

2009

# Labor Compliance Program



**Inland Empire**  
615 N. Euclid Ave., Ste. 111  
Ontario, CA 91762  
(909) 981-5536

**Central Valley**  
736 N. Chinowth St.  
Visalia, CA 93291  
(559) 622-8652

**San Diego**  
7126 Princess View Dr.  
San Diego, CA 92120  
(619) 229-9556

**Nevada**  
6640 N. Durango Dr. Ste., 160  
Las Vegas, NV 89149  
(702) 897-9054

## The Solis Group

234 N. El Molino Avenue, Suite 202

Pasadena, CA 91101

Tel (626) 685-6989

Fax (626) 685-6985

[www.thesolisgroup.com](http://www.thesolisgroup.com)





# **The Solis Group Labor Compliance Program**

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## **SECTION I - 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 as construction, alteration, demolition, repair, or maintenance work. The Division of Labor Statistics and Research (DLSR) predetermines the appropriate prevailing wage rates for particular construction trades and crafts by county.

### **A. Types of Contracts to Which Prevailing Wage Requirements Apply**

As provided in Labor Code Section 1771 et seq., a Labor Compliance Program as described in subdivision (b) of section 1771.5 of the Labor Code shall be initiated and enforced on all applicable public works projects. Upon approval by the Director of the Department of Industrial Relations, this LCP shall apply to all statutes that require Awarding Bodies to have a LCP to which the payment of prevailing wages apply as a condition of project authorization, project funding, or use of specified contracting authority. The Department of Industrial Relations' website shall maintain a list of statutes requiring LCP oversight.

### **B. Applicable Dates for Enforcement of the LCP**

The applicable dates for enforcement of awarding body Labor Compliance Programs is established by Section 16422 of the California Code of Regulations. Contracts are not subject to the jurisdiction of the Labor Compliance Program until after the program has received approval.

## **SECTION II - COMPETITIVE BIDDING ON PUBLIC WORKS CONTRACTS**

All bid advertisements (or bid invitations) and public works contracts shall contain appropriate language concerning the requirements of the Labor Code. Notice of approval of an Awarding Body's Labor Compliance Program shall be given in the Call for Bids and in the contract or purchase order and shall also be posted at the job site. The Notice of an approved Labor Compliance Program shall contain, at the minimum, the effective date of the Director's initial or final approval, a statement whether the limited exemption from prevailing wages pursuant to Labor Code Section 1771.5(a) applies to contracts under the jurisdiction of the LCP, a telephone number to call for inquiries, questions, or assistance with regard to the LCP, and the name of the agent or office administering the LCP.

## **SECTION III - JOB START MEETING**

After the award of a public works contract, and prior to the commencement of the work, a mandatory Job Start meeting (Pre-Job conference) shall be conducted by TSG with the contractor and those subcontractors listed in its bid documents or who are required to be identified or prequalified in a Design-Build Contract.

At that meeting, federal and state labor law requirements applicable to the contract will be discussed and copies of suggested reporting forms furnished, including prevailing wage requirements, the respective record keeping responsibilities, the requirement for the submittal of certified payroll records, and the prohibition against discrimination in employment.

The contractor and each subcontractor will be provided with a Checklist of Labor Law Requirements (presented in Part Three of this document) and will discuss in detail the following checklist items:

1. The contractor's duty to pay prevailing wages (Labor Code §1770 et seq.);
2. The contractor's duty to employ registered apprentices on public works projects (Labor Code §1777.5);

3. The penalties for failure to pay prevailing wages and to employ apprentices, including forfeitures and debarment (Labor Code §1775, §1777.7, and §1813);
4. The requirement to maintain and submit copies of certified payroll records, on a weekly basis, as required (Labor Code §1776), and penalties for failure to do so (Labor Code §1776(g)); the requirement includes and applies to all subcontractors performing work on projects even if their portion of the work is less than one half of one percent of the total amount of the contract.
5. The prohibition against employment discrimination (Labor Code §1735 and §1777.6; the Government Code; and Title VII of the Civil Rights Act of 1964, as amended);
6. The prohibition against taking or receiving a portion of an employee's wages (Labor Code §1778) (kickback);
7. The prohibition against accepting fees for registering any person for public works (Labor Code §1779) or for filing work orders on public works (Labor Code §1780);
8. The requirement to list all subcontractors that are performing one-half of one percent of the total amount of the contract (Public Contract Code Section 4100 et seq.);
9. The requirement to be properly licensed and to require all subcontractors to be properly licensed, and the penalty for employing workers while unlicensed (Labor Code §1021 and under California Contractors License Law. Also, see Business and Professions Code §7000, et seq);
10. The prohibition against unfair competition (Business and Professions Code §17200-17208);
11. The requirement that the contractor and subcontractor be properly insured for Workers' Compensation (Labor Code §1861);
12. The requirement that the contractor abide by the Occupational Safety and Health laws and regulations that apply to the particular public works project.
13. The requirement to secure proof of eligibility/citizenship from all project workers due to the federal prohibition against hiring undocumented workers.
14. The requirement to provide itemized wage statements to project employees under Labor Code §226.

The contractors and subcontractors present at the Job Start meeting will be given the opportunity to ask questions relative to the items contained in the Labor Law Requirements Checklist. The checklist will then be signed by the contractor's representative, a representative of each subcontractor, and a representative of the LCO.

At the Job Start meeting, the contractor will be provided with a copy of the LCP package which includes: a copy of the approved LCP, the checklist of Labor Law Requirements, applicable Prevailing Wage Rate Determinations, blank certified payroll record forms, fringe benefit statements, State apprenticeship requirements, and a copy of the Labor Code relating to Public Works and Public Agencies (Part 7, Chapter 1, §1720-§1861).

It will be the prime contractor's responsibility to provide copies of the LCP package to all listed subcontractors and to any substituted subcontractors.

## **SECTION IV – MONITORING PAYMENT OF PREVAILING WAGES**

### **A. Certified Payroll Records Required**

The contractor and each subcontractor shall maintain payrolls and basic records (timecards, canceled checks, cash receipts, trust fund forms, accounting ledgers, tax forms, superintendent and foreman daily logs, etc.) during the course of the work and shall preserve them for a period of three (3) years thereafter for all trades workers working on projects which are subject to the LCP. Such records shall include the name, address, and social security number of each worker, his or her classification, a general description of the work each employee performed each day, the rate of pay (including rates of contributions, or costs assumed to provide fringe benefits), daily and weekly number of hours worked, and actual wages paid.

#### **1. Submittal of Certified Payroll Records**

The contractor and each subcontractor shall maintain weekly certified payroll records for submittal as required. The contractor shall be responsible for the submittal of payroll records of all its subcontractors. All certified payroll records shall be accompanied by a statement of compliance signed by the contractor or each subcontractor, indicating that the payroll records are correct and complete, that the wage rates contained therein are not less than those determined by the Director of the Department of Industrial Relations, and that the classifications set forth for each employee conform with the work performed.

Certified payroll records required by Labor Code Section 1776 may be maintained and submitted electronically subject to the conditions set forth in CCR§16404.

California Code of Regulations (Title 8, section 16000) defines “payroll records” as: 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. TSG may request payroll records at any time and the contractor is required to provide requested payroll records within 10 days following written receipt of the request.

#### **2. Full Accountability**

Each individual, laborer or craftsperson working on a public works contract must appear on the payroll. The basic concept is that the employer who pays the trade worker must report that individual on its payroll. This includes individuals working as apprentices in an apprenticeable trade. 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 record listing the days and hours worked, and the trade classification descriptive of the work actually done.

The contractor shall provide the records required under this section within ten (10) days of each payday and make them available for inspection by the Department of Industrial Relations, and shall permit representatives of each to interview trades workers during working hours on the project site.

#### **3. Responsibility for Subcontractors**

The prime contractor shall be responsible for ensuring adherence to labor standards provisions by its subcontractors. Moreover, the prime contractor is responsible for Labor Code violations of its subcontractors in accordance with Labor Code Section 1775.

#### 4. Payment to Employees

Employees must be paid unconditionally, and not less often than once each week, the full amounts, that are due and payable for the period covered by the particular payday. Thus, an employer must establish a fixed workweek (Sunday through Saturday, for example) and payday (such as every Friday 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 as required by Labor Code §226.

If an individual is called a subcontractor, whereas, in fact, he/she is merely a journey level mechanic supplying only his/her 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. Moreover, any person who does not hold a valid contractor's license cannot be a subcontractor, and anyone hired by that person is the worker or employee of the general contractor for purposes of prevailing wage requirements, certified payroll reporting and workers' compensation laws.

The worker's rate for straight time hours must equal or exceed the rate specified in the contract by reference to the "Prevailing Wage Determinations" for the class of work actually performed. Any work performed on Saturday, Sunday, and/or on a holiday, or portion thereof, must be paid the prevailing rate established for those days regardless of the fixed workweek. The hourly rate for hours worked in excess of 8 hours in a day and 40 hours in a workweek shall be premium pay. All work performed on Saturday, Sunday and holidays shall be paid pursuant to the Prevailing Wage determination.

#### **B. Audit of Certified Payroll Records**

Audits shall be conducted under the direction of the LCO, and shall also be conducted at the request of the Labor Commissioner to determine whether all trades workers on project sites have been paid according to the prevailing wage rates.

Payroll records, once furnished by the contractors, shall be reviewed by TSG staff as promptly as practicable after receipt, but in no case not more than 30 days after receipt. A review of payroll records consists of ensuring that all appropriate data elements identified in Labor Code 1776(a) have been reported; certification forms have been signed; correct prevailing wage rates have been reported as paid for each labor classification; and confirmation of payment has been corroborated by TSG staff. TSG staff will review independent sources of information in order to confirm that payments were made to the worker, which may include but not be limited to: employee interviews, worker's paycheck stubs, copies of bank certified cancelled checks, payroll registers, and/or Employer Payments trust fund accounting records.

For each month in which a contractor reports having workers employed on the project, TSG will undertake random confirmation of payroll records for at least one worker for at least one weekly period within that reporting month. Confirmation of payroll records is defined as an independent corroboration of reported prevailing wage payments. Confirmation will be accomplished through on-site worker interviews, examination of paychecks or paycheck stubs, direct confirmation of payments from third party recipients of "employer payments," or any other reasonable method of corroboration.

If a violation is discovered, TSG shall prepare a written report of the investigation/audit, which at minimum will contain the following information:

- Brief written 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;
- Any penalties to be assessed under Labor Code Section 1775 and 1813;

- Public Works Investigation Worksheet, showing the actual hours worked, amounts paid, amounts due, and classifications of workers employed in connection with the public work;
- Public Works Audit Worksheet, summarizing the information contained on the Public Works Investigation Worksheet; and
- Prevailing Wage Determination Summary, which lists the work classifications involved in the audit and associated prevailing wage amounts.

### **C. On-Site Employee Interviews**

Pursuant to California Code of Regulations §16432(d), in order to confirm the payment of prevailing wages for the appropriate work classification performed by workers on the project, TSG staff will conduct on-site project visits to interview project workers.

On-site visits will be undertaken during each week that workers are present at the job site and may be undertaken randomly or as deemed necessary by the Labor Compliance Program. All craft workers shall be interviewed at least once over the life of the project. While on the job site, a representative sample of all crafts should be interviewed. For example, if four carpenters are working on the job site on the inspection day, two should be interviewed. The interview should not be conducted under the immediate supervision of any project foremen, so as to provide the worker with privacy. Any suspicious behavior such as coaching by the supervisor, or a contractor's unwillingness to allow the required site interview to take place, will result in a more in-depth investigation to take place.

### **D. Worker Complaints**

In addition to monitoring all certified payroll records provided by the contractors, worker complaints of underpayment of prevailing wage rates must be investigated. Employees will be informed that the filing of the complaint is confidential, and that his or her identity will be disclosed to the contractor or subcontractor only after an investigation has occurred and only within the context of an audit worksheet.

Once TSG is notified of a complaint, a written acknowledgement that the complaint has been received must be sent promptly to both the complaining party and the Awarding Body. The acknowledgement must state the name, mailing address and telephone number of the TSG staff assigned to the complaint.

Within 10 days of receiving the complaint, both the complaining party and the Awarding Body must be notified in writing of the resolution or of the status of the complaint and the reason the complaint has not been resolved. Further, the complaining party and the Awarding Body must be notified in writing at least once every 30 days of the status of an unresolved complaint.

If an employee of the contractor reports the violation(s), TSG staff will thoroughly investigate the charge by interviewing the affected employee(s) and analyzing the submitted documents. If it is determined that a violation has occurred, the TSG staff shall prepare a Public Works Audit Worksheet, to be sent to the contractor. Major components and tasks related to investigating worker complaints are: gather supporting documents from all available sources to analyze for authenticity; conducting a complete CPR and/or project audit; and review CPRs 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.

## **SECTION V - APPRENTICE REQUIREMENTS**

### **A. Use of Apprentices**

Apprentices shall be permitted to work as such only when they are registered, individually, under a bona fide apprenticeship program registered and approved by the State Division of Apprenticeship Standards. The allowable ratio of apprentices to journeypersons in any craft/classification shall not be greater than the ratio permitted to the contractor as to its entire workforce under the registered program.

