



LABOR COMPLIANCE MANUAL

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STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION

LABOR COMPLIANCE MANUAL

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CHAPTER 1: HISTORY, LAWS AND REGULATIONS GOVERNING PREVAILING WAGE REQUIREMENTS

1-1 Introduction

To provide a framework to Caltrans labor compliance requirements, Chapter 1 presents an overview of the history of labor compliance laws in the California Labor Code, California Code of Regulations, and the federal Davis-Bacon and Related Acts. This chapter also describes the role of the Department of Industrial Relations (DIR) in its administration and enforcement of state laws governing wages, safety, and the apprenticeship program.

1-2 History

Labor laws are enacted to protect employees' rights and set forth employers' obligations and responsibilities. Labor laws provide equal opportunity and pay, and assure workplace safety and diversity. Table 1-A, "History of Labor Laws," shows California's long history of labor law.



- **TABLE 1-A: HISTORY OF LABOR LAWS**

YEAR	LABOR LAW
1908	California's first labor compliance laws were enacted.
1931	The Davis-Bacon Act was enacted during the Great Depression to assure local workers a fair wage and to provide local contractors a fair opportunity to compete for local federal government contracts. The act was named after sponsors Pennsylvania Sen. James J. Davis, and New York Rep. Robert L. Bacon.
1934	Copeland "Anti-Kickback" Act imposes certain payroll-related requirements to protect workers from employer-imposed "kickbacks" or return of pay to which the employee is entitled. Certified payroll reporting requirements for federally funded projects originated under this act.
1937	California became the eighth state to enact a prevailing wage law and is one of 32 states with prevailing wage laws.
1953	California Labor Code Section 1773 was passed to require that specific criteria be used for determining prevailing wages rates. Awarding bodies are required to ascertain and consider the applicable wage rates established by collective bargaining agreements and such rates as may have been predetermined for

YEAR	LABOR LAW
	<p>federal public works within the locality and in the nearest labor market area.</p> <p>California Labor Code Section 1773.4 allows the Department of Industrial Relations (DIR) to review and resolve disputes regarding the determination of wage rates set by local awarding bodies.</p>
1956 & 1968	<p>The Federal-Aid Highway Acts of 1956 and 1968 provide an active program to assure that laborers and mechanics employed on federal-aid projects are paid wage rates generally prevailing for the same type of work on similar construction in the immediate locality.</p>
1969	<p>The Contract Work Hours and Safety Standards Act requires that overtime be paid at an amount no less than one and one-half times the worker's basic hourly rate for hours worked in excess of 40 hours per week.</p>
1976	<p>The DIR director became the responsible party for making prevailing wage determinations to:</p> <ul style="list-style-type: none"> • Provide for a disinterested party to make the initial rate determination, rather than an awarding body with an economic interest in determining the lowest rate. • Promote uniformity of rates for similarly situated projects.
2014	<p>California's Senate Bill 854 (SB 854) made significant changes to the administration and enforcement of prevailing wage requirements by the DIR. SB 854 required that a public works contractor registration program replace Compliance Monitoring Unit and Labor Compliance Program requirements for bond-funded and other specified public works projects.</p>

1-3 Labor Compliance Law Applied to Federal Aid Projects

1-3-1 Davis-Bacon and Related Acts

The Davis-Bacon Act (DBA) was enacted by Congress on March 3, 1931, to assure local workers a fair wage and to provide local contractors a fair opportunity to compete for federal government contracts. Large and small contractors must submit bids using the same minimum wage rate. The Federal-Aid Highway Acts extended the Davis-Bacon Act provisions to federally funded construction contracts on federal-aid highways in the United States, the District of Columbia, Guam, Puerto Rico, the Virgin Islands, and other territories.

For public works projects that receive federal funds through grants, loans, guarantees, and insurance, the provisions of the Davis-Bacon and Related Acts (DBRA) apply to all contractors performing “covered” work. DBRA provisions include:

- Requirement that all laborers and mechanics on the public works project are paid the rates from the wage decision incorporated into the contract and that they be paid on a weekly basis.
 - The wage decisions are determined and set by the Department of Labor.
 - The terms laborer and mechanic apply to workers whose responsibilities are manual or physical. The term includes apprentices and trainees.
- Workers must be properly classified based on their assigned scope of work and the DBRA-recognized classification.
- The applicable wage decision for the project must be posted at the job site in a location that is accessible to all workers.

1-3-2 Code of Federal Regulations

The Code of Federal Regulations (CFR) codifies general and permanent rules published by departments and agencies of the federal government. It is divided into 50 titles, three of which specifically address labor standards, and prevailing wages:

- **Title 29, Part 1 of the Code of Federal Regulations (29 CFR Part 1):** Regulations set forth the procedures for making and applying prevailing wage rates and fringe benefits in accordance with the Davis-Bacon Act.
- **29 CFR Part 3:** Rules for any contract subject to federal wage standards on public works funded in whole or in part by the United States.
- **29 CFR Part 5:** Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction; also known as Labor Standards Provisions Applicable to Nonconstruction Contracts Subject to the Contract Work Hours and Safety Standards Act.

1-3-3 Contract Work Hours and Safety Standards Act

- The Contract Work Hours and Safety Standards Act (CWHSSA) applies to federally funded construction projects in excess of \$100,000, and to federally assisted Davis-Bacon and Related Acts (DBRA) wages and requires that:
 - Workers are paid one and one-half times their basic hourly rate for all hours worked over 40 hours in a work week.

- Liquidated damages are paid if the worker was required or allowed to work overtime without being paid at the one and one-half wage rate.

1-3-4 Copeland “Anti-Kickback” Act

The act is designed to protect workers against employers who may induce a worker to forego any part of the compensation to which they are entitled under the terms of their employment. The act includes the following safeguards:

- The contractor and subcontractors are required to submit a weekly wage statement to each employee for the preceding week.
- Employees must receive their full pay for the work performed.
- Employees must be paid weekly.
- Certified payroll reports must include: employee name and address, recognized classification and corresponding rate, daily and weekly hours worked, deductions, and actual wages paid.

1-4 Labor Compliance Law Applied to State Projects

1-4-1 California Labor Code

The California Labor Code (the Labor Code) is a collection of civil statutes. The statutes are intended to protect wage earners of California across all industries, to improve their working conditions, and to advance opportunities for employment.

When a project is a public work, its bidding process, contract administration, and labor-related compliance is typically governed by California’s public works laws including the Labor Code. The Labor Code requires that the awarding body notify any contractor or employer bidding on a public works contract that the project is a public work and requires payment of prevailing wages.

1-4-2 California Code of Regulations

The California Code of Regulations (CCR) is a collection of regulations adopted by state agencies. The DIR is the supporting agency for labor compliance-related regulations, which are part of Title 8, “Industrial Relations.” The CCR consists of 28 titles and contains the regulations of approximately 200 regulatory agencies. Caltrans’ labor compliance program is conducted in accordance with California Code of Regulations Title 8, Sections 16000 through 16802 and 17201 through 17270.

1-4-3 Department of Industrial Relations Registration Requirements

Public works reforms under SB 854 became effective June 20, 2014, and resulted in several changes to the administration and enforcement of prevailing wage requirements by the DIR. SB 854 amended Labor Code Sections 1725.5, 1771.1, and 1773.3

Contractor Registration

One such reform was the formation of a public works contractor registration program to replace the Compliance Monitoring Unit and Labor Compliance Program (LCP) requirements. Requirements of SB 854 include:

- All public works contractors responsible for the payment of prevailing wages are required to register with the Department of Industrial Relations (DIR) Contractor Registration Database (Database). The definition of public works contractor includes non-performing entities subcontracting to contractors performing prevailing wage covered work; sole proprietors, truck and equipment owner-operators, and brokers who are responsible for performing prevailing wage covered work. [Cal. Lab. Code Section 1771.1].
 - Registration is required at the time of bid for all listed contractors and at the time of contract award. Registration is also required throughout the life of the contract. Contractors register or renew their registration by July 1 of every fiscal year and pay the registration fee.
 - If a contract initially not subject to prevailing wage requirements is subject to a change order or change of scope that adds prevailing wage covered work, all contractors responsible for the payment of prevailing wages must register with the DIR at the time of contract modification.
 - Contractors bidding on contracts as a joint venture are not required to be registered at the time of bid as long as the contractors that are parties to the joint venture are registered in the DIR database. The joint venture must be registered by contract award.
- Exceptions:
 - Contractor registration is not required for new construction, alteration, installation, demolition, or repair contracts valued at \$25,000 or less, or for maintenance contracts valued at \$15,000 or less.
 - All other prevailing wage requirements will be monitored and enforced pursuant to Labor Code Section 1771.1 (n).
 - Contractors on Caltrans projects must register with the DIR but are exempt from submitting certified payroll reports to the DIR's eCPR

(electronic certified payroll report) system and instead must submit them to the Caltrans labor compliance program (LCP).

Project Registration by Awarding Body

Awarding bodies must notify the DIR when awarding a contract for a public works project in accordance with Labor Code Section 1773.3. Registration timeline and information are as follows:

- The awarding body is required to register the project within 30 days of the award, but no later than the first day in which a contractor has workers employed upon the worksite, using the DIR online PWC-100 form.
- The latest date on which the project can be registered is the last day in which a contractor has workers employed on the project.
- The PWC-100 form requires entry of the following information:
 - Subcontractor listed on the successful bid
 - During a project, the awarding body must list added second-tier subcontractors and below to the PWC-100
 - Bid and contract award dates
 - Contract amount
 - Estimated start and completion dates
 - Job site location
 - Any additional information the department specifies that aids in the administration and enforcement of Labor Code Section 1773.3.

1-5 Contractor and Subcontractor Labor Compliance Responsibilities

Contractors and subcontractors that are awarded public works contracts must comply with four general obligations enforced by the Public Works Unit of the Labor Commissioner’s Office listed in Table 1-B, “Contractor and Subcontractor Labor Compliance Responsibilities.”

- **TABLE 1-B: CONTRACTOR AND SUBCONTRACTOR LABOR COMPLIANCE RESPONSIBILITIES**

RESPONSIBILITY		LABOR CODE
1.	Register with the DIR.	Labor Code

		1725.5
2.	Pay prevailing wage rates: Pay workers on public works projects not less than the specified prevailing wage rates.	Labor Code 1774
3.	Maintain and furnish records: Keep accurate payroll records, including the name, address, Social Security number, work classification, straight time and overtime hours worked each day and week, and the wages paid to each worker.	Labor Code 1776(a)
4.	Comply with apprenticeship standards: Employ apprentices on public works projects in accordance with Division of Apprentice Standards requirements.	Labor Code 1777.5

1-6 Awarding Body and Labor Compliance Program Responsibilities

Caltrans has responsibilities as both an awarding body and as an approved labor compliance program (LCP), as outlined in Table 1-C, "Awarding Bodies' Labor Compliance Responsibilities."

1-6-1 Awarding Bodies

Awarding bodies' labor compliance responsibilities are general and apply to all entities that award contracts for public works projects.

• TABLE 1-C: AWARDING BODIES' LABOR COMPLIANCE RESPONSIBILITIES

	RESPONSIBILITY	LABOR CODE
1.	Report any suspected public works violations to the Labor Commissioner.	Labor Code 1726
2.	Verify that public works contractors pay prevailing wages and are in compliance with public works laws.	Labor Code 1727
3.	Notify potential contractors that they must register with DIR and that the project is subject to enforcement by DIR.	Labor Code 1771.1
4.	Require proof of public works contractor registration before accepting a bid or awarding a contract.	Labor Code 1771.1

RESPONSIBILITY		LABOR CODE
5.	Post or require contractors to post job site notices on public works requirements.	Labor Code 1773.2
6.	Obtain prevailing wage rates from DIR.	Labor Code 1773.2
7.	Register public works projects with DIR. Project registration must be completed within 30 days of awarding the contract, but no later than the first day in which a contractor has workers employed upon the public works. Continue adding subcontractors to PWC-100 during project.	Labor Code 1773.3 (a) (1)
8.	Verify that contractors and subcontractors are employing apprentices for all public works contracts valued at more than \$30,000, unless the craft or trade does not require the use of apprentices, as indicated in the corresponding prevailing wage determination.	Labor Code 1777.5

1-6-2 Labor Compliance Program Responsibilities

Labor compliance program (LCP) responsibilities are more specific and are in addition to the general duties of public works awarding bodies. Caltrans LCP responsibilities include but are not limited to those listed in Table 1-D, "LCP Responsibilities."

- **TABLE 1-D: LCP RESPONSIBILITIES**

RESPONSIBILITY		LABOR CODE
1.	Monitor and enforce prevailing wage requirements.	Labor Code 1773.3 (a) (1)
2.	Verify that prevailing wages are paid for any aggregate contract amounts that exceed \$25,000 for construction and \$15,000 for alteration, demolition, repair, installation, and maintenance.	Labor Code 1771.5(a)
3.	Include prevailing wage requirements in all solicitations and contracts and all appropriate language.	Labor Code 1771.5(a)(1)
4.	Conduct a pre-job conference.	Labor Code

RESPONSIBILITY		LABOR CODE
		1771.5(a)(2)
5.	Verify that contractors and subcontractors furnish and maintain weekly certified payroll reports.	Labor Code 1771.5(a)(3)
6.	Review and audit certified payroll records.	Labor Code 1771.5(a)(4)
7.	Withhold invoice payments for delinquent, inadequate, and discrepant payroll records.	Labor Code 1771.5(a)(5)
8.	Withhold specified invoice payments for approved wage cases.	Labor Code 1771.5(a)(6) and (7)
9.	Process and investigate complaints in accordance with 8 CCR regulations.	California Code of Regulations Title 8, 16434
10.	Confirm contractor registration throughout life of the project and add any subcontractors to PWC-100.	Labor Code 1773

1-7 Contract Provisions

Appropriate language for labor compliance is incorporated into the contract language.

If applicable, refer to Section 7-1.02K, "Labor Code," of the *Standard Specifications*.

For STD-213 contracts awarded through the Division of Procurement and Contracts, refer to Exhibit B for state requirements, and for federal requirements refer to Exhibit F (if applicable).

For emergency contracts, refer to the Emergency Force Account Emergency Limited Bid or Confirmation of Verbal Agreement terms and conditions.

CHAPTER 2: GOVERNING AGENCIES

2-1 Introduction

This chapter provides an overview of the federal and state government agencies that establish and enforce the labor regulations and statutes for all public works projects.

2-2 US Department of Labor

The U.S. Department of Labor (DOL) is a federal agency with three overall functions. It protects the rights of workers and retirees, provides job training, and provides statistics related to employment, prices, and income. The DOL was created March 4, 1913, by President Taft.

There are more than 25 offices and agencies within the DOL, all led by the Secretary of Labor. The seven most notable agencies are:

- The Employee Benefits Security Administration, which is responsible for the regulation and support of private retirement plans, health plans, and other welfare benefit plans.
- The Wage and Hour Division, which enforces and administers child labor laws, workers compensation, and the U.S. minimum wage.
- The Office of Workers' Compensation Programs, which administers four major disability compensation programs and provides benefits to workers who experience work-related injury or occupational disease, or their dependents.
- The Employment and Training Administration, which provides job training programs through state and local agencies, and the federal Job Corps.
- The Occupational Safety and Health Administration, which enforces workplace safety standards.
- The Bureau of Labor Statistics, which provides statistics on the workforce.
- The Pension Benefit Guaranty Corporation, which pays private pensions if an employer cannot pay.

2-3 Department of Industrial Relations

The California Department of Industrial Relations (DIR) was established in 1927. Its mission is to improve working conditions for California's wage earners and to advance opportunities for profitable employment in California. DIR administers and enforces laws governing wages, hours and breaks, overtime, retaliation,

workplace safety and health, apprenticeship training programs, and medical care and other benefits for injured workers. DIR also publishes materials and holds workshops and seminars to promote employment relations, conducts research to improve its programs, and coordinates with other agencies to target violators of labor laws and tax laws.

The DIR has the authority to make two determinations:

1. Whether a particular type of worker is covered by the prevailing wage laws
2. What the prevailing wage for that type of worker should be

The DIR director ascertains and considers wage rates and publishes them in determinations in accordance with California Labor Code [Section 1770](#) *et seq.* The determinations provide a publicly available menu of crafts, classifications, or types of workers and their corresponding wage rates. The awarding body specifies the crafts, classifications, or types of workers needed to execute the contract and the corresponding wage rates in its call for bids and in the bid specifications for the contract. Thereafter, the contractor and any of their subcontractors under the same contract must pay not less than the prevailing wages pursuant to California Labor Code [Section 1774](#). The awarding body must “take cognizance of violations” in accordance with California Labor Code [Section 1726](#). Willful violation of any provision is a misdemeanor pursuant to California Labor Code [Section 1777](#).

2-3-1 Wage Determinations

According to [Section 1773](#) of the California Labor Code, the DIR director is responsible for making prevailing wage determinations. The same section specifies the factors to be considered in making such determinations.

The director is required to:

- Ascertain the applicable wage rates established by collective bargaining agreements and prevailing wage rates for federal public works within the locality and in the nearest labor market area.
- Where such rates do not constitute the prevailing rates in the locality, the director must consider data from the labor organizations, employers, or employer associations concerned.
- When the director determines that the prevailing wage rate for a particular craft, classification, or type of worker is the rate set in a collective bargaining agreement, the director may adopt the rate by reference. This determination must be effective for the life of such agreement or until the director determines that a different rate should be adopted.

- Under California Labor Code Section 1773, prevailing wage rates are observed within the locality and nearest labor market. If the comparison to federal wage rates suggests the rates are not prevailing, Section 1773 provides for the collection and consideration of data from labor organizations, employers, and employer associations.
- The U.S. Department of Transportation does not, as a matter of course, provide notice, opportunity for comment, and hearing, as would be required for the adoption of a regulation, before making a prevailing wage determination. Once a craft, classification, or type of worker is recognized, a particular rate of pay is established and issued as a formal determination.

2-3-2 General Determinations

The DIR director publishes the general determinations and distributes them to awarding bodies, contractors, and trade associations. Where the general rate does not apply, an awarding body may request a special determination pursuant to California Code of Regulation [16100\(b\)\(B\)](#) and [16202](#).

A series of requests for special determinations for a particular classification may lead to a broad survey, which results in the classification being included in a general determination. Conversely, a classification may be found in a particular local market at the time of one award, and subsequently not used. A general determination does not require a survey unless the determination is challenged in a petition to review, which results in an investigation and survey.

2-3-3 Prevailing Wages Monitoring

The public works reforms brought about by Senate Bill 854 (Stat. 2014, chapter 28) made several changes to the laws governing how the DIR monitors compliance with prevailing wage requirements on public works projects. Some of these changes modified the responsibilities of awarding bodies. Some of SB 854's changes went into effect immediately because the bill was adopted as an urgency measure, but others were phased in.

Because it is a Legacy Program, Caltrans must monitor and enforce requirements of the Public Works Chapter of Labor Code, including all registration requirements.

2-3-3(A) Monitoring and Enforcement of Department of Industrial Regulations Registration Requirements

In accordance with Labor Compliance Policy Bulletin 20-1, "Contractor Registration Requirements," Caltrans staff continually review work site records to verify all subcontractors are registered with DIR.

- Staff will enter the subcontractor's information throughout the life of the project into DIR's PWC-100, at: <https://www.dir.ca.gov/pwc100ext/>.
- Labor Compliance staff will verify that all contractors and subcontractors have renewed their registration annually, as required under Labor Code 1725.5(a), for the duration of the project.
- If a contractor or subcontractor is unregistered, Labor Compliance staff must notify the unregistered contractor by letter, and for Construction Division-administered projects, will copy the resident engineer.
- If an unregistered contractor is a subcontractor, the written notice will be sent to the prime contractor; copies will be sent to the subcontractor and resident engineer.
- The Labor Compliance office will notify DIR of any identified unregistered contractors and will not allow the unregistered contractor to continue work on the project.
- Upon completion of the project: Prime contractor must submit to Caltrans a list of all subcontractors who participated on the project. Upon receipt, Labor Compliance staff will verify that all contractors are registered with DIR and entered in the DIR Public Works Project Registration. Final payment should not be made to the prime contractor until at least 30 days after the complete list of subcontractors is received and reviewed.

Failure to comply with these requirements subjects the contractor, subcontractor, and Caltrans to penalties as described in Labor Codes 1771.1 and 1773.3.

2-3-4 Dispute Resolution for Prevailing Wages

In 1953, after DIR was assigned the task of resolving disputes regarding prevailing wage rates, it adopted regulation CCR [16000](#), defining "prevailing rate" as follows:

The term 'prevailing rate' means the rate being paid to a majority of workers engaged in a particular craft, classification or type of work within the locality if a majority of such workers are paid at a single rate. If there is no single rate being paid to a majority, the single rate (modal rate) being paid the greater number is prevailing. The effect of this definition is that the general prevailing rate is a quantity to be found, not construed through the calculation of an average or any statistical manipulation process. In each case, the operative rate is the one paid to the greatest number of actual workers.

2-3-5 Prevailing Wage Disputes and Collective Bargaining

The prevailing rate is derived from a process, such as collective bargaining. This process has been demonstrated in various wage surveys conducted by DIR. California Labor Code 1773 permits the director to adopt a rate established in a collective bargaining agreement and states that “such determination shall be effective for the life of the agreement or until the director determines that another rate should be adopted.” In most cases, DIR finds that the collective bargaining agreement rates prevail.

In accordance with California Labor Code Sections [1771](#) and [1773](#), and CCR [16100\(b\)\(1\)](#), it is the responsibility of the awarding body to obtain the prevailing wage rates from the DIR director. [Section 1773.2](#) mandates that the awarding body specify which crafts, classifications, or types of workers are needed to execute the contract. It must do so before seeking bids on the contract, so that wages are consistent among all bid proposals. Thus, the crafts, classifications, or types of workers are determined by the context of a location, time, and type of work. Awarding bodies typically refer contractors to the general prevailing wage determinations issued by the director.

Petitioners, including contractors, contractor organizations, and labor organizations, can ask the director to include a classification believed to be present in the local labor market, but not published in the director's general determinations. This process is called a “Petition To Review,” as described in California Labor Code [Section 1773.4](#), and detailed in [CCR 16302](#).

2-3-6 Enforcement of the Prevailing Wages by Caltrans

Pursuant to its authority as an approved Labor Compliance Program (LCP) and Labor Code Section 1771.5, Caltrans is responsible for the enforcement of prevailing wage requirements on its projects. Caltrans monitors compliance requirements by reviewing payroll and related reports, and initiates enforcement actions that may be warranted.

The provisions of this LCP require that Caltrans enforce standards set forth by state laws and regulations, and any Caltrans-specific policies and contract provisions. This includes:

- Payment of prevailing wage rates.
- Employment of properly registered apprentices.
- Submitting certified payroll records, including submission of fringe benefit statements as required. Reports must be complete and accurate.
- Conducting pre-job conferences with contractors or subcontractors.

- Withholding contract payments and imposing penalties for noncompliance.
- Submitting required annual reports to the DIR

In addition to requirements listed, Caltrans may audit contractors and subcontractors based on the following and Figure 2-A, “Inadequate Payroll Records:”

- Complaints received, verbally or in writing
- Delinquent, inadequate, discrepant payroll issues
 - Unresolved issues or unresponsive contractor or subcontractor
 - Repeated violations with no resolution
- Random audits
- **FIGURE 2-A: INADEQUATE PAYROLL RECORDS**

Delinquent or Inadequate Payroll Records

“Delinquent” means that documents have not been submitted in accordance with the Caltrans contract and the Labor Compliance Program

“Inadequate payroll records” may be any of the following:

- A record lacking the information required by Labor Code Section 1776
- A record that contains the required information, but is not certified, or is certified by someone not an agent of the contractor or subcontractor
- A record remaining uncorrected for 10 days after Caltrans notification

If a Caltrans investigation determines that payroll records are delinquent, inadequate, or deficient, Caltrans may withhold payment to contractors and subcontractors in accordance with Labor Code Section 1771.5. Caltrans may also withhold any amounts due to a contractor or subcontractor determined by Caltrans to be necessary to satisfy liabilities of the contractor or subcontractor for

unpaid wages to workers under the contract pursuant to Labor Code Section 1727.

Ongoing failure by the contractor to provide the required documents will result in a referral by Caltrans to the DIR for a wage case with applicable penalties.

If the contractor wishes to challenge the assessment and recover the funds withheld, it can file an action against the awarding body on its public works contract without the permission from the state or other authority.

2-3-7 Power of State to Regulate

A contractor's independence does not override their responsibility to adhere to the requirements of state laws and regulations. Caltrans as the awarding body will verify compliance and adherence to the states' laws and regulations.

CHAPTER 3: CALTRANS LABOR COMPLIANCE PROGRAM AND RELATED REQUIREMENTS

3-1 Introduction to Caltrans' Labor Compliance Program

The Caltrans Labor Compliance officers are responsible for training, assisting, monitoring, and enforcing prevailing wage requirements on all Caltrans projects throughout California to make sure that all contractors working on Caltrans public work projects do so in accordance with state and federal prevailing wage statutes, and regulations.

Caltrans performs this function under the authority of a DIR-approved Labor Compliance Program (LCP). Caltrans adheres to the statutory requirements set forth in the Section 1771.5 of the California Labor Code and operates in accordance with the federal requirements as established in the Davis-Bacon and Related Acts, the Contract Work Hours and Safety Standards Act, and the Copeland "Anti-Kickback" Act.

Benefits of a Labor Compliance Program. The DIR cites several benefits of an official Labor Compliance Program, including:

- **Integrity of competitive bidding process.** A comprehensive Labor Compliance Program prevents underbidding by contractors, or contractors who use subcontractors, and who do not pay prevailing wages. It creates a level playing field for contractors bidding on district construction projects.
- **Regeneration of funds to the community.** Enforcement of prevailing wage laws strengthens the competitive bidding process for Caltrans construction projects. Competitive bidding encourages contractors to bid, which helps direct funds to communities.
- **Improved labor relations.** A Labor Compliance Program helps improve and promote responsible working conditions. Cooperation and communication with construction industry participants encourages long-term, positive labor and management relationships.
- **Quality construction work.** Payment of prevailing wages to workers employed on public works can attract the most skilled workers and help assure the highest quality of work on all projects.

3-2 Caltrans Labor Compliance Program Requirements

In accordance with the Labor Compliance Program (LCP) designation, Caltrans adheres to the statutory requirements defined in Labor Code Section 1771.5(b), *et seq.*, in its monitoring and enforcement protocols.

The Caltrans LCP includes labor compliance standards required by state and federal laws and regulations, as well as policies and contract provisions including:

- Presentation of requirements at pre-job conference
- Payment of applicable general prevailing wage rates
- Employment of properly registered apprentices
- Job site interviews to verify proper classification for workers and payment of prevailing wage rates
- Withholding of contract payments and imposing penalties for noncompliance
- Preparation and submission of required LCP annual reports

Table 3-A, “Labor Compliance Program Requirements,” provides a summary of the LCP requirements under Labor Code Section 1771.5

• **TABLE 3-A: LABOR COMPLIANCE PROGRAM REQUIREMENTS**

CODE	REQUIREMENT
1771.5(a)	An awarding body may choose not to require the payment of the general prevailing rate of per diem wages or the general prevailing rate of per diem wages for holiday and overtime work for any public works project of \$25,000 or less when the project is for construction work, or for any public works project of \$15,000 or less when the project is for alteration, demolition, repair, or maintenance work, if the awarding body has elected to initiate and has been approved by the director of Industrial Relations to enforce a labor compliance program in accordance with subdivision (b) for every public works project under the authority of the awarding body.
1771.5(b)	For purposes of this section, a labor compliance program must include the following requirements: <ul style="list-style-type: none"> • (1) All bid invitations and public works contracts shall contain appropriate language concerning the requirements of this chapter. • (2) A pre-job conference shall be conducted with the contractor and subcontractors to discuss federal and state labor law requirements applicable to the contract.

CODE	REQUIREMENT
	<ul style="list-style-type: none"> • (3) Project contractors and subcontractors shall maintain and furnish, at a designated time, a certified copy of each weekly payroll containing a statement of compliance signed under penalty of perjury. • (4) The awarding body shall review, and, if appropriate, audit payroll records to verify compliance with this chapter. • (5) The awarding body shall withhold contract payments when payroll records are delinquent or inadequate. • (6) The awarding body shall withhold contract payments equal to the amount of underpayment and applicable penalties when, after investigation, it is established that underpayment has occurred. • (7) The awarding body shall comply with any other prevailing wage monitoring and enforcement activities that are required to be conducted by labor compliance programs by the Department of Industrial Relations.

3-3 Roles and Responsibilities of the Labor Compliance Program

3-3-1 Introduction

The Labor Compliance Program's mission is to:

- Assure consistency throughout the state in enforcement of state and federal labor laws in contract bidding.
- Assure that employees working on Caltrans projects are paid contract-specified prevailing wages and that they are allowed to work in an equal employment environment free of harassment and discrimination.

3-3-2 Headquarters Labor Compliance

This section delineates the roles and responsibilities of the Labor Compliance staff and labor compliance requirements on all Caltrans projects. The information in this section provides details on how to properly monitor and enforce labor compliance requirements.

