



Caltrans Local Assistance

RESIDENT ENGINEER ACADEMY

Module 15

Labor Compliance

January 2025

Labor Compliance: Topics

- Federal and state laws
- Daily reports and payroll review requirements
- Conducting required interviews
- Verify required posters are onsite
- Enforce trainee/apprentice goal
- Take action for non-compliance of prevailing wage laws

Labor Compliance

RESPONSIBILITIES

Local Agencies must:

1. Designate a Labor Compliance Officer for the contract
2. Conduct a pre-job meeting and discuss LC requirements
3. Document pre-job meeting held and those who attended the meeting
4. Document presence of contractor employees on worksite and site adjacent locations (i.e. staging areas etc.)
5. Document equipment operated and operators
6. Check certified payrolls
7. Conduct employee interviews
8. Verify all posters are on job site
9. Withhold of contract funds for identified violations

LAWS & REGULATIONS

What is the purpose of prevailing wage?



Labor Laws and Regulations

- Code of Federal Regulations (CFR 23, 26, 29, 49)
- FHWA Regulations
- California Labor Code (1720-1815 covers Public Works Projects)
- California Code of Regulations (16000 – expands & defines the state laws)

Federal Labor Laws

Davis – Bacon Act

- Enacted in 1931
- Amended in 1935 & 1964
- Requires payment of prevailing wage on federal contracts
 - *Laborers and mechanics employed on the worksite performing construction, alteration, and/or repair, including painting & decorating of public buildings or public works.*
- Employees must be properly classified
- Paid at least once a week
- Must post wage rates and the minimum wage poster
- Required for any contracts in excess of \$2,000
 - The structure of payments does not determine coverage, it is based on the total awarded contract amount.

Federal Labor Laws

Contract Work Hours and Safety Standards Act of 1962

- 40 USC §327-332
- Overtime paid for anything **over 40 hours** in a **week**
 - Has no “site of work” limitation (i.e. the worker is entitled to overtime for hours worked regardless of whether all hours were on the public works site.
- Paid at one time and one-half of the basic rate.
- Contractor liable for liquidated damages at \$27/day per employee
 - Assessed by the contracting agency, and must be completed with violations identified.
 - Agencies may not reduce or waive liquidated damages unless permission is given from DOL Wage and Hour Division (29 CFR §5.24)
- Intentional violations carry a \$1,000 fine and/or 6 months imprisonment

Federal Labor Laws

Copeland Act

When reports were provided to the Senate Committee on DBA compliance it had been found up to 25% of the money due to workers was unlawfully returned to contractors and subcontractors, or officials on the job.

- Passed in 1934
- Full wages earned must be paid
- Regulates payroll deductions
- Proper payroll records must be kept
- Statement of Compliance submitted weekly for work performed
 - False Statement Act applies to certified payroll
- Prohibits “kickback” of wages and back wages
 - Felony with a potential fine up to \$250,000 for a person and \$500,000 for a corporation, as well as up to 5 years imprisonment.

Federal Labor Laws

False Information Act

- Falsification of a certified payroll is a felony that can result in a fine and/or up to 5 years in prison (18 USC §874 & 1001).
- Grounds for a lawsuit under the false claims act.
- False Statement posters shall be posted on the worksite.

Federal Labor Laws

**29 CFR 5.5
requirements
on prevailing
wage:**

5.5(a)(1) – Minimum wages

5.5(a)(2) – Withholding obligations

5.5(a)(3) – Maintaining basic payroll records

5.5(a)(4) – Apprentices and trainees

5.5(a)(5) – Copeland Act Compliance

5.5(a)(6) – Subcontracts

5.5(a)(7) – Contract termination & debarment

5.5(a)(8) – Rulings & Interpretations

5.5(a)(9) – Disputes

5.5(a)(10) – Certification of Eligibility

Federal Labor Laws

Where in my contract?

**FHWA Form 1273
Required Contract Provisions Federal-Aid
Construction Contracts
(15.1 Handout pgs. 1-12)**

LAPM Exhibit 12-E

State Labor Code

Contractors and subcontractors **must pay workers prevailing wage rate** as required by Department of Industrial Relations (DIR)

- **Penalties** for failure to pay prevailing wages up to \$200 per day, per worker.

Contractors and subcontractors must keep and furnish certified payroll records to DIR and awarding body.

- Penalties for failure to submit required payroll records at \$100 per day per worker until compliance is met.

State Labor Code

Public Works Contractor Registration Program

- Applies to all - primes and subs performing work on a public works contract
 - Includes: sole proprietors and equipment owner-operators performing prevailing wage work
- Register and pay \$400 each fiscal year
 - Contractors may register multiple years
- Required for any bid proposal and must be current at time of award
- Submit Cert. Payrolls to Labor Commissioner and awarding body
- Contractors/subcontractors not required to have a CSLB license for the type of they are performing must still be registered to with DIR to perform work on the project
- **Senate Bill 854, Labor Code 1725.5 & 1771.1**

State Labor Code

Public Works Contractor Registration Program

- Awarding bodies must register each project in the PWC-100 on DIR's website
- Must be entered within 30 days of award and prior to work starting
- Must include prime contractor and all subcontractors

Senate Bill 854, Labor Code 1725.5 & 1771.1

State Labor Code

Public Works Contractor Registration Program

1. Who checks the registration prior to award for your agency?
2. Who checks renewal of registration during the course of the contract?
3. Who checks 2nd tier and below subcontractors registration not listed at time of the award?