Any worker listed on a payroll at an apprentice wage rate who is not registered shall be paid the journey level wage rate determined by the Department of Industrial Relations for the classification of the work he/she actually performed. Pre-apprentice trainees, trainees in non-apprenticeable crafts, and others who are not duly registered will not be permitted on public works projects unless they are paid full prevailing wage rates as journeypersons.

Compliance with California Labor Code Section 1777.5 requires all public works contractors and subcontractors to:

1. Submit contract award information to the apprenticeship committees for each apprenticeable craft or trade in the area of the Project. Must send the DAS-140 form to all apprenticeship committees, unless the contractor is registered with a particular one;
2. Request dispatch of apprentices from the applicable Apprenticeship Program(s) and employ apprentices on public works projects in a ratio to journeypersons which in no case shall be less than one (1) hour of apprentice work to each five (5) hours of journeyperson work; and
3. Contribute to the applicable Apprenticeship Program(s) or the California Apprenticeship Council in the amount identified in the prevailing wage rate publication for journeypersons and apprentices. If payments are not made to an Apprenticeship Program, they shall be made to the California Apprenticeship Council, Post Office Box 420603, San Francisco, CA 94142.

If the contractor is registered to train apprentices, it shall furnish written evidence of the registration (i.e., Apprenticeship Agreement or Statement of Registration) of its training program and apprentices, as well as the ratios allowed and the wage rates required to be paid there under for the area of construction, prior to using any apprentices in the contract work. It should be noted that a prior approval for a separate project does not confirm approval to train on any project. The contractor/subcontractor must check with the applicable Joint Apprenticeship Committee to verify status.

### **B. Apprentice hours-to-Journeyman hours (Ratios)**

Unless a collective bargaining agreement specifies a different ratio, the typical ratio of apprentice hours to journeyman hours is one to five; in other words, apprentices in an apprenticeable trade should typically work 20 percent of total hours worked. The Division of Apprenticeship Standards maintains a list of all trades and their applicable specified apprenticeship ratios.

If TSG determines that at the end of a contractor or subcontractor's work on the public works contract that the contractor was in violation of the apprentice-to-journeyman ratio, TSG will require that the regular prevailing wage rate be paid to any worker who is not a duly registered apprentice and for any hours in excess of the maximum ratio permitted under Labor Code Section 1777.5(g).



## **SECTION VI - REPORTING WILLFUL VIOLATIONS TO THE LABOR COMMISSIONER**

If an investigation reveals that a willful violation of the Labor Code has occurred, the LCO will make a written report to the Labor Commissioner 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 LCP 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, bank certified 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 using the Audit Record Worksheets found in Attachment E, 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.

Labor Code Section 1777.1 states:

"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."

Six (6) types of willful violations are reported:

### **A. Failure to Comply with Prevailing Wage Rate Requirements**

Whenever it is determined that a willful violation has occurred in failing to comply with prevailing wage rate requirements (as set forth in the Labor Code and public works contracts) by paying less than the stipulated basic hourly rate to trades workers, or if overtime, holiday rates, fringe benefits, and/or employer payments are paid at a rate less than stipulated, it shall be reported to the Labor Commissioner upon completion of an investigation and audit.

### **B. Falsification of Payroll Records, Misclassification of Work, and/or Failure to Accurately Report Hours of Work**

Falsification of payroll records and failure to accurately report hours of work is characterized by deliberate underreporting of hours of work; underreporting the headcount; stating that the proper prevailing wage rate was paid when, in fact, it was not; clearly 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.

### **C. Failure to Submit Certified Payroll Records**

Whenever it is determined that a willful violation has occurred by the contractors and/or subcontractors not having responded to the 10-day notification by the LCO to comply with the requirement of submittal of weekly certified payroll records and/or to correct inaccuracies or omissions that have been detected, it shall be reported to the Labor Commissioner upon completion of an investigation and audit.

### **D. Failure to Pay Fringe Benefits (Employer Contributions)**

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. Whenever it is determined that a willful violation has occurred by failure to pay or provide fringe benefits and/or make trust fund contributions on a timely basis, which is equivalent to payment of less than the stipulated wage rate, it shall be reported to the Labor Commissioner upon completion of an investigation and audit.

E. Failure to Pay the Correct Apprentice Rates and/or Misclassification of Workers as Apprentices

Failure to pay the correct apprentice rate or classifying a worker as an apprentice when he/she is not properly registered is equivalent to payment of less than the stipulated wage rate and shall be reported to the Division of Apprenticeship Standards as a willful violation, upon completion of an investigation and audit.

F. Taking or Receiving a Portion of an Employee's Wages (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.

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, prior to a determination of the amount of forfeiture by the Labor Commissioner, notification shall be provided to the contractor and affected subcontractor of an opportunity to resolve the wage deficiency pursuant to CCR§16432(f). The contractor and affected subcontractor may, within 10 days after notification of the wage deficiency, submit to the Labor Compliance Program for consideration exculpatory information consistent with the "good faith mistake" factors set forth in Labor Code Section 1775(a)(2)(A)(i) and (ii). 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, (a) 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, and (b) the underpayment of wages to workers is promptly corrected and proof of such payment is submitted to the Labor Compliance Program.

## **SECTION VII - ENFORCEMENT ACTION**

A. Duty of the Awarding Body

The Solis Group, as the entity having an approved LCP, has a duty to the Director of the Department of Industrial Relations to enforce Labor Code Section 1720 et seq. and the procedural regulations of the Department of Industrial Relations in a manner consistent with the practice of DLSE and regulations found at Title 8, California Code Regulations, Section 16000 et seq.

B. Withholding Contract Payments When Payroll Records are Delinquent or Inadequate

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

A release bond under Civil Code Section 3196 may not be posted for the release of the funds being withheld for the violation of the prevailing wage law.

2. "Contracts" except as otherwise provided by agreement, means only contracts under a single master contract, including a design-build contract, or contracts entered into as stages of a single project which may be the subject of withholding, pursuant to the Labor Code §1720, §1720.2, §1720.3, §1720.4, §1771, and §1771.5;
3. "Delinquent payroll records" means those not submitted on the basis set forth in the Contract;
4. "Inadequate payroll records" are any one of the following:
  - a. A record lacking any of the information required by Labor Code §1776;

- b. 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;
  - c. 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. Provided, however, that prompt correction will stop any duty to withhold if such inaccuracies do not amount to one (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 Title 8 CCR section 16401 of Title 8 of the California Code of Regulations.
5. 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 LCP 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 LCP provides notice that the subcontractor has cured the delinquency or deficiency.
  6. When contract payments are withheld, the LCP 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 LCP has exceeded its authority under this section.
  7. No contract payments shall be withheld solely on the basis of delinquent or inadequate payroll records after the required records have been produced.
  8. In addition to withholding contract payments based on delinquent or inadequate payroll records, penalties shall be assessed under Labor Code Section 1776(g) for failure to timely comply with a written request for certified payroll records. The assessment of penalties under Labor Code Section 1776(g) does require the prior approval of the Labor Commissioner under section 16436 of these regulations.

C. Withholding for Violation for Not Paying the Per Diem Prevailing Wages

1. "Withhold" and "contracts" have the same meaning set forth in Sections 16435(a) and 16435(b) of these regulations.
2. 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.
3. "Amount equal to the underpayment" is the total of the following determined by payroll review, audit, or admission of the contractor or subcontractor:
  - a. 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;
- b. 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;
  - c. Estimated amounts of “illegal taking of wages”;
  - d. Amounts of apprenticeship training contributions paid to neither the program sponsor’s training trust nor the California Apprenticeship Council; and
  - e. Estimated penalties under Labor Code Sections 1775, 1776, and 1813.
4. 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 CCR Sections 16436 and 16437.
5. Provisions relating to the penalties under Labor Code Sections 1775, and 1813:
- a. Pursuant to Labor Code Section 1775, the contractor shall, as a penalty, forfeit up to fifty dollars (\$50) for each calendar day, or portion thereof, for each worker paid less than the prevailing wages.
  - b. Pursuant to Labor Code Section 1813, the contractor shall, as a penalty, forfeit twenty-five dollars (\$25) for each worker employed in the execution of the contract by the contractor or by any subcontractor for each calendar day during which such worker is required or permitted to work more than eight (8) hours in any one calendar day and 40 hours in any one calendar week.

**D. Forfeitures Requiring Approval by the Labor Commissioner**

- 1. For purposes of this section and CCR Section 16437, “forfeitures” means the amount of wages, penalties, and forfeitures assessed by the LCP 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.
  - 2. 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 CCR Section 16432(e), 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 CCR Section 16437.

E. Determination of Amount of Forfeiture by the Labor Commissioner

1. When the LCO 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 (a) through (i) below. Attachment G is a sample Request for Approval of Forfeiture under this section.
  - (a) Whether the public work has been accepted by the awarding body and whether a valid notice of completion has been filed, and the dates if any when those events occurred, and the amount of funds being held in retention by the Awarding Body;
  - (b) Any other deadline which if missed would impede collection;
  - (c) Evidence of violation, in narrative form;
  - (d) Evidence of violation obtained under CCR Section 16432 and a copy of the Audit prepared in accordance with CCR Section 16432 setting forth the amounts of unpaid wages and applicable penalties;
  - (e) 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 LCP of its position;
  - (f) Where the LCP 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);
  - (g) Where the LCP seeks only wages or a penalty less than \$50 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 a statement, similar to that described in (6), and recommended penalty amounts, pursuant to Labor Code Section 1775(a);
  - (h) The previous record of the contractor and subcontractor in meeting his or her their prevailing wage obligations; and
  - (i) Whether the LCP has been granted initial, extended initial or final approval on only an interim or temporary basis under CCR Sections 16425 or 16426 or whether it has been granted extended approval under CCR Section 16427.
2. 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.

3. 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.
4. The Labor Commissioner shall affirm, reject, or modify the forfeiture in whole or in part as the wages and penalties due.
5. 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 CCR Section 16427 LCPs with initial approval or an extension of initial approval pursuant to CCR Section 16425 or 16426, on the date the Labor Commissioner serves by first class mail, on the LCP, 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 final approval extended authority under CCR 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.

F. Deposits of Penalties and Forfeitures Withheld

1. Where the involvement of the Labor Commissioner had 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.
2. 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.
3. 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.
4. 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.

## G. Debarment Policy

It is the policy of TSG that the public works prevailing wage requirements set forth in the California Labor Code, Section 1720-1861, be strictly enforced. In furtherance thereof, construction contractors and subcontractors found to be repeat violators of the California Labor Code shall be referred to the Labor Commissioner for debarment from bidding on or otherwise being awarded any public work contract, within the state of California, for the performance of construction and/or maintenance services for the period not to exceed three (3) years in duration. The duration of the debarment period shall depend upon the nature and severity of the labor code violations and any mitigating and/or aggravating factors, which may be presented at the hearing conducted by the Labor Commissioner for such purpose.

## **SECTION VIII - NOTICE OF WITHHOLDING AND REVIEW THEREOF**

After determination of the amount of forfeiture by the Labor Commissioner, notice of withholding of contract payments shall be provided to the contractor and subcontractor, if applicable. The notice shall be in writing and shall describe the nature of the violation and the amount of wages, penalties, and forfeitures withheld. Service of the notice shall be completed pursuant to Section 1013 of the Code of Civil Procedure by first-class and certified mail to the contractor and subcontractor, if applicable. The notice shall advise the contractor and subcontractor, if applicable, of the procedure for obtaining review of the withholding of contract payments. TSG shall also serve a copy of the notice by certified mail to any bonding company issuing a bond that secures the payment of wages covered by the notice and to any surety on a bond, if their identities are known to the awarding body. **A copy of the Notice of Withholding of Contract Payments (NWCP) to be utilized is found as Attachment H to this document.**

### Review of NWCP

1. An affected contractor or subcontractor may obtain review of a NWCP under this chapter by transmitting a written request to the office of the LCP that appears on the NWCP within 60 days after service of the NWCP. If no hearing is requested within 60 days after service of the NWCP, the NWCP shall become final.
2. Within ten days following receipt of the request for review, the LCP shall transmit to the Office of the Director-Legal Unit the request for review and copies of the Notice of Withholding of Contract Payments, any audit summary that accompanied the notice, and a proof of service or other documents showing the name and address of any bonding company or surety that secures payment of the wages covered by the notice. **A copy of the required Notice of Transmittal to be utilized is found as Attachment I to this document.**
3. Upon receipt of a timely request, a hearing shall be commenced within 90 days before the Director, who shall appoint an impartial hearing officer possessing the qualifications of an administrative law judge pursuant to subdivision (b) of Section 11502 of the Government Code. The appointed hearing officer shall be an employee of the department, but shall not be an employee of the Division of Labor Standards Enforcement. The contractor or subcontractor shall be provided with an opportunity to review evidence to be utilized by the LCP at the hearing within 20 days of the receipt of the written request for a hearing. Any evidence obtained by the LCP subsequent to the 20-day cutoff shall be promptly disclosed to the contractor or subcontractor. **A copy of a Notice of Opportunity to Review Evidence Pursuant to Labor Code Section 1742(b) form is found as Attachment J to this document.**

The contractor or subcontractor shall have the burden of proving that the basis for the NWCP is incorrect. The NWCP shall be sufficiently detailed to provide fair notice to the contractor or subcontractor of the issues at the hearing.

