number, and SSN) as well as the contractor's federal ID (FEIN) or SSN and email address.

### **Can I change the date or make corrections to payroll records after I submit them? If not, can I delete the record?**

You cannot change or delete records that have already been submitted. However, you may correct errors by submitting a new record for the same pay period. The new or "amended" record for an employee will take precedence over the original record submitted. However, if you are only correcting the payroll of one or more employee/s, you do not need to re-submit the information for any employees whose information was entered correctly. And if you are adding payroll for one or more employee/s not in the original record, you do not need to resubmit payroll for all the other employees (unless there are errors in them that need correction). The original record will remain on file and will be visible along with all associated amendments when users viewing submitted payroll records select "Show Amendment." The payroll number will be modified to indicate the amendment (e.g.: original record # 15-0; amended record # 15-1).

### **What happens if I mistakenly submitted payroll for a period in which no work was performed?**

If payroll was submitted for a period in which no work was performed, you may submit a Statement of Non-Performance for the same period. That Statement of Non-Performance will take precedence over the record submitted in error.

## **Concrete Delivery Requirements (AB 219)**

### **The bill says it does not apply to public works contracts that were advertised for bid or awarded prior to July 1, 2016. What about contracts that are still in process?**

If a public works contract was advertised for bid or awarded prior to July 1, 2016, the delivery of concrete to that public work is not subject to AB 219. If the contract was advertised for bid before July 1, 2016, but awarded after that date, AB 219 does not apply.

### **How will ready-mix suppliers know if an order is for public works? Who will be held responsible if they are not informed?**

If the worksite owner is a public entity (e.g. school, library), it is likely a public work. The entities engaging the ready-mix services should know if the project is subject to the public works statutes, and it should be noted as part of the written agreement required by AB 219.



**What if it is discovered that an order is for public works after the fact? How will a ready-mix supplier know if a project is public works but under the minimum threshold for applying prevailing wages?**

The companies engaging the ready-mix services should also know if a project is exempt. There are potential legal consequences for misleading contractors and subcontractors about whether a project is exempt, including joint liability for back wage and penalty assessments.

**Do apprenticeship requirements apply to this law?**

Yes, if the prevailing wage rate is based on a qualifying craft (i.e. a craft for which there is an approved apprenticeship program). Qualifying crafts are usually indicated with a pound or hashtag sign (#) by the applicable prevailing wage rate.

**Ready-mix companies often donate concrete to schools, parks, and charitable organizations. Are these donations subject to prevailing wages?**

It depends. If the project owner is a public entity, then it is probably a public works project. However, this is something the ready-mix company can and should clarify with whoever is receiving the donated concrete.

**How does this law apply to deliveries from out-of-state? For instance, material might be delivered from Reno for a highway project in California.**

AB 219's requirements apply to deliveries that originate out of state. If the Director has not specified a prevailing wage for the geographic area in which the factory or batching plant is located, the contractor should use a rate from the nearest geographic area.

**Which prevailing wage rate applies? Do different rates apply to different parts of the delivery work?**

The applicable prevailing wage rate is for the classification of "Driver - Mixer Trucks." This rate applies to all parts of the mixer - truck driver's work.

**What portion of the driver's work is covered? What if the driver is not on a round trip?**

For delivery to a public works project, prevailing wage rates apply from the time the driver receives concrete at the batch plant to the time the driver returns to the batch plant. If a truck hauling concrete to a prevailing wage job does not return to the same batch plant, the post-delivery drive to a different batch plant should be counted as the return. There will always be a return trip as the trucks will not be left indefinitely at the job site.

**What if the driver is delivering to some prevailing wage projects and some non-prevailing wage projects?**

The statute does not allow any exceptions from payment of prevailing wages for time spent making intermediate stops at other potentially non-public works locations. The entire delivery process and the return trip are covered and must be paid at the applicable prevailing wage rate.