Senate Bill 854, Labor Code 1725.5 & 1771.1

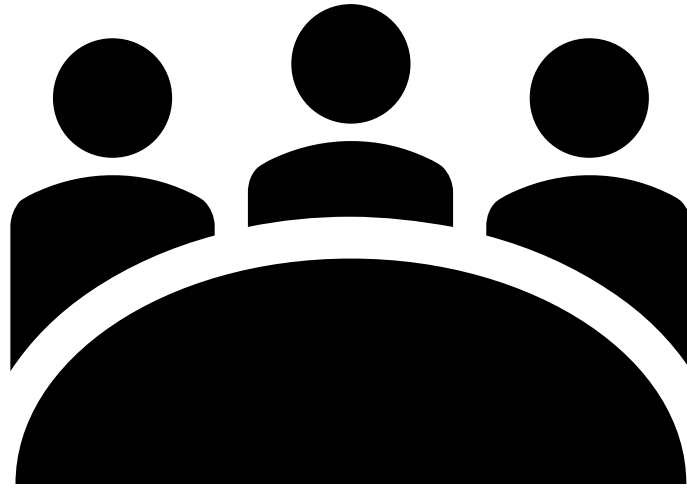
State Labor Code

How are these State laws incorporated into my contract?

Contractor must comply with laws, ordinances and regulations.

CT Standard Specifications 2018 Section 7-1.02A Laws & 7-1.02K Prevailing Wage Requirements,

PRE-JOB MEETING & POSTER REQUIREMENTS



Pre-Job Requirements

- A pre-job meeting must be performed in accordance with Labor Code 1771 and CCR, Title 8 requirements. 16421.
 - Documentation of information provided via a checklist.
 - Templates Caltrans uses are available on the Caltrans Labor Compliance website and may be revised to fit a local agencies needs.
 - **First Line of Defense!**

CT Federal Labor Compliance Pre-job Checklist

California Department of Transportation, Labor Compliance Pre-job Checklist
Revised 02/2021



FEDERAL-AID CONTRACT

Contract Number:	Federal-Aid Number:	Date:
Date Advertised for Bids:	Bid Opening Date:	
Contract Bid Amount:	Working Days:	Contract Type: Minor B
Description of Project: Enter project description here.		
Labor Compliance Contact Information: LCO Name Address City, CA Zip Phone Number, Fax Number Email Address		
Prime Contractor: Company Name Address City, State Zip		
Resident Engineer:	Pre-job performed by:	

CONTRACTOR REQUIREMENTS

All contractor(s) and subcontractor(s) will comply with State and Federal employment laws including, but not limited to, prevailing wage laws and DIR registration requirements.

POSTERS/NOTICES

Contractors are required to post all required state and federal posters on the jobsite in an area accessible to all workers, including subcontractors. Posters must be readable and placed in visible areas allowing workers to access the posters before, during, and after work shifts. Jobsites with multiple locations must include a portable poster board to ensure continued access to the information. Posters placed in foreman, supervisor, or employee vehicles, in an offsite job trailer, or inside a temporary restroom **do not** meet the posting requirement. Resident engineers, contract managers, and other delegated Caltrans staff will verify the prime contractor has posted the following:

State General Prevailing Wage Determinations

General Prevailing Wage Determination:

Journeyman and Apprentice prevailing wage rates can be accessed at the CA Department of Industrial Relations (DIR) Web site:

[DIR Prevailing Wage Determinations – https://www.dir.ca.gov/oprl/DPreWageDetermination.htm](https://www.dir.ca.gov/oprl/DPreWageDetermination.htm)

[Public Works Apprenticeship Requirements – https://www.dir.ca.gov/Public-Works/Apprentices.html](https://www.dir.ca.gov/Public-Works/Apprentices.html)

<https://dot.ca.gov/programs/construction/labor-compliance>

Posters

Posters, Notices, Wage Rates...

- Posted on job site
- Legible and in plain view
- Documented in project records

Posters

Contractor Bulletin Board Inspection Checklist State and Federally Funded Construction Projects (14.1 Handout page 15)



**CONTRACTOR BULLETIN BOARD INSPECTION
STATE AND FEDERALLY FUNDED HIGHWAY CONSTRUCTION PROJECTS**

Contract Number: _____

Prime Contractor: _____

Visual inspection of posters listed below is required at jobsite within 30 days of the start of work. Forward the completed checklist to the District or Region Labor Compliance Office.

- | | YES | NO |
|--|-------|-------|
| 1. Are the posters or bulletin board in an area readily accessible to all employees? | _____ | _____ |
| 2. Are the posters readable and in good condition? | _____ | _____ |

The following items must be posted on the bulletin board:

For all Projects:



- | | | |
|--|-------|-------|
| 1. State Prevailing Wage Rates | _____ | _____ |
| 2. Pay Day Notice—DLSE 8 or similar | _____ | _____ |
| 3. Discrimination in Employment - DFEH 162 English
La Ley Prohíbe la Discriminación y el Acoso en el Empleo-DFEH 162S Spanish | _____ | _____ |
| 4. Notice of Labor Compliance Program Approval—English
Notificación Sobre La Aprobación Del Programa Para El Cumplimiento De La Ley Laboral—Spanish | _____ | _____ |
| 5. Contractor's EEO Policy | _____ | _____ |

For all Federal-Aid Projects:



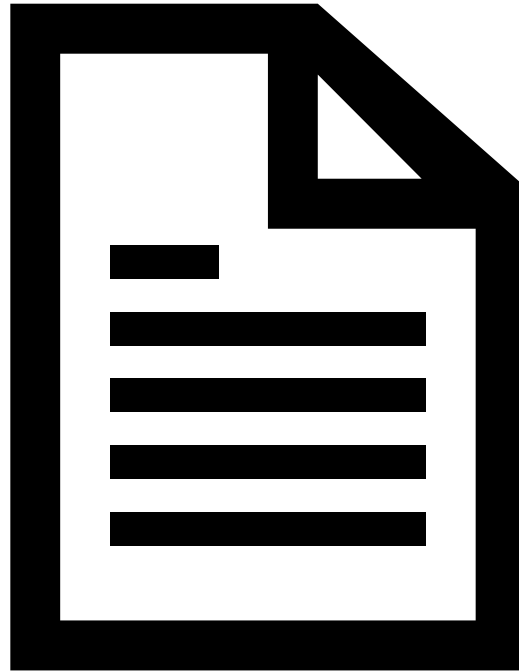
- | | | |
|---|-------|-------|
| 1. Federal Davis-Bacon Wage Rates | _____ | _____ |
| 2. False Statement Poster—PR 1022 | _____ | _____ |
| 3. Equal Employment is the Law—OFCCP 1420
La Igualdad De Oportunidades De Empleo Es La Ley—OFCCP 1420 | _____ | _____ |
| 4. Employee Rights Under the Davis-Bacon Act—WH 1321 English
Derechos Del Empleado Bajo La Ley Davis-Bacon—WH 1321 Spanish | _____ | _____ |

Inspector Signature _____ Date _____

Posters

- FHWA Posters website:
<http://www.fhwa.dot.gov/programadmin/contracts/poster.cfm>
 - Provides law citation for each poster
 - Print posters
- U.S. Department of Labor Posters website:
<http://www.dol.gov/compliance/topics/posters.htm>
 - Determine poster required [elaws Poster Advisor](#)
 - Download or print posters

DAILY REPORTS



Daily Reports

Daily Report Information:

Contractor/Subcontractor company name

Employees' full names

Classifications

Equipment they operate

Hours worked

Description of work performed

Designate owner operators of equipment by name (John Smith O/OP)

Signed with printed inspector name

Daily Reports

Daily Report:

- Vital for confirming information provided by contractors/subcontractors on submitted payroll records.
- Used to identify:
 - Which payroll records should be submitted
 - Employee(s) who performed prevailing wage work
 - Hours the worker should be paid for
 - Equipment operated or duties performed to confirm paid at the appropriate classification

ASSISTANT RESIDENT ENGINEER'S DAILY PROJECT _____ REPORT

Location & Description of Operation: CONTRACTOR WORKED ON SUBGRADE BETWEEN STA 291 AND 323. GRADE HAS NOT BEEN CHECKED BUT COMPACTION TEST WENT 97%. ALSO, CONTINUED TO ROLL SUBGRADE BETWEEN STATION 414 AND 423 FOR LCB. WORKED AT DRAINAGE LOCATION # 22 GETTING 66' LF OF 18" CSP INSTALLED AND BACKFILLED.

EQUIPMENT AND/OR LABOR:		HOURS - ITEM NO.				WEATHER
		<i>#2 - Traffic Control</i> <i>#16 - Roadway Gr</i> <i>#26 - L.C.B.</i> <i>#39 - 18" C.S.P</i> <small>OLE CRUSH</small>				PARTLY CLOUDY AND WARM

EQ. NO.	NO. PERSONS	DESCRIPTION (Of Equipment or Labor)	HOURS - ITEM NO.				REMARKS (Reason for idleness or other remarks)
L-6	1	PICK UP	1	7			BRAD PITT - OWNER
L-12	1	PICK UP - ARROW BOARD	1			7	JOHN WAYNE - SUPT ←
L-85	1	ROLLER		8			ROBERT REDFORD - FOREMAN
L-53	1	CAT GRADER				7	ANDY GARCIA - OPERATOR
L-31	1	1 TON FLAT BED				8	MATT DAMON - LABORER
L-43	1	CASE BACKHOE		8			LEE MARVIN - OPERATOR
	1	PICK UP TRUCK				8	BRUCE WILLIS - CARPENTER
	2	PICK UP TRUCK				8	CAMERON DIAZ - LABORER
	1					8	JULIA ROBERTS - LABORER
	1					8	MEL GIBSON - LABORER
	1					8	GARY COOPER - LABORER

SUBCONTRACTOR CONTINUED POURING LCB GETTING TO STATION 705. THEY PLACED 69 CY (7 LOADS). I MET WITH MARY POPPINS OF PACIFIC TELEPHONE AT ORCHARD LANE. SHE STAKED EXISTING UNDERGROUND CABLE THAT CROSSES THE 18" CSP THAT WAS PLACED TODAY. NO PROBLEM THOUGH OUR PIPE MISSED IT.

LANE CLOSURE: NB #2 LANE FROM RUSSELL ROAD TO PESANTE ROAD, UNTIL 3:00 PM

Signature _____ Title _____

Assistant RE's Daily Report CEM 4601

PREVAILING WAGE COVERED WORK



Prevailing Wage Covered Work

Who must be paid Prevailing Wage?

- All workers employed in the execution of the contract on a public works project
- Title of the worker is irrelevant. If a worker is performing duties covered under prevailing wage laws they shall be paid prevailing wage:
 - *Includes: owners, partners, sole proprietors, officers, working-foreman etc. performing covered work on a public works project*

Prevailing Wage Covered Work

All on-site workers performing work on the project:

Laborers and mechanics

Equipment operators

Concrete pump operators

Soils and materials testing (CA Law)

Consultants performing onsite construction/building inspection (CA Law)

Installation or repair at site

Prevailing Wage Covered Work

Covered work includes, but is not limited to:

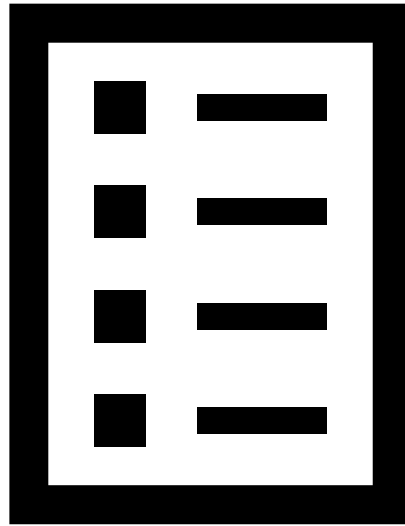
- Fully operated equipment from equipment rental firms
- Owner operated equipment
- Truckers *employed by prime or subcontractor*
- Truckers off hauling project material
- Ready Mix Drivers (CA Law for contracts advertised as of 7/1/16)
- Hauling between public works projects
- Borrow pit (set up for job – not previously used)
- Work performed at staging sites dedicated to the project
- On-site batching

Prevailing Wage Covered Work

WORKERS PERFORMING THE FOLLOWING DUTIES ARE NOT SUBJECT TO PREVAILING WAGE REQUIREMENTS:

- Supervision and administrative/clerical duties
- Commercial Establishments:
 - Delivery of Material
 - Truckers hauling from a commercial plant ***if employed by the commercial plant*** (except ready-mix concrete drivers!)
 - Borrow pit (exists prior to project inception)
 - Repair shop and fabrication performed at the vendors own building

FEDERAL & STATE DETERMINATIONS



Wage Determinations

Prevailing Wage Rates:

- Occur prior to contract award
- Set the required rates for the entire length of the contract
- Based on the duties performed by the worker, not the worker on the jobsite
- Based on the geographical location of the worksite

Federal Wage Determinations

Must be included in the executed contract,
not just in the special provisions

Minimum 10 days between publications and bid
opening

Find the appropriate county where work is being
performed and click the county code link

Usually completed by unit responsible for the
solicitation/bid process

Federal Wage Determinations

- **Federal Wage Rate Determinations**

- Publishes a determination yearly, but modifies the determination through the year
- The modification that is in effect 10 days before bid open for the geographical location is the contract's Federal Determination

Example:

Contract bid opening is on 5/5/2020

✓ 10 days prior is 4/25/2020

✓ At time of bid opening, the most recent modification is dated 2/27/2020

State Wage Determinations

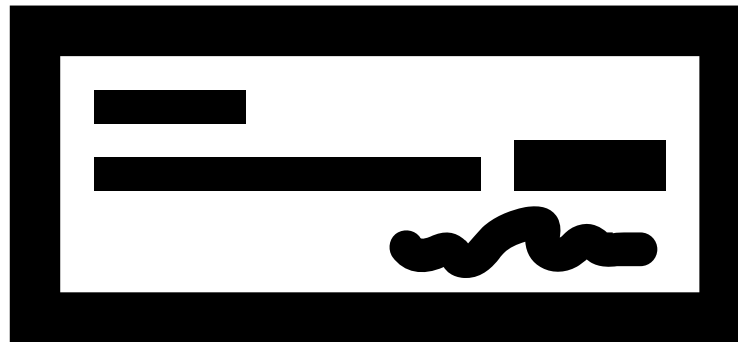
- **State Wage Rates:**
 - DIR publishes twice a year 2/22 & 8/22,
 - Effective 10 days after publication
 - » Publication 2/22 is: Year – 1
 - » Publication 8/22 is: Year – 2
 - Determination for contract is the determination in effect on solicitation/advertised date
 - Includes pre-determined increases
 - Includes provisions: Travel, Holiday & Shift

State Wage Determinations

- **EXAMPLE: STATE**

- ✓ Contract advertised on 5/5/2020
- ✓ At time of advertisement 2020-1 is the published state determination
- ✓ Contract will have the 2020-1 determination for the life of the contract
 - ✓ Will include any pre-determined increases published with the determination

CERTIFIED PAYROLL RECORDS



Check Certified Payrolls

- Ensure contractor submits all required payroll forms
 - Fringe Benefit Statement
 - Weekly certified payroll
 - Statement of Compliance (must accompany each weekly certified payroll)
 - Must be original signature or electronic signature
- Spot check to ensure applicable wage rates paid **for the type of work performed**
 - Each month compare and cross check daily reports, interviews and payroll for at least 1 worker.
- Check, mark, and initial

Check Certified Payrolls

Payrolls must clearly show...

Name, address & social security number for all employees performing covered work

Appropriate **classification** based on work performed

Hours worked (R and OT)

Wages paid (R and OT)

Deductions

Gross and net earned

All information required by DOL and DIR on the division approved forms

Required Federal-aid Contract Language

(Ex. 12-B)

& CA Labor Code 1776

FHWA Form WH-347

Acceptable "Statement of Certification"

Date _____

I, _____
(Name of Signatory Party) (Title)

do hereby state:

(1) That I pay or supervise the payment of the persons employed by

_____ on the
(Contractor or Subcontractor)
_____ ; that during the payroll period commencing on the
(Building or Work)
_____ day of _____, _____, and ending the _____ day of _____, _____

all persons employed on said project have been paid the full weekly wages earned, that no rebates have been or will be made either directly or indirectly to or on behalf of said

_____ from the
(Contractor or Subcontractor)

weekly wages earned by any person and that no deductions have been made either directly or indirectly from the full wages earned by any person, other than permissible deductions as defined in Regulations, Part 3 (29 C.F.R. Subtitle A), issued by the Secretary of Labor under the Copeland Act, as amended (48 Stat. 63 Stat. 108, 72 Stat. 967; 76 Stat. 357; 40 U.S.C. § 3145), and described below:

(2) 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 wage rates 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 performed.

(3) That any apprentices employed in the above period are duly registered in a bona fide apprenticeship program registered with a State apprenticeship agency recognized by the Bureau of Apprenticeship and Training, United States Department of Labor, or if no such recognized agency exists in a State, are registered with the Bureau of Apprenticeship and Training, United States Department of Labor.

(4) 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, payments 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 4(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 4(c) below.