3-3-2(a) Headquarters Labor Compliance Staff:

- Performs oversight and provides guidance, training, and tools for all districts and divisions on Labor Compliance Program requirements
- Processes all wage cases for districts
- Conducts enforcement activities, such as audits and complaint processing, for service contracts

3-3-3 Labor Compliance Roles for Construction Contracts

3-3-3(a) Resident Engineer

- With support staff, has a working knowledge of the contract labor standards.
- Bears responsibility for the enforcement of the labor contract provisions at the project level.
- Delegates to Labor Compliance district or region office responsibilities to monitor and enforce prevailing wages.
- Follows requirements outlined in Section 8-102A, "Employment Practices," of the [Construction Manual](#).

3-3-3(b) Construction District or Region Labor Compliance Office

- Administers and monitors the labor compliance requirements for construction contracts.
- Enforces the prevailing wage requirements for all major and minor construction contracts.
- Interprets and enforces all public works contract labor provisions including:
 - DIR registration
 - Prevailing wages
 - Apprenticeship programs
- Assists the resident engineer with contract interpretation and enforcement of labor laws using:
 - Weekly certified payroll
 - Fringe benefit statements
 - Federal and state prevailing wages

- Employee interviews
- External inquiries and complaints
- Engineer's daily reports
- Conducts a pre-job conference to discuss labor compliance requirements.
- Collects, reviews, confirms, and audits payrolls.
- Withholds contractor payments.
 - Construction contracts will use the estimates desk to withhold funds on a Projected Pay Estimate
 - For Minor B and emergency construction contracts paid by a receiver and invoice process, an invoice dispute note is required
- Enforces the contract special provisions for prevailing wages for all major and minor construction contracts.
- Interprets and enforces public works contract provisions on prevailing wages and apprenticeship programs.
- Investigates possible contractor violations by comparing wage rates on payrolls, hours, and classifications paid to actual hours and classifications worked and checking on approved [Division of Apprenticeship Standards \(DAS\) apprentice agreements](#).
- When a possible labor compliance violation is identified, such as from an employee complaint or a certified payroll showing underpayments to employees, the district Labor Compliance office conducts a source document audit, interviews employees, and determines if it is appropriate to initiate formal action against a contractor. If formal action is considered necessary, writes up a labor compliance wage case and submits it to the Labor Compliance unit at headquarters. Contractors may request administrative hearings and appeal processes for alleged violations.
- District Labor Compliance office gets guidance and training from headquarters, as needed.

3-3-4 Labor Compliance Roles for Service Contracts

3-3-4(a) Contract Manager

- Assists Division of Procurements and Contracts (DPAC) in determining prevailing wage requirements when writing contracts

- Contacts DPAC for any bidder inquiries regarding labor compliance requirements during bid process
- Conducts pre-job conferences to discuss labor compliance requirements
- Documents workers' activity and tasks
- Conducts employee interviews using Caltrans' employee interview forms
- Reviews all invoices and certified payroll records received from contractors, and initials and dates them after review
- Confirms appropriate wages are paid and classifications are used by the contractor for the type of work performed
- Withholds contractor payments when there are prevailing wage violations, using STD 209, "Invoice Dispute Notification"
- Tracks all labor compliance activities
- Refers prevailing wage complaints to the Labor Compliance unit at headquarters
- Processes Public Records Act requests in accordance with regulations and Caltrans policies and procedures
- Seeks guidance and training at headquarters on questions and resources

3-4 Office Procedures

3-4-1 Introduction

This section outlines Labor Compliance office procedures, including the work that must be performed, and how the work is distributed and filed. The details of these procedures may vary depending on the district or regional location.

3-4-2 Labor Compliance Activities

Typical Labor Compliance officer (LCO) activities include:

- Providing technical assistance to the local agencies as well as divisions other than Construction.
- Monitoring compliance with apprentice requirements in accordance with Labor Code 1777.5 and confirming contractor compliance with contract-mandated apprentice ratios.

- Collecting and reviewing employee interviews to verify prevailing wage compliance.
- Conducting investigations of possible prevailing wage rate violations. Investigations may include auditing the contractor's source documents to verify the accuracy of payrolls.
- Working with contractors for restitution of wages due if underpayments are identified through payroll review and confirmation or a source document audit.
- Investigating prevailing wage complaints by contractors, employees, labor unions, and joint labor management committees.
- Preparing and submitting wage violation cases, after contractor fails to resolve identified violations, to the headquarters Division of Construction Labor Compliance unit.
- Compiling federally mandated reports.
- For Public Records Act requests, receiving, reviewing, and responding within 10 days to requests for documents, and redact certified payroll records personally identifying information as needed

3-4-3 Work Distribution

3-4-3(a) Construction Contracts

For the Construction Division, the LCO is responsible for the distribution of work among the Labor Compliance personnel. Suggested methods to consider for distribution are:

- Federal versus state projects
- North versus South projects, for Central Region only
- Types of contracts: construction, emergency, Minor B
- Districts, for regions only
- Routes
- Senior engineers or resident engineers
- Rotational, as received
- Contract numbers

Any method must take into consideration the size, dollar value, duration, type of work, and number of subcontractors. The chosen method must result in a fair and equitable distribution among the Labor Compliance staff.

3-4-3(b) Service Contracts

For service contracts, the contract manager is responsible for the contract; however, some districts or divisions may have staff assigned to assist the contract manager process invoices and monitor prevailing wages.

3-5 Labor Compliance Reports

3-5-1 DIR Annual Report

This Labor Compliance Program Annual report is due Aug. 31 following the end of every fiscal year. This report to the DIR director summarizes the year's awarded projects subject to prevailing wages and those that are not, completed wage cases, and restitution collected at the district level. Headquarters labor compliance staff are responsible to prepare and submit the report.

Because this report is a compilation of data from various departments and divisions, headquarters begins reaching out in mid-July, but no later than the beginning of August.

This report is published in PDF format and archived on the Caltrans Labor Compliance [website](#) under the DIR Annual Reports section.

The Microsoft Word template of this report is filed on the Caltrans internal network shared drive. Use the previous year's report to update for the current year's report.

The DIR annual report has four major sections:

1. Report summary letter
2. Executed prevailing wage summary for the year
3. Completed and closed wage cases for the fiscal year
4. Prevailing wage violations and restitution at the district level for the fiscal year

3-5-1(a) Report Summary Letter

To prepare the summary letter:

- Update the letterhead date
- Update each of the bullet points:

- Number of awarded contracts subject to prevailing wage requirements, and their values
- Number of awarded contracts not subject to prevailing wage requirements, and their values
- Number of closed wage cases
- Number of wage violations, number of employees involved, and restitution amounts.

3-5-1(b) Executed Prevailing Wage Summary

- This data is requested from the Policy Branch of DPAC
- It is broken into two major sections:
 - Contracts requiring prevailing wages
 - Construction contracts greater than or equal to \$25,000
 - Alteration, demolition, installation, repair, and maintenance contracts greater than or equal to \$15,000
 - Contracts exempt from prevailing wage regulations
 - Construction contracts less than \$25,000
 - Alteration, demolition, installation, repair and maintenance contracts less than \$15,000
- Update the report spreadsheet with the number of awarded contracts by contract type and their cumulative dollar amounts. Be particularly careful not to double-count between the same contract types, such as emergency contracts requiring prevailing wage versus those that are exempt.

3-5-1(c) Completed and Closed Wage Cases

This data is requested from the Enforcement Unit of the Labor Compliance Office at headquarters:

- Closed wage case data for the fiscal year
- Prime contractor list and associated subcontractor data

3-5-1(d) Prevailing Wage Violations and Restitution at the District Level

This data is available from Labor Compliance Office records at headquarters. It is requested monthly throughout the year from Labor Compliance staff in each district. For additional details on how this information is collected, refer to [Chapter 22, Section 22-2](#), “Restitution at the District Level Monthly Report,” of this manual.

The data is broken down by month and is a compilation of district data for the number of violations, number of affected employees, and the restitution amounts collected.

3-5-2 Labor Compliance Enforcement Report

[Form FHWA-1494](#), “Semi-annual Labor Compliance Enforcement Report,” covers the period of either April 1 through September 30 or October 1 through March 31. Submit reports to the Labor Compliance unit for federally funded projects and include federally funded local agency projects.

Capture the Form 1494 information as listed below:

1. Reporting period.
2. Number of prime contracts awarded.
 - a. Any explanation or comment considered necessary to a proper understanding of the report. A separate sheet may list the number of contracts awarded.
3. Total dollar amount of prime contracts awarded.
4. Number of contractors and subcontractors against whom complaints were received. This includes verbal, written, or from interviews.
5. Number of investigations completed.
 - a. Investigations include a complete and detailed investigation into the administration of labor standards provisions. Routine payroll checks should not be included.
6. Number of contractors and subcontractors found to be in violation.
 - a. The results of the investigations reported in Item 5. A contractor and subcontractor should not be counted more than once in a single investigation if they have violated more than one act, or if more than one contract is included in the investigation.
7. Amount of wages found due.

- a. Wages due employees of the contractors and subcontractors reported in Item 6 of Form FHWA-1494. Separate the dollar amounts by:
 - (1) Violations of the Davis-Bacon and Related Acts for straight time.
 - (2) Violations of the Contract Work Hours and Safety Standards Act for overtime.
8. Amount of back wages paid.
 - a. Back wages paid to employees of the contractor and subcontractor reported in item 6. Separate the dollar amount by:
 - (1) Violations of the Davis-Bacon and Related Acts, for straight time
 - (2) Violations of the Contract Work Hours and Safety Standards Act, for overtime.
9. Number of employees due wage restitution under Davis-Bacon and Related Acts and Contract Work Hours and Safety Standards Act.
 - a. Number of employees to whom the wages were paid in Item 8. Wages paid to employees as a result of an investigation are counted only once even if paid under both Davis-Bacon and Related Acts and the Contract Work Hours and Safety Standards Act.
10. Amount of liquidated damages assessed under the Contract Work Hours and Safety Standards Act. This is the federal overtime penalty.
 - a. If the Labor Compliance district database is in use, query for federal projects awarded between the dates needed for the report and get the number and the amount of money involved. It is important to have the data collected promptly. The LCO needs accurate and updated tools to track the number of contracts, investigations, cases, and money involved for gathering statistics for annual reporting. It is headquarters' responsibility to request all data from districts, prepare the report, and submit the report.

3-5-2(a) Federal-Aid Highway Construction Contractor's Annual Equal Employment Opportunity Report

The prime contractor and all subcontractors that perform work in excess of \$10,000 during the last full week of July on federally financed projects must submit Form FHWA-1391, "Federal-Aid Highway Construction Contractors Annual EEO Report." This form must be completed and returned to the LCO. If the LCO does not receive these forms by the date specified on the memorandum issued by headquarters, an Equal Employment Opportunity (EEO) deduction

must be taken on the August progress pay estimate for missing documents, and the deduction should be held until the forms are received. This form is located at:

<https://www.fhwa.dot.gov/eforms/>

Instructions for filling out this form are located at:

<http://www.localassistanceblog.com/wp-content/uploads/2019/07/2019-FHWA-1391-Instructions-for-LPA.pdf>

Caltrans project files that must contain Form FHWA-1391:

Notify all prime contractors by letter around July 1 of each year for details on federally financed projects under construction during the last full week of July. Attach a copy of form FHWA-1391 with the contract number, federal aid number, and the week ending on the form before mailing.

The LCO should make sure the forms are complete and accurate before submittal to Caltrans' Division of Civil Rights.

CHAPTER 4A: DIVISION OF CONSTRUCTION-ADMINISTERED CONTRACTS

4A-1 Introduction

4A-1-1 Contract Award

For Division of Construction-administered contracts, the following groups are involved in the contract award process:

- The **Division of Engineering Services-Office Engineer (DES-OE)** is responsible for awarding capital construction contracts.
- The **Division of Procurement and Contracts (DPAC)** is responsible for awarding Minor B and emergency contracts.

4A-1-2 Contract Types

The **Division of Construction Labor Compliance unit** is responsible for the monitoring and enforcement of capital construction, emergency and Minor B projects administered in the Division of Construction. A resident engineer will be assigned to administer these projects.

4A-2 Construction Projects paid through the Contract Administration System

4A-2-1 Overview

Capital construction projects are those with contracts greater than \$333,000. These contracts are paid through the Contract Administration System (CAS) by progress pay.

4A-2-2 Before the Work Begins

Before the start of the work on a capital construction project, the Labor Compliance officer (LCO) at the district must establish to whom the contractor will submit certified payroll records. Each district may have different procedures. Before the start of work, the Labor Compliance assigned staff must review the contract and work to be performed, including by any subcontractors listed at the time of bid, and hold a pre-job meeting. See [Chapter 8](#), “Prejob Conference Requirements and Posters,” of this manual for additional details on this pre-job meeting.

If the resident engineer has questions or requires guidance, they may contact their district Labor Compliance office for assistance.

4A-2-3 Procedures for Payment through Contract Administration System

Capital construction contracts are paid by progress pay estimates. In accordance with contract provisions and *Standard Specifications*, all payroll records must be submitted to the Labor Compliance office by the close of business on 15th of each month for the previous month's work.

Labor Compliance staff should date stamp any received paper payroll records. The web-based payroll management system will automatically date and time stamp receipt of electronic filings.

Labor Compliance staff must review payroll records and identify any delinquent or inadequate records. The prime contractor is sent a Notice of Delinquent or Inadequate Records. The district processes a withhold of as much as \$10,000 of the progress pay estimate.

All of these items must be documented in the district's designated tracking mechanism.

The window of time from when payroll documents are received to when payments are made on all construction projects for a given month is very short. Be sure to reference and adhere to your district's payment calendar date to assure enough time for payroll records to be reviewed, violation letters sent, and all withholds initiated before the payment date.

4A-2-4 Project Closeout

The resident engineer must verify the work is satisfactorily completed and submit the following documents to the Labor Compliance office for payroll reviews:

- Contract acceptance
- Daily and weekly status reports
- Form [CEM-2402\(S\)](#), "Final Report - Utilization of Disabled Veterans Business Enterprises (DVBE)," for state funded projects
- Form [CEM-2402\(F\)](#), "Final Report - Utilization of Disadvantaged Business Enterprises (DBE), First-Tier Subcontractors," for projects that contain federal funds
- Certified payrolls, including fringe benefit statements, and apprentice agreements
- Employee interviews

4A-3 Emergency Contracts

4A-3-1 Overview

Caltrans uses emergency contracts when services or goods are needed to immediately respond to “a sudden, unexpected occurrence that poses a clear and imminent danger requiring immediate action to prevent or mitigate the loss or impairment of life, health, property, or essential public services” as provided by [Public Contract Code Section 1102](#).

The district Maintenance unit has the responsibility of obtaining a director’s order for emergency work. DPAC prepares and executes these emergency service contracts.

Emergency contracts exceeding \$333,000 may be paid through CAS. If so, see [Section 4A-2-3](#), “Procedures for Payment through Contract Administration System,” of this manual. If emergency contracts are paid by invoice, follow the procedures in Section 4A-2-4, “Project Closeout.”

4A-3-2 Procedures for Payment on Invoices

Emergency contracts are paid in arrears and follow a receiver and invoice payment process.

Emergency contract invoices must be paid within 45 days of receipt, or Caltrans becomes liable for interest. The LCO can withhold money for missing payrolls or payroll discrepancies. When payment is withheld, assigned district staff must immediately complete and file [Form STD 209](#), “Invoice Dispute Notification,” to stop Caltrans from accruing interest payments. Tracking logs are kept to prevent unnecessary interest payment from accruing.

4A-3-3 Project Closeout

The resident engineer must verify the work is satisfactorily completed and submit the following documents to the LCO for payroll reviews:

- Contract acceptance
- Daily and weekly status reports
- Form [CEM-2402\(S\)](#), “Final Report - Utilization of Disabled Veterans Business Enterprises (DVBE),” for state funded projects
- Form [CEM-2402\(F\)](#), “Final Report - Utilization of Disadvantaged Business Enterprises (DBE), First-Tier Subcontractors,” for projects that contain federal funds

- Certified payrolls, including fringe benefit statements, and apprentice agreements
- Employee interviews
- Contractor invoice
- Form FA-1226A, “Receiver - One Invoice (Single or Multi Funding Lines)”

Upon receiving the document package from the resident engineer, the LCO must do all of the following:

1. Date stamp the original receiving record in the lower left-hand corner and initial.
2. Log the date the receiving record and payroll documents are received, and the date they are submitted to be paid, into the labor compliance tracking system.
3. Verify that the receiving record includes the resident engineer’s signature. Return any unsigned receiving record.
4. Make a copy of the receiving record and the invoice to retain in a logbook in a tracking system.
5. Review the payroll records, verify classifications, rates of pay, and hours against the daily reports.
6. Approve the certified payroll records by signing the receiving record and noting that payroll records are approved.
7. Forward the receiving record and invoice to the identified district staff members for processing by Accounting.
8. File all manually received payroll documents in the project file. No filing is necessary if payroll documents have been submitted electronically.

Invoice Dispute Notification

Inform the resident engineer and assigned district staff that they must send the completed [Form STD 209](#), “Invoice Dispute Notification,” to the contractor and to the Division of Accounting, Office of Accounts Payable.

When missing documents are received, or the dispute is otherwise resolved, send the invoice, the receiving record, and a copy of Form STD 209 to the Division of Accounting, Office of Accounts Payable for payment.

This process can also be completed in AMS Advantage directly without hard copies sent to the Division of Accounting. Refer to the [AMS Advantage Quick Reference Guide](#) for additional details on this process.

Contact the Division of Accounting, Office of Accounts Payable with any questions.

Partial Payments

The resident engineer can make a partial payment to the contractor during the progress of the work when the number of working days in a contract exceeds 20 days.

4A-4 Minor B Contracts

4A-4-1 Overview

Minor B contracts are usually a minor construction project less than \$388,000. This threshold is subject to change. Staff may verify the current threshold at DPAC's website.

4A-4-2 Before Work Begins

Before the start of the work on a Minor B construction project, the Labor Compliance officer (LCO) at the district must establish to whom the contractor will submit their certified payroll records. Each district may have different procedures to make this determination. Before the start of work, the LCO must review the contract and work to be performed, including any subcontractors listed at the time of bid, and hold a pre-job meeting. See [Chapter 8](#), "Pre-job Conference Requirements and Posters," of this manual for additional details on this pre-job meeting.

If the resident engineer has questions or requires guidance, they may contact their district Labor Compliance office for assistance.

4A-4-3 Procedures for Payment

Minor B contracts are paid in arrears and follow a receiver and invoice payment process.

Minor B contracts must be paid within 45 days of receipt of invoices or Caltrans becomes liable for interest. The LCO can withhold money for missing payrolls or payroll discrepancies. When this happens, assigned district staff must immediately complete and file [Form STD 209](#), "Invoice Dispute Notification," to prevent Caltrans from accruing interest payments. Tracking logs are kept to avoid unnecessary interest payment from accruing.

4A-4-4 Project Closeout

The resident engineer must verify the work is satisfactorily completed and submit the following documents to the Labor Compliance office for payroll reviews:

1. Contract acceptance
2. Daily and weekly status reports
3. Form [CEM-2402\(S\)](#), “Final Report - Utilization of Disabled Veterans Business Enterprises (DVBE), State-Funded Projects Only” for state funded projects
4. Form [CEM-2402\(F\)](#), “Final Report - Utilization of Disadvantaged Business Enterprises (DBE), First-Tier Subcontractors,” for projects that contain federal funds
5. Certified payrolls, including fringe benefit statements, and apprentice agreements
6. Employee interviews
7. Contractor invoice
8. Form FA-1226A, “Receiver - One Invoice (Single or Multi Funding Lines)”

Upon receiving the document package from the resident engineer, the LCO must do all of the following:

1. Date stamp the original receiving record in the lower left-hand corner and initial.
2. Log the date the receiving record and payroll documents are received, and the date they are submitted to be paid, into the labor compliance tracking system.
3. Verify that the receiving record includes the resident engineer’s signature. Return any unsigned receiving record.
4. Make a copy of the receiving record and the invoice to retain in a logbook in a tracking system.
5. Review the payroll records, verify classifications, rates of pay, and hours against the daily reports.
6. Approve the certified payroll records by signing the receiving record and noting that payroll records are approved.

7. Forward the receiving record and invoice to the identified district staff members for processing with accounting.
8. File all manually received payroll documents in the project file. No filing is necessary for payroll documents submitted electronically into the web-based tracking system.

Invoice Dispute Notification

Inform the resident engineer and assigned district staff that they must send the completed [Form STD 209](#), "Invoice Dispute Notification," to the contractor and to the Division of Accounting, Office of Accounts Payable.

When missing documents are received, or the dispute is otherwise resolved, send the invoice, the receiving record, and a copy of [Form STD 209](#) to the Division of Accounting, Office of Accounts Payable for payment.

This process can also be completed in AMS Advantage directly without hard copies sent to the Division of Accounting. Refer to the [AMS Advantage Quick Reference Guide](#) for additional details on this process.

Contact the Division of Accounting, Office of Accounts Payable with any questions.

Partial Payments

The resident engineer can make a partial payment to the contractor during the progress of the work when the number of working days in a contract exceeds 20 days.

CHAPTER 4B: OTHER DIVISION-ADMINISTERED CONTRACTS

4B-1 Introduction

The **Division of Procurement and Contracts (DPAC)** is responsible for awarding all other procurement and contracting methods.

For all other division-administered contracts, including service, Architectural and Engineering, Minor B and emergency contracts, **contract managers** are responsible for monitoring labor compliance activities.

Headquarters Division of Construction Labor Compliance will be contacted for labor compliance enforcement, such as an audit or investigation, and may be contacted by the contract manager for guidance and training at Labor.Compliance@dot.ca.gov.

Staffing may determine whether a district handles Minor B and emergency contracts or asks contract managers or the Division of Construction to administer them.

4B-2 Emergency Contracts

4B-2-1 Overview

Caltrans uses emergency contracts when services or goods are needed to immediately respond to "a sudden, unexpected occurrence that poses a clear and imminent danger requiring immediate action to prevent or mitigate the loss or impairment of life, health, property, or essential public services" as provided by [Public Contract Code Section 1102](#).

The district Maintenance unit has the responsibility to obtain a Director's Order for emergency work. DPAC prepares and executes these service contracts.

4B-2-2 Procedures for Payment

Emergency contracts are paid in arrears and follow a receiver and invoice payment process.

Emergency contracts must be paid within 45 days of receipt of invoice, or Caltrans becomes liable for interest. The LCO can withhold money for missing payrolls or payroll discrepancies. If payment is to be withheld, the LCO must immediately complete and file Form STD 209, "Invoice Dispute Notification," to prevent Caltrans from accruing interest payments. Tracking logs are kept to avoid unnecessary interest payment from accruing.

4B-2-3 Project Closeout

The contract manager must verify the work is satisfactorily completed and review the file to verify that the following documents have been received:

1. Form [ADM-3059](#) "Report of Utilization of Small/Micro Business and Disabled Veteran Business Enterprises State Funded Projects Only," applicable to projects with a DVBE goal.
2. Form [ADM-3069](#), "Disadvantaged Business Enterprises Utilization Report," applicable to projects with DBE goals.
3. Certified payrolls, including fringe benefit statements, and apprentice agreements
4. Employee interviews
5. Contractor invoices
6. Form FA-1226A, "Receiver - One Invoice (Single or Multi Funding Lines)"
 - a. Date stamp the original receiving record in the lower left-hand corner and initial.
 - b. Log the date the receiving record and payroll documents are received, and the date they are submitted to be paid, into the labor compliance tracking system.
 - c. Verify that the receiving record includes the contract manager's signature. Return any unsigned receiving record.
 - d. Make a copy of the receiving record and the invoice to retain in a logbook in a tracking system.
 - e. Review the payroll records, verify classifications, rates of pay, and hours against the daily reports.
 - f. Approve the certified payroll records by signing the receiving record and noting that payroll records are approved.
 - g. Forward the receiving record and invoice to the Division of Accounting, Disbursement office.

4B-2-3(a) Invoice Dispute Notification

Inform the contract manager and send the completed [Form STD 209](#), "Invoice Dispute Notification," to the contractor and to the Division of Accounting, Office of Accounts Payable.

When missing documents are received, or the dispute is otherwise resolved, send the invoice, the receiving record, and a copy of [Form STD 209](#) “Invoice Dispute Notification,” to the Division of Accounting, Office of Accounts Payable for payment.

This process can also be completed in AMS Advantage directly. Refer to the [AMS Advantage Quick Reference Guide](#) for additional details on this process.

Contact the Division of Accounting, Office of Accounts Payable with any questions.

4B-3 Minor B Contracts

4B-3-1 Overview

Minor B contracts are usually minor construction projects less than \$388,000. This threshold is subject to change. Staff may verify the current threshold at DPAC’s website [Non-IT Service Contracts - Minor B | Division of Procurement and Contracts \(ca.gov\)](#)

4B-3-2 Before Work Begins

Before the start of work, the contract manager must review the contract and work to be performed, including any subcontractors listed at the time of bid, and hold a pre-job meeting. See [Chapter 8](#), “Pre-job Conference Requirements and Posters,” of this manual for additional details on this pre-job meeting.

If the contract manager has questions or requires guidance, they may contact headquarters for Labor Compliance assistance at Labor.Compliance@dot.ca.gov.

4B-3-3 Procedures for Payment

Minor B contracts are paid in arrears and follow a receiver and invoice payment process.

Minor B contracts must be paid within 45 days of receipt of invoice, or Caltrans becomes liable for interest. The contract manager can withhold money for missing payrolls or payroll discrepancies, [Form STD 209](#), “Invoice Dispute Notification,” must be filed immediately to prevent Caltrans from accruing interest payments. Tracking logs are kept to avoid unnecessary interest payment from accruing.

4B-3-4 Project Closeout

The contract manager must verify the work is satisfactorily completed, and review the file to verify the following documents have been received:

1. Form [ADM-3059](#), “Report of Utilization of Small/Micro Business and Disabled Veteran Business Enterprise State Funded Projects Only,” applicable to projects with a DVBE goal.
2. Form [ADM-3069](#), “Disadvantaged Business Enterprises Utilization Report,” for projects with DBE goals.
3. Certified payrolls, including fringe benefit statements, and apprentice agreements
4. Employee interviews
5. Contractor invoice
6. Form FA-1226A, “Receiver - One Invoice (Single or Multi Funding Lines)”
 - a. Date stamp the original receiving record in the lower left-hand corner and initial.
 - b. Log the date the receiving record and payroll documents are received, and the date they are submitted to be paid, into the labor compliance tracking system.
 - c. Verify that the receiving record includes the contract manager’s signature. Return any unsigned receiving record.
 - d. Make a copy of the receiving record and the invoice to retain in a logbook in a tracking system.
 - e. Review the payroll records, verify classifications, rates of pay, and hours against the daily reports.
 - f. Approve the certified payroll records by signing the receiving record and noting that payroll records are approved.
 - g. Forward the receiving record and invoice to the Division of Accounting, Disbursement office.

4B-3-4(a) Invoice Dispute Notification

Inform the contract manager and send the completed [Form STD 209](#), “Invoice Dispute Notification,” to the contractor and to the Division of Accounting, Office of Accounts Payable.

When missing documents are received, or the dispute is otherwise resolved, send the invoice, the receiving record, and a copy of [Form STD 209](#) “Invoice Dispute Notification,” to the Division of Accounting, Office of Accounts Payable for payment.

This process can also be completed in AMS Advantage directly. Refer to the [AMS Advantage Quick Reference Guide](#) for additional details on this process.

Contact the Division of Accounting, Office of Accounts Payable with any questions.

4B-4 Service Contracts

4B-4-1 Overview

Service contracts pertain to any service necessary for the keeping of any publicly owned property or facility owned by Caltrans. It is considered an “Agreement for Services.” These contracts will be administered by the contract manager. The Labor Compliance office at headquarters offers guidance and performs enforcement activities, such as audits and investigations.

4B-4-2 Before the Work Begins

The contract manager is responsible for labor compliance monitoring of the contract. The Office of Labor Compliance at headquarters provides guidance only and is not the recipient of payroll records for service contracts.

Before the work begins on a service contract, the contract manager must review the contract and work to be performed, including any subcontractors listed at the time of bid, and hold a pre-job meeting. See [Chapter 8](#), “Pre-job Conference Requirements and Posters,” of this manual for additional details on this pre-job meeting.

If the contract manager has questions or requires guidance, they may contact headquarters Labor Compliance office for assistance at Labor.Compliance@dot.ca.gov.

4B-4-3 Procedures for Payment

Service contracts are paid in arrears and follow a receiver and invoice payment process.

Service contracts must be paid within 45 days of invoice, or Caltrans becomes liable for interest. The contract manager may withhold money for missing payrolls or payroll discrepancies. When this happens, immediately complete and file Form STD 209, “Invoice Dispute Notification,” to stop Caltrans from accruing interest payments. Tracking logs are kept to prevent unnecessary interest payment from accruing.