Within 45 days of the conclusion of the hearing, the Director shall issue a written decision affirming, modifying, or dismissing the assessment. The decision of the Director shall consist of a notice of findings, findings, and an order. This decision shall be served on all parties pursuant to Section 1013 of the Code of Civil Procedure by first-class mail at the last known address of the party on file with the LCP. Within 15 days of the issuance of the decision, the Director may reconsider or modify the decision to correct an error, except that a clerical error may be corrected at any time. The Director has adopted regulations setting forth procedures for hearings.

4. An affected contractor or subcontractor may obtain review of the decision of the Director by filing a petition for a writ of mandate to the appropriate superior court pursuant to Section 1094.5 of the Code of Civil Procedure within 45 days after service of the decision. If no petition for writ of mandate is filed within 45 days after service of the decision, the order shall become final. If it is claimed in a petition for writ of mandate that the findings are not supported by the evidence, abuse of discretion is established if the court determines that the findings are not supported by substantial evidence in the light of the whole record.
5. 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.
6. A judgment entered pursuant to this procedure shall bear the same rate of interest, shall have the same effect as other judgments, and shall be given the same preference allowed by law on other judgments rendered for claims for taxes. The clerk shall not charge for the service performed by him or her pursuant to this section.
7. This procedure shall provide the exclusive method for review of a NWCP to withhold contract payments pursuant to Labor Code Section 1771.7.

#### **SECTION IX - DISTRIBUTION OF FORFEITED SUMS**

1. Before making payments to the contractor of money due under a contract for public works, all amounts required to satisfy the NWCP shall be withheld and retained there from. The amounts required to satisfy the NWCP shall not be disbursed until receipt of a final order that is no longer subject to judicial review.
2. Pending a final order, or the expiration of the time period for seeking review of the notice of the withholding, any contract payments withheld shall not be disbursed.
3. From the amount recovered, the wage claim shall be satisfied prior to the amount being applied to penalties. If insufficient money is recovered to pay each worker in full, the money shall be prorated among all workers employed on the public works project who are paid less than the prevailing wage rate. The wage claim shall have **PRIORITY** over all Stop Notices filed against the prime contractor.
4. Wages for workers who cannot be located shall be placed in the Industrial Relations Unpaid Fund and held in trust for the workers pursuant to Labor Code Section 96.7. Penalties shall be paid into the General Fund of the School District that has enforced this chapter pursuant to Labor Code Section 1771.7.

#### **SECTION X - OUTREACH ACTIVITIES**

To ensure the successful implementation of the LCP, there shall be several outreach activities initiated and maintained.



#### A. Providing Information to the Public

The LCO shall be responsible for communication and outreach activities relative to public information on the LCP:

1. Regular presentations to contractors at all Job Walk Meetings (Pre-Bid conferences) and Job Start Meetings (Pre-Job conferences);
2. Ongoing communication via correspondence and with workers at job sites when review of the certified payroll records reveals the possibility of prevailing wage violations;
3. Periodic meetings with contractor organizations, prime contractors, and subcontractors interested in public works contracting.

#### B. In-Service Management Training on the Labor Compliance Program

TSG shall provide ongoing management in-servicing and workshops for project personnel relative to the terms, requirements and administration of the Labor Compliance Program. TSG shall require all personnel to document their review of TSG's Labor Compliance Policies and Procedures Manual, which outlines the responsibilities and procedures of the Labor Compliance Program. Whenever TSG's Labor Compliance Policies and Procedures Manual is updated to accurately reflect any amendments to the public works laws and regulations (including the laws and regulations governing Labor Compliance Programs), TSG personnel will be required to review and sign-off on the record sheet to indicate that they have undergone the latest training.

### **SECTION X - ANNUAL REPORTS**

The LCP will submit to the Director an annual report on its operation within 60 days after the close of its annual reporting period, as defined in subpart (3) and (4) below. The annual report shall be made on the appropriate form [LCP-AR3, included as Attachment L], unless the Director has agreed to a different reporting format for a Program that has been granted extended authority under CCR Section 16427. A third party LCP that contracted with more than one Awarding Body or Joint Powers Authority during the annual reporting period shall separately report on Labor Code Section 1771.5(b) enforcement activities for each Awarding Body or Joint Powers Authority covered by the report.

The Annual Report for a person or entity operating a third party Labor Compliance Program shall also include: (1) a certification of compliance with conflict of interest disclosure requirements by employees and consultants who participate in making governmental decisions, as defined under Title 2, CCR Section 18701, and (2) a current statement disclosing the information required under CCR Section 16426(a)(2), (3) and (5).

Information in the Annual Report will be reported in sufficient detail to afford a basis for evaluating the scope and level of enforcement activity of the LCP. An annual report shall also include such additional information as the LCP may be required to report as a condition of its approval.

For purposes of this section, the annual reporting period shall be deemed to commence on the first of the month in which the LCP is first granted approval pursuant to CCR Section 16425 or 16426 and shall conclude on the last day of the month immediately preceding that date in the following year.



**The Solis Group**

**Labor Compliance Program**

**FORMS**

# **LABOR COMPLIANCE PROGRAM JOB-START/PRE-CONSTRUCTION MEETING PACKET CONTRACTOR HANDOUT**

Included in this packet are materials to assist your company in complying with the Awarding Body's Labor Compliance Program (LCP). The Solis Group monitors and enforces the Awarding Body's LCP.

Have questions about how to comply with the LCP? Call the Lead Labor Compliance Officer assigned to monitor the project at (626) 685-6989.

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## **PACKET INCLUDES:**

1. Prevailing Wage / DIR Determination Website Link
2. Sample Prevailing Wage Determination
3. Pre-Construction Meeting Labor Compliance Responsibilities & Requirements
4. Prevailing Wage Contractor Handout
5. Division of Apprenticeship Standards – Apprenticeship Requirements
6. Required LCP Submittal Forms (Blank/Sample Forms)
  - Attachment 1: Forms Submittal Schedule
  - Attachment 2: LCP Checklist
  - Attachment 3: DAS-140
  - Attachment 4: DAS-142
  - Attachment 5: CAC-2
  - Attachment 6: Statement of Compliance
  - Attachment 7: Certified Payroll Record
  - Attachment 8: Statement of Non-Performance
  - Attachment 9: Fringe Benefit Statement
  - Attachment 10: Monthly Trustee Report
  - Attachment 11: Monthly Employment Utilization Reporting Form
  - Attachment 12: Public Works Affidavit

## PREVAILING WAGE DIR DETERMINATION WEBSITE LINK

[http://www.dir.ca.gov/DLSR/statistics\\_research.html](http://www.dir.ca.gov/DLSR/statistics_research.html)

The first bid advertisement date establishes which Department of Industrial Relations (DIR) determination to use for each work classification you assign to this project.

All contractors working on the \_\_\_\_\_ **Project** must refer to the following DIR determination:

### **200\_\_ - \_\_ / Prevailing Wage Determinations**

(i.e. 2007-2 General prevailing wage determinations menu (journeyman) /  
2007-2 General prevailing apprentice schedule menu).

NOTE: Contractors are held responsible for any/all increases to the prevailing wages. If you see a double asterisk after the determination expiration date (\*\*), there will be an increase to the prevailing wages. If you have any questions, please call the Labor Compliance Officers assigned to monitor this project, at (626) 685-6989.

# JOB-START/PRE-CONSTRUCTION MEETING PACKET CONTRACTOR HANDOUT

## SAMPLE PREVAILING WAGE DETERMINATION

GENERAL PREVAILING WAGE DETERMINATION MADE BY THE DIRECTOR OF INDUSTRIAL RELATIONS  
PURSUANT TO CALIFORNIA LABOR CODE PART 7, CHAPTER 1, ARTICLE 2, SECTIONS 1770, 1773 AND 1773.1  
FOR COMMERCIAL BUILDING, HIGHWAY, HEAVY CONSTRUCTION AND DREDGING PROJECTS

### CRAFT: # CARPENTER AND RELATED TRADES

**DETERMINATION:** SC-23-31-2-2002-1

**ISSUE DATE:** August 22, 2002

**EXPIRATION DATE OF DETERMINATION:** June 30, 2003\*\* The rate to be paid for work performed after this date has been determined. If work will extend past this date, the new rate must be paid and should be incorporated in contracts entered into now. Contact the Division of Labor Statistics and Research for specific rates (415) 703-4774.

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

Classification (Journey person)	Basic Hourly Rate	Employer Payments				Straight-Time		Overtime Hourly Rate		
		Health and Welfare	Pension	Vacation/ Holiday	Training	Hours	Total Hourly Rate	Daily 1 1/2X	Saturday <sup>b</sup> 1 1/2X	Sunday and Holiday
AREA 1										
Carpenter, Cabinet Installer, Insulation Installer, Hardwood Floor Worker, Acoustical Installer	<sup>c</sup> \$29.00	2.45	1.01	2.88 <sup>f</sup>	0.34	8	35.68	50.18	50.18	64.68
Pile Driverman, Derrick Bargeman, Rockslinger, Bridge or Dock Carpenter, Cable Splicer	29.13	2.45	1.01	2.88 <sup>f</sup>	0.34	8	35.81	50.375	50.375	64.94
Bridge Carpenter	<sup>c</sup> 29.13	2.45	1.01	2.88 <sup>f</sup>	0.34	8	35.81	50.375	50.375	64.94
Shingler	<sup>c</sup> 29.13	2.45	1.01	2.88 <sup>f</sup>	0.34	8	35.81	50.375	50.375	64.94
Saw Filer	29.08	2.45	1.01	2.88 <sup>f</sup>	0.34	8	35.76	50.30	50.30	64.84
Table Power Saw Operator	29.10	2.45	1.01	2.88 <sup>f</sup>	0.34	8	35.78	50.33	50.33	64.88
Pneumatic Nailer or Power Stapler	29.25	2.45	1.01	2.88 <sup>f</sup>	0.34	8	35.93	50.555	50.555	65.18
Roof Loader of Shingles	20.39	2.45	1.01	2.88 <sup>f</sup>	0.34	8	27.07	37.265	37.265	47.46
Scaffold Carpenter	23.20	2.45	1.01	2.88 <sup>f</sup>	0.34	8	29.88	41.48	41.48	53.08
Millwright	<sup>c</sup> 29.50	2.45	1.01	2.88 <sup>f</sup>	0.34	8	36.18	50.93	50.93	65.68
Head Rockslinger	29.23	2.45	1.01	2.88 <sup>f</sup>	0.34	8	35.91	50.525	50.525	65.14
Rock Bargeman or Scowman	29.03	2.45	1.01	2.88 <sup>f</sup>	0.34	8	35.71	50.225	50.225	64.74
Diver, Wet (Up To 50 Ft. Depth) <sup>d</sup>	<sup>c</sup> 64.26	2.45	1.01	2.88 <sup>f</sup>	0.34	8	70.94	103.07	103.07	135.20
Diver, (Stand-By)	<sup>c</sup> 32.13	2.45	1.01	2.88 <sup>f</sup>	0.34	8	38.81	54.875	54.875	70.94
Diver's Tender	<sup>c</sup> 31.13	2.45	1.01	2.88 <sup>f</sup>	0.34	8	37.81	53.375	53.375	68.94

### <sup>a</sup> AREA 2

Carpenter, Cabinet Installer, Insulation Installer, Hardwood Floor Worker, Acoustical Installer	<sup>c</sup> 28.43	2.45	1.01	2.88 <sup>f</sup>	0.34	8	35.11	49.325	49.325	63.54
Shingler	<sup>c</sup> 28.56	2.45	1.01	2.88 <sup>f</sup>	0.34	8	35.24	49.52	49.52	63.80
Saw Filer	28.51	2.45	1.01	2.88 <sup>f</sup>	0.34	8	35.19	49.445	49.445	63.70
Table Power Saw Operator	28.53	2.45	1.01	2.88 <sup>f</sup>	0.34	8	35.21	49.475	49.475	63.74
Pneumatic Nailer or Power Stapler	28.68	2.45	1.01	2.88 <sup>f</sup>	0.34	8	35.36	49.70	49.70	64.04
Roof Loader of Shingles	20.37	2.45	1.01	2.88 <sup>f</sup>	0.34	8	27.05	37.235	37.235	47.42

**DETERMINATION:** SC-31-741-1-2003-1

**ISSUE DATE:** February 22, 2003

**EXPIRATION DATE OF DETERMINATION:** May 31, 2003\* Effective until superseded by a new determination issued by the Director of Industrial Relations. Contact the Division of Labor Statistics and Research (415) 703-4774 for the new rates after 10 days from the expiration date, if no subsequent determination is issued.

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

Classification (Journey person)	Basic Hourly Rate	Employer Payments				Straight-Time		Overtime Hourly Rate		
		Health and Welfare	Pension	Vacation/ Holiday	Training	Hours	Total Hourly Rate	Daily 1 1/2x	Saturday/ Sunday <sup>b</sup> 1 1/2x	Holiday 2X
Terrazzo Installer	\$30.84	2.45	1.01	2.88 <sup>f</sup>	-	8	37.18	52.60	52.60	68.02
Terrazzo Finisher	24.34	2.45	1.01	2.88 <sup>f</sup>	-	8	30.68	42.85	42.85	55.02

# Indicates an apprenticeable craft. Rates for apprentices are available in the General Prevailing Wage Apprentice Schedules.

a **AREA 1** - Imperial, Los Angeles, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara and Ventura counties.

