



METROLINK®

State and Federal Labor Compliance Pre-Construction Conference Checklist

CONTRACT NUMBER:

PROJECT NAME:

**APPLICABLE STATE PREVAILING WAGE
DETERMINATION:**

**APPLICABLE FEDERAL WAGE DETERMINATION:
PWC 100 Project ID Number:**

CONTRACTOR:

I. Suggested Checklist of Labor Law Requirements per California Code of Regulations Section 16421 and U.S. Department of Labor Davis-Bacon and Related Acts requirements.

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

1. The contractor's duty to pay prevailing wages under Labor Code Section 1770 et seq., should the project exceed the exemption amounts;
2. The contractor's duty to make travel and subsistence payments to each worker needed to execute the work, as such travel and subsistence payments are defined in the applicable collective bargaining agreement filed with the Director of Industrial Relations in accordance with Labor Code Section 1773.8.
3. The contractor's duty to employ registered apprentices on the public works project under Labor Code Section 1777.5; All apprentices working on this project must be registered in a bonafide Apprenticeship Program approved by the State of California and U.S. Department of Labor. Proof of State and Federal registration (copy of Certificates) in such programs will be required and must be attached to the first payroll on which they appear.
4. The contractor's duty to submit contract award information using the Division of Apprenticeship Standards (DAS 140) Form to the applicable apprenticeship committee within ten (10) days of the date of execution of the contract and no later than the first day of work in accordance with Title 8 California Code of Regulations Section 230. Contractor shall simultaneously submit a copy of the completed DAS 140 Form to the Southern California Regional Rail Authority (Authority).
5. The contractor's duty to complete and submit a Fringe Benefit Statement with the first payroll, and thereafter only when fringe benefit rates change or additional trades utilized. Contractors



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shall pay Fringe Benefit contributions in the amounts designated by the applicable Prevailing Wage Determinations.

6. The contractor's duty to pay training fund contributions and submit the Monthly Report of Trustee Form if paying fringe benefits to a State and Federal approved Apprenticeship program, with proof of payment or the Form CAC-2 to the California Apprenticeship Council for apprenticeable trades being utilized by the contractor under Labor Code Section 1777.5(c). Contractor is not signatory to a local union or apprenticeship program, shall simultaneously submit a copy of the completed Form CAC-2 to the Authority monthly.
7. The contractor's duty to complete and submit Certification from Contractor Appointing Officer or Employee to Supervise Payment of Employees form by all contractors prior to performing work on-site (Form 106).
8. The penalties for failure to pay prevailing wages and employ apprentices including forfeitures under Labor Code Sections 1775 and 1813; Contractors violating prevailing wage requirements are subject to a maximum penalty of \$200.00 and a minimum penalty of \$40.00 per day per worker paid less than the prevailing wage in addition to having to restore the differences in wages paid. Additionally, the penalty assessed to contractors and subcontractors with prior violations can also be assessed an additional amount of \$80 to \$120 for willful violations, for each worker paid less than the prevailing wage rate. The Contractor is also subject to a State penalty of an additional \$25 per day per worker paid less than the prevailing wages for overtime work.
9. The penalties for failure to pay prevailing wages and employ apprentices including debarment under Labor Code Sections 1777; The contractor or subcontractor on a public works project that is found to have committed 2 or more separate willful violations of the Labor Code, with the exception of Section 1777.5, within a 3-year period is ineligible for a period of up to 3 years to either bid on or be awarded a contract or perform work as a subcontractor of a public works project. The Labor Commissioner shall also publish the list of willful violators on the Labor Commissioner's website and notify the Contractors' State License Board of the list of the ineligible contractors.
10. The requirement to keep and submit copies upon request of weekly Certified Payroll Records (CPRs) under Labor Code Section 1776, and penalties for failure to do so under Labor Code Section 1776(h); The Contractor shall forfeit to the Authority \$100 per day per worker for failing to comply strictly with requests made by the Authority for adequate payroll records.
11. The liability for Labor Code Liquidated Damages due as a result of a prevailing wage violation, equal to the total underpayment of wages remaining unpaid sixty (60) days after service of the Notice of Withholding of Contract Payments pursuant to Labor Code Section 1742.1
12. The prohibition against employment discrimination under Labor Code Section 1777.6; the Government Code, and Title VII of the Civil Rights Act of 1964;
13. The prohibition against accepting or extracting kickback from employee wages under Labor Code Section 1778;