4B-4-4 Project Closeout

The contract manager must verify the work is satisfactorily completed and review the file to verify that the following documents have been received:

1. Form [ADM-3059](#), "Report of Utilization of Small/Micro Business and Disabled Veterans Business Enterprises State Funded Contracts Only," for state funded projects with a DVBE goal.
2. Form [ADM-3069](#), "Disadvantaged Business Enterprises Utilization Report," for projects that contain federal funds and a DBE goal.
3. Certified payrolls, including fringe benefit statements, and apprentice agreements
4. Employee interviews
5. Contractor invoice
6. Form FA-1226A, "Receiver - One Invoice (Single or Multi Funding Lines)"
 - a. Date stamp the original receiving record in the lower left-hand corner and initial.
 - b. Log the date the receiving record and payroll documents are received, and the date they are submitted to be paid, into the labor compliance tracking system.
 - c. Verify that the receiving record includes the contract manager's signature. Return any unsigned receiving record.
 - d. Make a copy of the receiving record and the invoice to retain in a logbook in a tracking system.
 - e. Review the payroll records, verify classifications, rates of pay, and hours against the daily reports.
 - f. Approve the certified payroll records by signing the receiving record and noting that payroll records are approved.
 - g. Forward the receiving record and invoice to the Division of Accounting, Disbursement office.

4B-4-4(a) Invoice Dispute Notification

Inform the contract manager and send the completed Form STD 209, "Invoice Dispute Notification," to the contractor and to the Division of Accounting, Office of Accounts Payable.

When missing documents are received, or the dispute is otherwise resolved, send the invoice, the receiving record, and a copy of [Form STD 209](#), to the Division of Accounting, Office of Accounts Payable for payment.

This process can also be completed in AMS Advantage directly. Refer to the [AMS Advantage Quick Reference Guide](#) for additional details on this process.

Contact the Division of Accounting, Office of Accounts Payable with any questions.

4B-5 Architectural & Engineering Contracts

4B-5-1 Overview

Architectural and Engineering (A&E) contracts are for services provided and are subject to prevailing wage based on work performed. However, some consultants provide professional services requiring special licensing, registration or certification that includes:

- Architectural
- Landscape architectural
- Environmental engineering
- Land surveying
- Construction engineering and management
- Project management

A&E contracts follow a qualifications-based system, as opposed to other contract types that are lowest bidder-based. When A&E contracts are awarded, there is a negotiation process for a cost proposal.

4B-5-2 Before Work Begins

Before the start of work, the contract manager must review the contract and work to be performed, including any subcontractors listed at the time of bid, and hold a pre-job meeting. See [Chapter 8](#), “Pre-job Conference Requirements and Posters,” of this manual for additional details on this pre-job meeting.

If the contract manager has questions or requires guidance, they may contact the headquarters Labor Compliance office for assistance.

4B-5-3 Procedures for Payment

Architecture and engineering (A&E) contracts are paid in arrears and follow a receiver invoice payment process.

A&E contracts must be paid within 45 days of invoice, or Caltrans becomes liable for interest. The contract manager may withhold money for missing payrolls or payroll discrepancies. When this happens, immediately complete and file [Form STD 209](#), "Invoice Dispute Notification," to stop Caltrans from accruing interest payments. Tracking logs are kept to prevent unnecessary interest payment from accruing.

4B-5-4 Project Closeout

The contract manager must verify that the work is satisfactorily completed and review the file to verify that the following documents have been received:

1. Form [ADM-3059](#), "Report of Utilization of Small/Micro Business and Disabled Veterans Business Enterprises State Funded Contracts Only," for projects with a DVBE goal.
2. Form [ADM-3069](#), "Disadvantaged Business Enterprises Utilization Report" for projects federally funded with DBE goals.
3. Certified payrolls, including fringe benefit statements, and apprentice agreements
4. Employee interviews
5. Contractor invoice
6. Form FA-1226A, "Receiver – One Invoice (Single or Multi Funding)"
 - a. Date stamp the original receiving record in the lower left-hand corner and initial.
 - b. Log the date the receiving record and payroll documents are received, and the date they are submitted to be paid, into the labor compliance tracking system.
 - c. Verify that the receiving record includes the contract manager's signature. Return any unsigned receiving record.
 - d. Make a copy of the receiving record and the invoice to retain in a logbook in a tracking system.
 - e. Review the payroll records, verify classifications, rates of pay, and hours against the daily reports.

- f. Approve the certified payroll records by signing the receiving record and noting that payroll records are approved.
- g. Forward the receiving record and invoice to the Division of Accounting, Disbursement office.

Invoice Dispute Notification

Inform the contract manager and send the completed [Form STD 209](#), "Invoice Dispute Notification," to the contractor and to the Division of Accounting, Office of Accounts Payable.

When missing documents are received, or the dispute is resolved, send the invoice, the receiving record, and a copy of [Form STD 209](#) to the Division of Accounting, Office of Accounts Payable for payment.

This process can also be completed in AMS Advantage directly. Refer to the [AMS Advantage Quick Reference Guide](#) for additional details on this process.

Contact the Division of Accounting, Office of Accounts Payable with any questions.

CHAPTER 5: STATE WAGE DETERMINATION

5-1 Introduction

The state prevailing wage rates are set by the California Department of Industrial Relations (DIR) and codified in Labor Code Sections 1773, and 1773.1. The published rates include prevailing wage rates that are based on the geographic location of the project and the type of work that is performed. The director of DIR determines general prevailing rate of per diem wages for a particular craft, classification, or type of worker at the state level, regional, such as Southern or Northern California, and by county.

5-1-1 Issue Date versus Effective Date

The general prevailing wage determinations are issued by the DIR biannually: February 22 and August 22. The date shown on the wage determination is considered the issue date and refers to the date that the rates are published and made available to the public. However, the effective date, which does not appear on the wage determination, is the actual date the rates go into effect, which is ten days after the issue date. The effective date, as shown in Figure 5-A, "Wage Determination Issue Date," represents the first date on which the wage rates from the most recent determination are applied to a project.

- **FIGURE 5-A: WAGE DETERMINATION ISSUE DATE**

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: #LABORER AND

DETERMINATION: SC-23-102-2-2017-1

ISSUE DATE: February 22, 2017

EXPIRATION DATE OF DETERMINATION: July 2, 2017

determined. If work will extend past this date, the new rate must be determined now. Contact the Office of the Director – Research Unit for specific rates at (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.

The "effective date" is March 4, 2017.

5-1-2 Identifying the Proper Wage Determination Version

The "bid advertisement date" establishes the applicable general prevailing wage determination version for a project. If, for example, a solicitation is published March 15, 2017, the proper wage determination version is 2017-1, based on the February 22 issue date and a March 4 effective date. If the awarding body does not advertise or publish the public works project solicitation, then some other form of written memorialization, such as informal bid request letter or contract execution, may be used to establish the wage determination version. The prevailing wage determination in effect at the time of bid advertisement remains

in effect for the duration of the project, subject to applicable predetermined increases.

5-1-3 Rate Expiration and Predetermined Increases

The expiration date indicated for each craft is followed by either a single asterisk or double asterisk. Figure 5-B, “Expiration - Predetermined Increase,” shows an example of a double asterisk project.

Single asterisk indicates that the wage rate will remain constant and effective for the duration of the project.

Double asterisk indicates that the wage rate is effective until the expiration date, and the rate to be paid for work performed after that date has already been determined. If work will extend past the expiration date, the new rate must be paid and should be incorporated in this contract. (8 CCR 16204)

- **FIGURE 5-B: EXPIRATION – PREDETERMINED INCREASE**

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: #LABORER AND RELATED CLASSIFICATION

DETERMINATION: SC-23-102-2-2017-1

ISSUE DATE: February 22, 2017

EXPIRATION DATE OF DETERMINATION: July 2, 2017**

The rate to be paid after this date has already been determined. If work will extend past this date, the new rate must be paid and should be incorporated in this contract. Contact the Office of the Director – Research Unit for specific rates at (415) 997-3000.

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

The double asterisk indicates there are predetermined increases for this craft.

5-2 State Wage Rate Determination: Craft and Classification

Any agency or entity awarding a public works contract is required under Labor Code Section 1773 to obtain from the DIR director the prevailing rates for all hours worked, including holiday and overtime. Labor Code Sections 1773.9 and 1773.4, also provide the awarding body a process for requesting a review of the methodology by which the director makes these determinations.

Each published determination includes craft and classifications in the geographical area where work is performed. The workers must be classified in the correct craft and paid according to the work they perform, regardless of union affiliation, other titles, or designations. To meet these standards, the contractor and persons or firms performing the work on the project must:

- Use classifications that are accurately descriptive of the work being performed. For example, if carpenters are used to place reinforcing steel, they should be shown as ironworkers and paid accordingly.
- Reclassify workers to conform to changes in duties in order to provide accurate and proper classification when duties or work tasks have been changed.
- Maintain an accurate record of the time spent in each work classification and show this time by means of separate entries in the payroll records and on the certified payroll.

A worker may be paid at the highest rate all day for all classifications in which they worked for any part of that day. If the higher wage rate is paid, separate entries in the payroll records are not required.

Most construction work is performed by recognized craft classifications; prevailing practice in the industry along with union jurisdiction over the workers can determine the proper classification. In case of a jurisdictional dispute between unions, where the scope of work is covered by more than one craft or classification, Caltrans permits the contractor to pay the lower wage rate until the dispute is resolved. Caltrans does not get involved in these disputes.

5-3 Request for Special State Wage Rate Determinations

The state general prevailing wage determinations issued by the DIR and Division of Labor Statistics and Research (DLSR), contains most crafts and classifications of workers needed to perform construction tasks required on Caltrans projects. The list can be found at:

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

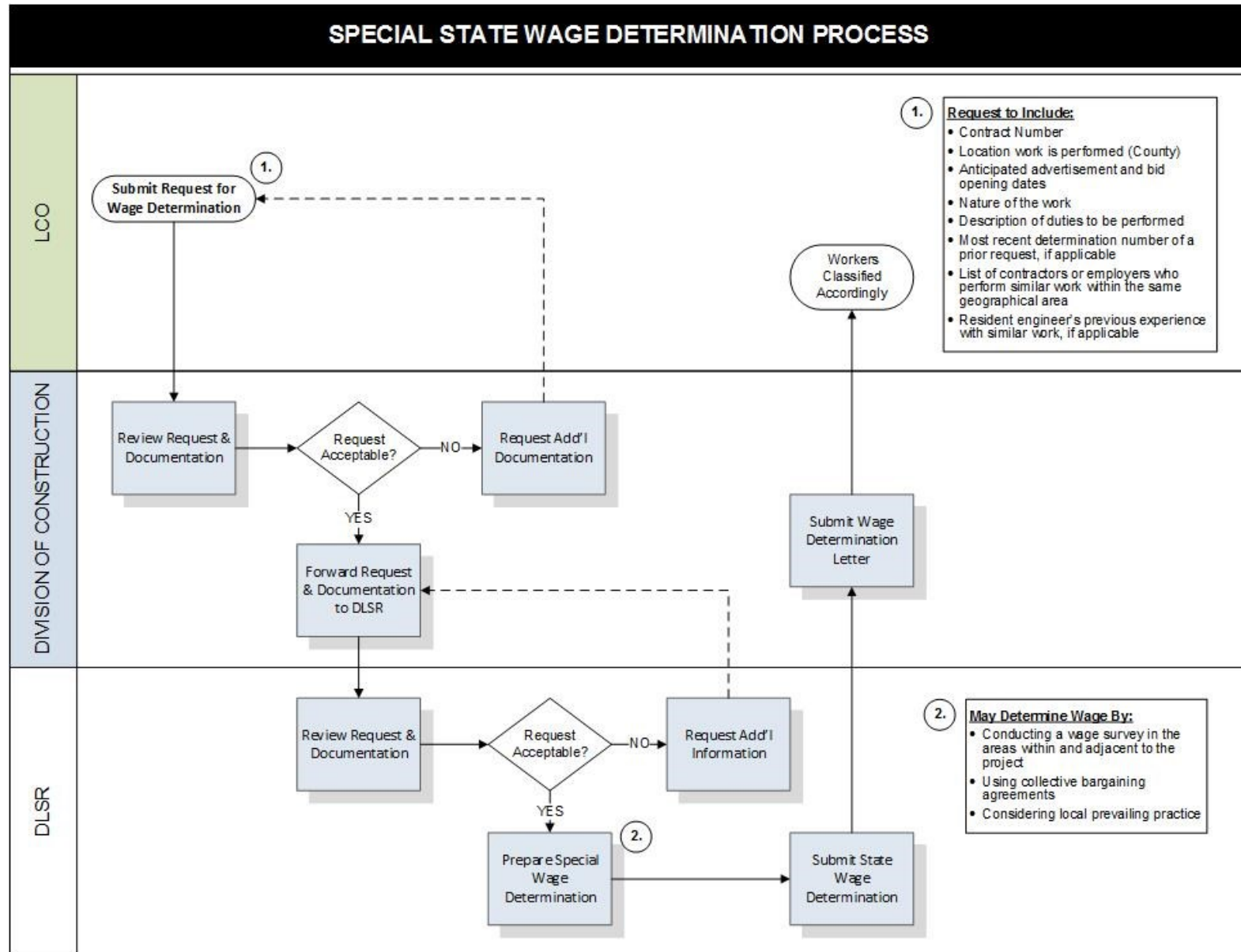
If there is a need to employ a unique labor classification not found in the state general prevailing wage determination, the district Labor Compliance officer (LCO) must obtain a special wage determination from the DIR. The request for a special prevailing wage determination must be made at least **45 days** before the bid advertisement date.

For contracts already advertised, workers with unique classifications should be reclassified, if possible, to a comparable classification. The contractor, resident engineer and the LCO should jointly decide on a description and a wage rate for the type and scope of work to be performed. The contractor should be notified of the classification. If the contractor agrees to the designated classification and resulting increase in higher wage rate, if applicable, the contractor will be required to pay any back wages due and pay the higher wage rate from the determination date forward.

5-3-1 Special State Wage Determination Process

Figure 5-C, “Request for Special Wage Determination Process,” outlines the steps required to request a special state wage determination. The processing and submittal procedures can also be found in Section 8-105B, “Special Wage Determinations,” of the *Construction Manual*.

• FIGURE 5-C: REQUEST FOR SPECIAL WAGE DETERMINATION PROCESS



To request a special state wage determination, the LCO submits a written request to the Division of Construction headquarters labor compliance office. The following written information must be provided in the determination request:

- Contract number
- County where the work is performed
- Anticipated advertisement and bid opening dates, at least 45 days before the bid advertisement date
- Nature of the work
- Description of the duties to be performed
- The most recent determination number of a previous request, if applicable
- A list of contractors or employers, including complete addresses and telephone numbers, who perform work of a similar nature within the same geographical area
- The resident engineer's previous experience with similar work, if applicable

The Division of Construction Labor Compliance unit reviews the documentation and will either forward the determination to the DLSR for a written determination or send it to:

**Department of Industrial Relations
Office of the Director – Research Unit
PO Box 420603
San Francisco, CA 94142**

Once DLSR has the necessary information to establish the prevailing wage rate for the requested classification, a special wage determination is prepared.

DLSR submits the special state wage determination to the Division of Construction Labor Compliance unit. The Division of Construction Labor Compliance unit sends the special state wage determination by cover memorandum to the LCO for handling.

CHAPTER 6: FEDERAL WAGE DETERMINATIONS

6-1 Introduction

If the applicable wage determination for a project does not include a classification and rate for a specific task, the required classification and wage rate must be added in conformance to the contract wage determination. This process occurs after the project has been advertised, awarded, or both.

The contracting agency must require that any class of laborers or mechanics not listed in the wage determination and who are employed on a DBRA-covered contract be classified in conformance with the wage determination.

6-2 Wage Determinations

6-2-1 Davis-Bacon Act and Davis-Bacon and Related Acts (Construction and Construction-related)

This Davis-Bacon Act (DBA) applies to federal contracts in excess of \$2,000.00 for the construction, alteration, repair of public buildings or public works, or all, in which the federal government or the District of Columbia is a direct party to the contract.

The DBA also applies to construction-related contracts. One such example is the removal of trees to prepare the job site for construction. While separate from the actual construction tasks, it is technically part of the construction process and subject to the DBA if federally funded.

The DBA requires all contractors and subcontractors to pay onsite laborers and mechanics on the contract the prevailing wage rates and fringe benefits determined by the Department of Labor (DOL). Additionally, the DBA requires that certain labor standards provisions be specified in the contract awarded to the successful bidder in accordance with 29 CFR 5.5 (a), "Contract Provisions and Related Matters." The applicable federal wage decision must also be included in the contract documents.

The Davis Bacon and Related Acts (DBRA) are federal statutes that allow for federal assistance through grants, loans, insurance, or guarantees for projects such as construction of hospitals, housing complexes, sewage treatment plants, highways, and airports. Included in the DRBA are references to the DBA labor standards provisions and the requirement that laborers and mechanics be paid prevailing wage rates

6-2-2 Service Contract Act (Services)

The Service Contract Act (SCA) applies to federal contracts in excess of \$2,500.00 for services. Similar to the DBA, the SCA includes contracts entered into by the federal government and District of Columbia for contracts performed in the United States.

6-3 Davis-Bacon Act Wage Determinations (Construction Projects)

A wage determination is the listing of prevailing wage rates and fringe benefit rates for each classification of mechanics and laborers in a particular geographic area for a particular type of construction. Figure 6-A, "DBA Wage Determination Categories," lists the four basic categories of wage determinations.

- **FIGURE 6-A: DBA WAGE DETERMINATION CATEGORIES**

DBA Wage Determination Categories:

There are four basic categories of wage determinations based on the type of construction.

1. **Building**: Construction, rehabilitation, and repair of sheltered enclosures with walk-in access for the purpose of housing persons, machinery, equipment, or supplies, includes installation of utilities and equipment, both above and below grade.
2. **Residential**: Single family houses or apartment buildings of four stories or less.
3. **Highway**: Alteration or repair of roads, streets, highways, runways, alleys, trails, paths, parking areas, and similar projects not incidental to building or heavy construction.
4. **Heavy**: This is a catch-all category. It includes all other projects not classified as building, residential, or highway, such as bridges over navigable waters, dams, dredging and irrigation, projects, and tunnels. Of the four categories of construction, this is the only type of construction that can be broken into subcategories, such as water and sewer line projects and dredging projects.

A project that includes elements of two or more types of construction typically requires multiple wage determinations if such a category of construction is substantial, such as greater than 20 percent of project costs or greater than \$1 million.

6-3-1 DBA General versus Project Wage Determinations

There are two types of DBA wage determinations: general and project. Both include versions of the original decision and any subsequent decisions modifying, superseding, correcting, or otherwise changing the rates or scope of the original decision.

1. General Wage Determinations:

- a. General wage determinations (GWD) apply to most counties nationwide for each general type of construction: building, residential, highway, and

heavy. In some areas, separate schedules are issued for sewer and water line construction, for dredging, and for certain projects that would otherwise be categorized as heavy construction.

- b. GWDs contain no expiration date. Once issued, they remain valid until modified, superseded, or canceled. They may be used by the contracting agency, without previous notification to DOL, in contracts to be performed within a specified geographical area and for the types of construction designated in the wage determination.
 - c. The Davis-Bacon general wage determinations and guidance for locating wage determinations are available at the following website:

[SAM.gov | Wage Determinations](https://sam.gov). The wage rates are listed for each county of every state. There are two important criteria for searching the appropriate wage rates:
 - (1) Project location
 - (2) The type of construction, whether it is a building, residential, highway, or heavy construction project for which the wage rates are needed
 - d. Annual editions of the GWDs are issued in the first quarter of each calendar year. Each annual edition supersedes the previous GWDs, and the wage decision numbers reflect the year of a new edition.
 - e. Any changes in wage rates on the GWDs are made in weekly updates, generally on Fridays, and are reflected in modification numbers on the GWD.
2. DBA Project Wage Determinations:
- a. Project wage determinations are obtained on a case-by-case basis for individual projects that meet the following criteria:
 - (1) There is no general wage determination in effect for a county or type of construction needed for a proposed project
 - (2) The majority of the work on the project is to be performed by a classification that is not listed in the GWD that would otherwise apply to the project
 - (3) The bid opening and award has not yet occurred
 - b. Requesting a project wage determination:

- (1) Complete Standard Form 308 (SF308), "Request for Determination and Response to Request (DBA)."
- (2) Form SF308 may be downloaded from the Forms section of the [Wage Determinations web page](#).
- (3) If the project involves multiple types of construction, attach information indicating the expected cost breakdown by type of construction.
- (4) The time required for processing requests for a wage determination varies according to the circumstances of each request. An agency should anticipate that such processing will take at least 30 days.
- (5) The completed Form SF308 should be sent to:

**U.S. Department of Labor
Wage and Hour Division
Branch of Construction Wage Determinations
Washington, D.C. 20210**

- (6) Project decisions are applicable only to the particular project for which they are issued and are effective for 180 days. If a project decision is not used in the period of its effectiveness, it is void.
- (7) If it appears that a wage determination may expire between bid opening and contract award, the agency should request a new project wage determination sufficiently in advance of the bid opening to assure receipt before bid opening.

6-3-2 Davis-Bacon Act Modifications and Superseded Decisions

The GWDs and project wage decisions are subject to periodic updates. Wage decisions are typically updated for one of the following reasons:

1. Apply the results of a new survey
2. Update union rates to reflect collectively bargained changes in wage and fringe benefit rates for classifications for which negotiated rates have been determined to be prevailing for a given type of construction in the given geographic area.

Superseded wage decisions replace the previous GWDs and carry wage decision numbers that reflect the new year. Superseded decisions have a modification number of "0" followed by the date of issuance.

Modifications are listed numerically on the wage determination modification record for that year's edition. The date of issuance of the modification follows the

modification number. A modification to a GWD replaces the entire GWD that it modifies.

Selecting which version applies to a project depends upon factors discussed in Section 6.4, “Davis-Bacon Act Wage Decisions: Selection and Interpretation,” of this manual.

6-3-3 Identifying the Correct Davis-Bacon Act Wage Determination Version

It is important to select the most current wage determination and to include the decision in the bid or Request for Proposal (RFP) documents.

Negotiated contracts, RFPs, must include the most up-to-date wage determinations issued at the **time of contract award** and must be incorporated into Davis-Bacon covered contracts, in accordance with 29 CFR 1.6(c)(2)(i).

For contracts with competitive bidding procedures, the following rules apply:

6-3-3(a) The 10-Day Rule

The Caltrans 10-day rule is to issue a wage determination in an addendum 10 days before bid opening. This varies slightly from the 10-day rule under 29 CFR 1.6(a)(2)(i)(A), which allows the awarding body to revise the wage determination when there is less than 10 days to bid opening. For construction projects, however, fewer than 10 days before bid opening is often not sufficient time to revise a wage determination.

6-3-3(b) The 90-Day Rule

If a contract is not awarded within 90 days after bid opening, modification to a general wage determination in the contract must be effective to that contract, unless the agency receives special approval from the Department of Labor to make changes in accordance with 29 CFR 1.6(c)(3)(iv).

If, because of unavoidable circumstances, a project wage decision expires between bid opening and contract award, an extension may be requested in accordance with 29 CFR 1.6(a)(1).

“Modifications” to Davis-Bacon wage determinations and “supersedes” wage determinations issued after award of a contract do not apply to a contract in accordance with 29 CFR 1.6(c)(2)(ii). Supersedes wage determinations are issued annually to replace general wage determinations, or are issued in the previous edition of the publication, *General Wage Determinations Issued Under the Davis-Bacon and Related Acts*. Supersedes wage determinations can be found on the Wage Determination website:

<https://sam.gov/content/home>

After bid opening and award of a contract, the DBA wage determinations cannot be modified, except if a correction of an inadvertent clerical error is issued pursuant to 29 CFR 1.6(b) and (c), reiterated in the Federal Acquisition Regulation (FAR) at 48 CFR 22.404-2 and 22.404-7. See also 29 CFR 1.6(b)(e), (f), and (g), and FAR at 48 CFR 22.404-9.

In pre-bid conferences, contractors should be instructed to review the DBA wage determinations in the bid documents, and to raise any questions or complaints during the bid advertisement and before bid opening.

6-4 Davis-Bacon Act Wage Decisions: Selection and Interpretation

All federal current and historical wage decisions are accessed through the Wage Determinations website at [SAM.gov | Home](https://sam.gov).

6-4-1 Accessing the Correct DBA Wage Determination

1. From the SAM.Gov main page, select the Wage Determinations link.



2. Search for the correct Wage Decision by entering the WD Number (if known).

3. If you do not know the WD (wage decision) Number, search using the following selection criteria:

To search for a construction project wage decision, select:

Public Building or Works

Wage Determinations

A wage determination (WD) is a listing of wage rates and fringe benefit rates for each labor category of workers which the U.S. department of labor has determined to be prevailing in a given area.

Search wage determination

I know the WD number
Search by WD Number
e.g. VA2021123, 20154362

I do not know the number
Start your search by selecting a category

- Public Building or Works ✓
Wage rates for laborers and mechanics
Davis-Bacon Act (DBA)
- Service Contracts ✓
Wage rates for service employees
Service Contract Act (SCA)

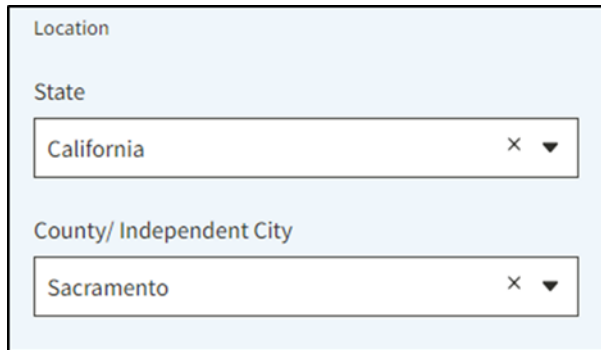
To narrow the selection criteria, select **Construction (DBA)**

Select Domain
Wage Determinations

- By Wage Determination ID
- Construction (DBA)**
- Service Contracts (SCA)
- Collective Bargaining Agreement (CBA)

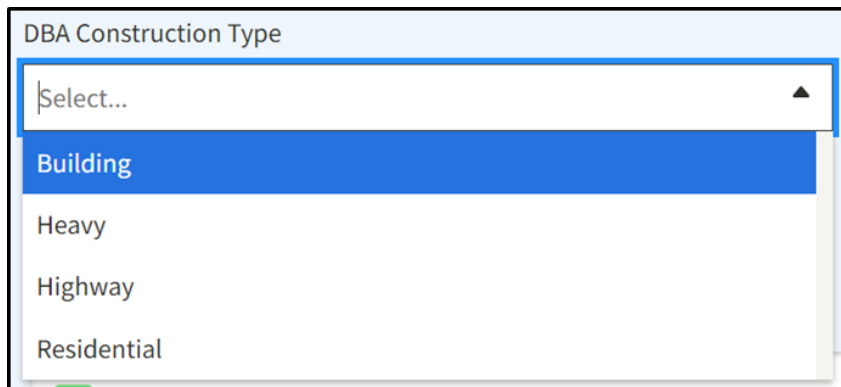
Using “**Filter By**” fields, select the appropriate option from the following dropdown menus:

Location: Select the **State** and **County** in which the project is located.



The screenshot shows a light blue form titled "Location". It contains two dropdown menus. The first is labeled "State" and has "California" selected. The second is labeled "County/ Independent City" and has "Sacramento" selected. Both dropdowns have a small "x" icon and a downward arrow on the right side.

DBA Construction Type: Select the appropriate construction type of the project.



The screenshot shows a dropdown menu titled "DBA Construction Type". The menu is open, showing a list of options: "Select...", "Building", "Heavy", "Highway", and "Residential". The "Building" option is highlighted with a blue background.

Status: In most cases, the status will remain at the default setting of “Active.” If you need an inactive wage decision, change the status accordingly.



The screenshot shows a form titled "Status". It contains two radio button options: "Active" and "Inactive". The "Active" option is selected, indicated by a green checkmark in a square box.

Published Date: To further narrow the selection criteria, select the desired timeframe.

Published Date

Anytime ▼

Based on the criteria selected, the applicable **Wage Decisions** will display below the filter boxes. The most recent will display at the top.

Showing 1 - 1 of 1 results

Sort by

Published Date ▼

Davis-Bacon Act WD #: CA20210007

<p>State California</p>	<p>Counties Alpine, Amador, Butte, Colusa, El Dorado, Glenn, Lassen, Marin, Modoc, Napa, Nevada, Placer, Plumas, Sacramento, Shasta, Sierra, Siskiyou, Solano, Sonoma, Sutter, Tehama, Trinity, Yolo, Yuba</p>	<div style="border: 1px solid gray; padding: 5px; margin-bottom: 10px;"> <p>DBA Wage Determination</p> </div> <p>Modification Number 15</p> <p>Construction Types Building, Heavy, Highway</p> <p>Published Date Jul 8, 2021</p>
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4. Click on the Modification Number to display the entire wage decision.