**AREA 2** - Inyo, Kern, and Mono counties. For Bridge Carpenter, Scaffold Carpenter, Pile Driverman, Derrick Bargeman, Rockslinger, Bridge or Dock Carpenter, Cable Splicer, Millwright, Head Rockslinger, Rock Bargeman or Scowman, Diver, Wet (Up to 50 Ft. Depth), Diver (Stand-By), and Diver's Tender rates, please see **Area 1** as this rate applies to **Area 2** as well. Basic Hourly Rates for **Area 2** include an additional amount deducted for vacation/holiday.

b Saturdays in the same work week may be worked at straight-time rates if a job is shut down during the normal work week due to inclement weather, major mechanical breakdown or lack of materials beyond the control of the Employer.

c When performing welding work requiring certification, carpenters and pile drivers will receive an additional \$1.00 per hour.

d Shall receive a minimum of 8 hours pay for any day or part thereof.

e For specific rates over 50 ft depth, contact the Division of Labor Statistics and Research. Rates for Technicians, Manifold Operators, Pressurized Submersible Operators, Remote Control Vehicle Operators, and Remote Operated Vehicle Operators, as well as rates for Pressurized Bell Diving and Saturation Diving are available upon request.

f Includes an amount for supplemental dues.

**RECOGNIZED HOLIDAYS:** Holidays upon which the general prevailing hourly wage rate for Holiday work shall be paid, shall be all holidays in the collective bargaining agreement, applicable to the particular craft, classification, or type of worker employed on the project, which is on file with the Director of Industrial Relations. If the prevailing rate is not based on a collectively bargained rate, the holidays upon which the prevailing rate shall be paid shall be as provided in Section 6700 of the Government Code. You may obtain the holiday provisions for the current determinations on the Internet at <http://www.dir.ca.gov/DLSR/PWD>. Holiday provisions for current or superseded determinations may be obtained by contacting the Prevailing Wage Unit at (415) 703-4774.

**TRAVEL AND/OR SUBSISTENCE PAYMENT:** In accordance with 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 for the current determinations on the Internet at <http://www.dir.ca.gov/DLSR/PWD>. Travel and/or subsistence requirements for current or superseded determinations may be obtained by contacting the Prevailing Wage Unit at (415) 703-4774.

## **PRE-CONSTRUCTION MEETING LABOR COMPLIANCE RESPONSIBILITIES & REQUIREMENTS**

### **I. REQUIRED SUBMITTALS (Submittal Schedule & Forms)**

#### **A. LCP Checklist – Submit at Pre-Construction Meeting** (Review and sign)

1. Payment of Prevailing Wage Rates
  - Public Works Project requires the payment of prevailing wages to all employees
  - The prevailing wage determination applicable to this project can be found on the California Department of Industrial Relations website at:  
[http://www.dir.ca.gov/DLSR/statistics\\_research.html](http://www.dir.ca.gov/DLSR/statistics_research.html)
  - **You must refer to the \_\_\_\_\_ Determination**
2. Apprentices
  - All contractors must make a “good faith effort” to employ apprentices (if craft is apprenticeable).
  - Submit a DAS-140 (Public Works Contract Award Information) to your appropriate Apprenticeship Committee. Submit copy of your certified mail certificate as proof of your submittal.
3. Penalties
4. CPRs
5. Non-Discrimination in Employment
6. Kickbacks Prohibited
7. Acceptance of Fees Prohibited
8. Listing of Subcontractors
9. Proper Licensing
10. Unfair Competition Prohibited
11. Workers’ Compensation Insurance
12. OSHA
13. Hiring Undocumented Workers
14. Itemized Wage Statements to Employees
15. Public Works Affidavit

#### **B. DAS-140 & DAS-142 – Submit before you start work on the project.**

- Requirement to “announce” that you will be working on a public works project (compliance is proven via submittal of DAS-140)
- Requirement to “request the dispatch of apprentices” for this public works project (compliance is proven via submittal of DAS-142 or via verbal request)
- These forms should be sent to the local apprenticeship committee for your craft.
- If you need the contact information for your applicable apprenticeship committee, call TSG at (626) 685-6989

#### **C. CAC-2 – Submit each month, or 1-time submittal** (at beginning or end of project)

- For every craft and every hour worked in that craft, you must make the appropriate training fund contributions. Record the total number of hours workers worked on the job, multiply by the appropriate training amount for that craft, and send a check to appropriate fund (see below).
- *Union Contractors:* On the CAC-2, indicate which Union Trust Fund you make training fund contributions to. TSG will audit Trust Fund Reports.
- *Non-Union contractors:* Must make training fund contributions to the California Apprenticeship Council. Send a copy of the CAC-2 form & copy of the contribution check to TSG.

#### **D. CPRs & Statements of Compliance – Submit for each week you work on the project.**

- *CPRs must be submitted for every week that work was performed on the project.*

- *Make sure that you include an accurate work classification for all your workers. (e.g. 'Laborer Group 2', 'Laborer Apprentice level 1' or 'apprentice 65%'*
- *CPRs are not valid unless accompanied by a signed statement of compliance*
- *CPRs must be submitted even on the weeks in which you did not perform any work – This is called a non-performance payroll.*
- *The last payroll should be marked as "final" – when we see the final payroll it triggers our closeout procedures.*

**E. Fringe Benefit Statement - Submit with your 1st CPR.**

- *Indicate each benefit amount for every individual craft you employ on this project.*
- *If fringe benefits are paid to workers in cash, please write that next to the benefit dollar amounts on the form.*
- *If fringe benefits are paid to a Union or Employer's Trust Fund on behalf of your workers, write the contact information in the designated places.*
- *Note: Training Fund Contributions are never paid to the employees.*

**F. Trustee Reports – Submit monthly (typically 2 months in the rear)**

- *If fringe benefits are paid to a Union or Employer's Trust Fund on behalf of your workers, Trust Fund Reports & copies of the contribution checks must be submitted monthly – this proves the benefits were paid for every hour worked on this project.*

**G. Public Works Affidavit – Submit with your "final" CPR**

- *Once TSG has received all the required submittals from your firm, and has resolved any outstanding issues, TSG will sign-off on the PWA & forward it to the District along with a Request for Release of Retention.*

## **II. PENALTIES**

Goal: Resolve all issues before they reach the penalty stage. If workers are underpaid, we will give you the opportunity to correct the situation. However, if we do not receive the documents we need in a timely manner, or do not receive responses to our letters, we will not hesitate to impose penalties. Penalties can add up, ranging from \$25 a day per worker to \$50 dollars a day per worker.

**LABOR COMPLIANCE PROGRAM**

**The Solis Group**

**234 North El Molino Avenue, Suite 202**

**Pasadena, CA 91101**

**Phone: (626) 685-6989**

**Fax: (626) 685-6985**



**PREVAILING WAGE CONTRACTOR HANDOUT**

**PUBLIC WORKS REQUIREMENTS:**

- (1) The appropriate number of apprentices are on the job site, as set forth in Labor Code Section 1777.5;
- (2) Worker's compensation coverage, as set forth in Labor Code Sections 1860 and 1861;
- (3) Keep accurate records of the work performed on the public works project, as set forth in Labor Code Section 1812;
- (4) Inspection of payroll records pursuant to Labor Code Section 1776, and as set forth in 8 CCR Section 16400(e);
- (5) Withhold monies. See Labor Code Section 1727;
- (6) Ensure that public works projects are not split or separated into smaller work orders or projects for the purpose of evading the applicable provisions of Labor Code Section 1771;
- (7) Deny the right to bid on public work contracts to contractors or subcontractors who have violated public work laws, as set forth in Labor Code Section 1777.7;
- (8) Not permit workers on public works to work more than eight hours a day or 40 hours in any one calendar week, unless compensated at not less than time and a half as set forth in Labor Code Section 1815.  
Exception: If the prevailing wage determination requires a higher rate of pay for overtime work than is required under Labor Code Section 1815, then that higher overtime rate must be paid [as specified in 16200(a)(3)(F)];
- (9) Not take or receive any portion of the workers' wages or accept a fee in connection with a public works project, as set forth in Labor Code Sections 1778 and 1779;
- (10) Comply with those requirements as specified in Labor Code Sections 1776(g), 1777.5, 1810, 1813, and 1860; and
- (11) Other requirements imposed by law.

**THE CONTRACTOR AND SUBCONTRACTOR SHALL:**

- (1) Pay not less than the prevailing wage to all workers, as defined in the California Code of Regulations Section 16000(a), and as set forth in Labor Code Sections 1771 and 1774;
- (2) Comply with the provisions of Labor Code Sections 1773.5, 1775, and 1777.5 regarding public works job sites;
- (3) Provide workers' compensation coverage as set forth in Labor Code Section 1861;
- (4) Comply with Labor Code Sections 1778 and 1779 regarding receiving a portion of wages or acceptance of a fee;
- (5) Maintain and make available for inspection payroll records, as set forth in Labor Code Section 1776;
- (6) Pay workers overtime pay, as set forth in Labor Code Section 1815 or as provided in the collective bargaining agreement adopted by the Director as set forth in 8 CCR Section 16200(a)(3);
- (7) Comply with Section 16101 of these regulations regarding discrimination.
- (8) Be subject to provisions of Labor Code Section 1777.7 which specifies the penalties imposed on a contractor who willfully fails to comply with provisions of Section 1777.5;
- (9) Comply with those requirements as specified in Labor Code Sections 1810 and 1813; and
- (10) Comply with other requirements imposed by law.



**APPRENTICE TRAINING:**

SEE LABOR CODE SECTION 1777.5 (e)

Prior to commencing work on a contract for public works, every contractor shall submit contract award information (via submittal of a DAS-140) to an applicable apprenticeship program that can supply apprentices to the site of the public work. The information submitted shall 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. A copy of this information shall also be submitted to the awarding body if requested by the awarding body. Within 60 days after concluding work on the contract, each contractor and subcontractor shall submit to the awarding body, if requested, and to the apprenticeship program a verified statement of the journeyman and apprentice hours performed on the contract. The information under this subdivision shall be public. The apprenticeship programs shall retain this information for 12 months.

**APPRENTICE TRAINING CONTRIBUTION REQUIREMENTS:**

SEE CALIFORNIA CODE OF REGULATIONS: TITLE 8, ARTICLE 4,

16200(G) **Wage rates, training contributions and apprenticeship contributions.**

Apprenticeship rates shall be determined by the Director of Industrial Relations using apprentice wage standards set forth in the collective bargaining agreement and/or approved by the California Apprenticeship Council. A contractor or subcontractor on a public works contract must pay training fund contributions or apprenticeship contributions in one of the following manners:

1. Into the appropriate craft apprenticeship program in the area of the site of the public work; or
2. An equivalent amount shall be paid to the California Apprenticeship Council (CAC) administered by DAS (if the trust fund is unable to accept such contributions).
3. If neither of the above will accept the funds, cash pay shall be as provided for in the California Code of Regulations Section 16200(a)(3)(I).

SEE CALIFORNIA CODE OF REGULATIONS: TITLE 8, ARTICLE 10, SECTION 230.2

§230.2. **Payment of Apprenticeship Training Contributions to the Council.**

- (a) Contractors who are neither required nor wish to make apprenticeship training contributions to the applicable local training trust fund shall make their training contributions to the Council. Contractors may refer to the Director of the Department of Industrial Relations applicable prevailing wage determination for the amount owed for each hour of work performed by journeymen and apprentices in each apprenticeable occupation.
- (b) Training contributions to the Council are due and payable on the 15th day of each month for work performed during the preceding month.
- (c) Training contributions to the Council shall be paid by check and shall be accompanied by a completed CAC-2 Form, Training Fund Contributions or contain the following information:
  - (1) The name, address, and telephone number of the contractor making the contribution.
  - (2) The contractor's license number.
  - (3) The name and address of the public agency that awarded the contract.
  - (4) The jobsite location, including the county where the work was performed.
  - (5) The contract or project number.
  - (6) The time period covered by the enclosed contributions.
  - (7) The contribution rate and total hours worked by apprenticeable occupation.

## PREVAILING WAGE CONTRACTOR HANDOUT

### **CERTIFYING PERSON**

SEE CALIFORNIA CODE OF REGULATIONS: TITLE 8, GROUP 3, ARTICLE 1, SECTION 16000 DEFINITIONS.

A person with the authority to affirm under penalty of perjury that the records provided, depict truly, fully and correctly the type of work performed, the hours worked, days worked and amounts paid.

### **CHANGES TO PREVAILING RATE AFTER AWARD**

SEE LABOR CODE SECTION: 1773.6

1773.6. If during any quarterly period the Director of Industrial Relations shall determine that there has been a change in any prevailing rate of per diem wages in any locality, he shall make such change available to the awarding body and his determination shall be final. Such determination by the Director of Industrial Relations shall not be effective as to any contract for which the notice to bidders has been published. *Exceptions: classifications marked as double asterisks.*

### **CREDITS, FOR FRINGE BENEFIT PAYMENTS**

SEE CALIFORNIA CODE OF REGULATIONS: TITLE 8, GROUP3, ARTICLE 4

16200( i ) Credit Available For Actual Payment of Fringe Benefit Costs up to the Prevailing Amount. The contractor obligated to pay the full prevailing rate of per diem wages may take credit for amounts up to the total of all fringe benefit amounts listed as prevailing in the appropriate wage determination. This credit may be taken only as to amounts which are actual payments under Employer Payments Section 16000(1)-(3). In the event that the total of Employer Payments by a contractor for the fringe benefits listed as prevailing is less than the aggregate amount set out as prevailing in the wage determination, the contractor must pay the difference directly to the employee. No amount of credit for payments over the aggregate amount of employer payments shall be taken nor shall any credit decrease the amount of direct payment of hourly wages of those amounts found to be prevailing for straight time or overtime wages.