**How would the round-trip wage be calculated if a driver goes from plant #1 (in DIR prevailing wage region X), unloads concrete at public works project A, then goes to plant #2 (in DIR prevailing wage region Y), then delivers a load of concrete to commercial project B, then goes to plant #3 (in DIR wage region Z), then delivers to public works project C, and then returns to plant #1?**

From the time the driver begins receiving the concrete at plant #1 until the time the driver reaches plant #2, the rate will be the prevailing wage rate for region X. From that time until the driver begins receiving the concrete at plant #3, the driver may be paid a non-prevailing wage rate. From the time the driver begins receiving the concrete at plant #3 until he or she returns to plant #1, the driver is entitled to the prevailing wage rate for region Z.

**If a mixer driver spends two hours at a plant, four hours delivering to public works projects, and four hours delivering to commercial projects, which wage order applies? Will it be Wage Order #1 for manufacturing, Wage Order #16 for construction, or both, depending on where the driver is at any one time?**

The Labor Commissioner made the following determination in a 2001 opinion letter: Ready-mix drivers engaged in the delivery of cement from a cement plant to a construction job-site, if employed by the business that manufactures the cement, are covered by IWC Order 1-2001 [Wage Order #1].

**How frequently will wage rates be updated?**

Existing rates in every county covered by AB 219 are under the classification of *Driver - Mixer Trucks*. Some rates are based on survey data and others are based on local collective bargaining agreements. Those based on survey data begin with C-MT-830; those based on collective bargaining agreements begin with C-MT-261.

Rates based on survey data cannot be updated without a new wage survey, usually done in response to a specific request and supporting petition under Labor Code section 1773 and Title 8, California Code of Regulations, sections 16200 and 16302. However, wage rates that are based on collective bargaining agreements are regularly adjusted as the agreements are revised.

**Which rate applies if a company has a union rate of \$60 an hour, but the prevailing wage is \$18 an hour?**

State law would require that the driver be paid at least \$18 an hour. However, the employer may be bound to pay the higher rate because of its contractual obligation to the workers under the collective bargaining agreement.

**Do ready-mix hauling and delivery companies need to submit electronic payrolls to DIR in addition to submitting payrolls to the general contractor and subcontractor who engaged them?**

Yes, payroll records have to be submitted electronically to DIR in addition to being submitted to the party who engaged the ready-mixed concrete delivery. Payroll records must be submitted to DIR on a monthly basis or as otherwise specified by the awarding body. Please note that the requirement to submit payroll records electronically is currently on hold pending system upgrades. The upgrades will allow simplified online reporting on multiple projects. The requirement to prepare and keep certified payroll records has not changed.





### **What is the penalty for failure to submit payroll records within five days?**

There is no penalty in the statute for not submitting payroll records to the general contractor and party who engaged the ready-mixed concrete services within five days. However, the consequences of not meeting this deadline may be covered in their contract or agreement.

### **How will submission of payroll records under this law differ from how they are submitted by other subcontractors?**

The new law requires ready-mix companies to submit copies of their certified payroll records (CPRs) to the party that engaged them and to the general contractor (which may be the same entity). Because public works contractors are jointly and separately liable for prevailing wage violations with the subcontractors working under them, many will include this requirement to provide CPRs as part of the purchase agreement or subcontract. However, AB 219 also makes this a legal requirement and further specifies when the CPRs must be furnished, as well as the need for the CPRs to be accompanied by time records certified by the drivers.

The law does not specify whether the CPRs and other records must be on paper or electronic format. It is up to the parties to determine that in their agreement. Once DIR's electronic Certified Payroll Reporting system is fully deployed with identity management features, contractors will have access to their subcontractors' CPRs through DIR's system at the same time that DIR does. However, that will not necessarily meet the deadline specified in AB 219 nor will it include the certified driver time records.

The law does not specify what happens if the five-day submission deadline or driver certification requirements are not met. These are not requirements that would fall within the Labor Commissioner's enforcement responsibilities, but they would affect the rights and responsibilities of contractors and subcontractor suppliers in relationship to each other.

### **The law says payroll records should be accompanied by a written time record that shall be certified by each driver for the performance of job duties. Can the time records be certified electronically by the driver?**

Electronic certifications are allowed, as there is no particular format that is required as long as there is a way to tie the certification to the person who provides it. It depends on how the driver's time is recorded for purposes of determining the hours worked and compensation due for prevailing wage jobs.