6-4-2 Reading a Wage Decision

To assure that laborers and mechanics employed under a contract are paid the correct locally prevailing wages and fringe benefits for corresponding work on similar projects in the area, it is imperative to properly interpret a general wage decision by understanding the following for areas:

6-4-2(a) Cover Sheet (top section)

- **FIGURE 6-B: TOP SECTION OF COVER SHEET**

<p>"General Decision Number: CA20210007 05/07/2021</p> <p>Superseded General Decision Number: CA20200007</p> <p>State: California</p> <p>Construction Types: Building, Heavy (Heavy and Dredging) and Highway</p> <p>Counties: Alpine, Amador, Butte, Colusa, El Dorado, Glenn, Lassen, Marin, Modoc, Napa, Nevada, Placer, Plumas, Sacramento, Shasta, Sierra, Siskiyou, Solano, Sonoma, Sutter, Tehama, Trinity, Yolo and Yuba Counties in California.</p> <p>BUILDING CONSTRUCTION PROJECTS (excluding Amador County only); DREDGING CONSTRUCTION PROJECTS (does not include hopper dredge work); HEAVY CONSTRUCTION PROJECTS (does not include water well drilling); AND HIGHWAY CONSTRUCTION PROJECTS</p>
--

6-4-2(b) Record of modifications (bottom section of the cover sheet)

- **FIGURE 6-C: RECORD OF MODIFICATIONS**

Modification Number	Publication Date
0	01/01/2021
1	01/08/2021
2	01/15/2021
3	01/22/2021
4	02/05/2021
5	02/19/2021
6	02/26/2021
7	04/02/2021
8	04/23/2021
9	05/07/2021

6-4-2(c) Classifications, Basic Hourly Rates, and Fringe Benefits

In the body of each wage determination is the listing of classifications for laborers and mechanics and accompanying basic hourly wage rates, and fringe benefit rates that have been determined to be prevailing for the specified type of construction in the geographic areas covered by the wage determination.

Classification listings may also include classification groupings, fringe benefit footnotes, descriptions of the geographic areas to which sub-classifications and different wage rates apply, or certain classification definitions.

An alphanumeric identifier, as well as a date, is listed above each classification or group of classifications that provide information about the source of the classification and wage rate listed for it.

In wage determination modifications, an asterisk is used to indicate that the item marked is changed by that modification.

• **FIGURE 6-D: CLASSIFICATIONS AND HOURLY RATES**

* LAB00067-005 06/27/2017		
AREA ""A"" - ALAMEDA, CONTRA COSTA, SAN FRANCISCO, SAN MATEO AND SANTA CLARA COUNTIES		
AREA ""B"" - ALPINE, AMADOR, BUTTE, CALAVERAS, COLUSA, DEL NORTE, EL DORADO, FRESNO, GLENN, HUMBOLDT, KINGS, LAKE, LASSEN, MADERA, MARIPOSA, MENDOCINO, MERCED, MODOC, MONTEREY, NEVADA, PLACER, PLUMAS, SACRAMENTO, SAN BENITO, SAN JOAQUIN, SANTA CRUZ, SIERRA, SHASTA, SISKIYOU, STANISLAUS, TEHAMA, TRINITY, TULARE, TUOLUMNE, YOLO AND YUBA COUNTIES		
	Rates	Fringes
LABORER (TRAFFIC CONTROL/LANE CLOSURE)		
Escort Driver, Flag Person		
Area A.....	\$ 29.54	22.17
Area B.....	\$ 28.54	22.17
Traffic Control Person I		
Area A.....	\$ 29.84	22.17
Area B.....	\$ 28.84	22.17

6-4-2(d) Classification Identifiers, Union Majority Prevailing and Survey Weighted Average

Each wage determination contains the prevailing wage rates for the cited type of work in the specified geographic area as well as classification identifiers. The classifications are listed in alphabetical order of “identifiers” that indicate if the rates are union majority or survey weighted average wage rates.

Some wage determinations contain only survey weighted average wage rates, some contain only union-negotiated majority wage rates, and others contain both union majority and survey weighted average wage rates that have been found to be prevailing in the area for the type of construction covered by the wage determination.

6-4-2(e) Union Identifiers

An identifier beginning with characters other than SU denotes that the union classifications and wage rates have been found prevailing. The first four letters

indicate the international union for the local union that negotiated the wage rates listed under that identifier. The four-digit number that follows indicates the local union number.

6-4-2(f) Modification History

The last section of each wage decision displays the modification history list of superseded decisions. Staff may have to open the decision to verify it is the correct publication date.

- **FIGURE 6-E: MODIFICATION HISTORY**



6-5 Service Contract Act Wage Decisions: Selection and Interpretation

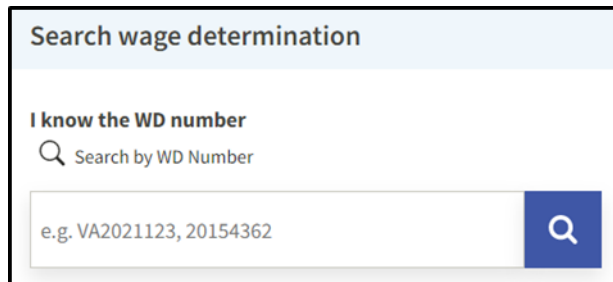
All federal current and historical wage decisions are accessed through the wage determination website at [SAM.gov | Home](https://sam.gov).

6-5-1 Accessing the Correct Service Contract Act Wage Determination

1. From the SAM.Gov main page, select the wage determinations link.

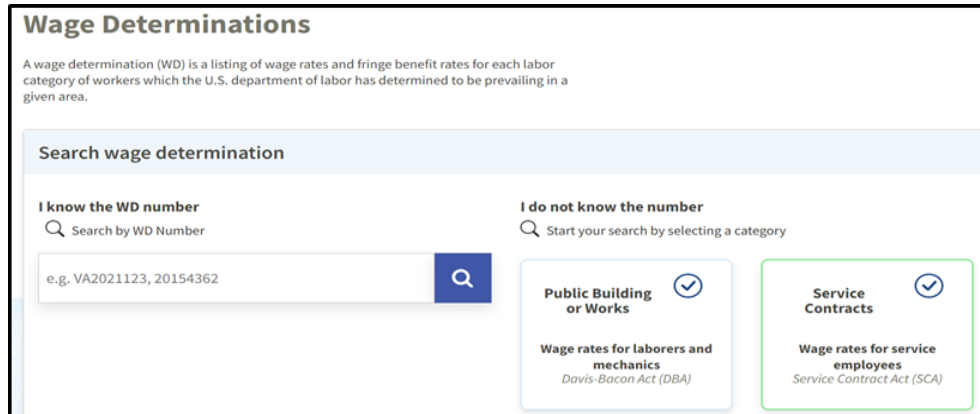


2. Search for the correct wage decision by entering the WD, or wage decision, number, if known.

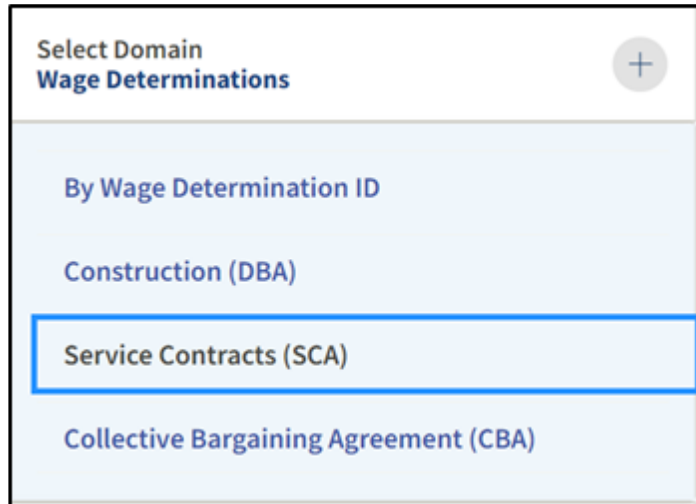


3. If you do not know the wage decision number, search using the following selection criteria:

To search for a **Service Contract** wage decision, select **Service Contracts**.



To narrow the selection criteria, select **Service Contracts (SCA)**



Using “**Filter By**” fields, select the appropriate option from the following dropdown menus:

Location: Select the **State** and **County** in which the project is located.

Location

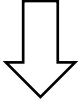
State

California × ▼

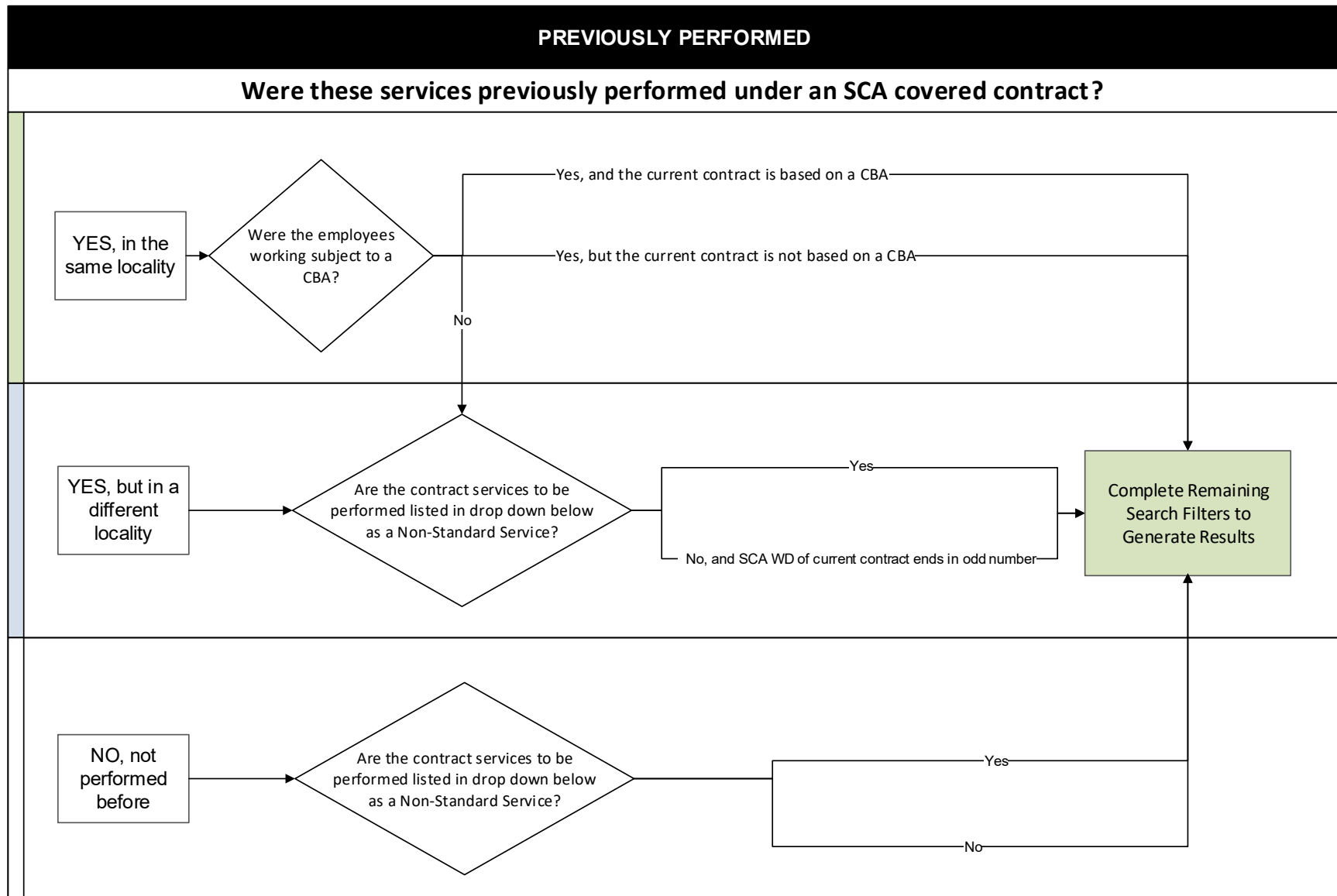
County/ Independent City

Sacramento × ▼

Previously Performed: Select the applicable designation and applicable search criteria as shown in Figure 6-F, “Restitution Process Overview.”



• FIGURE 6-F: RESTITUTION PROCESS OVERVIEW

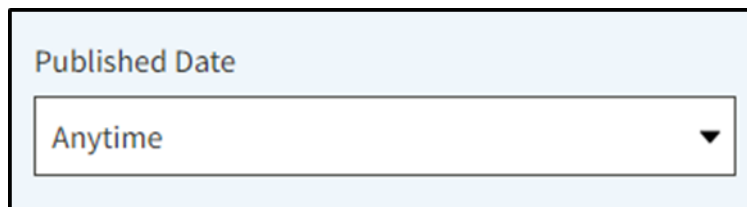


Status: In most cases, the Status will remain at the default setting of Active. If you need an inactive wage decision, change the status accordingly.



A screenshot of a web interface filter box titled "Status". It contains two radio button options: "Active" with a green checkmark icon, and "Inactive" with an empty square icon. An upward-pointing arrow is visible in the top right corner of the box.

Published Date: To further narrow the selection criteria, select the desired timeframe.



A screenshot of a web interface filter box titled "Published Date". It contains a dropdown menu with "Anytime" selected. A downward-pointing arrow is visible on the right side of the dropdown.

Based on the criteria selected, the applicable **Wage Decisions** will display below the filter boxes. The most recent will display at the top.

4. Click on Modification Number to display the entire wage decision.

6-5-2 Reading a Wage Decision

To ensure that laborers and mechanics employed under a contract are paid the correct locally prevailing wages and fringe benefits for corresponding work on similar projects in the area, it is imperative to properly interpret general wage determination by understanding the following for areas:

Cover Sheet, top section

- **FIGURE 6-G: TOP SECTION OF COVER SHEET**

<p style="text-align: center;">"General Decision Number: CA20210007 05/07/2021</p> <p>Superseded General Decision Number: CA20200007</p> <p>State: California</p> <p>Construction Types: Building, Heavy (Heavy and Dredging) and Highway</p> <p>Counties: Alpine, Amador, Butte, Colusa, El Dorado, Glenn, Lassen, Marin, Modoc, Napa, Nevada, Placer, Plumas, Sacramento, Shasta, Sierra, Siskiyou, Solano, Sonoma, Sutter, Tehama, Trinity, Yolo and Yuba Counties in California.</p> <p>BUILDING CONSTRUCTION PROJECTS (excluding Amador County only); DREDGING CONSTRUCTION PROJECTS (does not include hopper dredge work); HEAVY CONSTRUCTION PROJECTS (does not include water well drilling); AND HIGHWAY CONSTRUCTION PROJECTS</p>
--

Record of modifications, bottom section of the cover sheet

- **FIGURE 6-H: RECORD OF MODIFICATIONS**

Modification Number	Publication Date
0	01/01/2021
1	01/08/2021
2	01/15/2021
3	01/22/2021
4	02/05/2021
5	02/19/2021
6	02/26/2021
7	04/02/2021
8	04/23/2021
9	05/07/2021

6-6 Federal Conformance

If the applicable wage determination for a project does not include a classification and rate for a specific task, the required classification and wage rate must be added in conformance to the contract wage determination. This process occurs after the project has been advertised or awarded.

The contracting agency must require that any class of laborers or mechanics not listed in the wage determination and who are employed on a DBRA-covered contract be classified in conformance with the wage determination.

6-6-1 Conformance Criteria

- The classification must be appropriate for the contract work.
- The proposed new classification cannot combine job duties from two or more existing classifications on the wage determination or propose a new classification that performs only part of the duties of an existing classification.
- The proposed classification cannot be trainee or helper.
- The proposed wage rate for the new classification should generally be no lower than the wage rate of the lowest skilled classification on the determination.
- Conformance requests should not be submitted for exempt classifications, such as project managers, full-time supervisors, or professionals such as engineers.
- The proposed rate should bear a reasonable relationship to the wage rates listed on the wage determination. The proposed fringe benefits should be the same as listed on the wage determination.

6-6-2 Conformance Process, Agency Role

1. Pre-Bid or Pre-Award
 - a. Review the wage determination
 - (1) Compare classifications on the wage determination with proposed work to be performed.
 - (2) If most of the work is to be performed by one missing classification, use Standard Form (SF) 308 to request an appropriate predetermined wage rate for incorporation in the bid specifications.

- b. Notify contractors about the possible need to request additional classes and rates after award:
 - (1) Verify that Davis-Bacon provisions are in the solicitation, including the conformance criteria. See 29 CFR 5.5(a) and FAR at 48 CFR 22.407 and 52.222-6(c).
 - (2) Discuss the possibility of additional classifications during pre-bid or pre-award conferences.
 - (3) Explain how requests for additional classifications are processed and proposed wage rates will be evaluated.
2. After contract award
 - a. Review wage determination and conformance criteria at the pre-construction conference.
 - c. Review certified payrolls for classifications not listed on the wage determination.
 - d. Remind contractors to communicate information about missing classifications and rates to subcontractor.
 - e. Work with contractors and other affected parties to help with the conformance request:
 - (1) Provide Form SF-1444, "Request for Authorization of Additional Classification and Rate," or similar to the contractor. Instructions are on the form. Form SF-1444 can be downloaded from the Forms section on the Wage Determinations website at:
<https://sam.gov/content/wage-determinations>
 - b. Review the contractor's request for additional classes and rates in accordance with conformance criteria.
 - c. Determine whether affected parties are in agreement.
 - (1) Attempt to resolve disputes in accordance with conformance criteria, if possible.
 - (2) Develop agency recommendation and documentation of any disputes.

6-6-3 Submit Conformance Request

1. Complete Form SF-1444, or similar form, or letter, including:

- a. Related documentation and agency recommendation.
 - b. Copy of contract wage determinations. The Department of Labor's Wage and Hour Division policy requires the submission of the contract wage determination with the conformance request.
2. Submit the request by email or fax.
 - a. Scan the completed form and all supporting documents into a .PDF document and attach to the email. Include the contracting officer's name, address, telephone number, and email address. Submit the email to: WHD-CBACONFORMANCE_INCOMING@dol.gov.
 - b. An automated confirmation response will be generated upon receipt of your submission.
 3. Communicate with DOL after submitting conformance request, as appropriate:
 - a. Lack of a DOL response within 30 days does not mean that the request has been approved.
 - b. All conformances are processed, and responses are issued to the contracting agency by email.

6-6-4 Department of Labor Review Process

1. The Department of Labor (DOL) Wage and Hour Division (WHD) reviews the request for conformance based upon information submitted and criteria.
 - a. Checks that the requested classification is listed on the wage determination or that a classification on the wage determination can perform the work.
 - (1) If not listed, determines that the proposed rate bears a reasonable relationship to the rates already in the contract wage determination
 - f. Verifies that the classification is used by the construction industry

6-6-5 Wage and Hour Division Decision

1. Upon receipt of the decision, agency communicates decision to contractor and other interested parties.
 - a. Agency advises parties of reconsideration and appeal process.

6-7 Incorrect Federal Wage Decisions

6-7-1 *Post-Bid Advertisement for Federal Wage Rate Decisions*

When a wage determination containing clerical errors is issued, the DOL administrator may, upon their own initiative or at the request of an agency, correct any wage determination. Corrections are included in any bid specifications containing the wage determination, or in any ongoing contract containing the wage determination in question, retroactively to the start of construction.

Caltrans may terminate the contract and reopen the bid process with the valid wage determination or incorporate the valid wage determination retroactive to the beginning of construction through supplemental agreement or through a change order. The contractor should be compensated for any increases in wages resulting from a wage determination change. For further information, refer to 29 CFR Part 1, Section 6.

6-7-2 *Wage Determination Appeals Process*

Wage determinations may be appealed if it is believed the rates do not accurately reflect those prevailing in the area. Requests must be submitted in writing accompanied by supporting data:

**Wage and Hour Administrator
United States Department of Labor
200 Constitution Avenue, N. W.
Washington, D. C. 20210**

The Wage and Hour Division should respond within 30 days or notify the requestor within this time frame that additional time is needed.

Requestors include, without limitation:

- Any contractor, or an association representing a contractor, that is likely to seek or to work under a contract containing a particular wage determination, or any laborer or mechanic, or any labor organization that represents a laborer or mechanic who is likely to be employed or to seek employment under a contract containing a particular wage determination.
- Any federal, state, or local agency concerned with the administration of a proposed contract or contract containing a particular wage determination issued pursuant to the Davis-Bacon Act or any of its related statutes.

If reconsideration of a wage determination has been sought and denied, an appeal for review of the wage determination or its application may be filed with:

**Administrative Review Board
U.S. Department of Labor, Room N-1651
200 Constitution Avenue, N.W.
Washington, D.C. 20210**

All decisions by the Administrative Review Board are final.

CHAPTER 7: LABOR COMPLIANCE FILE

7-1 Introduction

File labor compliance documents on Construction-administered projects in accordance with [Section 5-102](#), “Organization of Project Documents,” of the *Construction Manual*.

All labor compliance files must be maintained to assure that all records and documents are included, particularly in the event of a complaint or audit. Projects in the web-based payroll management system should also have a labor compliance file created, because the payroll management system is inappropriate for Public Records Act requests, processing audits and complaints, and letters or other forms of communication with contractors or subcontractors.

File paper records and documents chronologically, with the most recent date in front. Resident engineers, contract managers and contractors often staple records from different projects together. Separate and read dates, contract numbers, and contractors, before checking documents and filing each record in the labor compliance files. Misfiling can result in erroneous deductions against the contractors or other consequences.

7-2 Tracking Requirements

7-2-1 Categories

State forms are numbered based on categories. For instance, all construction forms start with CEM (Construction Engineering Management), which is followed by the category number plus a two-digit number referencing that unique form. For example: Form CEM-2501, “Fringe Benefit Statement,” would be filed in Category 25, “Labor Compliance and Equal Employment Opportunity.” State forms are located on the [Forms](#) page of the Construction website.

Federal form numbers that start with FHWA designate the Federal Highway Administration. Labor compliance staff should file these forms with other forms, according to content.

Labor compliance files are organized into four categories; some categories may not be applicable for service or other contracts:

Category 12: “Contractor”

- Category 12 should contain Form CEM-1201, “Subcontracting Request,” and the subletting subcontracting Fair Practices Act list of contractors.

Category 24: “Disadvantaged Business Enterprises and Disabled Veteran Business Enterprises (DVBE)”

Category 25: “Labor Compliance and Equal Employment Opportunity.” Category 25 may contain the following subcategories:

- 25.1: Correspondence between contractors and Labor Compliance and resident engineers
- 25.12: Employee interviews
- 25.13: Documentation or poster reviews
- 25.2: Pre-job conferences
- 25.3: Apprentice agreements; can be in separate file for all projects
- 25.4: Formal cases sent to headquarters Division of Construction Labor Compliance
- 25.41: Source document audit
- 25.5: Posting sheet log
- 25.51: Estimate Deductions
- 25.6: Payrolls; file prime first with subcontractors following in alphabetical order
- 25.61: Fringe benefit statements
- 25.7: EEO
- 25.71: Reports
- 25.72: Discrimination complaints
- 25.73: Interviews showing discrimination and subsequently sent to the Caltrans Civil Rights Office

Category 46, “Assistant Resident Engineers’ Daily Reports.” Category 46 may contain the following subcategories:

- 46.1: Assistant resident engineer’s daily report
- 46.2: Weekly status reports from resident engineer

File contract special provisions and the contract and proposals in front.

7-3 Mail Distribution

Mail is distributed to staff in accordance with district procedures. Figure 7-A, “Mail Distribution Guidelines,” highlights guidelines.

- **FIGURE 7-A: MAIL DISTRIBUTION GUIDELINES**

Mail Distribution Guidelines

- A document without a Caltrans contract number usually contains a contractor job number or reference. Call the contractor for the Caltrans contract number instead of returning it to the contractor.
- Date stamp payroll documents when received to ensure that contractors are not unjustly penalized for late submittal. Date stamps provide backup documentation when contract progress pay deductions are taken for late or missing payrolls.
- Never return original payrolls to the contractor unless they are for projects other than Caltrans.
- If the payrolls are incomplete, request a supplemental payroll or a corrected payroll from the contractor.
- Contractors should be reminded that source records containing personal information, such as weekly certified payrolls, should not be emailed and instead sent via file transfer protocol or entered into the web-based payroll management system.
- For contracts subject to the web-based payroll system, no mailed, or faxed certified payroll records will be accepted. Inform the contractor to use the web-based system as required by the contract provisions. Failure to use the system may result in a penalty.

7-4 Payroll Security

Because of the confidential nature of payroll records, they must be secured to ensure security compliance with [Deputy Directives](#):

- DD-55-R3, "Management of Information Assets and Records"
- DD-89, "Security of Portable Computing Devices and Portable Electronic Storage Media"

Pursuant to California Code of Regulations, Title 8, Section 16404, ([8 CCR 16404](#)) "Use of Electronic Reporting Forms," it is recommended that certified payroll records are received in electronic transmissions. Details on this process can be found on the Labor Compliance web page under Electronic Submission of Certified Payroll Records at:

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

- The contractor or subcontractor should submit the [Contractors Acknowledgement](#) to the appropriate Labor Compliance Office.
- The Labor Compliance Office will respond with a username and password for future submissions by the contractor.
 - NOTE: Each district or region has its own secure transfer file that is only accessible using the assigned username and password.
- Once access is granted, contractors should use the file transfer protocol guide on the Labor Compliance web page to submit their certified payroll documents.

If payroll records need to be saved to a separate location, labor compliance staff should contact their district IT office to request a secured network folder or drive to be set up for these purposes. Payroll records should never be stored locally on a computer hard drive.

While Caltrans will continue to accept paper records, for contracts not subject to the contractual requirements of a web-based reporting system, hard-copy payrolls must be:

- Locked in a file cabinet
- Briefly stored where payrolls are not visible to other employees or non-Caltrans staff
- Shredded immediately if they are duplicate payrolls

For projects and payroll records in the web-based payroll management system, do not print the payroll records unless personally identifiable information, such as Social Security numbers, is redacted.

If certified payroll records are lost or the confidentiality is breached, please refer to Deputy Directive DD-55-R3. Report any possible security breach of payroll records to headquarters Labor Compliance as soon as a concern is identified. Refer to the guidelines outlined in [SIMM 5340-C](#), "Requirements to Respond to Incidents Involving a Breach of Personal Information," and complete Form [ADM-3040](#), "Information Security Incident Reporting."

7-5 Purging

Try to avoid any duplication of documents when incorporating them with the project files such as daily reports. This would include certified payroll records and prevailing wage rates applicable to the specific project, plus any other documentation that may not be in the resident engineers' file. For hard-copy payroll records, a note will be placed in the corresponding section of the resident engineer's project file directing users to contact the Labor Compliance unit when they require copies of certified payroll records. At the completion of the project and when all the payroll documents are filed and correct, the labor compliance documents will need to be shredded or destroyed to assure personal confidential information is not compromised.

Keep your backup labor compliance case files in your file. A copy of a formal case sent to Division of Construction should be in the resident engineer's project files. The completed project files, including payroll records are maintained for three years in accordance with Section 7, "Legal Relations and Responsibility to the Public," in the *Standard Specifications*. In the event of a wage case, documentation may need to be kept longer, in accordance with Section 5-104C, "Disposition of Construction Project Records," of the *Construction Manual*.

Payroll records in the web-based payroll system should not be printed and stored.

The *Standard Specifications* do not govern service contracts, and the contract manager should maintain all project files, including payroll records. Payroll records are maintained for three years, but for the other project files, refer to the standards set by your divisional record retention department.

CHAPTER 8: PRE-JOB CONFERENCE REQUIREMENTS AND POSTERS

8-1 Introduction

The pre-job conference is required under Labor Code Section 1771.5(2) to communicate the labor compliance requirements to the project team. The primary objectives are to:

- Review the award packet
- Identify the applicable state wage determination and federal publications.
- Notify the contractors of any recent labor law changes. Resolve contractor or resident engineer questions as soon as possible to avoid any wage violations.
- Provide all project team members with the pre-job checklist, job site posters, labor compliance forms, and copy of the sign-in sheet.
- Provide the labor compliance representative an opportunity to explain the correct payroll procedures and clear up any misinformation the contractor may have received in the past.
- Collect signatures after the meeting from the prime contractor and any subcontractors, who will be asked to initial each page and sign the last page of the pre-job checklist. Their initials and signature indicate that they received the labor compliance package and were informed of the project requirements. The contractor's signature may be used as evidence if a labor case is necessary, and an administrative hearing is conducted by the Department of Industrial Relations.

For Division of Construction-administered projects, the resident engineer starts the process by scheduling the pre-job meeting. The Labor Compliance unit's involvement in the project begins once the pre-job meeting is scheduled.

For all other divisions, the contract manager schedules and conducts the pre-job meeting as the labor compliance representative. Contract managers may contact headquarters Labor Compliance for guidance in preparation, if necessary.

Attendees must include Caltrans and the prime contractor. Subcontractors and any other project stakeholders, such as utility companies, may also be included. The pre-job conference should take place as soon as possible after Notice to Proceed, and no later than just before work starts. Meetings for emergency projects should be held as soon as possible from when Labor Compliance or the contract manager is aware of the contract.

A representative from the district or headquarters Labor Compliance office should make every effort to attend the pre-job conference meeting with a contractor if any of the following applies:

- An inexperienced resident engineer or contract manager has reached out for assistance in conducting the conference.
- Contractors, either prime or subcontractors, are new to the process.
- The contractor or the subcontractor has a history of labor compliance violations.
- There are recent labor law changes.

8-2 Preparing for the Pre-job Meeting

To properly prepare for the pre-job meeting, the labor compliance representative must complete the following tasks to properly organize the information.

1. Review contract documents
2. Review the contract award summary, if applicable
3. Identify the applicable state wage determination based on the advertised date
4. For federally funded projects only, identify the applicable federal wage determination based on the bid opening date
5. Compile the pre-job package

8-2-1 Division of Construction: Review Construction Contract Special Provisions

For Division of Construction capital projects, Table 8-A, “Review Contract Special Provision Action Items,” details items to review and actions to necessary resolve any issues before the pre-job conference.