#### **THE RULE:**

The contractor can pay amounts for individual benefits different than the state shows in the wage reports so long as it is not more than the total amount permitted for all benefits. Any contractor paid amount less than the total benefit requirements listed in the state wage reports must be paid to the employee.

### **EMPLOYEE'S SUBJECT TO PREVAILING WAGES**

SEE LABOR CODE SECTION 1771, 1772 & 1776

*All workers on the project shall be paid the wage of the trade they are most closely related to. This includes: any one on site, and off site even at remote manufacturing facilities.*

1771. Except for public works projects of one thousand dollars (\$1,000) or less, not less than the general prevailing rate of per diem wages for work of a similar character in the locality in which the public work is performed, and not less than the general prevailing rate of per diem wages for holiday and overtime work fixed as provided in this chapter, shall be paid to all workers employed on public works.

1772. Workers employed by contractors or subcontractors in the execution of any contract for public work are deemed to be employed upon public work.

1776. (a) Each contractor and subcontractor shall keep an accurate payroll record, showing the name, address, social security number, work classification, and straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by him or her in connection with the public work.

**EMPLOYER PAYMENTS**

SEE CALIFORNIA CODE OF REGULATIONS: TITLE 8, ARTICLE 1, SECTION 16000 DEFINITIONS

- (1) The rate of contribution irrevocably made by a contractor or subcontractor to a trustee or to a third person pursuant to a fund, plan, or program for the benefit of employees, their families and dependents, or retirees;
- (2) The rate of costs to the contractor or subcontractor which may be reasonably anticipated in providing benefits to employees, their families and dependents or to retirees pursuant to an enforceable commitment or agreement to carry out a financially responsible plan or program which was communicated in writing to the workers affected; and
- (3) The rate of contribution irrevocably made by the contractor or subcontractor for apprenticeship or other training programs authorized by Section 3071 and/or 3093 of the Labor Code.

**FRINGE BENEFIT PAYMENT REQUIREMENTS**

SEE CALIFORNIA CODE OF REGULATIONS: TITLE 8, ARTICLE 1, SECTION 16000 DEFINITIONS

All fringe benefits must be irrevocably paid to an authorized fund or to the employee.  
No unpaid amounts are allowed.

**FRINGE BENEFITS INCLUDE**

CALIFORNIA CODE OF REGULATIONS: TITLE 8, ARTICLE 1, SECTION 16000. DEFINITIONS

The prevailing rate of employer payments for any or all programs or benefits for employees, their families and dependents, and retirees which are of the types enumerated below:

- (1) Medical and hospital care, prescription drugs, dental care, vision care, diagnostic services, and other health and welfare benefits;
- (2) Retirement plan benefits;
- (3) Vacations and holidays with pay, or cash payments in lieu thereof;
- (4) Compensation for injuries or illnesses resulting from occupational activity;
- (5) Life, accidental death and dismemberment, and disability or sickness and accident insurance;
- (6) Supplemental unemployment benefits;
- (7) Thrift, security savings, supplemental trust, and beneficial trust funds otherwise designated, provided all of the money except that used for reasonable administrative expenses is returned to the employees;
- (8) Occupational health and safety research, safety training, monitoring job hazards, and the like, as specified in the applicable collective bargaining agreement;
- (9) See definition of "Employer Payments," (3).
- (10) Other bonafide benefits for employees, their families and dependents, or retirees as the Director may determine; and
- (11) Travel time and subsistence pay as provided for in Labor Code Section 1773.8.

**FRINGE BENEFITS DO NOT INCLUDE**

CALIFORNIA CODE OF REGULATIONS: TITLE 8, ARTICLE 1, SECTION 16000. DEFINITIONS

The term "general prevailing rate of per diem wages" does not include any employer payments for:

- (1) Job related expenses other than travel time and subsistence pay;
- (2) Contract administration, operation of hiring halls, grievance processing, or similar purposes except for those amounts specifically earmarked and actually used for administration of those types of employee or retiree benefit plans enumerated above;
- (3) Union, organizational, professional or other dues except as they may be included in and withheld from the basic taxable hourly wage rate;
- (4) Industry or trade promotion;
- (5) Political contributions or activities;

## **PREVAILING WAGE CONTRACTOR HANDOUT**

- (6) Any benefit for employees, their families and dependents, or retirees including any benefit enumerated above where the contractor or subcontractor is required by Federal, State, or local law to provide such benefit; or
- (7) Such other payments as the Director may determine to exclude.

### **PAYROLL RECORDS INCLUDE**

CALIFORNIA CODE OF REGULATIONS: TITLE 8, ARTICLE 1, SECTION 16000. DEFINITIONS

All time cards, bank certified 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.

### **PERSONS REQUIRED TO RECEIVE PREVAILING WAGES**

SEE LABOR CODE SECTIONS:

- 1771. Prevailing wages shall be paid to all workers employed on public works.
- 1774. The contractor to whom the contract is awarded, and any subcontractor under him, shall pay not less than the specified prevailing rates of wages to all workmen employed in the execution of the contract.

### **WITHHOLDING PAYMENTS, JUSTIFICATION**

SEE LABOR CODE SECTION: 1727 & 1771.5(b),(5)

SEE CALIFORNIA CODE OF REGULATIONS: TITLE 8, ARTICLE 5, SECTION 16435

16435(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.

- (1) "Contracts." Except as otherwise provided by agreement, only contracts under a single master contract, or contracts entered into as stages of a single project, may be the subject of withholding.
- (2) "Delinquent payroll records" means those not submitted on the date set in the contract.
- (3) "Inadequate payroll records" are any one of the following:
- (4) A record lacking the information required by Labor Code Section 1776;
- (5) A record which contains the required information but is not certified, or certified by someone not an agent of the contractor or subcontractor;
- (6) A record remaining uncorrected for one payroll period, after the awarding body has given the contractor notice of inaccuracies detected by audit or record review, provided, however, that prompt correction will stop any duty to withhold if such inaccuracies do not amount to one 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 Title 8 CCR Section 16401.

### **DIRECTOR OF INDUSTRIAL RELATIONS PRECEDENTIAL DECISIONS WHICH REQUIRE PREVAILING WAGES:**

Decision 92-036: stands for the payment of out-of-state workers if they are working on California "Public Works"

Decision 93-019: stands for the payment of truck drivers removing, delivering or relocating material on "Public Works"

**PREVAILING WAGE CONTRACTOR HANDOUT**

Decision 94-017: stands for the payment of waste processors off site if the waste is exclusively from “Public Works”

**COURT DECISIONS:**

Standard Traffic Services v. Department of Transportation (case 132667) Shasta: partners are due prevailing wages if working on “Public Works”

**DIVISION OF APPRENTICESHIP STANDARDS  
APPRENTICESHIP REQUIREMENTS**

STATE OF CALIFORNIA

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DEPARTMENT OF INDUSTRIAL RELATIONS  
DIVISION OF APPRENTICESHIP STANDARDS  
28 CIVIC CENTER PLAZA, ROOM 525  
SANTA ANA, CA 92701

**TO ALL PUBLIC WORKS CONTRACTORS**

Congratulations on having been awarded a public works project.

The Division of Apprenticeship Standards wishes to bring to your attention your responsibilities under California Labor Code Section 1777.5 Apprentices on Public Works. (Excerpts from California Labor Code relating to apprentices on public works. DAS-10 is attached).

Compliance with California Labor Code Section 1777.5 requires all public works contractors and subcontractors to:

- Submit contract award information within 10 days of contract award, to the applicable Joint Apprenticeship Committee, which shall include an estimate of Journeyman hours to be performed under the contract, the number of apprentices to be employed, and the approximate dates the apprentices will be employed. This information may be submitted on the attached form. DAS 140.
- Employ apprentices on the public work in a ratio to journeymen of no less than one hour of apprentices work for every five hours of labor performed by a journeyman.
- Pay the apprentice rate on public works projects only to those apprentices who are registered as defined in Labor Code Section 3077.
- Contribute to the training fund in the amount identified in the Prevailing Wage Rate publication for journeymen and apprentices. Contractors who choose not to contribute to the local training trust fund must make their contribution to the California Apprenticeship Council (CAC) at P.O. Box 420603, San Francisco, CA 94142.

Training fund contributions to the CAC are due and payable on the 15th day of each month for work performed during the preceding month.

Training fund contributions to the CAC shall be paid by check and shall be accompanied by a completed form CAC-2 (attached).

Failure to comply with the provisions of the Labor Code Section 1777.5 may result in the loss of the right to bid on all public works projects for a period of one to three years and the imposition of a civil penalty of \$100.00 for each calendar day of noncompliance. Contractors should provide a copy of this material to each subcontractor.

If the Division of Apprenticeship Standards can be of assistance to you, please contact our office at (714) 558-4126.

# DIVISION OF APPRENTICESHIP STANDARDS APPRENTICESHIP REQUIREMENTS

## STATE OF CALIFORNIA – DEPARTMENT OF INDUSTRIAL RELATIONS – DIVISION OF APPRENTICESHIP STANDARDS

### EXERPTS FROM THE CALIFORNIA LABOR CODE RELATING TO APPRENTICES ON PUBLIC WORKS

#### Chapter 1 of Division 2

#### APPRENTICES ON PUBLIC WORKS

1773.3. An awarding agency whose public works contract falls within the jurisdiction of Section 1777.5 shall, within five days of the award, send a copy of the award to the Division of Apprenticeship Standards. When specifically requested by a local joint apprenticeship committee, the division shall notify the local joint apprenticeship committee regarding all such awards applicable to the joint apprenticeship committee making the request. Within five days of a finding of any discrepancy regarding the ratio of apprentices to journeymen, pursuant to the certificated fixed number of apprentices to journeymen, the awarding agency shall notify the Division of Apprenticeship Standards.

1776. (a) Each contractor and subcontractor shall keep accurate payroll records, showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by him or her in connection with the public work. Each payroll record shall contain or be verified by a written declaration that it is made under penalty of perjury, stating both of the following:

- (1) The information contained in the payroll record is true and correct.
- (2) The employer has complied with the requirements of Sections 1771, 1811, and 1815 for any work performed by his or her employees on the public works project.
- (b) The payroll records enumerated under subdivision (a) shall be certified and shall be available for inspection at all reasonable hours at the principal office of the contractor on the following basis:
  - (1) A certified copy of an employee's payroll record shall be made available for inspection or furnished to the employee or his or her authorized representative on request.
  - (2) A certified copy of all payroll records enumerated in subdivision (a) shall be made available for inspection or furnished upon request to a representative of the body awarding the contract, the Division of Labor Standards Enforcement, and the Division of Apprenticeship Standards of the Department of Industrial Relations.
  - (3) A certified copy of all payroll records enumerated in subdivision (a) shall be made available upon request by the public for inspection or for copies thereof. However, a request by the public shall be made through either the body awarding the contract, the Division of Apprenticeship Standards, or the Division of Labor Standards Enforcement. If the requested payroll records have not been provided pursuant to paragraph (2), the requesting party shall, prior to being provided the records, reimburse the costs of preparation by the contractor, subcontractors, and the entity through which the request was made. The public shall not be given access to the records at the principal office of the contractor.
  - (c) The certified payroll records shall be on forms provided by the Division of Labor Standards Enforcement or shall contain the same information as the forms provided by the division.
  - (d) A contractor or subcontractor shall file a certified copy of the records enumerated in subdivision (a) with the entity that requested the records within 10 days after receipt of a written request.
  - (e) Any copy of records made available for inspection as copies and furnished upon request to the public or any public agency by the awarding body, the Division of Apprenticeship Standards, or the Division of Labor Standards Enforcement shall be marked or obliterated in a manner so as to prevent disclosure of an individual's name, address, and social security number. The name and address of the contractor awarded the contract or the subcontractor performing the contract shall not be marked or obliterated.
  - (f) The contractor shall inform the body awarding the contract of the location of the records enumerated under subdivision (a), including the street address, city and county, and shall, within five working days, provide a notice of a change of location and address.
  - (g) The contractor or subcontractor shall have 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 twenty-five dollars (\$25) for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. Upon the request of the

Division of Apprenticeship Standards or 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.

(h) The body awarding the contract shall cause to be inserted in the contract stipulations to effectuate this section.

(i) The director shall adopt rules consistent with the California Public Records Act, (Chapter 3.5 (commencing with Section 6250), Division 7, Title 1, Government Code) and the Information Practices Act of 1977, (Title 1.8 (commencing with Section 1798), Part 4, Division 3, Civil Code) governing the release of these records, including the establishment of reasonable fees to be charged for reproducing copies of records required by this section.

(j) This section shall remain in effect only until January 1, 2003, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2003, deletes or extends that date.