### **How should certified payrolls be organized? Are they per driver, per plant, or per project?**

They should be organized by project, which is how prevailing wages are traditionally reported and how they will need to be reported on DIR's electronic Certified Payroll Reporting (CPR) system.



**What constitutes a "written subcontract agreement"? What does it mean to be a subcontractor "only for the purpose of this [prevailing wage] chapter"? For example, will mechanics lien laws still apply?**

"Written subcontract agreement" refers to the contract or other agreement between the public agency, company, or person who wants to obtain ready-mixed concrete and the ready-mixed concrete supplier. There must be some type of agreement, in writing, between the two.

"Only for purposes of this chapter" means that a ready-mixed concrete supplier will have the status of a subcontractor under the public works chapter of the Labor Code (sections 1720 – 1861) and will have all the responsibilities of a subcontractor under that chapter when providing ready-mixed concrete to a public works project, including but not necessarily limited to being registered with the Department of Industrial Relations and paying prevailing wages to workers who deliver the ready-mixed concrete to the project. However, this does not make the company a subcontractor under the mechanics lien laws found in the Civil Code or under any other set of laws outside of the public works chapter of the Labor Code. The rights and responsibilities of a ready-mixed concrete supplier under any other set of laws depend on their status under those laws.

**Will DIR specify minimum requirements for what must be included in a contract? Can DIR provide a template?**

DIR suggests that an invoice or purchase order that includes the required statutory language may be sufficient. However, the party who engages the ready-mix company may require more. DIR does not provide templates for contracts between private parties or between a private party and any public entity as these contracts may involve additional requirements and considerations with which DIR is not familiar.

**Will a different section of the Uniform Commercial Code now apply to ready-mix suppliers for public works?**

No, the requirements of AB 219 are limited to the public works chapter of the Labor Code and not intended to change the status of ready-mix suppliers under any other set of laws outside of the public works chapter of the Labor Code.

**Will ready-mix suppliers now be listed under the Subletting and Subcontracting Fair Practices Act, like other subcontractors?**

AB 219 does not define ready-mix suppliers as subcontractors for purposes of the Subletting and Subcontracting Fair Practices Act or any other laws outside of the public works chapter of the Labor Code.



## FAQ's - APPRENTICESHIP

### Notification of Contract Award

#### **When should I submit a [DAS 140](#) or notification of Contract award?**

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. This is simply a notification of award; it is not automatically a request for dispatch of a registered apprentice. The information submitted must include an estimate of journeyman hours to be performed under the contract, the number of apprentices proposed to be employed, and the approximate dates the apprentices would be employed.

#### **Where do I send the DAS 140?**

If you are a contractor already approved to train apprentices (participating with a DAS recognized Apprenticeship Committee): "Contractors who are already approved to train apprentices must provide contract award information to the apprenticeship committee for each applicable apprenticeable craft or trade that has approved the contractor in the area of the site of the of the public works project." If you are not already approved to train by an Apprenticeship Committee: "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 determine which apprenticeship programs are approved in specific geographic locations by searching our [interactive database](#).

#### **What are the differences between box 1, 2, and 3 at the bottom of the 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.

#### **I am a registered Contractor and hire temp agencies to supply my workers. Am I still responsible for sending a DAS 140 and requesting apprentices (DAS142)?**

Apprenticeship requirements are the responsibility of the contractor. If a Contractor relies on the temp agency and there are problems it is the Contractor who will be responsible for any resulting penalties.



### **Can I send a DAS 140 and/or 142 after the project is completed?**

Sometimes a General contractor or Compliance officer will ask a Contractor to send the required apprenticeship documents after a project is over. If you send the DAS 140 and 142s after the project is over it is considered to comply with their request and does not eliminate or reduce the exposure for penalties. Contractors who send DAS 140s and/or 142 forms after the project is finished are still considered to be out of compliance and subject to penalties if a complaint is filed with DLSE.

## Employing Apprentices

### **What is a registered apprentice?**

An apprentice is someone who has signed an agreement with an employer, an approved apprenticeship program or program sponsor, and whose agreement is registered with the Division of Apprenticeship Standards (DAS). Only an approved apprenticeship program can provide a contractor with a registered apprentice on public works projects.