• TABLE 8-A: REVIEW CONTRACT SPECIAL PROVISION ACTION ITEMS

SECTION	WHAT TO DO
Cover Page	Review to determine: <ul style="list-style-type: none"> • Location of project • Involvement of federal funds

SECTION	WHAT TO DO
	<ul style="list-style-type: none"> The advertised date. Listed as “Dated” on the lower left-hand corner and used to determine proper state wage rates
Important Special Notices	Review “Important Special Notices” that may affect the contract. They are listed on the first page in contract.
Notice to Contractors	Review the “Notice to Contractors” letter for a general work description to determine classifications to use on the contract and for any special changes that may affect the job.
Addendums	Check for any addendums to see if federal wage rates have changed.
Bidders’ Questions	Check for bidders’ questions regarding labor compliance, wages, lane closure restrictions, and other questions.
DBE & DVBE Goals	Review Sections 2-1.02 through 2-1.02B of the <i>Standard Special Provisions</i> for Disadvantaged Business Enterprise (DBE) or Disabled Veterans Business Enterprise (DVBE) goals and requirements. Section 2 of the <i>Standard Special Provisions</i> defines the requirements that a contractor must meet before bid opening to be awarded the contract.
DBE & DVBE Noncompliance	Review Section 5 of the contract <i>Standard Special Provisions</i> that list requirements for the contractor during the project and the consequences for noncompliance.
Training Goals	Check for “Federal Requirement Training Special Provisions,” which may be included as the last page in the contract <i>Standard Special Provisions</i> on federally funded projects.

8-2-2 Division of Construction: Review the Construction Contract Award Summary

Review the contract award summary for:

- Prime contractor information
- The contractor's bid amount
- Federal or state funding
- Location
- Number of working days
- DBE or DVBE commitment

Attached to the contract award summary is the list of subcontractors and the DBE-related correspondence. The DBE commitment should be evaluated by the Contract Evaluation branch of Office of Civil Rights (OCR). The OCR should clarify the work that the DBE is performing and review additional documentation related to the evaluation. If anything on these documents is questionable or they appear to contradict each other, resolve the problem before the pre-job conference.

8-2-3 All Other Divisions: Review Non-construction Contracts

Non-construction contracts, such as service, maintenance and repair, architectural and engineering, or right-of-way, do not contain the same provisions as construction contracts; therefore, they are not subject to the same review process. For example, there are no special provisions or Notices to Bidders in non-construction contracts. Also, the contract duration is based on a Notice to Proceed and the contract expiration date, not a specific number of working days.

Standard Agreement (STD) 213 contains all pertinent provisions for non-construction projects and includes the following exhibits:

- Exhibit A – Scope of work and deliverables
- Exhibit B – Budget and payment provisions
 - State Prevailing wage requirements are included
- Exhibit C – General terms and conditions
- Exhibit D – Special terms and conditions
- Exhibit E – Additional provisions
- Exhibit F – Federal prevailing wage requirements

8-3 Prepare the Pre-job Package

The pre-job package will be distributed to the contractor and subcontractors and contains the following key documents:

- Pre-job checklist
- Posters
- Forms

8-3-1 Pre-job Checklist

The checklist must be presented in accordance with 8 CCR 16421 as follows:

1. Verify that the contractor checks all boxes, initials every page, completes, and signs the last page as required
2. Verify that the attendance sheet is signed by all pre-job participants
3. Review the checklist with the participants
4. Make sure that all questions and comments are addressed

Caltrans has developed a library of pre-job checklists for federal and state construction and non-construction projects. During the pre-job meeting, the labor compliance representative should discuss all items on the checklist that apply to the contract and project.

Caltrans pre-job checklists can be accessed at the following intranet site:

<https://construction.onramp.dot.ca.gov/prejob-checklists>

The checklists identify items to communicate for prevailing wage and public works requirements to contractors and subcontractors including:

- Posters and notices
- Prevailing wage
- Payroll
- Apprentices
- Subcontracting
- Disadvantaged Business Enterprises (DBE) or Disabled Veterans Business Enterprises (DVBE)

- Equal Employment Opportunity
- Trucking
- Additional contract information
- Additional labor compliance information and subsistence information

Important: For Construction-administered projects, provide three copies of the signed checklist: one for the resident engineer, one for the contractor, and the original signed by the contractor representative remains in the Labor Compliance office.

For all other division-administered projects, provide two copies of the signed checklist: one for the contract manager's file, one for the contractor.

8-3-2 State and Federal Wage Determinations Posters

Contractors are required to post state or federal wage determinations, or both, on the job site. State wage determinations are accessible to contractors on the California Department of Industrial Relations [\(DIR\) website](#) and federal wage determinations are listed on the Department of Labor website. The websites for state and federal wage determinations are listed on all the pre-job checklists.

All projects require that the applicable state or federal posters, or both, are prominently displayed at the job site. Posters are specifically related to state or federal regulations.

8-3-2(a) All Projects

Table 8-B, “Required Posters for All Projects,” lists the labor compliance posters that must be posted at all project sites.

- **TABLE 8-B: REQUIRED POSTERS FOR ALL PROJECTS**

POSTER	DESCRIPTION
16429-I (PDF)	Notice of Labor Compliance Program Approval – English
16429-I-S (PDF)	Notificación Sobre La Aprobación Del Programa Para El Cumplimiento De La Ley Laboral – Spanish/Español
DFEH E07P(A)-ENG (PDF)	California Law Prohibits Workplace Discrimination and Harassment - Accessible English Poster
DFEH E07P(A)-SP (PDF)	La ley Prohíbe la Discriminación y el Acoso en el Empleo – Accessible Spanish/Español Poster
DSLE 8 (PDF)	Payday Notice

8-3-2(b) Federally Funded Projects

Table 8-C, “Required Posters for Federally Funded Projects,” lists required posters.

- **TABLE 8-C: REQUIRED POSTERS FOR FEDERALLY FUNDED PROJECTS**

POSTER	DESCRIPTION
WH Publication 1321-English (PDF)	Employee Rights Under the Davis-Bacon Act, For Laborers and Mechanics Employed on Federal or Federally Assisted Construction Projects
WH Publication 1321- Spanish/ Español (PDF)	Derechos Del Empleado Bajo La Ley Davis-Bacon (Para Obreros Y Mecanicos Empleados En Proyectos De Construccion Federal o Con Asistencia Federal)
EEOC-P/E-1 - English (PDF)	Equal Employment Opportunity is THE LAW
EEOC-P/E-1 - Spanish/ Español (PDF)	La Igualdad de Oportunidades en el Empleo es LA LEY

POSTER	DESCRIPTION
Supplement to EEOC-P/E-1 (PDF)	“EEO is the Law” Poster Supplement - English
Supplement to EEOC-P/E-1 (PDF)	Suplemento del Documento “EEO es LA LEY”- Spanish/ Español
FHWA-1022 (PDF)	False Statement Notice
OSHA 3165 (PDF)	Job Safety and Health - It’s the law!
OSHA 3167 (PDF)	Seguridad y Salud en el Trabajo – ¡Es la Ley!

8-3-2(c) Posters required for American Recovery and Reinvestment (Recovery Act) projects

[Know Your Rights Under the Recovery Act \(PDF\)](#)

8-3-2(d) Additional Posters Required by FHWA

[FHWA Job Site Posters](#)

8-3-3 Forms

Table 8-D, “Required Forms for All Projects,” lists the forms that must be included in the pre-job conference package based on the type of project.

8-3-3(a) All Projects

- **TABLE 8-D: REQUIRED FORMS ALL PROJECTS**

FORM	DESCRIPTION
CEM-2502	Contractor or Subcontractor Payroll
CEM-2503	Statement of Compliance
CEM-2501	Fringe Benefit Statement
DAS-140	Public Works Contract Award Information
DAS-142	Request for Dispatch of Apprentice

8-3-3(b) Other Required Forms

Table 8-E, “Required Forms by Type of Project,” lists forms based on the type of project.

• **TABLE 8-E: REQUIRED FORMS BY TYPE OF PROJECT**

Form	Federal Aid	Federal Aid Maintenance	Federal Aid A&E	State	State Maintenance	State Services	State A&E
CEM-1201 – Subcontracting Request	<input checked="" type="checkbox"/>			<input checked="" type="checkbox"/>			
CEM-2513 – Weekly Report of Job Site Labor	<input checked="" type="checkbox"/>			<input checked="" type="checkbox"/>			
CEM-2402(F) – Final Report, Utilization of DBE, First Tier Subcontractors	<input checked="" type="checkbox"/>						
CEM- 2402(S) – Final Report, Utilization of DVBE, State Funded				<input checked="" type="checkbox"/>			
CEM-2403(F) – DBE Certification Status Change	<input checked="" type="checkbox"/>						
CEM-2404(F) – Monthly DBE/UDBE Trucking Verification	<input checked="" type="checkbox"/>						

Form	Federal Aid	Federal Aid Maintenance	Federal Aid A&E	State	State Maintenance	State Services	State A&E
CEM-2406 – Monthly DBE Payment	<input checked="" type="checkbox"/>						
CEM-2407 , DBE Joint Check Agreement Request	<input checked="" type="checkbox"/>						
ADM 3069 , Final DBE Utilization Report		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>				
ADM-3059 – Utilization of Small/Micro Business & DVBE				<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
FHWA-1391 – Contractors Annual EEO Report	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>				

8-4 Conducting Pre-job Meeting

With the pre-job package assembled, the labor compliance representative is ready to present the information at the pre-job meeting.

The following topics must be covered. The order in which they are addressed is left to the discretion of the labor compliance representative.

- Contractor requirements
- Posters and notices
- Prevailing wage requirements
- Payroll requirements

- Apprentices
- Subcontracting
- Disadvantaged Business Enterprise (DBE) Requirements/ Disabled Veterans Business Enterprises (DVBE)
- EEO requirements
- Trucking
- Additional contract Information

Figure 8-F, “Pre-job Meeting Key Points,” provides a summary of the key points within each of the major topics that must be covered during the meeting.

8-4-1 Payroll Requirements: Document Submission

- **FIGURE 8-F: PRE-JOB MEETING KEY POINTS**

Key Points to Cover During Pre-job Meeting:

1. Payroll documents due date:
 - a. Construction Capital Projects by the 15th of the month for work performed in the previous month. Retention for failure to submit satisfactory payrolls is up to 10 percent of the estimated value of the work performed for the estimate period with a minimum of \$1,000; and a maximum of \$10,000. Refer to Chapter 13, "Weekly Certified Payroll Records," of this manual for further information.
 - b. Contracts invoiced in arrears, including service, A&E, Minor B and emergency, payrolls are due with the invoice submission. Delinquent or inadequate payrolls will result in a withhold up to the total amount of the invoice.
2. Even though the payrolls become delinquent on the 15th of the month, it is advisable to inform the contractor that payrolls should be submitted weekly to discover payroll discrepancies early.
3. The prime contractor is ultimately responsible for reviewing and sending in certified payrolls on behalf of all subcontractors. Request the name and phone number of the contractor's payroll person and inform the prime contractor of the labor compliance staff working on their contract.
4. All payroll documents should contain the Department of Transportation's contract number.

8-4-2 Wage Rates, Prevailing Wage Requirements

Inform the contractor that wage rates must be posted at the job site and at the home office. If federal funds are involved, both state and federal wage rates must be posted. Key points to discuss during the pre-job meeting for state federal wage rates include the following.

8-4-2(a) State Prevailing Wage Rates

Key points included on the pre-job checklist:

- A double asterisk following the Expiration Date of Determination at the time of advertisement means the wage rate will increase.
- A single asterisk at time of advertisement means the wage rate is frozen for the life of the contract.

The state DIR director's general prevailing wage determinations, which includes craft, classification, and rates, is on the DIR website and is referenced in the contract.

8-4-2(b) Federal Minimum Wages

Federal-aid contracts use both federal and state wage rates, and the contractor must pay whichever is the greater wage rate. Federal minimum wages referenced in the contract special provisions are available on the [DOL website](#).

Federal wage rates remain in effect for the life of the contract.

8-4-3 Overtime, Prevailing Wage Requirements

Key points included on the pre-job checklist to cover during the pre-job meeting include that:

- A contractor must pay overtime if employees work more than eight hours a day and more than 40 hours a week.
- The overtime rate is one and one-half times the basic hourly rate of pay, excluding fringe benefits. Penalties apply for overtime violations. Overtime, Saturday, and Sunday rates apply on state wage rates.

8-4-3(a) Exceptions to Overtime

If there are questions regarding overtime exceptions during the pre-job conference, refer to the [California Code of Regulations Section 16200](#), which lists exceptions to payment of overtime and Saturday rates. See Chapter 10, Section 10-3-6, "Overtime Rate Exceptions," of this manual, for additional details. The contractor must submit a written request exception to the resident engineer for approval.

8-4-4 State Apprenticeship Provisions, Apprentices

Key checklist points to cover during the pre-job meeting include:

- Any apprentice not registered in a state approved apprenticeship program is paid the journeyman rate for the classification of work performed. A copy of the registration and the period of apprenticeship must be on file in the Labor Compliance office.

- The contractor must complete and send Form DAS-140, “Public Works Contract Award Information,” to the appropriate Joint Apprenticeship Committee for the craft or classification that is used on the project.
- The contractor must contribute training funds to the Joint Apprenticeship Committee or to the California Apprenticeship Council. Section 1777.5(o), “Employment of Apprentices on Public Works,” of the California Labor Code does not apply to contracts less than \$30,000. All other requirements of Section 1777.5 of the California Labor Code about apprentices on public works projects are applicable.

8-4-4(a) Federal Trainee Provision

If there is a trainee goal, the contractor must submit a training plan to the resident engineer before the start of work. For a contractor to be reimbursed the statutory per hour rate for each trainee, the resident engineer must write a contract change order for the hours claimed. The contract change order does not need to be written if the contractor does not plan to request reimbursement. The trainees or apprentices can be on the prime or subcontractor’s payroll.

8-4-5 Travel and Subsistence, Prevailing Wage Requirements

To determine if a project is in a geographic area designated as a subsistence area, locate the project on the Associated General Contractors maps. Pay travel and subsistence in accordance with collective bargaining agreements.

When a project is in a geographic area designated as a subsistence area, contractors are required to make travel, subsistence, or zone payments to their employees in accordance with the current requirements on file with the California Department of Industrial Relations. Subsistence is to be paid as a lump sum daily payment or as an increased hourly wage rate, depending on the craft, classification, and approved agreements.

8-4-6 Covered versus Non-Covered Work, Prevailing Wage Requirements

It is important to help contractors distinguish between tasks that are subject to prevailing wage, or covered, and work not subject to prevailing wage and certified payroll reporting. When the distinction between covered and non-covered employment is not clear, the matter should be referred to the district labor compliance manager for evaluation. Refer to [Section 8-104](#), “Covered and Non-Covered Employment,” for more information:

Start by answering the following questions:

1. Is there a classification (DIR, Davis-Bacon, or both) for the work to be performed?

- a. If yes, the task may be covered.
 - b. Is it listed on the DIR or Davis-Bacon Wage Determination?
 - (1) If yes, the work is covered
 - (2) If no, contact Labor Compliance Unit for guidance
2. Explain that the process depends largely on the type of work to be performed, not the job title.

8-4-6(a) Trucking

Trucking presents the biggest challenge in determining covered versus non-covered work. Before the pre-job meeting, review the contract to see if hauling is a major part of the contract. The description of work performed determines whether the hauling is subject to prevailing wage rates.

Factors to help determine whether a trucking operation is covered work requiring payment of prevailing wage include:

1. Listing in the contract requirements.
2. Employment status of the hauler, for example contractor, subcontractor, or commercial hauler.
3. Truck deliveries from commercial sources are usually covered. If, however, the truck driver is placing the material on the job site or moving it around to accommodate the contractor, this would be considered covered work and subject to prevailing wages requiring payrolls or owner-operating listings.
4. Origin of material being hauled.
5. Ownership of the material at off haul. Any off-site hauling is subject to prevailing wages when it is part of the contract work.
6. Final destination of the material.
7. The site of work.
8. Value of the material or lack thereof for refuse, covered by California Labor Code Section 1720.3.

8-4-7 Bulletin Board Posters and Notices

It is important to emphasize the requirement that [posters](#) are to be placed on a bulletin board or a portable poster board in legible format and in an area readily

accessible to all workers. The prime contractor is responsible for maintaining a bulletin board at the home office and the work site at all times.

Requirements include:

- Posters are located at the job site. If it is not feasible to place a bulletin board at the job site, place at alternate location that is accessible to all workers.
- Posters must be legible and always in plain view by the workers.
- Photograph of posters at job site should be maintained in the labor compliance files.

Visual inspection by the resident engineer at the job site is required within 30 days of the start of work to verify that the required posters are displayed. After the inspection, a completed and signed checklist ([Contractor Bulletin Board Inspection](#)) is submitted to the district or region labor compliance office.

8-4-8 Subletting and Subcontracting Fair Practices Act

Contractors should be notified that if they use subcontractors on the project, they must comply with [Section 5-1.13](#), “Subcontracting,” of the *Standard Specifications*, and with state and federal laws and regulations.

The contractor is required to submit Form CEM-1201, “Subcontracting Request,” before subcontracted work starts.

8-4-8(a) Construction Projects

The Subletting and Subcontracting Fair Practices Act requires bidders to list the names and addresses of all subcontractors whose work is one-half of one percent of the total bid or \$10,000, whichever is greater. This prevents bid shopping. The prime contractor must use the subcontractors listed on the list of subcontractors.

Bidders are also required to list the names and addresses of all subcontractors whose work is one half of one percent of the total bid.

If the prime contractor must substitute one of the original listed subcontractors for one of reasons listed in [Section 4107](#) of the Public Contract Code, the prime contractor must make the request in writing to the resident engineer. Substitution or deletion of subcontractors before getting written approval from the resident engineer results in a penalty of as much as 10 percent of the item amount of the subcontract.

Substitutions less than the one-half of one-percent threshold do not fall under the Fair Practices Act and do not require a substitution request unless the

subcontractor is a DBE or DVBE. Additional information regarding the subletting and subcontracting can be found in [Section 3-507C](#), “The Subletting and Subcontracting Fair Practices Act,” of the *Construction Manual*.

8-4-8(b) Non-Construction Projects

- For federal and state architectural and engineering contracts, subconsultant substitutions must be requested in writing and approved by the contract manager in writing before the prime consultant assigns work to a substitute subconsultant. The prime consultant is responsible for work performed and compliance met by subconsultants and owner-operators. Any sub-agreements entered into for more than \$25,000 must contain all the provisions of the consultant’s agreement.
- Federal maintenance contracts are subject to the Subletting and Subcontracting Fair Practices Act. Prime contractors must list at bid time all subcontractors who will perform work in excess of one-half of one percent of the total bid amount or \$10,000, whichever is greater.
- For state maintenance and service contracts, no portion of the work may be subcontracted except to the contractors listed on the bidder declaration. The prime contractor is responsible for work performed by subcontractors and owner-operators.

8-4-9 Disadvantaged Business Enterprise (DBE) Requirements and Disabled Veterans Business Enterprise (DVBE)

During the pre-job meeting, the labor compliance representative reviews the list of DBEs with the resident engineer, the inspector, and the contractor, and discusses the items of work DBEs will perform. All regulations and related requirements are included in the pre-job checklist for the contractor to reference.

Key points:

- Discuss the work items a DBE or DVBE subcontractor might be performing, supplies a DBE will be delivering, and whether the trucking is performed by employees of a DBE trucker or a DBE truck broker using owner-operators.
- Note when work is performed by a DBE or DVBE on the assistant resident engineer’s reports to monitor DBE usage and detect discrepancies before a deduction becomes necessary.
- Emphasize that for federal projects, Form CEM-2406, “Monthly Disadvantaged Business Enterprise (DBE) Payment” must be submitted, regardless of whether DBE firms perform work on the project.

- Emphasize that for federal projects, Form CEM-2402F, “Final Report—Utilization of Disadvantaged Business Enterprise (DBE), First-Tier Subcontractors,” should match the contractor’s original DBE information sheet submitted at the time of bid. The final report should equal the total payments as reported on Form CEM-2406.
- Form CEM-2402S, “Final Report—Utilization of Disabled Veteran Business Enterprise (DVBE), State-Funded Projects Only,” should match the contractor’s original DVBE information submitted at the time of bid for state-funded projects.

8-4-10 EEO Discrimination

The contractor must assure that every effort has been made to meet the goals listed in Section 14, “Federal Aid Female and Minority Goals,” of the contract special provisions. List these goals on the checklist. Caltrans’ Civil Rights Office conducts civil rights reviews to verify there is no discrimination in the employment practices of the contractor. For more information about employee complaints, see Section 18-6, “Employee EEO Complaints,” of this manual.

8-4-11 Minor or Miscellaneous Contracts

It may be necessary to attend a pre-job conference for a contract other than a major construction project. Minor or miscellaneous contracts include right-of-way demolition, architectural and engineering, maintenance emergency or Minor B contracts.

Depending on the duration of the project, payroll records may be submitted to the resident engineer, contract manager, or the Labor Compliance office. If the duration of a minor contract is greater than a few weeks, the Labor Compliance office and the resident engineer may agree to have the contractor submit payrolls directly to the Labor Compliance office.

CHAPTER 9: DETERMINING PREVAILING WAGE COVERED WORK

9-1 Introduction

Caltrans is responsible for monitoring and enforcement of both federal and state labor laws on all public works projects subject to the payment of specified wages for work performed on the project. Any work subject to the payment of prevailing wages is considered covered work.

The term covered work is often summarized as work related to construction, alteration, demolition, installation, repair or maintenance. Any work funded by state or federal entities that falls into one of these categories is likely covered work.

Under federal regulations, every laborer or mechanic employed at the job site who performs work that is part of the contract work is subject to the labor provisions of the contract. The terms laborer and mechanic are defined in 29 CFR 5.2(m) and generally include workers whose duties are manual or physical in nature. Laborers and mechanics include apprentices, trainees, and helpers. The terms do not apply to workers whose duties are primarily administrative, executive, professional, or clerical, rather than manual. Generally, mechanics are considered to include any worker who uses tools or who is performing the work of a trade.

The laborer or mechanic may be:

- An employee of the prime contractor
- An employee of an approved or listed subcontractor
- A person or firm that furnishes on-site labor, including specialists, owners, corporate officers, partners, and rental companies furnishing fully operated equipment.

Under state regulations, work defined under Labor Code Sections 1720 and 1771, and the California Code of Regulations, covered work is broader and includes, in situations, work occurring not specifically on the job site such as off-haul to disposal or ready-mix concrete hauling and delivery and it may include work that is considered professional, such as inspection, testing, and land survey work.

The terms job site or site of the work are defined in 29 CFR 5.2(l) as applied to labor compliance are not limited to the geographic location or limits of the project. In addition, these terms include any location or facility established for the sole or primary purpose of contributing to the specific project. Typical examples include

non-commercial material sites, borrow-pits established for a project, processing plants, fabrication yards, garages, or staging sites.

Essential criteria for determining covered work at a job site or off-site work is whether these facilities have been operating on a commercial basis before the award of the contract or whether that site is dedicated and established for the project and performs a commercially useful function exclusively for the project.

Note: Federal and state laws do not always agree, and Caltrans must enforce the most stringent law. When the distinction between covered and non-covered is not clear, contact the Division of Construction Labor Compliance unit for assistance.

9-2 State Law – Covered Versus Non-Covered Work

Public works, as defined in California Labor Code Section 1720(a), are the “construction, alteration, demolition, installation, or repair work done under contract and paid for in whole or in part out of public funds, except work done directly by any public utility company pursuant to order of the Public Utilities Commission or other public authority. For purposes of this paragraph, ‘construction’ includes work performed during the design, site assessment, feasibility study, and other preconstruction phases of construction including, but not limited to, inspection and land surveying work, regardless of whether any further construction work is conducted, and work performed during the postconstruction phases of construction, including, but not limited to, all cleanup work at the job site. For purposes of this paragraph, ‘installation’ includes, but is not limited to, the assembly and disassembly of freestanding and affixed modular office systems.”

California law and DIR precedential decisions require more work to be covered than federal law requires. Since the work is being performed in California, state law takes precedence over federal law when state law is more stringent. Table 9-A, “State Covered Work,” summarizes the type of work that is covered by state law.

- **TABLE 9-A: STATE COVERED WORK**

	COVERED	NOT COVERED
Material Sites:		
Exclusive to project – located on or outside job site	☑	
Non-commercial operation	☑	

	COVERED	NOT COVERED
Not controlled by the supplier	<input checked="" type="checkbox"/>	
Loading operation controlled by contractor	<input checked="" type="checkbox"/>	
Commercial operation		<input checked="" type="checkbox"/>
Material Plants:		
Exclusive to project - located on or outside job site	<input checked="" type="checkbox"/>	
Commercial operation		<input checked="" type="checkbox"/>
Vendors, Suppliers and Fabricators		
Only deliver materials		<input checked="" type="checkbox"/>
Work performed at job site	<input checked="" type="checkbox"/>	
Fabrication site exclusive to project either near job site or in commercial plant	<input checked="" type="checkbox"/>	
Engineering Services and Specialists		
Engineering consultants	<input checked="" type="checkbox"/>	
Soils and materials testers	<input checked="" type="checkbox"/>	
Environment and geotechnical professionals inspecting, testing or collecting samples	<input checked="" type="checkbox"/>	
Land surveyors	<input checked="" type="checkbox"/>	
Engineering labs and surveyors' offices		<input checked="" type="checkbox"/>
Specialists	<input checked="" type="checkbox"/>	
Equipment Rental Firms		

	COVERED	NOT COVERED
Drop off, pick up, and incidental repairs		<input checked="" type="checkbox"/>
Operated and maintained by rental firm at job site	<input checked="" type="checkbox"/>	
Repair of Equipment		
Mechanics or other employees maintaining or repairing machinery, equipment, or tools at job site	<input checked="" type="checkbox"/>	
Independent commercial repair shops		<input checked="" type="checkbox"/>

The following sections provide more detailed information on the work categories in the table.

9-2-1 Materials Sites

For labor compliance purposes, materials sites are considered to meet the definition of site of work under 29 CFR 5.2(l) when used exclusively for the project and considered covered work. Employees at these sites must be paid prevailing wages.

A materials site is covered if:

- The nature of the operation is noncommercial.
- The materials site is not controlled by the supplier.
- The material site is exclusive to the project.
- The materials loading operation is controlled by the contractor.

Typical situations for coverage determinations requiring the payment of prevailing wages include:

- A commercial source outside the project limits where the prime contractor loads a trucking company's trucks.
- An imported borrow pit that is not open to the public, is located outside the project limits, and is used exclusively by the contractor for a specific project.

- A pit established by the contractor exclusively for a project to supply materials.

In all three of the previous examples, the work is covered, and the contractor is required to pay prevailing wages to employees.

9-2-2 Materials Plants

Materials, including aggregates, produced with any kind of portable, semi-portable, temporary crushing, screening, proportioning, batching, or mixing plant, are considered to have originated at a materials plant. Roadside production of materials produced by other than the contractor's forces is considered as subcontracted pursuant to the contract labor standards.

When a materials plant has been established or reopened exclusively or nearly exclusively for supplying materials to a specific contractor for specific projects, and when these plants are not generally operated commercially, they are considered a site of the work under 29 CFR 5.2(l); therefore, they are covered for the payment of prevailing wages. Work involved in the establishment, reopening, and general operation of materials plants will likely be covered by the contract labor standards. Use the following guidelines to determine if a plant is commercial one that is not covered by contract labor provisions:

- The operator has obtained a permit to operate as a commercial plant.
- A business license has been obtained for the operation of the plant.
- A public weighmaster operates scales at the materials plant.
- The plant provides proof of sales to other agencies and the public.
- The plant is in operation before the project begins and remains in operation after the project is completed.

The prime contractor must demonstrate that the primary purpose of this materials plant is for general commercial operations. The contractor must provide proof that more than token sales have originated at this materials plant.

9-2-3 Vendors, Suppliers and Fabricators

Suppliers and fabricators of materials who are not subcontractors and who perform no work at the job site other than delivering materials are not subject to the contract labor requirements. However, a supplier or fabricator that is a subcontractor is subject to the labor provisions for that portion of the work performed at the job site. For example:

- Shop work during fabrication of structural steel is not subject to the contract labor requirements. The contract labor provisions cover any structural steel work performed after delivery of material to the job site even though shop personnel may perform it. This includes repair of damaged or defective work, and normal installation or erection.
- A fabrication site is set up exclusively for the project, either near the project or in the commercial plant.

Oil spreading by employees of asphalt suppliers is subject to prevailing wages in certain conditions. Only the time spent onsite spreading the material is covered work. Standby time is not. Coverage applies to oil spreading only when the employee, during one work week, has spent at least 20 percent of the total time worked spreading material on the specific project. Once a particular employee qualifies for coverage, all the actual spreading time that week is retroactively covered. Staggering employees to avoid coverage is permissible. Determine coverage of work for spreading of pavement reinforcing fabric in the same way.

At the job site, installation of any manufactured products such as mechanical and electrical equipment, bridge deck expansion and bearing assemblies, sign frames, precast or precast-prestressed concrete beams, and all similar fabricated items is covered work and subject to the contract labor provisions.

9-2-4 Engineering Services and Specialists

All firms that furnish engineering services, such as construction inspection, materials testing, and land surveying, at the job site, regardless of whether that firm is hired by the contractor or Caltrans, are subject to California Labor Code prevailing wage requirements. This is also true of a site set up solely to serve the project regardless of its location. The payment of prevailing wage rates is mandatory.