1777.5. (a) Nothing in this chapter shall prevent the employment of properly registered apprentices upon public works.

(b) Every apprentice employed upon public works shall be paid the prevailing rate of per diem wages for apprentices in the trade to which he or she is registered and shall be employed only at the work of the craft or trade to which he or she is registered.

(c) Only apprentices, as defined in Section 3077, who are in training under apprenticeship standards that have been approved by the Chief of the Division of Apprenticeship Standards and who are parties to written apprentice agreements under Chapter 4 (commencing with Section 3070) of Division 3 are eligible to be employed at the apprentice wage rate on public works. The employment and training of each apprentice shall be in accordance with either (1) the apprenticeship standards and apprentice agreements under which he or she is training or (2) the rules and regulations of the California Apprenticeship Council.

(d) When the contractor to whom the contract is awarded by the state or any political subdivision, in performing any of the work under the contract, employs workers in any apprenticeable craft or trade, the contractor shall employ apprentices in at least the ratio set forth in this section and may apply to any apprenticeship program in the craft or trade that can provide apprentices to the site of the public work for a certificate approving the contractor under the apprenticeship standards for the employment and training of apprentices in the area or industry affected. However, approval or denial of the apprenticeship program shall be subject to review by the Administrator of Apprenticeship. The apprenticeship program or programs, upon approving the contractor, shall arrange for the dispatch of apprentices to the contractor. A contractor covered by an apprenticeship program's standards shall not be required to submit any additional application in order to include additional public works contracts under that the program. "Apprenticeable craft or trade," as used in this section, means a craft or trade determined as an apprenticeable occupation in accordance with rules and regulations prescribed by the California Apprenticeship Council. As used in this section, "contractor" includes any subcontractor under a contractor who performs any public works not excluded by subdivision (o).

(e) Prior to commencing work on a contract for public works, every contractor shall submit contract award information to an applicable apprenticeship program that can supply apprentices to the site of the public work. The information submitted shall 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. A copy of this information shall also be submitted to the awarding body if requested by the awarding body. Within 60 days after concluding work on the contract, each contractor and subcontractor shall submit to the awarding body, if requested, and to the apprenticeship program a verified statement of the journeyman and apprentice hours performed on the contract. The information under this subdivision shall be public. The apprenticeship programs shall retain this information for 12 months.

(f) The apprenticeship program that can supply apprentices to the area of the site of the public work shall ensure equal employment and affirmative action in apprenticeship for women and minorities.

## **DIVISION OF APPRENTICESHIP STANDARDS APPRENTICESHIP REQUIREMENTS**

(g) The ratio of work performed by apprentices to journeymen employed in a particular craft or trade on the public work may be no higher than the ratio stipulated in the apprenticeship standards under which the apprenticeship program operates where the contractor agrees to be bound by those standards, but, except as otherwise provided in this section, in no case shall the ratio be less than one hour of apprentice work for every five hours of journeyman work.

(h) This ratio of apprentice work to journeyman work shall apply during any day or portion of a day when any journeyman is employed at the jobsite and shall be computed on the basis of the hours worked during the day by journeymen so employed. Any work performed by a journeyman in excess of eight hours per day or 40 hours per week shall not be used to calculate the ratio. The contractor shall employ apprentices for the number of hours computed as above before the end of the contract or, in the case of a subcontractor, before the end of the subcontract. However, the contractor shall endeavor, to the greatest extent possible, to employ apprentices during the same time period that the journeymen in the same craft or trade are employed at the jobsite. Where an hourly apprenticeship ratio is not feasible for a particular craft or trade, the Division of Apprenticeship Standards, upon application of an apprenticeship program, may order a minimum ratio of not less than one apprentice for each five journeymen in a craft or trade classification.

(i) A contractor covered by this section that has agreed to be covered by an apprenticeship program's standards upon the issuance of the approval certificate, or that has been previously approved for an apprenticeship program in the craft or trade, shall employ the number of apprentices or the ratio of apprentices to journeymen stipulated in the applicable apprenticeship standards, but in no event less than the 1-to-5 ratio required by subdivision (g).

(j) Upon proper showing by a contractor that he or she employs apprentices in a particular craft or trade in the state on all of his or her contracts on an annual average of not less than one hour of apprentice work for every five hours of labor performed by journeymen, the Division of Apprenticeship Standards may grant a certificate exempting the contractor from the 1-to-5 hourly ratio, as set forth in this section for that craft or trade.

(k) An apprenticeship program has the discretion to grant to a participating contractor or contractor association a certificate, which shall be subject to the approval of the Administrator of Apprenticeship, exempting the contractor from the 1-to-5 ratio set forth in this section when it finds that any one of the following conditions is met:

(1) Unemployment for the previous three-month period in the area exceeds an average of 15 percent.

(2) The number of apprentices in training in the area exceeds a ratio of 1 to 5.

(3) There is a showing that the apprenticeable craft or trade is replacing at least one-thirtieth of its journeymen annually through apprenticeship training, either on a statewide basis or on a local basis.

(4) Assignment of an apprentice to any work performed under a public works contract would create a condition that would jeopardize his or her life or the life, safety, or property of fellow employees or the public at large, or the specific task to which the apprentice is to be assigned is of a nature that training cannot be provided by a journeyman.

(l) When an exemption is granted pursuant to subdivision (k) to an organization that represents contractors in a specific trade from the 1-to-5 ratio on a local or statewide basis, the member contractors will not be required to submit individual applications for approval to local joint apprenticeship committees, if they are already covered by the local apprenticeship standards.

(m) A contractor to whom a contract is awarded, who, in performing any of the work under the contract, employs journeymen or apprentices in any apprenticeable craft or trade shall contribute to the California Apprenticeship Council the same amount that the director determines is the prevailing amount of apprenticeship training contributions in the area of the public works site. A contractor may take as a credit for payments to the council any amounts paid by the contractor to an approved apprenticeship program that can supply apprentices to the site of the public works project. The contractor may add the amount of the contributions in computing his or her bid for the contract. At the end of each fiscal year the California Apprenticeship Council shall make grants to each apprenticeship program in proportion to the number of hours of training provided by the program for which the program did not receive contributions, weighted by the regular rate of contribution for the program. These grants shall be made from funds collected by the California Apprenticeship Council during the fiscal year pursuant to this subdivision from contractors that employed registered apprentices but did not contribute to an approved apprenticeship program. All these funds received during the fiscal year shall be distributed as grants.

(n) The body awarding the contract shall cause to be inserted in the contract stipulations to effectuate this section. The stipulations shall fix the responsibility of compliance with this section for all apprenticeable occupations with the prime contractor.

(o) This section does not apply to contracts of general contractors or to contracts of specialty contractors not bidding for work through a general or prime contractor when the contracts of general contractors or those specialty contractors involve less than thirty thousand dollars (\$30,000) or 20 working days.

(p) All decisions of an apprenticeship program under this section are subject to Section 3081.

1777.6. It shall be unlawful for an employer or a labor union to refuse to accept otherwise qualified employees as registered apprentices on any public works, on the ground of the race, religious creed, color, national origin, ancestry, sex, or age, except as provided in Section 3077, of such employee.

1777.7. (a) A contractor or subcontractor that knowingly violates 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 shall be based on consideration whether the violation was a good faith mistake due to inadvertence. 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, the awarding body shall withhold the amount of the civil penalty from contract progress payments then due or to become due.

(b) (1) In the event a contractor or subcontractor is determined by the Administrator of Apprenticeship to have knowingly violated any provision of Section 1777.5, the Administrator shall deny to the contractor or subcontractor, both individually and in the name of the business entity under which the contractor or subcontractor is doing business, the right to bid on or receive 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 Administrator of Apprenticeship.

(2) An affected contractor or subcontractor may obtain a review of the debarment or civil penalty by transmitting a written request to the office of the Administrator within 30 days after service of the order of debarment or civil penalty. If the Administrator receives no request for review within 30 days after service, the order of debarment or civil penalty shall become final for the period authorized.

(3) Within 20 days of the timely receipt of a request for hearing, the Administrator shall provide the contractor or subcontractor the opportunity to review any evidence the Administrator may offer at the hearing. The Administrator shall also promptly disclose to the contractor or subcontractor any nonprivileged documents obtained after the 20-day time limit.

(4) Within 90 days of the timely receipt of the a request for hearing, a hearing shall be commenced before an impartial hearing officer designated by the Administrator and possessing the qualifications of an administrative law judge pursuant to Section 11502 of the Government Code. The contractor or subcontractor shall have the burden of showing compliance with Section 1777.5. The decision to debar shall be reviewed by a hearing officer or court only for abuse of discretion.

(5) Within 45 days of the conclusion of the hearing, the hearing officer shall issue a written decision affirming, modifying, or dismissing the debarment or civil penalty. The decision shall contain a notice of findings, findings, and an order. This decision shall be deemed the final decision of the Administrator and shall be served on all parties and the awarding body pursuant to Section 1013 of the Code of Civil Procedure by first-class mail at the last known address of the party on file with the Administrator. Within 15 days of issuance of the decision, the hearing officer may reconsider or modify the decision to correct an error, except that a clerical error may be corrected at any time.

(6) An affected contractor or subcontractor may obtain review of the final decision of the Administrator by filing a petition for a writ of mandate to the appropriate superior court pursuant to Section 1094.5 of the Code of Civil Procedure within 45 days after service of the final decision to debar or to assess a civil penalty. If no petition for a writ of mandate is filed within 45 days after service of the final decision, the order shall become final. If the petitioner claims that the findings are not supported by the evidence, abuse of discretion is established if the court determines that the findings are not supported by substantial evidence in light of the entire record.



## **DIVISION OF APPRENTICESHIP STANDARDS APPRENTICESHIP REQUIREMENTS**

(7) The Administrator may file a certified copy of a final order with 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.

(c) If a subcontractor is found to have violated Section 1777.5, the prime contractor of the project is not liable for any penalties under subdivision (a), unless the prime contractor had knowledge of the subcontractor's failure to comply with the provisions of Section 1777.5 or unless the prime contractor fails to comply with any of the following requirements:

(1) The contract executed between the contractor and the subcontractor or the performance of work on the public works project shall include a copy of the provisions of Sections 1771, 1775, 1776, 1777.5, 1813, and 1815.

(2) The contractor shall continually monitor a subcontractor's use of apprentices required to be employed on the public works project pursuant to subdivision (d) of Section 1777.5, including, but not limited to, periodic review of the certified payroll of the subcontractor.

(3) Upon becoming aware of a failure of the subcontractor to employ the required number of apprentices, the contractor shall take corrective action, including, but not limited to, retaining funds due the subcontractor for work performed on the public works project until the failure is corrected.

(4) Prior to making the 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 employed the required number of apprentices on the public works project.

(d) In lieu of the penalty provided for in subdivision (a) or (b), the director may for a first-time violation and with the concurrence of the apprenticeship program, order the contractor or subcontractor to provide apprentice employment equivalent to the work hours that would have been provided for apprentices during the period of noncompliance.

(e) Any funds withheld by the awarding body pursuant to this section shall be deposited in the General Fund if the awarding body is a state entity, or in the equivalent fund of an awarding body if the awarding body is an entity other than the state.

(f) The interpretation and enforcement of Section 1777.5 and this section shall be in accordance with the rules and procedures of the California Apprenticeship Council.

**DIVISION OF APPRENTICESHIP STANDARDS  
APPRENTICESHIP REQUIREMENTS**

Division of Apprenticeship Standards

APPRENTICES ON PUBLIC WORKS

*SUMMARY OF REQUIREMENTS*

Compliance with California Labor Code Section 1777.5 requires all public works contractors and subcontractors to:

- Submit contract award information to the applicable joint apprenticeship committee, including an estimate of the journeyman hours to be performed under the contract, the number of apprentices to be employed, and the approximate dates the apprentices will be employed.

The contract award information shall be in writing, and shall be provided to the applicable apprenticeship committee within 10 days of the date of the agreement or contract award, but in no event later than the first day in which the contractor has workers employed upon the public work. (California Code of Regulations, Title 8, Section 230.)

- Employ apprentices on the public work in a ratio to journeymen of no less than one hour of apprentice work for every five hours of labor performed by a journeyman.
- Contribute to the training fund in the amount identified in the Prevailing Wage Rate publication for journeymen and apprentices. Contractors who choose not to contribute to the local training trust fund must make their contributions to the California Apprenticeship Council, P.O. Box 420603, San Francisco, CA 94142. Training contributions to the Council are due and payable on the 15<sup>th</sup> of the month for work performed during the preceding month.

Training contributions to the Council shall be paid by check and shall be accompanied by a completed CAC2 form, Training Fund Contributions, or the following information (California Code of Regulations, Title 8, Section 230.2 c):

1. Name, address and telephone number of the contractor making the contribution.
  2. Contractor's license number.
  3. Name and address of the public agency that awarded the contract.
  4. Jobsite location, including the county where the work was performed.
  5. Contract or project number
  6. Time period covered by the enclosed contributions.
  7. Contribution rate and total hours worked by the apprenticable occupation(s).
- Pay the apprentice rate on public works projects only to those apprentices who are registered, as defined in Labor Code Section 3077:


Sec. 3077. The term "apprentice" as used in this chapter means a person at least 16 years of age who has entered into a written agreement, in this chapter called an "apprentice agreement," with an employer or program sponsor. The term of apprenticeship for each apprenticable occupation shall be approved by the chief, and in no case shall provide for no less than 2,000 hours or reasonably continuous employment for such person for his or her participation in an approved program of training through employment and through education in related and supplemental subjects.