### **How do I know if an individual is a registered apprentice?**

You can check in our [interactive database](#). If that does not yield results, you can contact a DAS office for assistance in searching the database.

### **Do programs that provide apprentices for public works projects provide workers compensation benefits for the apprentice they send out to jobs or is the responsibility of the contractor and/or subcontractor?**

No. This responsibility lies with the contractor and/or subcontractor (aka The Employer).

### **How can I find the names of the applicable approved apprenticeship programs/committees?**

Two suggestions:

- Visit our [interactive website](#)
- Contact the DAS District office whose assigned geographic areas of responsibility cover the county/ies in which the public works project is located.

### **As a contractor who has been awarded a public works contract, and has my own employees, am I still *required to hire registered apprentices*?**

Yes.

**Important Notice:** see changes in [Code of Regulations section 230.1](#), regarding the employment of apprentices on Public Works

### **I am a non-union contractor. Am I required to hire an apprentice?**

Yes, you must request dispatch from all approved programs in the geographic area of the project.

### **Can I employ my friend, family, or my own employee who is still beginning to learn a particular trade, as an apprentice?**

No. The law requires that you employ only apprentices who are registered with an approved program. However, if your friend or your employee is a registered apprentice and has been dispatched to you by an approved apprenticeship program, yes you can.



**What happens if I employed my friend who is not a registered apprentice and I paid him the journeyman rate?**

You may employ your friend and pay him journey wages but this does not affect change to fulfill the apprenticeship requirements.

**I requested an apprentice from an approved program and was asked to sign a document saying I would send the program my training fund contributions. Am I required to sign such a document?**

No. You are not required to sign any additional documents, such as a firm agree to train (DAS 7), or agree to any other conditions set forth by the program. If the program does not want to dispatch apprentices unconditionally, and you have contacted all the appropriate programs in the geographic area then you have met your obligation under the law.

**We are on a project that requires us to do work off and on for several months. How many times during a project must I request apprentices?**

Contractors must request apprentices from all approved programs in the county where the work is being performed but this only needs to be done once during the life of the project.

**What are the benefits and advantages to hiring a registered apprentice?**

The benefits of hiring an apprentice registered in a state approved program are:

- Lower pay rate than the journeyman pay rate.
- Elimination of recruitment programs for workers who are already trained.
- Creates a diversified and flexible workforce and larger pool of employees with specific skills.
- Increases productivity; employees in a structured training program are motivated to achieve.

## Training Fund Contributions

**What if a non-participating or non-signatory contractor or a contractor who is not approved to train apprentices does not make the training fund contributions to the applicable approved apprenticeship program, can the contractor send instead the contributions to the California Apprenticeship Council (CAC)?**

Yes. Contractors who do not contribute to an approved apprenticeship program should send their payments with a [CAC2 form](#) and at must submit their contributions to the following address:

**DIR – California Apprenticeship Council (CAC)**

P.O. Box 511283

Los Angeles, CA 90051-7838

**What if I need to overnight my training fund payment, is there a physical address?**

Overnight payments should be sent to:

**California Apprenticeship Council (CAC)**

1515 Clay Street, Suite 301

Oakland, CA 94612



### **How can I find out if a training fund contribution has been paid by a contractor?**

If the contractor has paid the training fund contribution to the California Apprenticeship Council (CAC) information of payments received by the CAC can be found in our [interactive database](#). If a contractor has paid the training fund to an approved apprenticeship program, it will not be reflected on our website. You must ask the contractor for proof of payment to the program's trust fund.

### **Where can a contractor go to obtain journeyman prevailing wage rates and training fund amounts due?**

Training Fund amounts are listed on the same Prevailing Wage Determinations contractors use to calculate the correct prevailing wage to pay their workers for a specific project. Contractors can call the Director's office of Policy, Research and Legislation (OPRL) at (415) 703-4774 or visit their [website](#) to obtain Training Fund Contribution Rates for journeymen and apprentices. Training Contributions must be paid for every hour worked by every journeyman and apprentice working in an apprenticeable craft (including overtime). Training Funds cannot be paid to the workers unless it is a non-apprenticeable craft.