9-2-4(a) Engineering Consultants

Consultants who work on materials testing are paid prevailing wage rates whether the work is done on the job site or at state-owned facilities. In addition, travel time to and from one public work site to another to do materials testing such as travel time from a Caltrans project to a Caltrans lab is covered.

9-2-4(b) Engineering Labs and Surveyors Offices

Employees performing lab work or doing calculations at a consultant's commercial facility, lab, or a surveyor's office would not be covered.

9-2-4(c) Specialists

An independent firm that furnishes a special service or performs work of a specialized nature is considered a subcontractor with respect to the labor provisions and is subject to all contract labor requirements, regardless of the nature of the work, service, or method of payment.

9-2-5 Equipment Rental Firms

Equipment is often rented or leased by contractors from established commercial equipment rental firms. The prevailing wage rate provisions of the contract do not cover drop off, pick up, and incidental repair of this equipment when the equipment rental firm is not providing operators. When rented equipment used in the work, including extra work, is operated and maintained by employees of the equipment rental firm, the equipment rental firm is considered a subcontractor. The equipment rental firm and its employees need to register with DIR and are, in this situation, covered by the labor compliance requirements of the contract.

9-2-6 Repair of Equipment

General repair and maintenance of equipment used on the job site or at the site of work, including installing, overhauling, assembling, repairing, reconditioning, or other work on machinery, equipment, or tools used in or upon the work are a part of the work to be performed under the contract. The contract labor provisions cover mechanics and other employees working on machinery, equipment, or tools. These employees must be listed on the contractor's or subcontractor's certified payroll records. Established, independent commercial repair shops that have operated for a period of at least two months before the advertisement of the contract are not covered.

9-3 Federal Law – Covered Versus Non-Covered Work

Table 9-B, "Federal Law – Covered Versus Non-Covered Work," highlights specific work covered by the federal Davis-Bacon Act.

• TABLE 9-B: FEDERAL LAW – COVERED VERSUS NON-COVERED WORK

Covered	Non-Covered
1(a). Utility relocation work part of highway construction projects performed by highway construction contractor or subcontractor	1(b). Utility or railroad adjustments done by a public utility or railroad company
	1(c). Utility or railroad adjustments done by a contractor engaged by the utility or railroad company

Covered	Non-Covered
2(a). Flaggers	2(b). Flaggers associated with delivery of rented equipment
3. Helpers: Helpers are permitted on a DBA contract only if the helper classifications are specified in the applicable federal wage determination or conformed rates pursuant to 19 CFR 5.5(a)(1)(ii).	Helpers may not be used as informal trainees or apprentices, or if the helper does not fall within a specific classification in the federal wage determination. If the work performed by the helper does not have a specific helper rate, they must be paid at the journeyman level.
4(a). Survey crews engaged in manual labor	4(b). Survey crews consisting of instrument persons, party chiefs, and rod persons
5(a). Transportation enhancement projects – federal or federal aid	5(b). Transportation enhancement projects – non-federal
6(a). Off-site work: Dedicated workspace for a public works project	6(c). Off-site work: Fabrication of materials and delivery of materials to job site
6(b). Off-site work: Fabrication off-site but installations done directly on site	
7(a). Supervisors or forepersons: Perform manual labor work	7(b). Supervisors or forepersons: No manual labor work
	8. Force account work by public agency
	9. Exploratory drilling services
	10. Project engineers
	11. Inspectors
	12. Materialpersons and suppliers
13(a). Truck drivers: Transportation or other services performed at the job site or associated with the job site.	13(b). Truck drivers: When traveling to or from the job site or time spent on job site is minimal.

Covered	Non-Covered
14(a). Owner-operator: Varies	14(b). Owner-operators: Varies
Note: the numbers reference the corresponding description in Section 9-4-1, of this manual.	

9-4 Owner-Operators

Owner-operators fall into two groups: truck owner-operator drivers and owner-operated equipment other than a truck. As independent contractors, owner-operators are typically paid by the hour without employment taxes deducted and are considered a contractor or subcontractor for the purposes of prevailing wage.

If the owner-operator is a licensed contractor, an approved subcontractor or recognized lower-tier subcontractor, they may submit a certified payroll on Forms CEM-2501, "Fringe Benefit Statement"; CEM-2502, "Contractor or Subcontractor Payroll"; and CEM-2503, "Statement of Compliance."

If a review of payroll records shows that deductions for Social Security taxes or state unemployment insurance taxes are withheld for the owner-operator, it is an indication that the operator is an employee rather than an independent contractor. The next step is to conduct an employee interview with the owner-operator using Form CEM-2504, "Employee Interview: Labor Compliance / EEO." If it is apparent that an owner-operator is an employee, all of the information required by on Form CEM-2504, including the equal employment opportunity portion, is to be filled out completely and brought to the attention of the Labor Compliance office.

Certifying Owner-Operator Status:

The following information is used to certify owner-operator status:

- Operator's name as shown on all payrolls.
- Business address of the owner-operator.
- The owner-operator's Social Security number.
- Operator work classification.
- Hours worked by the owner-operator as reported daily.
- Hourly rate of pay, for the owner-operated equipment other than trucks, should equal hourly rental rate plus prevailing wage rate. This can sometimes

be lower if by canvassing rental companies, you determine the rates to be lower in the project area.

- Gross payment earned.

Verification of Truck Owner-Operator Status

To verify owner-operator status, the truck owner-operator must report hours worked on a certified payroll report. Owner-operators must have a California Highway Patrol (CHP) CA identification number on file in the Department Motor Vehicle (DMV) database. It is important to check the validity of the owner-operator status in the DMV database.

- The labor compliance representative should use the following criteria to determine if the trucker is an owner-operator or an employee:
 - The operator should be the registered owner of the vehicle. The name of the driver should match the name of the registered owner on the DMV registration.
 - If the legal owner is a firm or corporation, and the firm or corporate name is shown on the vehicle registration slip, request that the driver furnish evidence that they are leasing or purchasing the vehicle. It is common for the name of the finance or leasing company to be listed on the registration.
 - If the owner-operator is leasing or financing the vehicle, then the operator should be able to furnish such evidence.
 - If the owner operator is unable to substantiate purchase or lease of the equipment, they would not qualify as an owner-operator for this truck and potentially would be considered an employee.
- Insurance for the vehicle should be carried in the driver's name. Further checking is required if the name on the policy does not match the name of the driver.
- The CHP CA identification number in the DMV database should be in the driver's name. If the name on the CA number does not match the name of the driver, further investigation is warranted. The contractor must establish proof of ownership in cases where there is doubt of the validity of the owner-operator designation.
- If the ownership of a vehicle cannot be determined from the insurance, registration, or title, check the CHP CA identification number in the DMV database at the following website:

<https://www.dmv.ca.gov/portal/vehicle-industry-services/motor-carrier-services-mcs/motor-carrier-permits/active-motor-carriers/>

9-4-1 Trucking – Onsite and Offsite Hauling

Although truck owner-operators are generally considered independent contractors not subject to the prevailing wage rate requirements, under state law trucks are covered if the hauling activity is considered covered work, unless one of the exceptions in Figure 9-C, “Offsite Hauling – Trucking Exceptions,” apply:

- **FIGURE 9-C: OFFSITE HAULING - TRUCKING EXCEPTIONS**

On-site vs. Off-site Hauling Requirements

Material Supplier (On -Site)

- Trucker owns the material being delivered
- The material and delivery is not exclusive to the project
- The trucker obtains the material from a “commercial supplier”

Off -Site (Limited Exception)

For off-site hauling to be exempted from the definition of “refuse” and exempted from prevailing wage, the materials and handling must meet the following requirements:

- Be recyclable metals
- Separated at the jobsite prior to transportation
- Sold at fair market value to a bona fide purchaser

Soil, sand, gravel, rocks, concrete, asphalt, excavation materials, and construction debris, on the other hand, are “refuse,” irrespective of claimed value or worth, where off hauling from a public works site is concerned (Labor Code Section 1720.3).

Table 9-D, “Trucking Exceptions,” shows when a truck owner-operator’s scope of work is covered by prevailing wage.

• **TABLE 9-D: TRUCKING EXCEPTIONS**

COVERED BY PREVAILING WAGE REGULATIONS			
Trucking Activity	Point of Origin	Destination	PW
Water trucks, street sweepers	Onsite activity	Onsite activity	Yes (See Note 1)
Hauling dirt, materials	Project site	Onsite activity, off-haul to disposal	Yes (See Note 1)
Hauling dirt, materials	Borrow sites, stockpiles, or batch plants on property of public works owner	Project site	Yes
Hauling dirt, materials	All drivers, regardless of employer, when hauling from dedicated borrow pit, batch plant, or stockpile adjacent to site of construction	Project site	Yes
Hauling dirt, materials	Drivers employed by contractor or subcontractor when hauling from non-dedicated source	Project site	Yes
Hauling away of materials defined as refuse to an outside location including, but not limited to, soil, sand, gravel, rocks, concrete, asphalt, excavation materials, and construction debris Does not include the off-haul of recyclable	Existing job site by employee drivers of any employer	Off-site	Yes

COVERED BY PREVAILING WAGE REGULATIONS			
Trucking Activity	Point of Origin	Destination	PW
metals that have been separated at the job site before transportation and that are to be sold at fair market value to a bona fide purchaser unless the off-haul is considered work performed in the execution of the public works contract. Contractor advised to seek a coverage determination from DIR for additional guidance on a job-by-job basis.			
Hauling off the site and back for reinstallation or to another public works site	Existing job site to temporary offsite location – materials for re-use or restoration by employee drivers of any employer	Off-site and then back to project site	Yes
Delivery or hauling of construction materials, other than ready-mixed concrete	Employee drivers of contractor or subcontractor or by employees of trucking company where hauled materials do not originate from a third-party material supplier	Project site	Yes
Delivery of materials by third-party supplier or trucking company employees if immediately incorporated into the construction process and driver gets out of	Employee drivers of any employer	Project site	Yes

COVERED BY PREVAILING WAGE REGULATIONS			
Trucking Activity	Point of Origin	Destination	PW
<p>truck at the site to assist in process, such as layout work.</p> <p>Contractor advised to seek a coverage determination from DIR for additional guidance on a job-by-job basis</p>			
<p>Delivery of materials by third-party supplier or trucking company employees if immediately incorporated into the construction process and driver does not get out of truck at the site</p>	<p>Employee drivers of any employer</p>	<p>Project site</p>	<p>Yes</p>
<p>Delivery of equipment or employees</p>	<p>Employee drivers of subcontractor or contractor or trucking company engaged by contractor or subcontractor to haul the equipment or employees</p>	<p>Project site</p>	<p>Yes</p>
<p>Off-haul of construction equipment, tools, and unused supplies from public works project site</p>	<p>Employee drivers of any employer</p>	<p>Haul from job site to contractor's yard shop</p>	<p>Yes (See Note 2)</p>
<p>Delivery of ready-mix concrete delivery of service products</p>	<p>Ready-mix concrete on public works contracts advertised for bid or awarded on or after July 1, 2016</p> <p>Office products, fuel and lubricants, portable</p>	<p>Project site</p>	<p>Yes</p>

COVERED BY PREVAILING WAGE REGULATIONS			
Trucking Activity	Point of Origin	Destination	PW
	toilets are examples if delivered by employee driver of subcontractor or contractor or driver of trucking company engaged by contractor or subcontractor		

Note 1: Wage rate constant throughout the duration of the contract

Note 2: Wage rate may increase after the expiration date of the work

PW = prevailing wage

9-4-2 Owner of Equipment Other Than Trucks

Owner-operators of general construction equipment other than trucks, such as graders, cranes, backhoes, excavators, and other equipment, are considered covered by both state and federal law. Workers must be paid at least the minimum prevailing wage rate in effect for the specific contract plus the appropriate equipment rental rate.

Calculating Owner-Operator Equipment Payment Breakdown

The labor compliance staff can determine the hourly wage rate due by deducting the prevailing equipment rental rate for the area from the gross hourly rate shown on the owner-operator listing. The contract rental rate without markup may be used as a guide. Since this may not be the local prevailing rate, it may be necessary to contact local rental agencies or other sources to estimate the actual prevailing equipment rental rate. Compare the estimated hourly wage rate to the applicable basic wage plus fringe benefits to determine compliance.

9-5 Ready-Mix Concrete

Assembly Bill 219 (AB 219), approved in October 2015, expands the definition of public works under the California Prevailing Wage Law to include the hauling and delivery of ready-mix concrete (California Labor Code Section 1720.9).

Section 1720.9 defines the ready-mix concrete and specifies that the rate of pay must be the current prevailing wage "for the geographical area in which the factory or batching plant is located" as determined by the Department of Industrial Relations. The statute also requires a written agreement between the party hauling or delivering ready-mix concrete and the party that engaged its services. The agreement must specify compliance with the Prevailing Wage Law.

Figure 9-E, “Application of Ready-Mix Concrete Labor Code Section 1720.9,” shows that the hauling or delivery company must provide certified payroll records under Labor Code Section 1776(a) to the party that engaged its services and to the general contractor within five working days after the employee has been paid, accompanied by a written time record. The time record must be certified by each driver for the performance of job duties.

- **FIGURE 9-E: LABOR CODE 1720.9**

Application of Ready-Mix Concrete Labor Code Section 1720.9:

- The rate of pay for ready-mix drivers must be the current prevailing wage for the geographical area in which the factory or batching plant is located.
- The hauling or delivery company must provide certified payroll records under Labor Code Section 1776(a).
- Ready-mix haulers or companies are considered subcontractors under Labor Code Section 1722.1 and must register with the DIR.
 - Ready-mix companies are considered material suppliers, so the prime contractor is not required to disclose ready-mix drivers on the bidder declaration as a subcontractor.
- The amendments do not apply to public works contracts that were advertised for bid or awarded before July 1, 2016.

CHAPTER 10: CLASSIFICATION OF LABOR AND REQUIRED RATES OF PAY

10-1 Introduction

Labor standards require the proper classification and payment of workers for the work they perform at the worksite, not the title or status of the worker. To meet these standards, the contractor and persons or firms performing the work on the project must:

- Use only the classification listed in the DIR prevailing wage determination decision or the federal Davis-Bacon Act (DBA) determination applicable to the contract. For example, a foreperson pulling wire should be classified and paid as an electrician.
- Use the appropriate published classifications that describe the work being performed by the worker. For example, if a worker is used to place reinforcing steel, they should be shown as ironworkers and paid accordingly.
- Maintain an accurate record of the time spent in each work classification and show this time by means of separate entries in the payroll records and on the certified payroll.

Once the correct craft or classification has been determined as discussed in Chapter 9, “Determining Prevailing Wage Covered Work,” of this manual, the next step is to determine the appropriate general prevailing wage rate. Wage rates are set at both the state and federal level. Projects that receive only state funds are governed solely by the DIR wage determination. For projects that receive federal funds, the federal Davis-Bacon rates must be compared with the state prevailing wage rate, and the contractor must pay the higher of the two.

The following sections describe the process for identifying the proper classification for workers based on the type of work performed by the worker.

10-2 Identifying the Correct Classification

10-2-1 Worker Classification

Determining a worker’s classification and associated rate of pay depends entirely on the specific tasks performed by a worker. The worker’s title or designation within their firm, such as owner, or officer, is not relevant to their prevailing wage status. The following questions can help establish a worker’s prevailing wage designation:

- Do the worker's activities meet the criteria set forth in Labor Code Section 1720 and Section 1771?
- Is there a specific DIR classification for the work?
 - The DIR wage determination scope of work describes the specifications for each job classification and can be used to identify the appropriate rate of pay for the worker.
 - If the scope of work does not include the work performed, the classification is not appropriate.
- Is the work determined to be covered by prevailing wage, but not listed in the DIR wage determination?
 - If the prevailing wage is not listed, contact the Labor Compliance unit at headquarters to decide if a classification needs to be added by the DIR. If needed, the headquarters Labor Compliance unit can help to find the proper classification and contact the DIR.
 - For federal classifications, a similar process is available through the conformance process if the proper classification is not part of the federal Davis-Bacon wage decision, and if the scope of work is not closely related to other work performed under the contract.
- Sometimes employers may use workers in classifications other than those shown in the prevailing wage determinations, by matching the type of work being performed to an existing classification that most closely aligns with the scope of work performed.

Note: *If you are unable to locate the proper wage rate in a published Scope of Work for the work to be performed, check with headquarters Division of Construction Labor Compliance unit at the beginning of a project for review and guidance.*

10-2-2 Resources to Help Identify the Proper Classification

The following can help to determine the proper classification:

- Consider the specific work performed, including the tools and equipment that are used.
 - Check the resident engineer's or assistant resident engineer's daily report or project records for equipment information.

- Ask the resident engineer, or Caltrans onsite designee, to describe the work performed.
- Review the detailed scope of work in the DIR wage determination and compare to the tasks performed by the worker. Additional resources may be identified in Section 14-2-1, “Classifications,” of this manual. Figure 10-A, “How to Identify Classifications in Scope of Work,” offers tips.

- **FIGURE 10-A: HOW TO IDENTIFY CLASSIFICATIONS IN SCOPE OF WORK**

Scope of Work Classification Comparisons

The information inside the scope of work must be carefully analyzed. The descriptions are often non-specific and can be interpreted in a number of ways. Key words or statements may limit or expand on what a classification can or cannot do.

Examples of key words and statements include:

- Installation
- “Used in connection with”
- Repair
- “Equipment incidental to”
- Removal
- “In conjunction with”
- Adjustment
- “Maintain”
- Alternation
- “Modification”

Sample Scenarios:

The electrician scope of work may include “equipment incidental to” work related to pull boxes. Therefore, if an electrician operates a backhoe to dig a trench to reach the pull box, the equipment is incidental to the electrician’s work and can be paid at the electrician rate.

A laborer may lay and install pipe on new construction. Because the laborer scope of work limits the laborer’s function to laying and installing, a laborer cannot repair, adjust, or remove pipe that already has been installed.

10-2-3 Classification Groups

Some classifications are organized by group or specific tasks. This includes laborer, teamster, and operating engineer. It is important to assign the proper classification because the wage rates differ between subgroups.

Table 10-B, “Wage Rates and Total Hourly Rates (Area 1),” is a sample of laborer groups and associated rates.

• **TABLE 10-B: WAGE RATES AND TOTAL HOURLY RATES (AREA 1)**

Classification ^a (Journey person)	Basic Hourly Rate ^b	Hours ^c	Total Hourly Rate	Daily/ Saturday Overtime Hourly Rate ^d	Sunday/ Holiday Overtime Hourly Rate
Construction Specialist	\$33.50	8	\$59.29	\$76.04	\$92.79
Group 1; Group 1(B) ^e	\$32.80	8	\$58.59	\$74.99	\$91.39
Group 1 (A)	\$33.02	8	\$58.81	\$75.32	\$91.83
Group 1 (C)	\$32.85	8	\$58.64	\$75.07	\$91.49
Group 1 (E)	\$33.35	8	\$59.14	\$75.82	\$92.49
Group 1 (G)	\$33.00	8	\$58.79	\$75.29	\$91.79
Group 2	\$32.65	8	\$58.44	\$74.77	\$91.09
Group 3; Group 3 (A)	\$32.55	8	\$58.34	\$74.62	\$90.89
Group 4; Group 6 (B)	\$26.24	8	\$52.03	\$65.15 ^f	\$78.27 ^f
Group 6	\$33.76	8	\$59.55	\$76.43	\$93.31
Group 6 (A)	\$33.26	8	\$59.05	\$75.68	\$92.31
Group 6 (C)	\$32.67	8	\$58.46	\$74.80	\$91.13
Group 6 (D)	\$33.38	8	\$59.17	\$75.86	\$92.55
Group 6 (E)	\$32.40	8	\$58.19	\$74.39	\$90.59
Group 7 – Stage 1 (1 st 6 months)	\$22.79	8	\$48.58	\$59.97	\$71.37
Group 7 – Stage 2 (2 nd 6 months)	\$26.04	8	\$51.83	\$64.85	\$77.87
Group 7 – Stage 3 (3 rd 6 months)	\$29.30	8	\$55.09	\$69.73	\$84.39

10-2-4 Single Worker Performing Under Multiple Classifications

Considering that prevailing wage is based upon the specified prevailing rates for work of a similar character pursuant to Labor Code Sections 1771 and 1774, it is possible that one worker may perform more than one type of work on a project.

The following should be evaluated under this circumstance:

- If different work is performed within the same primary craft, the contractor can pay the higher rate, for example, Laborer Group 3 and Laborer Group 4 work.
- When the crafts are different, the contractor technically cannot pay the higher rate because of apprentice requirements and other issues. In that case, the contractor would need to report them separately as different crafts.

For example, if an employee drives a 3-axle dump truck four hours and works as a laborer for four hours, the wage rates would reflect four hours as a truck driver teamster and four hours as a laborer.

10-3 Wage Rates

The DIR wage determination identifies the following rate categories. These rates are required for all workers who perform prevailing wage work that falls within a specific DIR published classification. All rate types must be applied during the certified payroll review process to assure compliance:

- Basic hourly rate
- Employer payments, fringe benefits
- Daily overtime
- Saturday premium
- Sunday premium
- Holiday rate
- Travel
- Footnotes
- Predetermined increases

Table 10-C, "Wage Rates," lists how wage rates are calculated for classifications.

• **TABLE 10-C: WAGE RATES**

RATE TYPE	RATE CALCULATION
Total hourly rate	Basic hourly rate + fringe benefits
Overtime	(Basic hourly rate x 1.5) + fringe benefits
Saturday premium	(Basic hourly rate x 1.5) + fringe benefits
Sunday premium	(Basic hourly rate x 2) + fringe benefits
Holiday Rate	(Basic hourly rate x 2) + fringe benefits

10-3-1 Basic Hourly Rate Requirements

General prevailing wage determinations include both a basic hourly rate and the total hourly rate for each location and classification. Employers are required by California Labor Code Section 1774 to pay employees the basic hourly rate as the minimum hourly wage for all hours worked.

The total hourly rate includes the basic hourly rate and additional compensation for employer payments, which are typically fringe benefits such as health insurance, vacation, and pension fund contributions. Total compensation paid by the employer to the employee must match the total hourly wage set by the DIR for general determination.

10-3-2 Employer Payments, Fringe Benefits

In addition to the basic hourly rate, the contractor must pay the amounts identified as employer payments on the wage determination either to, or on behalf of, the employee.

Typical fringe benefits that are listed in the prevailing wage rates include:

- Vacation
- Health benefits
- Pension fund contributions
- Training funds

Employer Payment Credits

Under Labor Code Section 1773.1(b), employer payment credit may be given toward the total hourly rate if payments meet the Labor Code requirements.

If the contractor does not make payments to receive credit for fringe benefits, the amount identified must be paid as cash directly to the worker and incorporated into the basic hourly rate to meet the total hourly rate requirement.

For crafts identified as apprenticeable by the DIR, the amount identified in the training column of the wage determination is a mandatory fringe benefit payment pursuant to [Labor Code 1777.5\(m\)\(1\)](#). A contractor must pay the amount to either California Apprenticeship Council or a state approved apprenticeship program. The contractor cannot meet this obligation by paying the amount directly to the worker. Figure 10-D, "Employer Payments," lists requirements.

- **FIGURE 10-D: EMPLOYER PAYMENTS**

Employer Payment Requirements

Contributions made by employer to a third-party plan, fund, or program, such as medical or pension:

- Must be irrevocable in writing
- Cannot decrease the basic hourly rate or total rate
- Must be qualified as a fringe benefit: vacation, pension, medical insurance

Does not include:

- Worker's compensation
- Mandated costs
- Benefits required by law

For actual costs reasonably anticipated to benefit worker, such as vacation, paid time off, or holiday credit:

- Must be pursuant to an enforceable commitment
- Must be carried out under financially responsible plan or program
- Must be communicated in writing to the worker

Form CEM-2501, "Fringe Benefit Statement," must provide the following:

- Sufficient information to satisfy questions regarding the adequacy of payments to any third-party administrator, such as a union trust fund or other deductions.
- Indication to whom the fringe benefits were paid for each classification, such as a trust fund or as a cash payment made directly to the employee.
- Signature on the form submitted with the first submitted payroll and each time a change is made in any fringe benefit schedule. Employers may use any

method to indicate payment of fringe benefits as long as the amount of each payment can be verified from an examination of the payroll form, fringe benefit statement, or other source documents.

10-3-3 Travel

Travel pay is considered per diem pay under Labor Code Section 1773.1 and covers both travel and subsistence payments for certain types of work. Amounts for travel and subsistence have typically been a fixed amount paid to the workers pursuant to the terms of a collective bargaining agreement that was adopted by the DIR for a specific location.

These amounts are not specifically identified in the published wage determinations and appear only in the determination footnotes under the heading “Travel and/or subsistence payment,” as shown in Figure 10-E, “Travel and Subsistence Pay.”

• **FIGURE 10-E: TRAVEL AND SUBSISTENCE PAY**

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 [Director's General Prevailing Wage Determinations Website](http://www.dir.ca.gov/OPRL/DPreWageDetermination.htm) (<http://www.dir.ca.gov/OPRL/DPreWageDetermination.htm>). Travel and/or subsistence requirements for current or superseded determinations may be obtained by contacting the Office of the Director – Research Unit at (415) 703-4774.

The location of the project usually determines if subsistence is required. If the project is in a location designated as a subsistence area, contractors are required to pay their employees subsistence. The subsistence payment must be shown on the certified payroll.

The travel and subsistence requirements are found on the [DIR website](#) as part of the prevailing wage determination under the drop-down box for Travel Provisions, as shown in Figure 10-F, “Travel and Subsistence Example.”

• **FIGURE 10-F: TRAVEL AND SUBSISTENCE EXAMPLE**

Determination	Holidays, scope of work, travel & subsistence	Predetermined increase
Asbestos Worker, Heat and Frost Insulator (h)	Travel ▾	Increase

- When Travel is selected from the dropdown menu, the collective bargaining agreement displays all the subsistence information.
- When the project covers two or more subsistence areas or crafts, the contractor may choose to pay the higher rate for both areas and crafts.

- Subsistence payments for some crafts are based on the employee's residence and location of the project. The labor compliance representative should check each collective bargaining agreement.
- Subsistence may be paid as a lump sum daily payment or as an increased hourly wage rate, depending on the craft, classification, and group for each employee as listed in the collective bargaining agreement.

Figure 10-G, "Travel Differences," lists the differences between regular and compensable travel.

- **FIGURE 10-G: TRAVEL DIFFERENCES**

Regular Travel vs Compensable Travel

- It is important to note that "compensable travel time" is different from travel, or subsistence payments, or both. Compensable travel time is included in the calculation of hours worked, whereas travel or subsistence pay are separate contractor obligations, if the conditions are part of the collective bargaining agreement and adopted by the DIR to apply to the project.
- Compensable travel time is distinguished as follows:
 - Considered part of the employee workday
 - Puts the employee under the direction of the employer during travel time
 - Subjects travel hours to prevailing wages and overtime if the employee is "on the clock"
 - Begins at the location where the employee is first required to report

10-3-4 Overtime

The [California Labor Code Sections 1810 - 1815](#) and the state Constitution require overtime to be paid for all hours worked more than 8 per day, or 40 hours per week. The overtime rate is one and one-half times the hourly rate of pay excluding the fringe benefits. Failure to pay the required overtime rates subjects

the contractor to penalties under Labor Code Section 1813. Federal overtime penalties apply for overtime violations only in excess of 40 hours in a week.

The following key points summarize overtime requirements for public works projects:

- Workers must be paid the overtime prevailing wage rate for every hour worked past 8 hours in a single workday.
- Workers must be paid the overtime prevailing wage rate for every hour worked past 40 hours in a single workweek.
- Sunday rate of pay may be required based on specific classification. The information may be found on the wage determination footnotes, if it applies.

10-3-5 Saturday, Sunday, Holiday

In addition to standard overtime, workers being paid a prevailing wage must be paid applicable Saturday or Sunday rates of pay as identified on the wage determination and on recognized legal holidays, no matter how many hours they worked during the week. Since overtime and double time rates for weekend and holiday work are not always calculated at 1.5 times or double the regular prevailing wage rate, it is important to check the DIR prevailing wage determination for Saturday, Sunday, and holiday work to verify the rates by classification.

The premium rates for holiday pay are found on the [DIR website](#) as part of the prevailing wage determination. Figure 10-H, “Holiday Pay Example,” is a screen shot from the DIR website.

• FIGURE 10-H: HOLIDAY PAY EXAMPLE

Determination	Holidays, scope of work, travel & subsistence	Predetermined increase
Asbestos Worker, Heat and Frost Insulator (h)	Holidays ▾	Increase

Select Holidays on the dropdown menu.

The page from the collective bargaining agreement is displayed and provides the holiday information for the selected classification.

Holiday rates of pay only applies to the classification’s recognized holidays. For example, California government employees have Cesar Chavez Day as a holiday, but work performed on Cesar Chavez Day is not a recognized holiday for

laborer classification; therefore, holiday rate of pay would not be required for laborers performing work on Cesar Chavez Day.

10-3-6 Overtime Rate Exceptions

While the general rule requires payment of overtime pursuant to the applicable wage determination, there are four limited exceptions under 8 CCR 16200(a)(3)(F).