(c) EXCEPTIONS

EXCEPTION (CRAFT)	EXPLANATION

Certifies three things:

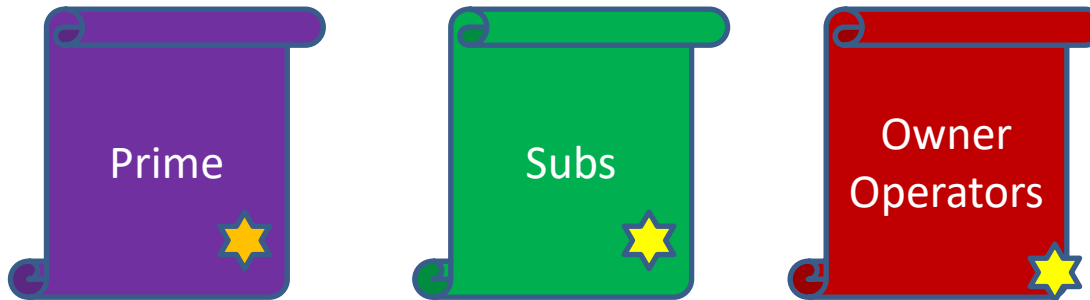
1. All persons have been paid their full weekly wages without deductions.
2. Wage rates and classifications are correct.
3. Apprentices are properly registered.

NAME AND TITLE SIGNATURE

THE WILLFUL FALSIFICATION OF ANY OF THE ABOVE STATEMENTS MAY SUBJECT THE CONTRACTOR OR SUBCONTRACTOR TO CIVIL OR CRIMINAL PROSECUTION. SEE SECTION 1001 OF TITLE 18 AND SECTION 231 OF TITLE 31 OF THE UNITED STATES CODE.

Check Certified Payrolls

- Prime Contractor **must submit** complete and accurate payroll documents weekly from:



- Failure to submit:
 - 10% withhold on progress payment for the month
 - (Min. \$1,000 – Max. \$10,000)

Labor Code 1771.5
Required Federal-aid Contract Language
(Ex. 12-B)

EMPLOYEE INTERVIEWS



Employee Interviews

- **LAPM states:**
 - Minimum of 2 employees per contract per month
 - Must include at least 1 employee for the prime
 - Must include at least 1 employee from a subcontractor
 - Continue to perform interviews until all employees have been interviewed, or contract is accepted.
 - Representative of all classifications

LAPM Chapter 16: Task 5

INSTRUCTIONS - (SEE REVERSE SIDE)

Lock Data on Form

FED NO.

CONTRACT NO.

1. QUESTIONS TO BE ASKED OF EMPLOYEE

EMPLOYEE NAME		LABOR CLASSIFICATION
EMPLOYEE ADDRESS		PHONE
DIR BASE WAGE (Filled in by Labor Compliance)	BASE RATE	FRINGE BENEFITS (Filled in by Labor Compliance)
PRIME CONTRACTOR		EMPLOYER
WORK BEING PERFORMED AT TIME OF INTERVIEW		IF OPERATOR, WHAT TYPE OF EQUIPMENT?
A. HOW LONG HAVE YOU WORKED FOR YOUR PRESENT EMPLOYER?		HOW LONG ON THIS PROJECT?
B. DESCRIBE THE TYPE OF WORK YOU HAVE BEEN DOING THIS PAST WEEK		
C. WHAT IS YOUR WAGE (Include Base and Fringe Benefits (Compare to Payroll))		DO YOU KEEP A RECORD OF THE HOURS YOU WORK? <input type="checkbox"/> YES <input type="checkbox"/> NO
D. DO YOU WORK OVERTIME? <input type="checkbox"/> FREQUENTLY <input type="checkbox"/> SELDOM <input type="checkbox"/> NONE	ARE YOU PAID TIME AND ONE-HALF FOR OVERTIME? <input type="checkbox"/> YES <input type="checkbox"/> NO	IF NO, EXPLAIN

2. TRAVEL

HOW MANY MILES DO YOU TRAVEL TO WORK?	DRIVE OR RIDE IN COMPANY VEHICLE TO WORK SITES? <input type="checkbox"/> DRIVE <input type="checkbox"/> RIDE <input type="checkbox"/> NEITHER
ARE YOU REQUIRED TO REPORT TO THE YARD FIRST? <input type="checkbox"/> YES <input type="checkbox"/> NO	DO YOU DRIVE A PERSONAL VEHICLE TO WORKSITES? <input type="checkbox"/> YES <input type="checkbox"/> NO

3. EEO

A. HAVE YOU SEEN THE REQUIRED WAGE RATE POSTERS ON THE PROJECT? <input type="checkbox"/> YES <input type="checkbox"/> NO	
B. ARE YOU AWARE OF THE CONTRACTOR'S EEO POLICIES? <input type="checkbox"/> YES <input type="checkbox"/> NO	DOES THE CONTRACTOR HOLD REGULAR EEO MEETINGS? <input type="checkbox"/> YES <input type="checkbox"/> NO
WHO CONDUCTS THE MEETINGS?	HOW OFTEN?
WHO IS THE EEO OFFICER FOR YOUR EMPLOYER?	WHO IS THE EEO OFFICER FOR THE PROJECT?
C. ARE YOU INTERESTED IN / OR HAS YOUR EMPLOYER INFORMED YOU OF UPGRADING AND TRAINING POSSIBILITIES? <input type="checkbox"/> YES <input type="checkbox"/> NO	IF YES, PLEASE EXPLAIN

4. EMPLOYEE COMMENTS

NAME OF INTERVIEWER (PRINT)	DATE	SIGNATURE OF INTERVIEWER
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5. INTERVIEWER'S COMMENTS

NAME OF RESIDENT ENGINEER (PRINT)	DATE	SIGNATURE OF RESIDENT ENGINEER
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FM 91 1282