14. The prohibition against accepting fees for registering any person for public work under Labor Code Section 1779; or for filling work orders on public works under Labor Code Section 1780;
15. The requirement to list all subcontractors under Public Contracts Code Section 4104;
16. The requirement to be properly licensed and to require all subcontractors to be properly licensed and the penalty for employing workers while unlicensed under Labor Code Section 1021 and under the California Contractors License Law, found at Business and Professions Code Section 7000 et seq;
17. The requirements to be properly registered and to require all subcontractors to be properly registered and the penalty for employing unregistered contractors pursuant to Senate Bill 854 (Stat. 2014, chapter 28).
18. The prohibition against unfair competition under Business and Professions Code Sections 17200-17208;
19. The requirement that the contractor be properly insured for Workers Compensation under Labor Code Section 1861; Contractor shall sign and file with the Authority, a certification prior to performing work on the contract, acknowledging the provisions of Labor Code 3700. Submit LC 3700 Form prior to work performance.
20. The requirement that the contractor abide by the Occupational, Safety and Health laws and regulations that apply to the particular construction project;
21. The federal prohibition against hiring undocumented workers, and the requirement to secure proof of eligibility/citizenship from all workers.
22. The requirement to provide itemized wage statements to employees under Labor Code Section 226.
23. The Authority will issue Discrepancy Notices for all violations, and if violations are not correct as requested, the Authority at its discretion may withhold all or a portion of any progress payment or final/retention payments for failure to comply.

II. State vs. Federal

- If there is a difference between the State prevailing wage rates and the federal general decision for similar classifications of labor, the higher wage rate will be the applicable prevailing wage rate.
- All apprentices must be registered in a bonafide approved apprenticeship program which is recognized by the State of California Division of Apprenticeship Standards and U.S. Department of Labor, Office of Apprenticeship.

III. Apprentice

- All apprentices must be registered in a bonafide approved apprenticeship program which is recognized by the State of California Division of Apprenticeship Standards and U.S. Department of Labor.

IV. Overtime

- Overtime is paid for work performed in excess of 8 hours in a day and 40 hours in a week unless stipulated in the State prevailing wage determination or federal wage decision.

V. Certified Payroll Records

- Certified Payroll Records (CPRs) for all contractors performing work on the jobsite are to be maintained weekly and submitted monthly to the Authority's online prevailing wage reporting system. If other than the Authority's Public Works Payroll Reporting Form and Statement of Compliance is used, it must contain all information that is included in the Authority's Public Works Payroll Reporting Form and Statement of Compliance. A CPR marked "Non-Performance" is to be submitted for weeks for which no work activity has occurred.
- Contract number and name "**[PROJECT NUMBER] – PROJECT NAME**" is required on all CPRs and related documents.
- A Statement of Compliance must be submitted with an original signature for each CPR. Statement of Compliance Form must be completed and submitted with each payroll report no matter what form of payroll is submitted.
- This project is subject to compliance monitoring and enforcement by the Department of Industrial Relations and the Authority's DIR Approved Labor Compliance Program.
- All contractors and subcontractors must furnish electronic certified payroll records directly to the Authority Labor Compliance and the Labor Commissioner (aka Division of Labor Standards Enforcement). The requirement to furnish electronic certified payroll records will apply to all public works projects as of January 1, 2016. Originals to be submitted with monthly progress payments to the Authority's designated Project Manager and Construction Manager.
- All Certified Payrolls must be uploaded into the DIR's eCPR System.
- "**OTHER**" deductions reported on the Authority's Public Works Payroll Reporting Form, or comparable form, must be explained on the Statement of Compliance and be accompanied by supporting documents with the first payroll on which a deduction is shown.
- Contractor shall retain all CPRs for at least 3 years past the Notice of Completion date.
- Contractors employing owner-operators are required to submit the Owner-Operator Listing form. This form is to be completed by the Contractor that directly hires and pays the owner-operator and will not be accepted from the owner-operator himself/herself. Truck Owner-Operator Certification of Ownership must be completed for all Trucker Owner Operators submitted with first payroll.