### **I am a contractor and I paid my employees the training fund contribution instead of the applicable program. Am I still required to pay into a training fund?**

Yes and you are not allowed to recover the erroneous amounts paid to the employee.

### **Can I wait until the end of the project to pay my training funds?**

No! Training funds are due & payable by the 15th of the month after the month the work was performed.

### **If the prime/general contract for the public works project is under \$30,000 am I still obligated to pay training fund contributions?**

Yes. Training Funds are part of the prevailing wage package and considered part of the employer contribution. If the project is exempt the training fund is paid to the employee.

## Exemptions

### **What are the instances in which a contractor on a public works project is considered exempt from the requirements of LC 1777.5?**

They are:

- [Labor Code 1777.5](#) does not apply to general contractors whose contract is under \$30,000.
- When the craft or trade is not apprenticeable.
- When the project is a federal project and the funding of the project does not contain any city, county, and/or state monies unless the project is administered by a state agency in which case the apprenticeship requirements apply.
- When the project is a private project not covered by the definition of public works as found in Labor Code section 1720.



**What if I am exempt from the requirements of California Labor Code Section 1777.5 as my situation falls under one of the exemptions listed above. Do I still have to provide a "Notice of Contract Award" ([DAS 140 form](#)) to the applicable program?**

You do not have to submit a "Notice of Contract Award". However, for purposes of letting the applicable program know of your exemption, you may, nevertheless, want to provide the form to the applicable program so they are aware of your exemption.

**I am an Owner/Operator and do not have any employees and do not carry Worker's Compensation Insurance. Am I exempt from hiring apprentices?**

If your Contractor License shows you are a Sole Proprietor/Sole Owner business you are exempt. However, if your Contractor License indicates that your business entity is anything else, such as a partnership or corporation or LLC, then you are not exempt.

**If I have an Individual Contractor Exemption granted by the Chief of DAS per Labor Code § 1777.5 (j), or § 1777.5(k), do I still need to send a DAS 140 to the appropriate programs?**

Yes, you still need to submit a Notice of Contract Award Information (DAS 140) to the appropriate Program Committees. The Individual Contractor Exemptions and Program Committee exemptions pertain to the ratio of apprentices on a public works project and do not eliminate the DAS 140 requirement.

**I am a small subcontractor and my job will take less than 40 hours. Am I exempt from hiring apprentices?**

No, you must still submit a DAS 140 and 142. However, you may request apprentices in less than 8 hour increments. Important Notice: see changes in [Code of Regulations section 230.1](#), regarding the employment of apprentices on Public Works

## Ratios

**How many apprentices must I employ on a Public Works project?**

At the end of the project, your straight time apprentice hours must equal a total of 1 hour for every 5 straight time journeyman hours for each separate craft. For example, if you have a total of 100 journeyman hours at the end of the project, you would need 20 apprentice hours in that same craft.

**Can I mix and match crafts to reach the minimum ratio?**

No. The minimum ratio requirement is per each individual craft and only includes straight time hours.

**Do overtime hours count toward the minimum ratio?**

No, only straight time hours count. Be careful not to confuse premium pay with overtime pay.

**What is the maximum number of apprentices I can use on a Public Works Project?**

It depends on which box you have checked on your DAS 140. If you checked box 1 or 2 and fall under the regulations set forth in a specific program's standards, then you are allowed to use the maximum ratio set forth in those Standards. If you have checked box 3 and agreed to be governed by the regulations set forth by the California Apprenticeship Council then the minimum and maximum ratio is the same: 1 apprentice hour for every 5 journeyman hours totaled at the end of the project.



**I am a contractor who is approved to train by an approved program and am covered by their Standards, or I am a contractor who has agreed to be covered by a program's Standards for a single project. How do I know what the Standards allow for that program's maximum apprentice ratios?**

You can ask the program for a copy of their Standards or a copy of the language in Article XV which covers ratios. Or you can call the DAS office nearest the location for that program and request the same.

**Who should I contact to request a W-9 form?**

Please email your request to [DIRW9Inquiry@dir.ca.gov](mailto:DIRW9Inquiry@dir.ca.gov) and specify which collection unit and/or type of fee you will be paying.