91 61116

Caltrans Construction Form CEM 2504

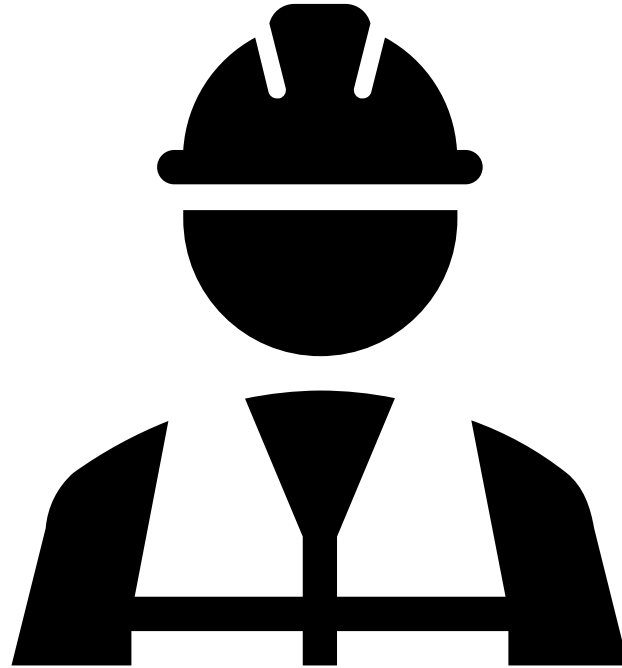
<https://dot.ca.gov/programs/construction/forms>

Cross Check

- Use the employee interviews as a tool for confirmation of payroll records.
 - Each month spot check payrolls by cross referencing daily reports, interviews and payrolls for at least 1 employee.



APPRENTICE & TRAINEE REQUIREMENTS



Federal Trainee Requirements

Objectives:

- Part of the EEO requirements under the contract.
- Upward mobility for women and minorities
- Ensures a diverse workforce
- Filling training positions contractors shall focus on women and minorities but not exclude anyone

LAPM 12 Federal Trainee Program

Federal Trainee Requirements

Trainees are required if:

- Duration of contract
 - Less than 100 days = no trainees
- Work Category dollar value
 - Over \$400K – see Federal Trainee Schedule
 - Under \$400K = no trainees

Both the duration and the dollar value of the contract must be present.

**LAPM Chapter 12,
Federal Trainee Program**

Federal Trainee Requirements

If the proposed construction contract has 100 working days or more, add individual totals for each of the following work categories in the Engineer's Estimate:

- ✓ Earthwork (except for imported borrow)
- ✓ Pile driving
- ✓ Portland Cement Concrete (except for precast concrete)
- ✓ Masonry
- ✓ Bar reinforcing and pre-stressing steel
- ✓ Structural steel erection
- ✓ Electrical
- ✓ Buildings

Federal Trainee Requirements

Use the following table to calculate the number of trainees for each work category:

Table 12-2: Federal Trainee Schedule

Cost for Work Category	Number of Trainees	Cost for Work Category	Number of Trainees
< 400,000	0	16,000,000	15
≥ 400,000	1	18,000,000	16
700,000	2	20,000,000	17
1,000,000	3	23,000,000	18
1,500,000	4	26,000,000	19
2,000,000	5	29,000,000	20
2,500,000	6	33,000,000	21
3,000,000	7	37,000,000	22
4,000,000	8	41,000,000	23
5,000,000	9	45,000,000	24
6,500,000	10	50,000,000	25
8,000,000	11	> 50,000,000	*
10,000,000	12		
12,000,000	13		
14,000,000	14		

* 25, plus 1 additional trainee for every \$5,000,000 over \$50,000,000

- If the totals for each of the work categories listed under Step 2 above are all less than \$400,000 then no trainees and no Federal Trainee Program special provisions are needed.

Federal Trainee Requirements

Required Federal Aid Contract Language

13. **FEDERAL TRAINEE PROGRAM**

For the Federal training program, the number of trainees or apprentices is _____.

This section applies if a number of trainees or apprentices is specified in the special provisions.

As part of your equal opportunity affirmative action program, provide on-the-job training to develop full journeymen in the types of trades or job classifications involved.

**Special Provisions Required Federal-aid Contract Language
(Ex. 12-B)**

Federal Trainee Requirements

- **Agency Responsibility:**
 - Include the federal training goal language in the Notice to Bidders and contract language (if applicable).
 - Collect and review the contractors training plan prior to the start of work.
 - Confirm the use of the trainees on the project
 - Apply sanctions for failure to meet the goal.

Federal Trainee Requirements

- **Contractors Responsibility:**
 - Submit a training plan to meet required federal training goals prior to beginning work, which shall include:
 - Number of apprentices for each classification
 - Program to be used (*must be federally recognized*)
 - Anticipated starting date for each classification
 - Employ apprentices
 - Must be registered in a federally approved program, proof of registration to be submitted with payroll records
 - Shall begin training as soon as feasible
 - Remain on the project as long as training opportunities exist

Federal Trainee Requirements

ANNUAL REPORTING:

Contractor reports the number of trainees and jobs.

- Form PR1391 “Federal-aid Highway Construction Contractors EEO Report” (Exhibit 16-O)

The local agency forward to CT District Labor Compliance Officer.

**Special Provisions Required Federal-aid Contract Language
(Ex. 12-B)**

Federal Trainee Requirements

Contractor Fails to Meet the Trainee Goal:

- Contractors must meet the Federal Training Goal as indicated in the contract provisions. No good faith effort is recognized
- Document direct recruitment efforts
- Sanction may be applied
 - May withhold progress payments

**Special Provisions Required Federal-aid Contract Language
(Ex. 12-B)**

Labor Compliance:

State Apprenticeship Requirements Labor Code 1777.5



1 hour of apprentice work for every 5 hours of journeyman work in each apprenticeable craft, calculated at the completion of the project.