**REQUIRED LCP SUBMITTAL FORMS  
SAMPLE FORMS**

**FORMS SUBMITTAL SCHEDULE**

Document Name	Frequency	Submittal Due Date	Notes:
<b>LCP Checklist</b>	1-time submittal	At pre-construction/LCP meeting	Must be submitted by all listed contractors and subcontractors
<b>Form DAS-140</b> Public Works Contract Award Info <b>Form DAS-142</b> (recommended)	1-time submittal	Prior to start of work	A copy MUST be forwarded to the Labor Compliance Officer  <i>A DAS-142, the form to "request for dispatch of an apprentice" is not a required submittal; however, making a request for the dispatch of an apprentice IS REQUIRED (verbal or written). Therefore, the submittal of a DAS-142 is recommended, since it serves as proof the request was made.</i>
<b>Fringe Benefit Statement</b>	1-time submittal, then as benefit amounts change	Submitted with 1 <sup>st</sup> CPR, then as contribution amount changes	In the event fringe benefits are paid "in cash" to workers, contractor should indicate "fringe benefits paid in cash" across this form.  Note: Training contributions should be paid to the CAC or an approved apprenticeship training program; not to the employee.
<b>Statement of Compliance</b>  <b>Certified Payroll Report (CPR)</b>  <b>Statement of Non-Performance</b>	Weekly	Within 10 days of end of payroll period	CPRs to be submitted to the Labor Compliance Officer within 10 days from the end of the payroll period. All documents modifying the payrolls must accompany the CPR; these include but are not limited to: approved "make-up days," "special-shifts," "alternative work schedules."  All inactive workweeks (after the submission of the 1 <sup>st</sup> CPR) should be reported on a "Statement of Non-Performance"
<b>Owner-Operators Statement of Compliance</b>  <b>Owner-Operator CPR</b>	Weekly	(If applicable) Within 10 days of end of payroll period	If applicable, all Owner-Operators are to be reported on these forms. Forward forms to the Labor Compliance Officer weekly.
<b>Employer's Monthly Report to Trustees</b>  <b>Copy of the contribution check</b>	Monthly	Within 15 days of end of reporting month	Submit monthly reports sent to the trust/plan along with a copy of the contribution check, to the Labor Compliance Officer.
<b>Form CAC-2</b>  Training Funds Contributions  <b>Copy of the contribution check</b>	Monthly	By the 15 <sup>th</sup> of each month, for work performed in the preceding month	A copy MUST be forwarded to the Labor Compliance Officer  Monthly submittal should reflect the accurate monthly man-hours performed during the previous month. The CAC-2 form must be accompanied with a copy of the contribution check.
<b>List of Sub-Tier Subcontractors</b>	1-time submittal, then as subs are brought on	Prior to start of work	Must be submitted by all contractors. Indicate which subcontractors the contractor intends to utilize in execution of its project work
<b>Public Works Affidavit</b>	1-time submittal	At conclusion of work	To be submitted to the Labor Compliance Officer by the prime and each sub at the conclusion of the work and prior to release of retention.

# CALIFORNIA CODE OF REGULATIONS CHECKLIST

<b>LABOR COMPLIANCE PROGRAM</b> <b>The Solis Group</b> 234 North El Molino Avenue, Suite 202 Pasadena, CA 91101 Phone: (626) 685-6989 Fax: (626) 685-6985	
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## CHECKLIST OF LABOR LAW REQUIREMENTS FOR REVIEW AT JOB START MEETINGS

(In accordance with CCR Section 16430)

*The federal and state labor law requirements applicable to the contract are composed of, but not limited to, the following:*

### LCP Checklist

**Contractor's  
Initials**

<p>1. <u>Payment of Prevailing Wage Rates</u>                      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 per Labor Code Section 1770.</p> <p>The contractor is 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 or be provided to workers upon request. By signing the LCP Checklist, all contractors and subcontractors are assenting to obtaining the correct prevailing wage rates.</p>	
<p>2. <u>Apprentices</u>                      It is the duty of the contractor and subcontractors to employ registered apprentices on public works projects per Labor Code Section 1777.5;</p>	
<p>3. <u>Penalties</u>                      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 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.</p>	
<p>4. <u>Certified Payroll Records</u>                      Per Labor Code Section 1776, contractors and subcontractors are required to keep accurate payroll records which reflect the name, address, social security number, and work classification of each employee; the straight time and overtime hours worked each day and each week; the fringe benefits; and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee hired in connection with a public works project. In an effort to prove that per diem wages were paid to the workers on behalf of the contractor, by signing the LCP Checklist the contractor is assenting to the fact that it will provide TSG with copies of bank certified cancelled checks made to workers, the California Apprenticeship Council, and/or Union or other trust funds, as required by the California Labor Code §1776(a)(2)(b), and the California Department of Industrial Relations (Chapter 8, Subchapter 3, Article 1, §16000).</p> <p>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 to his or her authorized representative, on request.</p> <p>Contractors and subcontractors shall maintain their certified payrolls on a weekly basis and shall submit said payrolls to TSG in a timely manner, and at least on a monthly basis. In the event that there has been no work performed during a given week, the Certified Payroll Record shall be annotated "No Work" for that week.</p>	

## CALIFORNIA CODE OF REGULATIONS CHECKLIST

<p>5. <u>Nondiscrimination in Employment</u> Prohibitions against employment discrimination are contained in Labor Code Sections 1735 and 1777.6; the Government Code; the Public Contracts Code; and Title VII of the Civil Rights Act of 1964, as amended. All contractors and subcontractors are required to implement equal employment opportunities as delineated below:</p> <p>a. <u>Equal Employment Poster</u> The equal employment poster shall be posted at the job site in a conspicuous place visible to employees and employment applicants for the duration of the project.</p>	
<p>6. <u>Kickbacks Prohibited</u> Per Labor Code Section 1778, contractors and subcontractors are prohibited from accepting, taking wages illegally, or extracting "kickbacks" from employee wages.</p>	
<p>7. <u>Acceptance of Fees Prohibited</u> Contractors and subcontractors are prohibited from exacting any type of fee for registering individuals for public work (Labor Code Section 1779), or for filling work orders on public works contracts (Labor Code Section 1780);</p>	
<p>8. <u>Listing of Subcontractors</u> Contractors are required to list all subcontractors hired to perform work on a public works project when that work is equivalent to more than one-half of one percent of the total effort (Public Contracts Code Section 4104 ) TSG will request sub-contractor listings for all project contractors reported on the project.</p>	
<p>9. <u>Proper Licensing</u> Contractors and subcontractors are required to be properly licensed. Penalties will be imposed for employing workers while unlicensed (Labor Code Section 1021 and Business and Professions Code Section 7000 et seq. under California Contractors License Law).</p>	
<p>10. <u>Unfair Competition Prohibited</u> Contractors and subcontractors are prohibited from engaging in unfair competition (Business and Professions Code Sections 17200-17208).</p>	
<p>11. <u>Workers' Compensation Insurance</u> All contractors and subcontractors are required to be insured against liability for workers' compensation, or to undertake self-insurance in accordance with the provisions of Labor Code §3700 (LC§1861).</p>	
<p>12. <u>OSHA</u> Contractors and subcontractors are required to comply with the Occupational, Safety and Health laws and regulations applicable to the particular public works project. In accordance with federal and state laws and contract documents, the undersigned contractor herein certifies that it will comply with the foregoing labor law requirements; and fully understands that failure to comply with these requirements will subject it to the penalties cited herein.</p>	
<p>13. <u>Hiring Undocumented Workers</u> Contractors and subcontractors are required to secure proof of eligibility/citizenship from all project workers due to the federal prohibition against hiring undocumented workers.</p>	
<p>14. <u>Itemized Wage Statements to Employees</u> Contractors and subcontractors are required to provide itemized wage statements to their employees under Labor Code Section 226.</p>	
<p>15. <u>Public Works Affidavit</u> Prior to the release of the final payment to the subcontractors, the prime Contractor shall obtain a Public Works Affidavit (signed under penalty of perjury) from the subcontractor stating that the subcontractor paid the specified prevailing wage rates to its workers (CLC §1775.5 (b) (4)).</p>	

### Certification:

**I acknowledge that I have been informed and are aware of the foregoing requirements and that I am authorized to make and sign this certification.**

<b>Contractor Signature:</b>	<b>Date:</b>
<b>Labor Compliance Officer's Signature:</b>	<b>Date:</b>
<b>Awarding Body:</b>	
<b>Project Name or Number:</b>	

## DAS-140

### PUBLIC WORKS CONTRACT AWARD INFORMATION

Contract award information must be sent to your Apprenticeship Committee if you are approved to train. If you are not approved to train, you must send the information (which may be this form) to ALL applicable Apprenticeship Committees in your craft or trade in the area of the site of the public work. Go to: <http://www.dir.ca.gov/das/PublicWorksForms.htm> 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 AWARDDING 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**

DAS-142

**REQUEST FOR DISPATCH OF AN APPRENTICE**

**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/das/PublicWorksForms.htm> 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.

Date: \_\_\_\_\_

To Applicable Apprenticeship Committee: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_

Contractor Requesting Dispatch: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_

Person making request: \_\_\_\_\_

Number of Apprentice(s) Needed \_\_\_\_\_ Craft or Trade \_\_\_\_\_

Date Apprentice(s) to Report: \_\_\_\_\_ (48 hours notice required)

Name of Person to Report to: \_\_\_\_\_

Address to Report to: \_\_\_\_\_

Time to Report: \_\_\_\_\_

You may use this form, or make a verbal or written request, to ask for the dispatch of an apprentice. Please take note of California Code of Regulations, Title 8, § 230.1 (a) which says in part: *if in response to a written request an Apprenticeship Committee does not dispatch any apprentice to a contractor who has agreed to employ and train apprentices in accordance with either the Apprenticeship Committee's Standards or these regulations within 72 hours of such request (excluding Saturdays, Sundays and holidays) the contractor shall not be considered in violation of this section as a result of failure to employ apprentices ...*



CAC-2

State of California  
Department of Industrial Relations  
California Apprenticeship Council  
P. O. Box 420603  
San Francisco, CA 94142

# TRAINING FUND CONTRIBUTIONS

California Apprenticeship  
Council

Please use a separate **form** for each jobsite, listing the occupations for the jobsite. One **check** payable to the California Apprenticeship Council, may be submitted for all jobsites and/or occupations. Training fund contributions are **not accepted** by the California Apprenticeship Council for federal public works projects, or for non-apprenticeable occupations such as utility technicians, teamsters, etc.

NAME AND ADDRESS OF CONTRACTOR/SUBCONTRACTOR MAKING CONTRIBUTION		CONTRACTOR'S LICENSE NUMBER		
		CONTRACT OR PROJECT NUMBER		
		JOBSITE LOCATION (INCLUDE COUNTY) IF APPLICABLE. GIVE NAME OF SCHOOL, HOSPITAL, BUILDING, ETC.		
NAME AND ADDRESS OF PUBLIC AGENCY AWARDING CONTRACT		PERIOD COVERED BY CONTRIBUTION (FROM-TO)		
CLASSIFICATIONS OF WORKERS (CARPENTER, PLUMBER, ELECTRICIAN, ETC.)	COUNTY WORK PERFORMED IN	HOURS	CONTRIBUTION RATE PER HOUR	AMOUNT
				0.00
				0.00
				0.00
				0.00
				0.00
				0.00
				0.00
				0.00
			Total	\$0.00
SIGNATURE PLEASE TYPE OR PRINT YOUR NAME			DATE	
TITLE			AREA CODE & TELEPHONE NUMBER	



**STATEMENT OF COMPLIANCE**

Date: \_\_\_\_\_

I, \_\_\_\_\_ do hereby certify under penalty of perjury:  
(Name of signatory party) (Title)

(1) That all the information in this report is true and correct;

(2) That I pay or supervise the payment of the persons reported as employed by \_\_\_\_\_  
(Contractor or Subcontractor)

on the \_\_\_\_\_, that during the payroll period commencing on the \_\_\_\_ day of \_\_\_\_\_  
(Project)

20 \_\_ and ending the \_\_\_\_ day of \_\_\_\_\_, 20 \_\_, all persons employed on said project have been paid their full weekly wages earned, that no rebates have or will be made either directly or indirectly to or on behalf of said \_\_\_\_\_ from the full weekly wages earned by any person and that no deductions  
(Contractor or Subcontractor)

have been made either directly or indirectly from the full wages earned by any person, other than permissible deductions, as described below.

(3) That any payrolls otherwise under this contract required to be submitted for the above period are correct and complete; that the wage rates for laborers or mechanics contained therein are not less than the applicable wages contained in any wage determination incorporated into the contract; that the classifications set forth therein for each laborer or mechanic conform with the work he or she performed.

(4) That any apprentices employed in the above period are duly registered in a bona fide apprenticeship program registered with a State apprenticeship agency.

(5) That :

(a) WHERE FRINGE BENEFITS ARE PAID TO APPROVED PLANS, FUNDS OR PROGRAMS

\_\_\_\_\_ In addition to the basic hourly wage rates paid to each laborer or mechanic listed in the above referenced payroll, payment of fringe benefits as listed in the contract have been or will be made to appropriate programs for the benefit of such employees, except as noted in Section 5 (c) below.