- The last payroll record shall be marked “**Final**”. Additionally, a **Form 107** is to be submitted by the prime contractor with its final payroll record.

VI. Posting Requirements

- Prevailing Wage Determinations must be available at the job site in accordance with Title 8 California Code of Regulations 16100(b).
- The Applicable Federal Wage Determinations (with DOL WH-1321) must be posted on a bulletin board located at the job site
- Safety Poster (OSHA-3165)
- Employee Rights under the Davis-Bacon Act poster must be posted at the job site.

VII. Subcontractor

- The prime contractor is responsible for the compliance of all subcontractors (regardless of tier).
- Prompt Payment: Prime contractor(s) must pay its subcontractors, and a subcontractor must pay its subcontractors, within **7 days** after receiving a progress payment. (Bus. & Prof. Code §7108.5).
- Flow Down Provisions (regardless of tier): Contractor shall include, and shall require all Subcontractors to include, contractual provisions in all contracts they enter into for the performance of this contract requiring compliance with the provisions of this section, at no additional cost. The Contractor shall monitor and enforce all Subcontractor’s compliance with this provision.

VIII. Assembly Bill No. 219

- AB 219 Prevailing Wage and SB 854 Registration requirements are applicable Hauling and Deliver of Ready-Mix Concrete
 - o Certified Payrolls are now required for all Ready-Mix Truckers
 - o Subject to Prevailing Wage requirements.

IX. Senate Bill 854 Requirements

- No contractor or subcontractor may be listed on a bid proposal for a public works project (submitted on or after March 1, 2015) unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5 [with limited exceptions from this requirement for bid purposes only under Labor Code section 1771.1(a)].
- No contractor or subcontractor may be awarded a contract for public work on a public works project (awarded on or after April 1, 2015) unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5.

X. Senate Bill 96 Requirements (SB 96 is effective immediately)

- Creates a "small projects" exemption. Raises the threshold for the prevailing wage monitoring program and contractor registration requirements from \$1,000 to \$25,000 for construction projects and \$15,000 for maintenance projects.
- **Increases penalties for contractors and subcontractors who fail to register correctly.**
 - o Under the new law, DIR may impose a penalty of \$100 per day, with a cap of \$10,000, for contracting with an unregistered contractor or subcontractor. SB 96 also adds a non-monetary penalty for noncompliance. SB 96 provides that DIR may issue a stop order on a public works project, prohibiting the use of an unregistered contractor or subcontractor, until the contractor or subcontractor has registered with DIR. A public agency which fails to comply with the stop order is subject to criminal prosecution, punishable as a misdemeanor, by imprisonment not to exceed 60 days, or a fine not to exceed \$10,000, or both.
- **DIR can issue a stop work order for non-compliance.**
- **Increases the annual contractor registration fee from \$300 to \$400 and permits a contractor to register for up to three years at a time. The multi-year registration option begins June 1, 2019**

In accordance with federal and State laws and with the Authority's contract documents, I, the undersigned, acknowledge that I have been informed and am aware of the foregoing requirements, that I am authorized to make this certification on behalf of the prime contractor stated below, and that failure to comply with the above requirements may subject it to penalties as stated above.

PRINTED NAME: _____

SIGNATURE: _____

TITLE: _____

CONTRACTOR: _____

DATE: _____

PHONE NUMBER: _____

EMAIL: _____

CONTRACTOR DIR REGISTRATION #: _____