Must be registered in a state approved apprenticeship program in the craft for which the work is performed.



Training fees must be paid directly to an approved training program or the California Apprenticeship Council

Cannot be paid to the employee
Paid for both journeyman and apprentice hours

NON-COMPLIANCE



Non-Compliance

Failure to submit payrolls/inadequate payrolls:

- Notify contactor in writing
- Withhold monies due on monthly progress payment
 - *Recommended:* up to 10% of the payment, a minimum of \$1,000 and a maximum of \$10,000
 - *Allowable:* entire payment

**Special Provisions Required Federal-aid Contract Language
(Ex. 12-B)**

Non-Compliance

Sample Notice of Delinquent or Inadequate Certified Payroll Records

Handout page 17-20

DEPARTMENT OF TRANSPORTATION
 DIVISION OF CONSTRUCTION
 DISTRICT XX
 ADDRESS
 CITY, STATE ZIP
 PHONE XXXX-XXX-XXXX
 FAX XXXX-XXX-XXXX
 TTY 711
 districtX.payrolls@dot.ca.gov



Serious drought.
 Help save water!

NOTICE OF DELINQUENT OR INADEQUATE CERTIFIED PAYROLL RECORDS

[Date]

[Prime Contractor's Name]
 [Address]
 [City, ST ZIP]

Dear [Prime Contractor's Name]:

The Department of Transportation (Caltrans) is temporarily withholding contract payments due to delinquent or inadequate certified payroll records as specified below for contract [Contract Number]. If the records are for a subcontractor, you are required to withhold funds for delinquent or inadequate certified payroll records under Labor Code § 1729. Provide the delinquent or inadequate records within 15 days of the date of this letter.

DELINQUENT CERTIFIED PAYROLLS— Records not provided to Caltrans by the 15th of the month for the previous month's work.

Contractor	Week Ending Date	Comments
Wet Concrete Company	1/8/11	Statement of Non Performance Received
Limpy Rebar, Inc.	1/8/11, 1/15/11	
Kaput Construction	1/22/11	
Blind Traffic Control Co.	1/1/11, 1/22/11	
Slow Poke Trucking	1/8/11, 1/15/11, 1/29/11	Submit Truck Owner Operator Certifications if drivers are not employees

INADEQUATE CERTIFIED PAYROLLS - Records missing those elements specified in Labor Code § 1776.

Contractor	Week Ending Date	Date Notified	Comments
Dandelion Landscaping	1/1/11	2/18/11	Missing Statement of Compliance
Rubber Tire Trucking	1/8/11, 1/15/11	2/18/11	Lacking full social security numbers
Blind Traffic Control Co.	1/22/11, 1/29/11	2/18/11	Lacking employee addresses

Non-Compliance

- **What to do if the contractor refuses to provide payrolls**
 - Send Violation Notice
 - Withhold payment
 - If no response after 10 days send Final Notice via certified letter informing contractor of intent to submit to DIR and estimated penalties
 - If contractor does not resolve violations within 10 days submit to DIR for formal enforcement

**CT Construction Manual Ch 8, Labor Compliance
CA Labor Code Section 1775 & 1776(g)**

EQUAL EMPLOYMENT OPPORTUNITY (EEO)

Equal Employment Opportunity

Objectives...

- Know the EEO requirements of Form FHWA 1273
- Form FHWA 1391, Annual EEO Report
- Discrimination Complaints

Laws:

- Title VI of the Civil Rights Act of 1964
- Implemented by 23 CFR Part 200
- Title VI mandates that Federal assistance not be used to discriminate

Equal Employment Opportunity

All federal-aid construction contracts and all related subcontracts of \$10,000 or more

Covers race, color, religion, sex, national origin, age, and disability

Equal Employment Opportunity

Goals:

- To ensure **nondiscrimination** in contractor's employment practices:
 - Recruitment
 - Hiring
 - Pay
 - Training
 - Promotion
 - Retention
- Increased participation of minorities and women

**Special Provisions Required Federal-aid Contract Language
(Ex. 12-B)**

Equal Employment Opportunity

Agencies Responsibilities:

- Discuss EEO requirements at the pre-con meeting
- Perform employee interviews
- Verify EEO posters are placed
 - EEO Officer's name listed
- Review Contractor's Annual EEO Report

Annual EEO Report

Purpose:

Annual report to U.S. Congress on the race and gender composition of federal-aid transportation construction contracts

**Federal-aid Highway Construction Contractor's Annual EEO
Report Form FHWA 1391 (LAPM 16-O)**

Annual EEO Report

Application:

- All federal-aid highway construction contracts of \$10,000 or more
- Prepared by prime contractors and their subcontractors who have employees working on the job during the last full week in July

Annual EEO Report

FEDERAL-AID HIGHWAY CONSTRUCTION CONTRACTORS ANNUAL EEO REPORT

1. MARK APPROPRIATE BLOCK <input type="checkbox"/> Contractor <input type="checkbox"/> Subcontractor	2. COMPANY NAME, CITY, STATE:	3. PROJECT NUMBER:	4. DOLLAR AMOUNT OF CONTRACT:	5. PROJECT LOCATION: (County and State)
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This collection of information is required by law and regulation 23 U.S.C. 140a and 23 CFR Part 230. The OMB control number for this collection is 2125-0019 expiring in March, 2013.