# 2021-2

## Wage Determination

<p><b>Asbestos Worker, Heat and Frost Insulator</b></p> <p><a href="https://www.dir.ca.gov/OPRL/2021-2/PWD/Determinations/Southern/SC-003-5-1.pdf">https://www.dir.ca.gov/OPRL/2021-2/PWD/Determinations/Southern/SC-003-5-1.pdf</a></p> <p><a href="https://www.dir.ca.gov/OPRL/2021-2/PWD/SC-3-List.htm">https://www.dir.ca.gov/OPRL/2021-2/PWD/SC-3-List.htm</a></p>	<p><b>Building/Construction Inspector and Field Soils and Material Tester</b></p> <p><a href="https://www.dir.ca.gov/OPRL/2021-2/PWD/Determinations/SanDiego/SD-023-63-3(D).pdf">https://www.dir.ca.gov/OPRL/2021-2/PWD/Determinations/SanDiego/SD-023-63-3(D).pdf</a></p>
<p><b>Bricklayer</b></p> <p><a href="https://www.dir.ca.gov/OPRL/2021-2/PWD/Determinations/Subtrades/SDI.html">https://www.dir.ca.gov/OPRL/2021-2/PWD/Determinations/Subtrades/SDI.html</a></p> <p><a href="https://www.dir.ca.gov/OPRL/2021-2/PWD/Increases/Subtrades/SDI-Pre.html">https://www.dir.ca.gov/OPRL/2021-2/PWD/Increases/Subtrades/SDI-Pre.html</a></p>	<p><b>Carpenter</b></p> <p><a href="https://www.dir.ca.gov/OPRL/2021-2/PWD/Determinations/SanDiego/SD-023-31-4.pdf">https://www.dir.ca.gov/OPRL/2021-2/PWD/Determinations/SanDiego/SD-023-31-4.pdf</a></p>
<p><b>Cement Mason</b></p> <p><a href="https://www.dir.ca.gov/OPRL/2021-2/PWD/Determinations/SanDiego/SD-023-203-3.pdf">https://www.dir.ca.gov/OPRL/2021-2/PWD/Determinations/SanDiego/SD-023-203-3.pdf</a></p>	<p><b>Drywaller Installer (Carpenter)</b></p> <p><a href="https://www.dir.ca.gov/OPRL/2021-2/PWD/Determinations/SanDiego/SD-031-X-41.pdf">https://www.dir.ca.gov/OPRL/2021-2/PWD/Determinations/SanDiego/SD-031-X-41.pdf</a></p>
<p><b>Laborer (Building Construction)</b></p> <p><a href="https://www.dir.ca.gov/OPRL/2021-2/PWD/Determinations/SanDiego/SD-023-102-4.pdf">https://www.dir.ca.gov/OPRL/2021-2/PWD/Determinations/SanDiego/SD-023-102-4.pdf</a></p>	<p><b>Laborer (Engineering Construction)</b></p> <p><a href="https://www.dir.ca.gov/OPRL/2021-2/PWD/Determinations/SanDiego/SD-023-102-3.pdf">https://www.dir.ca.gov/OPRL/2021-2/PWD/Determinations/SanDiego/SD-023-102-3.pdf</a></p>

Due to the extensive scope of work on this project, the following list of work classifications are the potential crafts involved. However, please note that provision of any prevailing wage determinations is not exhaustive and may not include all applicable job classifications. It is the responsibility of the contractors to comply with California Labor Code 1770 et seq. Copies of the prevailing rate of per diem wages are on file at the City, available upon request or at <http://www.dir.ca.gov/OPRL/PWD/index.htm>.

## **Painters**

<https://www.dir.ca.gov/OPRL/2021-2/PWD/Determinations/Subtrades/SDI.html>

<https://www.dir.ca.gov/OPRL/2021-2/PWD/Increases/Subtrades/SDI-Pre.html>

Due to the extensive scope of work on this project, the following list of work classifications are the potential crafts involved. However, please note that provision of any prevailing wage determinations is not exhaustive and may not include all applicable job classifications. It is the responsibility of the contractors to comply with California Labor Code 1770 et seq. Copies of the prevailing rate of per diem wages are on file at the City, available upon request or at <http://www.dir.ca.gov/OPRL/PWD/index.htm>.