Exception 1:

If a workweek other than Monday through Friday is a fixed business practice or is required by the awarding body, no overtime payment is required for the first eight hours on Saturday or Sunday. The fixed business practice portion of this exemption is construed narrowly. It will not be permitted in circumstances where the contractor cannot establish that such a practice exists on all its projects, including public and private projects.

Exception 2:

If the collective bargaining agreement provides for Saturday and Sunday work at straight-time, no overtime payment is required for the first 8 hours on Saturday or Sunday.

Exception 3:

If the awarding body determines that work cannot be performed during normal business hours, or work is necessary at off hours to avoid danger to life or property, no overtime is required for the first 8 hours in any one calendar day, and 40 hours during any one calendar week.

Exception 4:

No overtime payment is required for less than 40 hours in a standard work week, or for less than 8 hours in a calendar workday, unless specified in the collective bargaining agreement used as the basis for the prevailing wage determination.

10-3-6A Saturday and Sunday Rate Exceptions

The following special provisions may serve as exceptions for Saturday and Sunday overtime requirements:

- When there are constraints in the contract, such as lane charts with shift and weekend restrictions that require a contractor to work other than Monday through Friday, it is permissible to work Sunday night through Thursday night and pay the straight time rate on Sunday night. The contractor must submit a request for this exception in writing to the resident engineer.

- Some classifications have overtime exceptions and may be paid straight time on Saturday if a job work stoppage is because of inclement weather that occurred during that week.

However, if employees work more than 8 hours a day or 40 hours a week, employers must pay overtime.

Further clarification of exceptions to Saturday and Sunday overtime rates are found in [CCR 16200](#).

10-4 Pre-Determined Increases

10-4-1 Predetermined Increases, Double Asterisk

When issued, many individual craft or classification determinations include pre-negotiated or pre-determined future increases for a specified time period. Pre-determined increases are known and specified in the applicable collective bargaining agreement at the time of the bid advertisement date and are referenced in the general prevailing rate of per diem wages. They may increase the basic hourly wage rate, overtime, holiday pay rates or employer payments.

Each prevailing wage determination includes an expiration date. This is defined as the date upon which the determination is subject to change in accordance with 8 CCR 16000. If there are predetermined increases, the expiration date will be followed by a double asterisk, as shown in Figure 10-I: “Expiration Date of Determination.”

- **FIGURE 10-I: EXPIRATION DATE OF DETERMINATION**

Craft: LABORER AND RELATED CLASSIFICATIONS#	
Determination:	NC-23-102-1-2020-2
Issue Date:	August 22, 2020
Expiration date of determination:	June 27, 2021** 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 Office of the Director - Research Unit for specific rates at (415) 703-4774.

The new prevailing wage rate goes into effect on the day following the expiration date listed in the determination. Figure 10-J, “Holiday Pay Example,” shows how to find the pay.

- **FIGURE 10-J: HOLIDAY PAY EXAMPLE**

Determination	Holidays, scope of work, travel & subsistence	Predetermined increase
Asbestos Worker, Heat and Frost Insulator (h)	Select One ▾	Increase

The predetermined increase amounts are available on the DIR Office of Policy, Research, and Legislation webpage, and specify the date upon which the increases must be paid to workers, as shown in Figure 10-K, “Predetermined Increase.”

- **FIGURE 10-K: PREDETERMINED INCREASE**

PREDETERMINED INCREASE

CRAFT:
Asbestos Worker, Heat & Frost Insulator Mechanic

DETERMINATION:
NC-3-16-1-2020-2

LOCALITIES:
All 46 Northern California Counties and Mono County

This predetermined increase for the above named craft applies only to the current determination for work being performed on public works projects with bid advertisement dates on or after September 1, 2020, until this determination is superseded by a new determination or a predetermined increase modification notice becomes effective.

When referencing our prevailing wage determinations, please note that if the prevailing wage rate determination which was in effect on the bid advertisement date of a project has a single asterisk (*) after the expiration date, the rate will be good for the life of the project. However, if a prevailing wage rate determination has double asterisks (**) after the expiration date, the rate must be updated on the following date to reflect the predetermined rate change(s).

ASBESTOS WORKER, HEAT & FROST INSULATOR: MECHANIC
Determination NC-3-16-1-2020-2 is currently in effect and expires on July 31, 2021**.

ZONE 1: Alameda, Contra Costa, Marin, Napa, San Benito, San Francisco, San Mateo, Santa Clara, Solano, and Sonoma Counties.

Effective August 1, 2021, there will be an increase of \$3.25 to be allocated as follows: \$3.25 to the Basic Hourly Rate.

10-4-2 Expiration Date, Single Asterisk

If there are no predetermined changes, the expiration date on each prevailing wage determination will be followed by a single asterisk, as shown in Figure 10-L, “Expiration Date.” The single asterisk indicates that the rates listed on that wage determination apply for the duration of the project.

- **FIGURE 10-L: EXPIRATION DATE**

Craft: Building/Construction Inspector and Field Soils and Material Tester [#]	
Determination:	NC-63-3-9-2020-2
Issue Date:	August 22, 2020
Expiration date of determination:	June 30, 2021* Effective until superseded by a new determination issued by the Director of Industrial Relations. Contact the Office of the Director – Research Unit at (415) 703-4774 for the new rates after ten days after the expiration date if no subsequent determination is issued.

10-5 Footnotes

It is important to pay attention to footnotes listed on the general prevailing wage determination, as shown in Figure 10-M, “Footnotes.” The footnote typically indicates an additional rate that needs to be applied to the base rate or fringe benefits or both.

- **FIGURE 10-M: FOOTNOTES**

WAGE RATES AND TOTAL HOURLY RATES (AREA 1):

Classification ^a (Journey person)	Basic Hourly Rate ^b	Hours ^c	Total Hourly Rate	Daily/ Saturday Overtime Hourly Rate ^d	Sunday/ Holiday Overtime Hourly Rate
Construction Specialist	\$33.50	8	\$59.29	\$76.04	\$92.79

Indicates an apprenticeable craft. The current apprentice wage rates are available on the [Prevailing Wage Apprentice Determinations Website](http://www.dir.ca.gov/OPRL/PWAppWage/PWAppWageStart.asp) (<http://www.dir.ca.gov/OPRL/PWAppWage/PWAppWageStart.asp>).

- ^a GROUP 1(D) - MAINTENANCE OR REPAIR TRACKMEN AND ROAD BEDS AND ALL EMPLOYEES PERFORMING WORK COVERED BY THIS CLASSIFICATION SHALL RECEIVE \$0.25 PER HOUR ABOVE THEIR REGULAR RATE FOR ALL WORK PERFORMED ON UNDERGROUND STRUCTURES NOT SPECIFICALLY COVERED HEREIN. THIS SHALL NOT APPLY TO WORK BELOW GROUND LEVEL IN OPEN CUT. THIS SHALL APPLY TO CUT AND COVER WORK OF SUBWAY CONSTRUCTION AFTER TEMPORARY COVER HAS BEEN PLACED.
- GROUP 1(H) - ALL LABORERS WORKING OFF OR WITH OR FROM BOS'N CHAIRS, SWINGING SCAFFOLDS, BELTS RECEIVE \$0.50 PER HOUR ABOVE THEIR APPLICABLE WAGE RATE. THIS SHALL NOT APPLY TO LABORERS ENTITLED TO RECEIVE THE WAGE RATE SET FORTH IN GROUP 1(A).
- ^b ZONE PAY AT THREE DOLLARS (\$3.00) PER HOUR, FACTORED AT THE APPLICABLE OVERTIME MULTIPLE, WILL BE ADDED TO THE BASE RATE FOR WORK PERFORMED OUTSIDE THE FREE ZONE DESCRIBED BY THE BOUNDARIES ALONG TOWNSHIP AND RANGE LINES. PLEASE SEE TRAVEL AND SUBSISTENCE PROVISION FOR MAP DESCRIPTION AND EXCEPTIONS.
- ^c WHEN THREE SHIFTS ARE EMPLOYED FOR FIVE (5) OR MORE CONSECUTIVE DAYS, SEVEN AND ONE-HALF (7 ½) CONSECUTIVE HOURS (EXCLUSIVE OF MEAL PERIOD), SHALL CONSTITUTE A DAY OF WORK, FOR WHICH EIGHT (8) TIMES THE STRAIGHT TIME HOURLY RATE SHALL BE PAID AT THE NON-SHIFT WAGE RATE FOR THE SECOND SHIFT. THE THIRD SHIFT SHALL BE SEVEN (7) HOURS OF WORK FOR EIGHT (8) HOURS PAY AT THE NON-SHIFT WAGE RATE.
- ^d SATURDAYS IN THE SAME WORK WEEK MAY BE WORKED AT STRAIGHT-TIME IF 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.
- ^e GROUP 1(B) RECEIVES AN ADDITIONAL AMOUNT EACH DAY. SEE PAGE 6 FOR DETAILS
- ^f SERVICE LANDSCAPE LABORER ON NEW CONSTRUCTION MAY WORK ANY FIVE (5) DAYS WITHIN A WEEK.

10-6 Exemptions

There are a few exceptions to California's prevailing wage laws. Exemptions may be found in Labor Code 1720.4. The following are some of the most common exceptions:

- **Volunteers** - Workers who perform work for civic, humanitarian, or charitable reasons and who do not expect compensation in return. Volunteer work must be for a public agency or corporation that is qualified as a tax-exempt organization by the Internal Revenue Service.

- **Charter Cities** - Cities in which the governing system is defined by their own charter document and not by general law. California's prevailing wage laws do not apply to work performed in charter cities.
- **Federal Projects** – Contracts funded by federal money do not fall under California's prevailing wage laws that govern state projects. California's prevailing wage laws generally do not apply to federal projects if there is no state, county or city funding. However, Caltrans must still require state prevailing wage requirements on all its contracts, regardless of whether there is state funding. Obtain a copy of the federal laws that govern wages paid to employees working on federal projects.

CHAPTER 11: APPRENTICE REQUIREMENTS

11-1 Introduction

California apprentice requirements are administered by the California Department of Industrial Relations, Division of Labor Standards Enforcement (DLSE) that has joint responsibility with the Division of Apprenticeship Standards (DAS) to enforce the provisions of [Section 1777.5](#) of the California Labor Code. Contractors who knowingly violate any of the apprentice requirements are subject to monetary penalties under Labor Code Section 1777.7, and they risk being denied the right to bid on or be awarded a contract for public works, or perform work as a subcontractor on a public works project for as long as three years.

Labor Code Section 1777.5 requires that contractors working on public works projects comply with the following apprentice requirements:

- Employ apprentices for all apprenticeable crafts on project contracts valued at \$30,000 or more, regardless of the subcontract value. The limited exemptions to this requirement are identified in Section 11-2, “Exemptions,” of this manual.
- Provide proof of apprentice registration in an approved apprenticeship program for the classification in which they are working.
- Pay training fund contribution as a fringe benefit the amount identified in wage determination to an approved training program or to the California Apprenticeship Council (CAC).
- Comply with minimum ratio requirement of 1 apprentice hour for every 5 journeyman hours on apprenticeable crafts.
- Submit Form DAS-140, “Notification of Contract Award,” to the applicable apprenticeship program before starting work and Form DAS-142, “Request for Dispatch of an Apprentice.”
- For federally funded contracts, apprentices must be appropriately registered in a federally approved apprentice program in addition to a state-approved apprentice program.

11-2 Exemptions

The following are examples in which a contractor on a public works project is considered exempt from the apprentice requirements under Labor Code Section 1777.5:

- If the general contractor's contract is less than \$30,000.
 - This amount represents the aggregate value of the entire contract and does not apply to subcontractors whose contract with the prime is less than \$30,000.
 - Contractor must still pay the training fund fee and submit proof of the monthly payments.
- A particular craft or trade is not apprenticeable. Refer to Section 11-4, "Apprenticeable Craft or Trade," of this manual for information on how to identify if a trade or craft is apprenticeable.
- When a contractor holds a sole proprietor license and personally performs all the work from start to finish, unassisted.
 - Contractor must still pay the training fund fee and submit proof of the monthly payments.
- When the project has a private funding source and does not fall within the definition of a public works project under Labor Code Section 1720.

11-3 Caltrans Apprentice Responsibilities

Take the following steps if apprentices are employed on a project:

- Verify that apprentices are registered by collecting required state, and federal apprentice certificates for all apprentices in apprenticeable crafts.
- Verify that training fund contributions are paid to an approved apprenticeship program or the CAC.
- Monitor and enforce maximum journeyman-to-apprentice ratio requirements
 - If contractor or subcontractor payrolls indicate the apprentice to journeyman ratio is beyond maximum allowable requirements of Labor Code 1777.5, request a copy of the Apprentice Program Standards and review the maximum ratio requirement, to determine if there has been a violation.
 - Under Labor Code Section 1777.5(h), violations are measured by determining the total hours worked by the apprentices and journeyman at the end of the contract, not on a daily basis.
 - For additional information, see Section 3.3.2.3, "Maximum Ratio Violations," of the *DIR Public Works Manual*.

- Monitor and enforce journeyperson-on-duty requirements
 - If the contractor employs apprentices under the regulations of CAC, verify that a journeyperson in the same classification is present on the worksite when an apprentice is employed.
 - This is a mandatory daily obligation that applies when a worker is paid as an apprentice, not a ratio requirement in which compliance is determined at the end of the contract.
 - For additional information, see Section 3.3.2.4, “Journeyman on Duty Violations,” of the *DIR Public Works Manual*.

In the event of a violation of the apprentice requirements, follow the “withhold payment” in accordance with contract provisions and follow the “notification procedures” as described in [Chapter 17](#) of this manual

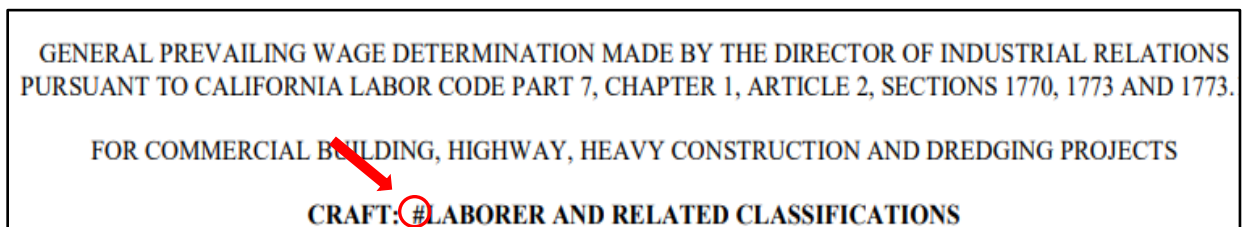
- Confirm that restitution payments are made for apprentice underpayments, as applicable
 - If a contractor or subcontractor does not pay required restitution, complete a wage case and submit to the headquarters Labor Compliance unit.

11-4 Apprenticeable Craft or Trade

Apprenticeable crafts are those determined as an apprenticeable occupation in accordance with rules and regulations of the California Apprenticeship Council

Apprenticeable crafts are identified by a hashtag symbol, or pound sign, preceding the craft or trade name on the California DIR wage determination, as illustrated in Figure 11-A: “Example 1.”

- Single hashtag symbol or pound sign: An apprenticeable craft that requires that training contributions be paid to an approved training program.
- **FIGURE 11-A: EXAMPLE 1**



- No hashtag symbol, pound sign, or a double pound sign: Not an apprenticeable craft or trade. Training contributions can be paid to the employee or an approved training program, as shown in Figure 11-B, “Example 2.”
- **FIGURE 11-B: EXAMPLE 2**

Non-Apprenticeable Craft

NO # SYMBOL

GENERAL PREVAILING WAGE DETERMINATION MADE BY THE DIRECTOR OF INDUSTRIAL RELATIONS PURSUANT TO CALIFORNIA LABOR CODE PART 7, CHAPTER 1, ARTICLE 2, SECTION 1777.5(c)(1) FOR COMMERCIAL BUILDING, HIGHWAY, HEAVY CONSTRUCTION AND DREINAGE WORK.

CRAFT: TEAMSTER (APPLIES ONLY TO WORK ON THE CONSTRUCTION OF COMMERCIAL BUILDING, HIGHWAY, HEAVY CONSTRUCTION AND DRAINAGE WORK)

EXPIRATION DATE: August 22, 2015

REVISION DATE OF DETERMINATION: June 30, 2016* Effective until superseded by a new determination of the Director of Industrial Relations. Contact the Office of the Director – Research Unit at (415) 703-4774 after the expiration date if no subsequent determination is issued.

Also can be found in the footnotes of a determination

TWO ## SYMBOLS & BLANK TRAINING FUND AMOUNT

CALIFORNIA LABOR CODE PART 7, CHAPTER 1, ARTICLE 2, SECTIONS 1777.5(c)(1) & 1777.5(c)(2)

CRAFT: ## LANDSCAPE MAINTENANCE LABORER

ROUTINE LANDSCAPE MAINTENANCE WORK NOT NEW LANDSCAPE

EXPIRATION: September 30, 2014* Effective until superseded by a new determination of the Director – Research Unit (415) 703-4774 for the new rates after 10 days

Basic Hourly Rate	Employer Payments				
	Health and Welfare	Pension	Vacation	Holiday	Training
9.00	0.43	-	* 0.14	0.24	-
9.00	-	-	0.12	0.14	-
9.00	-	-	0.14	0.16	-
9.00	-	-	0.16	0.06	-
9.00	0.16	-	* 0.13	0.05	-
9.00	-	-	0.10	0.12	-
9.00	-	-	0.12	0.14	-
9.00	-	-	0.14	0.16	-
10.00	-	-	-	0.12	-
9.00	-	-	0.25	0.07	-
9.00	-	-	0.11	-	-
9.00	-	-	* 0.19	0.19	-
9.00	-	-	* 0.25	0.25	-
9.00	-	-	* 0.13	0.03	-
9.00	-	-	* 0.14	0.03	-
9.00	-	-	0.31	0.09	-

11-5 Journeyman-on-Duty Requirement

Labor Code Section 1777.5(c)(2) allows a contractor to elect to have its apprentices employed and trained in accordance with the rules and regulations of the CAC to satisfy its statutory obligation to employ apprentices. Alternatively, Labor Code Section 1777.5(c)(1) allows the contractor to have its apprentices employed and trained in accordance with the standards of a DAS-approved apprenticeship committee. If the contractor elects to follow the CAC rules, pursuant to CCR 230.1, the apprentices “must at all times work with or under the direct supervision of journeyman/men.”

This is an obligation that is in effect whenever a worker paid as an apprentice is working on the public works project. Thus, apprentices, who are not at all times working with or under a journeyman for the classification of work in which the apprentice is being trained, must be paid not less than the journeyman rate.

11-6 Apprentice Registration Requirements

Apprentices are permitted to work only if they are registered, individually, under a bona fide apprenticeship program that is registered and approved by the state Division of Apprenticeship Standards. Pre-apprentice trainees, or trainees in non-apprenticeable crafts, or others who are not appropriately registered will not be

allowed to work on public works projects unless they are paid the full prevailing wage rate of a journey person.

For federally funded projects, the apprentices must be registered under a bona fide federally approved program. A separate federal apprentice registration must be received. If the apprentice is not registered in a federally approved program, the apprentice, while recognized by the state, is not recognized under federal regulations and must be paid at the federal journey person rate as shown in the Davis-Bacon wage determination.

11-6-1 Verify Apprentice Registrations

State apprentice certifications can be verified on the [DAS website](#). Figure 11-C, “DAS Website Search,” shows an example.

- **FIGURE 11-C: DAS WEBSITE SEARCH**

The screenshot shows the website for the California Department of Industrial Relations. The header includes the CA.GOV logo, a home icon, and links for Press room, Careers at DIR, Índice en español, and Settings. The main navigation bar features the department's logo and name, along with search and menu icons. The breadcrumb trail indicates the path: Apprenticeship Standards > Apprenticeship Status and Safety Training Certification. The main heading is "Apprenticeship Status and Safety Training Certification" in a large, bold, orange font. Below this, the sub-heading reads "Apprenticeship status certification for public works". A search form is present with the prompt "Enter search string (LLLLLF9999) here" followed by a text input field and a "Search" button. Below the form, instructions explain how to compile the search string: "The search string is a total of **nine letters and numbers** (no characters ' , - , etc): the **first four letters of the last name** (use spaces to make four letters if the last name is shorter than four letters), the **first letter of the first name and the last four digits of the social security number (LLLLLF9999)**. Letters can be entered". Examples are provided: "Uncle Sam ssn 123-45-6789 would be entered as **Sam U6789**" and "Goddess Minerva ssn 123-45-5555 would be entered as **MineG5555**".

Step 1: Search for apprentice status by using the first four letters of the worker’s last name and the last 4 digits of their Social Security number.

Step 2: If the worker is certified as an apprentice, a record will exist for that person. Click **Add to List** to add the record to the list to view the worker’s apprenticeship certification as shown in Figure 11-D, “DAS Website Search Results.”

- **FIGURE 11-D: DAS WEBSITE SEARCH RESULTS**

The screenshot shows a web interface titled "Apprenticeship Status and Safety Training Certification". Below the title, it says "Apprenticeship status certification for public works" and "Search results". A message states: "One record was found that matched your request. If this is the person you requested, add to list. If not, go back to list." Below this message is a table with one row containing a checked checkbox, the name "John Smith", and the ID "SMITJ1234". At the bottom of the table is an "Add to list" button, and below the table is a "Back to list" button.

Apprenticeship status certification for public works		
Search results		
One record was found that matched your request. If this is the person you requested, add to list. If not, go back to list.		
<input checked="" type="checkbox"/>	<input type="text" value="John Smith"/>	<input type="text" value="SMITJ1234"/>
<input type="button" value="Add to list"/>		
<input type="button" value="Back to list"/>		

Step 3: Once the worker is added to the list, you can click a link to view the certification, as shown in Figure 11-E, “Apprentice Certification Display.” The apprentice certification will be displayed and can be printed.

- **FIGURE 11-E: APPRENTICE CERTIFICATION DISPLAY**

The Division of Apprenticeship Standards apprentice certification

STATE OF CALIFORNIA
Gavin Newsom, *Governor*

DEPARTMENT OF INDUSTRIAL RELATIONS
DIVISION OF APPRENTICESHIP STANDARDS
 P.O. Box 420603
 San Francisco, CA 94142-0603



To whom it may concern:

The Division of Apprenticeship Standards hereby certifies that, according to transactions recorded as of November 26, 2021, the below named individual is registered with the State of California as an apprentice in the occupation during the period between the start date and the end date or completion (comp) date listed below. If there is no end date for an occupation, the Apprentice is currently registered in that occupation. Occupations marked with an asterisk (*) are certified as apprenticeable occupations for Public Works projects. For individuals who have completed an approved 20 hour safety training, the course and the date completed are listed below.

Name	Occupation	Action	Effective Date	Cert. id
John Smith	*Equipment Operator	Start	05-30-2020	SmitJ1234

Federal apprentice certificates must be provided by the contractor during the first payroll for which the apprentice appears on a federally funded project. There is no online database to search and locate the certificate.

Federal certificates expire and must be reissued every 90 days. Contractors should submit certificates as long as the apprentice is employed on the public works project.

11-7 Forms DAS-140 and DAS-142

[CCR 230](#) and [Section 1777.5](#) of the California Labor Code require general contractors and subcontractors to apply for and employ apprentices. Contractor responsibilities for using these forms are detailed in the following sections.

11-7-1 Form DAS-140: Submit Contract Award Information

Approved Contractors:

Contractors that are already approved to train apprentices and are members of a DAS recognized apprenticeship committee, must provide contract award information to the apprenticeship committee for each applicable apprenticeable craft or trade in the area of the site of the public works project.

- Public works project information must be submitted in writing and within 10 days of the date of the contract award but in no event later than the first day the contractor has workers employed on the public works project.

- Form DAS-140 may be used for this purpose. Form DAS-140 is a notification of award and is not automatically a request for dispatch of a registered apprentice.

Non-Approved Contractors:

If not already approved to train by an apprenticeship committee, the contractor must submit the contract award information using Form [DAS-140](#) to every apprenticeship program in the geographic area of the public works project, for each craft to be employed on the project.

The contract award information must be in writing and submitted to the applicable committee within 10 days of the date of the contract award but in no event later than the first day the contractor has workers employed on the public works project. This is simply a notification of award; it is not automatically a request for dispatch of a registered apprentice.

Information on applicable apprenticeship programs in approved geographic locations is available on the [DIR website](#).

11-7-2 Form DAS-142: Employ Registered Apprentices

A contractor on a public works project must employ 1 hour of apprentice work for every 5 hours performed by a journeyman. Exemptions may exist for a particular craft or trade. To determine if any exemptions exist, check the [DAS Important Notices](#).

Contractors who do not already employ enough apprentices to meet the ratio requirements must:

- Use Form DAS-142 to request dispatch of an apprentice from an apprenticeship program for each apprenticeable craft or trade in writing and sent by first class mail, fax or email.
- The request must be submitted to the apprenticeship programs at least 72 hours before the date on which apprentices are required, excluding Saturdays, Sundays, and holidays.

Contractors that do not receive a sufficient number of apprentices from their initial request must request dispatch apprentices from all other apprenticeship committees, if more than one exists in the area of the public works project.

11-8 Training Fund

Contractors must contribute to the training fund in California in the amount identified in the prevailing wage rate publication for journeymen and apprentices. The training fund was established to assure that new apprentices

will be guaranteed the highest level of training, and to assure replacements for retiring skilled workers.

Contractors that contribute to an apprenticeship program are entitled to a full credit in the amount of those contributions. Contractors that do not contribute to an apprenticeship program must submit their contributions to:

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

Training fund contributions to the California Apprenticeship Council are due and payable on the 15th day of the month for work performed during the preceding month. The contribution should be paid by check and be accompanied by a completed Form CAC-2, "[Training Fund Contribution Form](#)."

11-8-1 Confirm Training Fund Contributions

Payment status by contractors and subcontractors can be verified at the [CAC - Public Works Training Fund Search](#) site, as shown in Figure 11-F, “Training Fund Search.”

- **FIGURE 11-F: TRAINING FUND SEARCH**

The screenshot shows the website for the California Department of Industrial Relations. The header includes the CA.GOV logo and a home icon. The main navigation bar features the California Department of Industrial Relations logo and a menu with options: Labor Law, Cal/OSHA - Safety & Health, Workers' Comp, and Self Insurance. Below the navigation, there are links for Apprenticeship Standards and CAC - Public works Training Fund Search. The main heading is "CAC - Public works Training Fund Search" in a large, bold, orange font. Below this, the text reads "Training Fund Search" and explains that the search function allows awarding agencies, labor and contract compliance organizations, contractors, and other interested parties to view and print a specific contractor's Training Fund contribution paid to the California Apprenticeship Council for the previous 48 months. It also states that the payment of the training funds is regulated by California Labor Code 1777.5(m)(1). A prompt asks the user to enter the contractor's license number to begin search. A link is provided for those who do not know the license number: www.cslb.ca.gov. Another link is provided for employers without a contractor's license: [For employers without a Contractor's license you may look up the id number that was assigned](#). At the bottom, there is a text input field and a "Submit" button.

11-9 Ratio Requirements

The ratio of work performed by apprentices to journeypersons employed in a particular craft or trade on public works projects cannot be greater than the ratio stated in the apprenticeship standards. The minimum ratio requirement is for each individual craft and only includes straight time hours.

The ratios designated in the agreements relate to hours between journeypersons and apprentices. These hours are for the total public works project and are not calculated on a daily basis. These hours can be attained at any time during the project. An apprentice must work 1 hour for every 5 straight time journeyperson hours for each separate craft worked on the contract.

For example:

- If there is a total of 100 journeyman hours at the end of a project, you would need 20 apprentice hours in that same craft.

Note: Only straight time hours count. Be careful and check that the contractor did not confuse premium pay with overtime pay.

Exemptions may exist for a particular craft or trade. To determine if any exist, check the [DAS Important Notices](#). When the ratio of apprentices to journeymen is in question, request a copy of the Apprentice Program Standards for the apprenticeship program the registered apprentice is employed under to determine if there is a ratio violation.

Notify the Division of Apprenticeship Standards of the apparent minimum-ratio violation, in writing.

For maximum-ratio violations, determine the excess hours worked to be paid at the journeyman wage rate, thereby assuring compliance with the maximum ratio.

CHAPTER 12: FEDERAL TRAINEE REQUIREMENTS

12-1 Introduction

Caltrans has established a federal On-the-Job Training (OJT) program in accordance with regulation 23 CFR Part 230, Subpart A, "Equal Employment Opportunity on Federal and Federal-aid Construction Contracts." Certain federal-aid highway construction contracts and subcontracts require that the federal trainee or OJT special provisions be included in the contract.

The federal OJT program provides opportunities for women, minorities, and disadvantaged individuals to enter into journey-level positions and to help bolster a competent workforce to meet the needs of construction hiring, and to include historically underrepresented groups in highway construction projects.

Primary Objectives for Training Programs:

- Provide training in public works jobs in construction for women and minorities, to provide them with new job skills, thereby increasing their access to higher paying trade jobs and journey-person-level positions.
- Encourage building a diverse workforce to meet future labor needs in the construction industry.

12-1-1 On-the-Job Training Program Components

Contracts must show the number of trainees, the number of trainees upgraded to journey-person, and the level of skills.

The local agency must review the training programs proposed by contractors. Approval or rejection is based on the legitimacy of the job-skill classifications proposed and the number of training hours specified.