6. WORKFORCE ON FEDERAL-AID AND CONSTRUCTION SITE(S) DURING LAST FULL PAY PERIOD ENDING IN JULY 20__ (INSERT YEAR)

JOB CATEGORIES	TABLE A										TABLE B											
	TOTAL EMPLOYED		TOTAL RACIAL/ ETHNIC MINORITY		BLACK or AFRICAN AMERICAN		HISPANIC OR LATINO		AMERICAN INDIAN OR ALASKA NATIVE		ASIAN		NATIVE HAWAIIAN OR OTHER PACIFIC ISLANDER		TWO OR MORE RACES		WHITE		APPRENTICES		ON THE JOB TRAINEES	
	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F
OFFICIALS	0	0	0	0																		
SUPERVISORS	0	0	0	0																		
FOREMEN/WOMEN	0	0	0	0																		
CLERICAL	0	0	0	0																		
EQUIPMENT OPERATORS	0	0	0	0																		
MECHANICS	0	0	0	0																		
TRUCK DRIVERS	0	0	0	0																		
IRONWORKERS	0	0	0	0																		
CARPENTERS	0	0	0	0																		
CEMENT MASONS	0	0	0	0																		
ELECTRICIANS	0	0	0	0																		
PIPEFITTER/PLUMBERS	0	0	0	0																		
PAINTERS	0	0	0	0																		
LABORERS-SEMI SKILLED	0	0	0	0																		
LABORERS-UNSKILLED	0	0	0	0																		
TOTAL	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0

TABLE C (Table B data by racial status)

APPRENTICES	0	0	0	0																		
OJT TRAINEES	0	0	0	0																		

8. PREPARED BY: (Signature and Title of Contractors Representative)	9. DATE	10. REVIEWED BY: (Signature and Title of State Highway Official)	11. DATE
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Form FHWA-1391 (Rev. 06-10)

PREVIOUS EDITIONS ARE OBSOLETE

Annual EEO Report Form FHWA 1391(LAPM 16-O)

Discrimination Complaints

Discrimination Complaints:

Identify potential discrimination behaviors that could lead to formal complaints

Document in diary

Notify contractor's EEO Officer of observed discriminatory behavior

Discrimination Complaint Brochure

**LAPM 16.12 Equal
Employment Opportunity**

LABOR COMPLIANCE RESOURCES



Resources

Labor Compliance Internet Links

- Caltrans Construction website
<https://dot.ca.gov/programs/construction>
- Caltrans Labor Compliance website
<https://dot.ca.gov/programs/construction/labor-compliance>
- Federal Apprenticeship Program Registration
<https://www.dol.gov/apprenticeship/>
- State Apprenticeship Program Requirements
<http://www.dir.ca.gov/das/das.html>

Resources

Labor Compliance Internet Links (continued)

- Federal Prevailing Wage Rates
<https://sam.gov/>
- State Prevailing Wage Rates
<http://www.dir.ca.gov/dlsr/DPreWageDetermination.htm>
- DIR Frequently Asked Question – Apprentices
<http://www.dir.ca.gov/das/publicworksfaq.html>
- DIR DSLE Public Works Manual
<http://www.dir.ca.gov/dlse/PWManualCombined.pdf>
- DIR – CAC training fund contributions
<http://www.dir.ca.gov/CAC/trainingfund/Tfsearch.html>

Resources

Caltrans Labor Compliance Manual

<https://dot.ca.gov/programs/construction/labor-compliance/labor-compliance-manual/>

Local Assistance Procedures Manual (LAPM)

<https://dot.ca.gov/programs/local-assistance/guidelines-and-procedures/local-assistance-procedures-manual-lapm>

Resources – 1 of 2

DIR (State) Prevailing Wage Determinations

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

DIR Determinations: Important Notices

<https://www.dir.ca.gov/oprl/2020-2/NoticeIndex.htm>

**California State Licensing Board
(CSLB License Check)**

<https://www2.cslb.ca.gov/OnlineServices/CheckLicense/CheckLicense.aspx>

Find a Public Works Registered Contractor

<https://www.dir.ca.gov/PublicWorks/Contractors.html>

Federal Wage Determination

<https://beta.SAM.gov/>

Federal Davis Bacon and Related Acts

https://www.dol.gov/sites/dolgov/files/WHD/legacy/files/FOH_Ch15.pdf

Labor Compliance Manual

https://construction.onramp.dot.ca.gov/downloads/construction/files/labor/2004_Labor_Compliance_Manual.pdf

US Department of Labor (DOL) Wage and Hour Division – Prevailing Wage Resource Book

<https://www.dol.gov/agencies/whd/government-contracts/prevailing-wage-resource-book>

Labor Compliance Internet

<https://dot.ca.gov/programs/construction/labor-compliance>

Resources - 2 of 2

CA Code of Regulations (CCR)	<u>https://govt.westlaw.com/calregs/index?_lrguid=i4adb3970ced7428baa3a1dca7881ec20&transitionType=Default&contextData=(sc.Default)</u>
Code of Federal Regulations, <u>Title 23</u>, Ch.1, Sect 113 AND <u>Title 29</u>	<u>https://www.law.cornell.edu/uscode/text</u>
California Public Contract Code (PCC) – Subletting/Subcontracting	<u>https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=PCC&division=2.&title=&part=1.&chapter=4.&article=</u>
Find A Registered Apprentice	<u>http://www.dir.ca.gov/das/appcertpw/AppCertSearch.asp</u>
California Apprenticeship Council (training fund contribution confirmation)	<u>http://www.dir.ca.gov/CAC/trainingfund/Tfsearch.html</u>
DIR: DLSE Public Works Manual	<u>http://www.dir.ca.gov/dlse/PWManualCombined.pdf</u>
DIR FAQ – Offsite Hauling	<u>http://www.dir.ca.gov/OPRL/FAQ_Hauling.html</u>
Labor Compliance Jobsite Posters	<u>https://dot.ca.gov/programs/construction/labor-compliance/labor-compliance-posters</u>



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Labor Compliance & Equal Employment Opportunity

Question & Answer Session