(b) WHERE FRINGE BENEFITS ARE PAID IN CASH

\_\_\_\_\_ Each laborer or mechanic listed in the above referenced payroll has been paid as indicated on the payroll, an amount not less than the sum of the applicable basic hourly wage rate plus the amount of the required fringe benefits as listed in the contract except as noted in Section 5 (c) below:

(c) EXCEPTIONS

EXCEPTION (CRAFT)	EXPLANATION
Remarks:	
Name and Title	Signature

On federally-funded projects, permissible deductions are defined in Regulations, Part 3 (29 CFR Subtitle A), issued by the Secretary of Labor under the Copeland Act, as amended (48 Stat. 948; 63 Stat. 108; 72 Stat. 967; 76 Stat. 357; 40 U.S. C. 276c). The willful falsification of any of the above statements may subject the contractor or subcontractor to civil or criminal prosecution (Section 1001 of Title 118 and Section 231 of Title 31 of the United States Code.)

**REQUIRED LCP SUBMITTAL FORMS**  
**SAMPLE FORMS**

CERTIFIED PAYROLL

[illegible]

## STATEMENT OF NON-PERFORMANCE

Payroll Number: \_\_\_\_\_

I, \_\_\_\_\_, \_\_\_\_\_ do hereby state that  
(Name of Signatory party) (Title)

NO PERSONS employed by \_\_\_\_\_ performed work on  
(Name of submitting company)

the construction project known as \_\_\_\_\_

for the payroll period commencing on the \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_\_\_  
(1<sup>st</sup> date of week) (month)

and ending on the \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_\_\_.  
(last date of week) (month)

\_\_\_\_\_  
Signature of Authorized Person

\_\_\_\_\_  
Date

\*THIS STATEMENT IS NOT REQUIRED TO BE SUBMITTED UNTIL AFTER SUBMISSION OF THE INITIAL  
PAYROLL REPORT

REQUIRED LCP SUBMITTAL FORMS  
SAMPLE FORMS

FRINGE BENEFIT STATEMENT

Contract No.:		Project Name:		Date:	
<b>INSTRUCTIONS:</b> This form is to be submitted with the first certified payroll. In order that the Fringe Benefit rates can be used for checking payrolls or applied to Force Account work which may be done on the above contract the hourly rates for fringe bene					
Classification:		Effective Date:		Subsistence or Travel Pay:	
Health and Welfare \$		Trust Fund Paid To: (Name)			
		Address:			
Pension \$		Trust Fund Paid To: (Name)			
		Address:			
Vacation/Holiday \$		Trust Fund Paid To: (Name)			
		Address:			
Training and/or Other \$		Trust Fund Paid To: (Name)			
		Address:			
Classification:		Effective Date:		Subsistence or Travel Pay:	
Health and Welfare \$		Trust Fund Paid To: (Name)			
		Address:			
Pension \$		Trust Fund Paid To: (Name)			
		Address:			
Vacation/Holiday \$		Trust Fund Paid To: (Name)			
		Address:			
Training and/or Other \$		Trust Fund Paid To: (Name)			
		Address:			
Classification:		Effective Date:		Subsistence or Travel Pay:	
Health and Welfare \$		Trust Fund Paid To: (Name)			
		Address:			
Pension \$		Trust Fund Paid To: (Name)			
		Address:			
Vacation/Holiday \$		Trust Fund Paid To: (Name)			
		Address:			
Training and/or Other \$		Trust Fund Paid To: (Name)			
		Address:			
Submitted (Contractor/Subcontractor)		By (Name and Title)		Signature	

REQUIRED LCP SUBMITTAL FORMS  
SAMPLE FORMS

EMPLOYER'S MONTHLY REPORT TO TRUSTEES

1 THIS REPORT IS TO COVER HOURS FOR THE MONTH OF:		ACCOUNT NO.		I do hereby certify under penalty of perjury that the employees listed below constitute all the employees that I am required to make payments to the Trust. Furthermore, I certify that the hours shown for each employee are the total hours which he/she worked or was paid.  Signed by: _____  Title: _____	
LICENSE NO.					
EMPLOYER NAME AND ADDRESS  If the above information is incorrect, please indicate changes which should be made.					

2 COMPUTATION OF CONTRIBUTIONS

6 TOTAL HOURS ON ALL PAGES	A. VACATION/DUES	B. PENSION	C. TRAINING AND RETRAINING	D. HEALTH AND WELFARE	E. INDUSTRY	MAKE ONE CHECK FOR TOTAL AMOUNTS OF COLUMNS A, B, C, D & E
	PER HOUR	PER HOUR	PER HOUR	PER HOUR	PER HOUR	
	\$	\$	\$	\$	\$	
LIQUIDATED DAMAGES						
TOTAL DUE EACH TRUST	\$	\$	\$	\$	\$	

3 EMPLOYEE'S NAME	INITIALS 1ST 2ND	4 SOCIAL SECURITY NO.	5 HOURS	7 IMPORTANT THIS REPORT MUST BE FILED EVEN THOUGH NO EMPLOYEES WORKED THIS MONTH.  <input type="checkbox"/> NO EMPLOYEES WORKED THIS MONTH. PLEASE CONTINUE MAILING REPORT FORMS.  <input type="checkbox"/> TRANSFER TO INACTIVE STATUS. WE HAD NO EMPLOYEE TO REPORT THIS MONTH AND DO NOT ANTICIPATE HIRING ANY IN THE NEAR FUTURE.
				<div>IMPORTANT</div> <p>REPORTS ARE DUE THE 15TH OF THE FOLLOWING MONTH AND MUST BE RECEIVED AT THE BANK BY THE 20TH TO AVOID LIQUIDATED DAMAGES (EVEN IF THERE WERE NO EMPLOYEES) AND INTEREST. LIQUIDATED DAMAGES ARE CALCULATED AT 20% OF THE TRUST OR \$25 PER TRUST, WHICHEVER IS GREATER. INTEREST IS DUE AT THE MAXIMUM RATES PERMITTED BY LAW AND SPECIFIED IN THE TRUST AGREEMENT OF EACH TRUST. THESE RATES VARY AND MAY APPROACH OR EXCEED 20% PER ANNUM.</p>

IMPORTANT: SOCIAL SECURITY NUMBER MUST BE FILLED TO ASSURE PROPER CREDIT.

TOTAL HOURS THIS PAGE

**REQUIRED LCP SUBMITTAL FORMS  
SAMPLE FORMS**

**MONTHLY EMPLOYMENT UTILIZATION REPORT**

U.S. DEPARTMENT OF LABOR EMPLOYMENT STANDARDS ADMINISTRATION TSG/ACTA008

This report is required by Executive Order 11246, Sec. 203. Failure to report can result in contracts being canceled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further government contracts for federally				1. Covered Area (SMSA OR EA) <b>LOS ANGELES COUNTY</b>				3. Current Goals Minority: _____ Female: _____				4. Reporting Period From: _____ To: _____			
				2. Employer I. D. No.											
Project Name and Address				Contract Number(s)				Name and Address of Reporting Contractor				Federal Funding Agency			

5. Construction Trade	Classification	6. TOTAL ALL HOURS OF EMPLOYMENT (Federal and Non-Federal)												9. Total Number of Employees		10. Total Number of Minority Employees	
		6a. Total Hours of All Employees by Trade		6b. Black (not of Hispanic Origin)		6c. Hispanic		6d. Asian or Pacific Islander		6e. American Indian or Alaskan Native		7. Minority Percentage	8. Female Percentage				
		M	F	M	F	M	F	M	F	M	F			M	F	M	F
	Journeyworkers																
	Apprentices																
	Trainees																
	Subtotal																
	Journeyworkers																
	Apprentices																
	Trainees																
	Subtotal																
	Journeyworkers																
	Apprentices																
	Trainees																
	Subtotal																
	Journeyworkers																
	Apprentices																
	Trainees																
	Subtotal																
Total Journeyworkers (All Trades)																	
Total Apprentices (All Trades)																	
Total Trainees (All Trades)																	
Grand Total (All Trades/All Classifications)																	

11. COMPANY OFFICIAL'S SIGNATURE AND TITLE	12. TELEPHONE (       )	13. DATE SIGNED	PAGE _____ OF _____
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**PUBLIC WORKS AFFIDAVIT**  
California Labor Code §1775(b)(4)

The undersigned Contractor/Subcontractor has complied with the provisions of the California Labor Code §1771, §1773.1, §1775, §1776, §1777.5, §1813 and §1815, and has paid all employees the specified general prevailing rate of per diem wages to its employees, and any amounts due pursuant to §1813, on the public project:

Awarding Body/District: \_\_\_\_\_

Project: \_\_\_\_\_

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

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ at \_\_\_\_\_, California.

\_\_\_\_\_  
(Company Name)

\_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Approved by LCO/Program Manager)

[No final payment or retention shall be paid to the contractor until it certifies that all benefit payments owed by the contractor are made or otherwise guaranteed.]

# SITE VISITATION EMPLOYEE INTERVIEW FORM

<b>THE SOLIS GROUP</b>	<b>CONFIDENTIAL EMPLOYEE INTERVIEW</b>
NAME OF PERSON BEING INTERVIEWED:	DISTRICT:
ADDRESS:	PROJECT NAME:
CITY, STATE, ZIP:	PROJECT LOCATION:
PHONE #:	PRIME CONTRACTOR:
SOCIAL SECURITY #:	SUBCONTRACTOR:

1. Who is your present Employer?	2. How long have you worked for this Employer?
3. How long have you worked on this project?	a) What is your hourly wage rate? \$
b) How are you paid? <input type="checkbox"/> CASH <input type="checkbox"/> CHECK <input type="checkbox"/> COMBINATION CASH AND CHECK	
c) How often are you paid? <input type="checkbox"/> WEEKLY <input type="checkbox"/> BI-WEEKLY <input type="checkbox"/> OTHER (please list)	
d) Are you a Union Member? <input type="checkbox"/> YES <input type="checkbox"/> NO    LOCAL NUMBER:	
e) If you are a Union Member: <input type="checkbox"/> JOURNEYMAN <input type="checkbox"/> APPRENTICE    LEVEL OF APPRENTICESHIP:	
f) What is your classification?    CARPENTER    CEMENT MASON    DRY WALL    ELECTRICIAN    IRON WORKER	
LABORER    OP.ENG.    PLUMBER    ROOFER    SHEET METAL WORKER    OTHER (please list)	
g) Do you change crafts during the day?    If yes, what?	
h) What kind of Fringe Benefits (\$) do you receive? <input type="checkbox"/> FRINGE BENEFITS PAID INTO A TRUST FUND?	
i) Work being performed at the time of interview:	
j) Type of work you have been doing this past week: <input type="checkbox"/> SAME AS WORK BEING PERFORMED TODAY	
k) List tools and equipment that you use on the job. <input type="checkbox"/> BASIC HAND TOOLS FOR IDENTIFIED TRADE	
l) Did you come here directly from home or company yard/office? <input type="checkbox"/> HOME <input type="checkbox"/> YARD/OFFICE    If YARD/ OFFICE, time left:	
m) Are you operating a company vehicle? <input type="checkbox"/> YES <input type="checkbox"/> NO    If yes, do you take this vehicle to another job site? <input type="checkbox"/> YES <input type="checkbox"/> NO	
4. How many hours do you work on this job per day (excluding lunch and breaks)?	
A) During this project, have you also worked on an other project? <input type="checkbox"/> YES <input type="checkbox"/> NO    If YES, which:	
a) What time did you enter and leave the job site yesterday?    ENTER    LEAVE	
b) Have you worked overtime on this project? <input type="checkbox"/> MON-FRI <input type="checkbox"/> WEEKENDS <input type="checkbox"/> HOLIDAYS <input type="checkbox"/> NEVER	
c) Are you paid time and 1/2, or double-time, for overtime? <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> UNKNOWN	
d) How are you paid for your overtime? <input type="checkbox"/> CHECK <input type="checkbox"/> CASH <input type="checkbox"/> OTHER	
5. How do you keep record of hours worked? <input type="checkbox"/> SIGN-IN SHEET <input type="checkbox"/> TIMECARD <input type="checkbox"/> TIMECLOCK <input type="checkbox"/> OTHER <input type="checkbox"/> FOREMAN RECORDS & SUBMITS	
6. Additional questions for Owner Operators	
b) Do you own the equipment?    YES    NO	a) Equipment description:
d) Hourly Rate    \$    (Fully operated and maintained)	c) Legal Owner:
	e) Base Equipment Rate: \$
f) Truck (Cal-T) Number:	

Employee Comments or Questions:

Interview Notes:

☐ Photo taken of Company Truck  
☐ Only Recorded Worker Head Count - Work could not be impeded due to: \_\_\_\_\_

Employee Signature: X

FOR THE SOLIS GROUP USE ONLY:  
 I, \_\_\_\_\_  
 (INTERVIEWER)

interviewed the above person on \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_  
 DATE TIME

Revised 2/16/07



## SITE VISITATION EMPLOYEE INTERVIEW TRACKING LOG

[illegible]

## **SITE VISITATION EMPLOYEE INTERVIEW TRACKING LOG**