Caltrans must determine if statewide OJT is effective. The contractor is responsible for recruitment and selection of trainees.

Required trainees or apprentices are to be funded on the bidding schedule or by change order at \$0.80 an hour, or the training program can be a bid item with the same reimbursement ratio as the construction project. OJT support services include recruiting, counseling, remedial training, and an OJT program administered by others.

If the contractor does not show a good faith effort to provide acceptable training to the trainees specified, a sanction may be applied. Sanctions may include withholding progress payments if effective on-the-job training is not provided.

12-2 Roles and Responsibilities

Figure 12-A, “On-the-Job Training Roles and Responsibilities,” lists the requirements of each party of a contract.

• **FIGURE 12-A: ON-THE-JOB TRAINING ROLES AND RESPONSIBILITIES**

RESPONSIBILITY ASSIGNMENT	DUTIES
Caltrans	<ul style="list-style-type: none"> • Confirm apprentice or trainee registration • Provide Form FHWA-1391, “Federal-Aid Highway Construction Contractors Annual EEO Report,” to contractors for completion • Program data collection • Manage program reporting • Approve OJT activities
Contractor	<ul style="list-style-type: none"> • Assign the trainee to a skilled craftworker, foreperson, or supervisor • Track apprentices in daily reports • Verify that apprentice classifications are correctly identified on certified payroll reports • Obtain and file written verification that apprentices are registered in an appropriate program • Monitor that the journeyperson-to-apprentice ratios, generally 5 to 1, are met • Provide a program orientation to the OJT trainee. The orientation must include, at a minimum, a review of individual responsibilities during the training program.
Apprentice-Trainee	<ul style="list-style-type: none"> • Begin training as soon as feasible • Remain on the project if training opportunities exist • Be registered in an approved federal program • Provided proof of registration before requesting payment for apprentice hours

12-3 Federal Trainee Registration

A trainee under the federal definition is an apprentice employed by a contractor who is registered in a formal training program governed by an apprenticeship committee. Apprentices and trainees are allowed to work for less than the prevailing wage rate under Form FHWA-1273 if they are registered in a bona fide apprenticeship program.

Additionally, the journeyman-to-apprentice ratios must be met. The ratio of journeyman to apprentices is generally 5 to 1, as specified for each trade. If the proper ratios are not met in the field, the worker must be paid as a journeyman and not as an apprentice.

Apprentices lacking evidence of registration, and apprentices in excess of allowable ratios must be paid the federal journeyman prevailing wage rate. If the contractor pays a worker apprentice wages, without having submitted proof of registration, payment should be withheld unless the contractor provides a correction to the payroll or proof of registration.

The Department of Labor (DOL) does not publish federal apprentice rates. When an apprentice is properly registered in a federally recognized apprentice program, the contractor may pay the applicable state apprentice rate as published by Department of Industrial Relations (DIR).

Before starting work, the contractor must submit a training plan to the resident engineer for approval. The specifications that require the contractor to have a training plan or OJT program are in The Required Federal-Aid Contract Language [FHWA-1273](#) in the special provisions. The plan must include the following information:

- Number of apprentices for each classification
- Apprentice program to be used
- Starting date for each classification

12-4 Federal Trainee Schedule

Federal trainees are considered **registered** apprentices. For federally funded projects with at least 100 working days, trainee funds are required for each of the following work categories:

- Earthwork, except imported borrow
- Pile driving
- Portland cement concrete, except precast concrete

- Masonry
- Bar reinforcing and prestressing steel
- Structural steel erection
- Electrical
- Buildings

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

The number of federal trainees required for the contract is the sum of estimated cost of work for each work categories. Once that number is determined, Table 12-B, “Federal Trainees Required,” is used to determine the number of trainees in that category.

• **TABLE 12-B: FEDERAL TRAINEES REQUIRED**

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

When a contractor fails to meet the federal training requirements, the contractors must show a good faith effort by documenting recruitment efforts to obtain trainees. Otherwise, sanctions, such as withholding progress payments, may be

applied. Figure 12-C, “Federal Training Schedule,” is an example of documentation required from contractors.

• **FIGURE 12-C: FEDERAL TRAINING SCHEDULE**

FEDERAL-AID HIGHWAY CONSTRUCTION CONTRACTORS ANNUAL EEO REPORT																						
1. MARK APPROPRIATE BLOCK <input type="checkbox"/> Contractor <input checked="" type="checkbox"/> Subcontractor		2. COMPANY NAME, CITY, STATE:			3. PROJECT NUMBER:			4. DOLLAR AMOUNT OF CONTRACT:			5. PROJECT LOCATION: (County and State)											
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, 2016.																						
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	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
SUPERVISORS	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
FOREMEN/WOMEN	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
CLERICAL	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
EQUIPMENT OPERATORS	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
MECHANICS	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
TRUCK DRIVERS	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
IRONWORKERS	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
CARPENTERS	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
CEMENT MASONS	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
ELECTRICIANS	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
PIPEFITTER/PLUMBERS	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
PAINTERS	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
LABORERS-SEMI SKILLED	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
LABORERS-UNSKILLED	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	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	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
OJT TRAINEES	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	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				

Form FHWA-1391 (Rev. 09-13) PREVIOUS EDITIONS ARE OBSOLETE

12-5 Reimbursement

Reimbursement can be made for all apprentices used on the projects without regard to the number of apprentices listed for the goal or the number of hours used. The trainees must be registered in a bona fide federal apprenticeship program.

The contractor must provide periodic reports documenting their performance under this training special provision to the resident engineer and verify the apprentice hours on the payroll against the hours listed on the extra work bill. The contractor can submit one extra work bill at the end of the project for reimbursement or submit the extra work bills semi-annually.

In order for a contractor to be reimbursed the \$0.80 per hour for each trainee, the resident engineer must write a change order for the hours claimed. The state approved apprentices can be on the prime or subcontractor’s payroll.

CHAPTER 13: WEEKLY CERTIFIED PAYROLL RECORDS

13-1 Introduction

Weekly Certified Payroll Reports (CPRs) must be submitted to Labor Compliance at a time designated in accordance with the contract provisions.

- CPRs are due to Labor Compliance by the 15th of the month for the previous month's work for construction projects.
- CPRs are due to the contract manager with the invoice for service contracts.
- CPR submittal requirements for emergency and Minor B contracts are listed in the contract provisions.

In addition to Form CEM-2502, "Certified Payroll Report," the following related documents must be submitted:

- Statement of compliance
- Fringe benefit statement
- Apprentice forms including registration and DAS forms
- Other deduction authorizations

13-2 Weekly Payroll, Form CEM-2502

In accordance with California Labor Code Section 1776(c), contractors or subcontractors may use any form to submit payroll records, as long as they include all the information required by DIR and Labor Compliance. Figures 13-A, "DIR Certified Payroll Report," and 13-B, "Caltrans DIR Certified Payroll Report," are examples of forms used to report prevailing wage payroll information. Please be aware that manual forms will not be accepted for use in the web-based payroll system.

• **FIGURE 13-A: DIR CERTIFIED PAYROLL REPORT**

(1) NAME, ADDRESS AND SOCIAL SECURITY NUMBER OF EMPLOYEE		(2) NOTE WITH- HOLDING EXEMPTIONS	(3) WORK CLASSIFICATION	(4) DAY							(5) TOTAL HOURS	(6) HOURLY RATE OF PAY	(7) GROSS AMOUNT EARNED	(8) DEDUCTIONS, CONTRIBUTIONS AND PAYMENTS								(9) NET WGS PAID FOR WEEK	CHECK NO.								
				DATE										THIS PROJECT	ALL PROJECTS	FED. TAX	FICA (SOC. SEC.)	STATE TAX	SDI	VAC/ HOLIDAY	HEALTH & WELF.			PENSION	TRAINING	FUND ADMIN	DEES	TRAV/ SUBS.	SAVINGS	OTHER*	TOTAL DEDED. TIONS
				M	T	W	TH	F	S	S																					
				HOURS WORKED EACH DAY																											

Form AJ-131 (New 2-80) CERTIFICATION **MUST** be completed (See reverse side)

• **FIGURE 13-B: CALTRANS DIR CERTIFIED PAYROLL REPORT**

STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION		PERSONAL INFORMATION NOTICE															
<input type="checkbox"/> CONTRACTOR PAYROLL <input type="checkbox"/> SUBCONTRACTOR PAYROLL CEM-2502 (REV 4/2001)		Pursuant to the Federal Privacy Act (P.L. 93-579) and the Information Practices Act of 1977 (Civil Code Sections 1798, et seq.), notice is hereby given for the request of personal information by this form. The requested personal information is voluntary. The purpose of this voluntary information is to the department can have the need of the form. The failure to provide all or any part of the requested information may delay processing of this form. No disclosure of personal information will be made unless permissible under Article 6, Section 1798.24 of the IPA of 1977. Each individual has the right upon request and proper identification, to inspect all personal information in any record maintained on the individual by an identifying particular. Direct any inquiries on information maintenance to your IPA Officer.															
ADA Notice For individuals with sensory disabilities, this document is available in alternate formats. For information call (916) 654-6410 or TDD (916) 654-3880 or write Records and Forms Management, 1120 N Street, MS-99, Sacramento, CA 95814.		BUSINESS ADDRESS															
CONTRACTOR/SUBCONTRACTOR		FEDERAL AID NUMBER															
PAYROLL NO.	FOR WEEK ENDING	PROJECT AND LOCATION	CONTRACT NUMBER														
EMPLOYEE NAME, ADDRESS AND SOCIAL SECURITY NUMBER	NUMBER OF WITH-HOLDING EXEMPTIONS	WORK CLASSIFICATION	DAY AND DATE		TOTAL HRS.	RATE OF PAY	GROSS AMOUNT EARNED		DEDUCTIONS (BASED ON GROSS AMOUNT EARNED - ALL PROJECTS)							NET WAGES PAID FOR WEEK	CK. NO.
			ST OR OT	HOURS WORKED EACH DAY			THIS PROJECT	ALL PROJECTS	FED. TAX	FICA (SOCIAL SECURITY)	STATE TAX	SDI	VAC	OTHER	TOTAL DEDUCTIONS		

13-3 Statement of Compliance, Form CEM-2503

All payroll reports must include a completed and signed statement of compliance. A payroll is not considered to be certified unless accompanied by the statement of compliance. By signing the form, the contractor or subcontractor declares

under penalty of perjury that the information submitted in the payroll reports is true and correct to the best of their knowledge.

13-3-1 Sections 2 and 4 of the Statement of Compliance

Figure 13-C, “CEM-2503, “Statement of Compliance,” notes where to indicate prevailing wage rates and payment of benefits.

- Contractors or subcontractors must complete Section 2 to indicate which wage determination is being used: (a) Specified in the applicable wage determination incorporated into the contract, Federal Davis-Bacon Act Determination or (b) determined by director of Industrial Relations, state determination. Contractors or subcontractors may check both boxes if they are using both determinations.
- Contractors or subcontractors must complete Section 4 to indicate how fringe benefits are paid: (a) to an approved plan, fund, or program; (b) directly to employee as part of a basic hourly rate. Benefits may also be paid as a combination of both or with noted exceptions.
- Use the exception craft/explanation/remarks areas to explain other deductions not explained on the weekly CPR and instances when fringe benefits are paid directly to employees, for example, cash instead of fringe benefits.

• **FIGURE 13-C: CEM-2503, STATEMENT OF COMPLIANCE**

STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION
STATEMENT OF COMPLIANCE
 CEM-2503 (REV 8/1996)

CONTRACTOR/SUBCONTRACTOR	CONTRACT NUMBER
FIRST DAY AND DATE OF PAY PERIOD	LAST DAY AND DATE OF PAY PERIOD

I do hereby certify under penalty of perjury:

(1) That I pay or supervise payment to employees of the above-referenced contractor on the above-referenced contract. All persons employed on said project for the above-referenced time period have been paid their full weekly wages earned, that no rebates have been or will be made either directly or indirectly to or on behalf of said contractor from the full 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.

(2) That any payrolls otherwise under this control 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 rates:
 (a) Specified in the applicable wage determination incorporated into the contract;
 (b) Determined by the Director of Industrial Relations for the county or counties in which the work is performed; that the classification set forth therein for each laborer or mechanic conform with the work he or she 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.

(4) That fringe benefits as listed in the contract:
 (a) Have been or will be paid to the approved plan(s), fund(s), or program(s) for the benefit of listed employee(s), except as noted below.
 (b) Have been paid directly to the listed employee(s), except as noted below.
 (c) See exceptions noted below.

EXCEPTION CRAFT	EXPLANATION

REMARKS:

NAME (PLEASE PRINT) _____ TITLE _____
 SIGNATURE _____ DATE _____

On federally-funded projects, permissible deductions are defined in title 29, Code of Federal Regulations, part 3, issued by the Secretary of Labor under the Copeland Act, (40 U. S. C. 276c).
 Also, 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 3729 of title 31 of the United States Code).

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13-4 Fringe Benefit Requirements

Under prevailing wage laws, contractors employing workers on public works projects can pay a certain portion of the “Total Hourly Rate” reflected on the applicable prevailing wage determination, to the worker either in cash, or as contributions to specified plans or entities as “Employer Payments.”

California Labor Code Section 1773.1(b) and (c), as defined at California Code of Regulations, Title 8, Section 16000 (8 CCR 16000), “Definitions,” sets forth the following requirements for payment of fringe benefits:

- Fringe Benefits include:
 - Per diem wages: Basic rate, overtime, holiday pay and employer payments, such as vacation, pension, and medical insurance

- Fringe benefits do not include:
 - Worker's compensation, mandated costs
 - Generally, sick leave or benefits required by law
- Payments identified as fringe benefits must either be:
 - Irrevocable, in writing, and paid to a third-party trust if not paid to worker as part of basic hourly rate
 - Actual costs to the employer reasonably anticipated in providing benefits to workers, such as vacation, holiday, or paid time off. To get credit for these benefits the contractor or subcontractor may be required to submit documents confirming the benefits are:
 - Pursuant to an enforceable commitment.
 - Carried out by a financially responsible plan or program.
 - Communicated in writing to the workers affected.
- Cannot decrease basic hourly rate or total rate

Figure 13-D, "CEM-2501, Fringe Benefit Statement," shows the form that is one of the required labor compliance documents and shows to indicate employer payments on behalf of the employee. Fringe benefits and basic hourly rate must equal the prevailing wage total rate.

If benefits are paid to a plan, fund, or program, Form 2501 should show where the funds are being paid to receive credit toward to the total hourly rate required.

13-4-1 Fringe Benefit Statement, Form CEM-2501

All entries on Form CEM-2501, "Fringe Benefit Statement," must be completed thoroughly and accurately. Figure 13-D, "CEM 2501, Fringe Benefit Statement," provides an example of entries paid to a third party, such as a plan, fund, or program, and an example of cash paid instead of fringe benefits. Contractors who pay all worker fringe benefits in cash as part of basic hourly rate, should still complete and submit Form CEM-2501.

• **FIGURE 13-D: CEM-2501, FRINGE BENEFIT STATEMENT**

STATE OF CALIFORNIA • DEPARTMENT OF TRANSPORTATION
FRINGE BENEFIT STATEMENT
 CEM-2501 (REV 8/1994)

CONTRACTOR/SUBCONTRACTOR (Please Print)	CONTRACT NUMBER	FEDERAL AID PROJECT NUMBER	DATE
TO: RESIDENT ENGINEER/DISTRICT LABOR COMPLIANCE OFFICER		BUSINESS ADDRESS	
The following information (as shown or referenced on wage rate determinations) paid to or on behalf of employees in various crafts or classifications is used to check payrolls or applied to force account work on the above contract. THIS FORM MUST BE COMPLETED AND SUBMITTED WITH THE FIRST CERTIFIED PAYROLL, OR WHEN THERE HAVE BEEN ANY CHANGES.			

Example: Paid to 3d Party	<table border="1" style="width:100%; border-collapse: collapse;"> <thead> <tr> <th style="width:30%;">CLASSIFICATION</th> <th style="width:30%;">FRINGE BENEFIT HOURLY AMOUNT</th> <th style="width:40%;">NAME AND ADDRESS OF PLAN, FUND, OR PROGRAM</th> </tr> </thead> <tbody> <tr> <td>Operating Engineer</td> <td></td> <td></td> </tr> <tr> <td>Effective Date</td> <td>Vacation \$ 1.00</td> <td>ABC Trust Fund, 123 Street, Town, CA</td> </tr> <tr> <td>7/1/2019</td> <td>Health & Welfare \$ 3.00</td> <td>Kaiser Permanente, 456 Lane, Town, CA</td> </tr> <tr> <td>John Worker</td> <td>Pension \$ 1.50</td> <td>Wall Street Fund, 222 Road, City, CA</td> </tr> <tr> <td>Subsistence and/or Travel Pay:</td> <td>Apprentice/ Training \$ 0.65</td> <td>CAC, P.O. Box 420603, SF, CA</td> </tr> <tr> <td>\$</td> <td>Other \$</td> <td></td> </tr> </tbody> </table>	CLASSIFICATION	FRINGE BENEFIT HOURLY AMOUNT	NAME AND ADDRESS OF PLAN, FUND, OR PROGRAM	Operating Engineer			Effective Date	Vacation \$ 1.00	ABC Trust Fund, 123 Street, Town, CA	7/1/2019	Health & Welfare \$ 3.00	Kaiser Permanente, 456 Lane, Town, CA	John Worker	Pension \$ 1.50	Wall Street Fund, 222 Road, City, CA	Subsistence and/or Travel Pay:	Apprentice/ Training \$ 0.65	CAC, P.O. Box 420603, SF, CA	\$	Other \$	
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Subsistence and/or Travel Pay:	Apprentice/ Training \$ 0.65	CAC, P.O. Box 420603, SF, CA																				
\$	Other \$																					
Example: Paid to directly to employee (basic hourly rate)	<table border="1" style="width:100%; border-collapse: collapse;"> <thead> <tr> <th style="width:30%;">CLASSIFICATION</th> <th style="width:30%;">FRINGE BENEFIT HOURLY AMOUNT</th> <th style="width:40%;">NAME AND ADDRESS OF PLAN, FUND, OR PROGRAM</th> </tr> </thead> <tbody> <tr> <td>Electrician</td> <td></td> <td></td> </tr> <tr> <td>Effective Date</td> <td>Vacation \$</td> <td></td> </tr> <tr> <td>7/1/2019</td> <td>Health & Welfare \$</td> <td></td> </tr> <tr> <td>Jim Worker</td> <td>Pension \$</td> <td></td> </tr> <tr> <td>Subsistence and/or Travel Pay:</td> <td>Apprentice/ Training \$ 0.63</td> <td>CAC, P.O. Box 101325, Pasadena, CA</td> </tr> <tr> <td>\$</td> <td>Other \$</td> <td></td> </tr> </tbody> </table>	CLASSIFICATION	FRINGE BENEFIT HOURLY AMOUNT	NAME AND ADDRESS OF PLAN, FUND, OR PROGRAM	Electrician			Effective Date	Vacation \$		7/1/2019	Health & Welfare \$		Jim Worker	Pension \$		Subsistence and/or Travel Pay:	Apprentice/ Training \$ 0.63	CAC, P.O. Box 101325, Pasadena, CA	\$	Other \$	
CLASSIFICATION	FRINGE BENEFIT HOURLY AMOUNT	NAME AND ADDRESS OF PLAN, FUND, OR PROGRAM																				
Electrician																						
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CLASSIFICATION	FRINGE BENEFIT HOURLY AMOUNT	NAME AND ADDRESS OF PLAN, FUND, OR PROGRAM																				
Effective Date	Vacation \$																					
	Health & Welfare \$																					
	Pension \$																					
Subsistence and/or Travel Pay:	Apprentice/ Training \$																					
\$	Other \$																					

I certify under penalty of perjury that fringe benefits are paid to the approved Plans, Funds, or Programs as listed above.

NAME AND TITLE (Please Print)

SIGNATURE

BUSINESS TELEPHONE NUMBER

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13-4-2 Fringe Benefit Annualization

Annualization is a principle adopted by the U.S. Department of Labor to give credit for contributions made to fringe benefit plans. Credits are based on effective annual rate of contributions for all hours worked during the year by an employee. Figure 13-E, "Fringe Benefit Annualization Formula," shows how annualized benefits are calculated.

California Labor Code Section 1773.1(e) requires that the credit for employer payments be calculated on an annualized basis when the employer seeks credit for payments that are higher for public works projects than for private construction performed by the same employer.

- **FIGURE 13-E: FRINGE BENEFIT ANNUALIZATION FORMULA**

FRINGE BENEFIT ANNUALIZATION FORMULA

The formula is as follows:

2,080 hours used for annualization (40 hours X 52 weeks)

Total Annual Cost / 2,080 Hours = Fringe Benefit Hourly Credit

*(*or (monthly cost x 12) / 2,080 Hours)*

Example: Laborer

Basic Hourly Rate: \$27.89

Fringe Benefits: \$19.28

Total Hourly Rate: \$47.17

Medical Contribution by Contractor: \$200/month

(\$200 x 12 months) divided by 2,080 hours = \$1.15 per hour credit

\$19.28 required benefits minus \$1.15 credit = \$18.13

Basic Hourly Rate: \$27.89

Medical Insurance Credit: \$1.15

Additional Cash Due Employee: \$18.13

Total Hourly Rate Due: \$47.17 (\$27.89 + \$19.28)

13-4-2(a) Exceptions:

1. The employer has an enforceable obligation to make the higher rate of payments on future private construction performed by the employer.
2. The higher rate of payments is required by a project labor agreement.
3. The payments are made to the California Apprenticeship Council pursuant to California Labor Code Section 1777.5.
4. The director determines that annualization would not serve the purposes of this chapter.

13-5 Apprentice Registration

When apprentices are employed and reported, the contractor or subcontractor is required to submit apprentice certificates confirming enrollment in a state or federally approved program, or both, for the first payroll period in which the apprentice appears.

The Labor Compliance officer is responsible for verification of apprentice registration status and collection of apprentice certificates. Registration must be consistent with craft shown on the CPR.

13-5-1 State Apprentice Certification

DIR has a public website that displays apprentice certificates using information provided on the CPR. Figure 13-F, "Apprenticeship Status Certification," shows an example.

<https://www.dir.ca.gov/das/appcertpw/AppCertSearch.asp>

- **FIGURE 13-F: APPRENTICESHIP STATUS CERTIFICATION**

Apprenticeship Status and Safety Training Certification

Apprenticeship status certification for public works

Enter search string (LLLL9999) here

How to compile the search string:

The search string is a total of **nine letters and numbers** (no characters ', - , etc): the **first four letters of the last name** (use spaces to make four letters if the last name is shorter than four letters), the **first letter of the first name and the last four digits of the social security number (LLLL9999)**. Letters can be entered

Examples:

Uncle Sam ssn 123-45-6789 would be entered as **Sam U6789**

Goddess Minerva ssn 123-45-5555 would be entered as **MineG5555**

Richard Al-Ham ssn 111-44-1111 would be entered as **AlhaR1111**

Robert O'Brian ssn 111-22-3333 would be entered as **OBriR3333**

James McHenry ssn 555-66-1234 might be entered as **McHeJ1234** or **Mc HJ1234**

If you cannot find the individual you are looking for, complete the certifications you have and see the notes below.

13-5-2 Federal Apprentice Certification

For projects that include federal funding, federal program apprentice registration and the state certificate will be required.

There is no public database to obtain federal apprenticeship certificates. The contractor or subcontractor must submit the appropriate federal certificate for verification of enrollment in a federally approved program to obtain apprentice credit and pay the apprentice rate of pay.

Federal certificates expire 90 days after issuance. The contractor or subcontractor will be required to continue to submit apprentice certificates throughout apprentice employment to obtain credit and pay the apprentice rate of pay.

CHAPTER 14: DAILY REPORTS

14-1 Introduction

During contract administration, the assistant resident engineer uses their knowledge and experience of fieldwork to complete [Form CEM-4601](#), “Assistant Resident Engineer’s Daily Report.” The assistant resident engineer’s daily reports contain the name of the contractor and subcontractors performing work and all pertinent information including:

- Hours
- Classifications
- Employee names
- Equipment used and who used it
- Items of work performed on the job site

The daily report should also indicate if severe weather or any work stoppage occurred during the week, or if only a partial inspection was performed.

Shift hours found in the upper right-hand corner of the form apply to the contractor’s hours, not the inspector’s hours. If any information is unclear, contact the resident engineer or the inspector filling out the daily report.

14-2 Daily Report Reviews

14-2-1 Classifications

Verify that the classification listed by the assistant resident engineer is the proper classification for the work performed. Consult the assistant resident engineer or resident engineer, when there is a conflict between the daily report and payroll records, or if clarification is needed.

How to determine classifications:

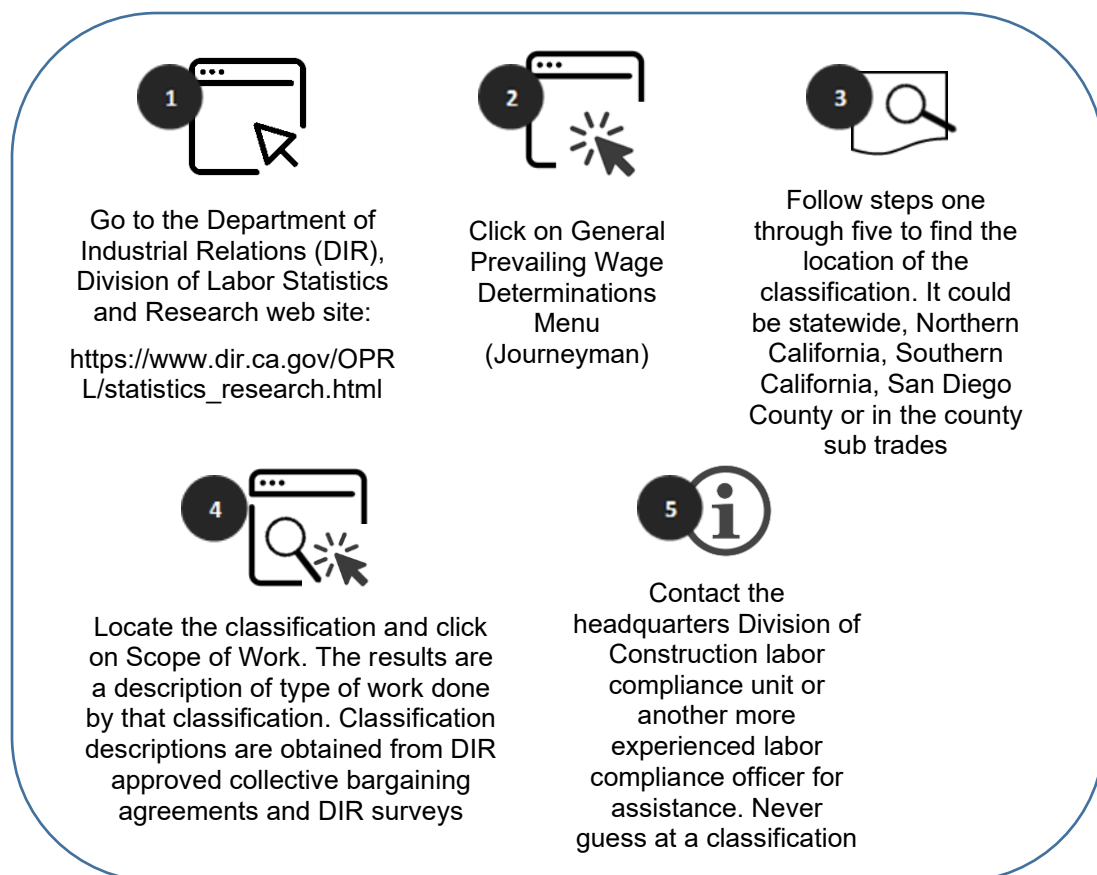
- Go to the Department of Industrial Relations (DIR), Division of Labor Statistics and Research website:

https://www.dir.ca.gov/OPRL/statistics_research.html

- Click on General Prevailing Wage Determinations Menu (Journeyman).

- Follow steps 1 through 5 to find the location of the classification. It could be statewide, Northern California, Southern California, San Diego County or in the county sub trades.
- Locate the classification and click on Scope of Work. The results are a description of the type of work done by that classification. Classification descriptions are obtained from DIR approved collective bargaining agreements and DIR surveys.
- Contact the headquarters Division of Construction Labor Compliance unit or a more experienced labor compliance officer for assistance. Never guess at a classification. Figure 14-A, “How to Determine Classifications,” offers guidance.

- **FIGURE 14-A: HOW TO DETERMINE CLASSIFICATIONS**



14-2-1(a) Multiple Classifications for the Same Type of Work

There may be multiple classifications for the same type of work. For example, the daily report may list pilot car driver, and the payroll lists the employee as a laborer. Pilot car is on the Traffic Control/Lane Closure Laborer classification and found under Teamster Group 1 under the current DIR publication in Northern

California. Since both the teamsters and the laborers claim a pilot car driver, the contractor may use either of the two classifications.

14-2-1(b) Owners, Partnerships, and Corporate Officers

California Labor Code requires that anyone performing skilled or unskilled labor on a project must be paid the hourly prevailing wage rates established for that classification or type of work regardless of title, status, certification or any employment relationship, including but not limited to: owner, sole proprietor, superintendent, president, and owner-operator.

Prevailing wage requirements do not apply to owners, corporate officers or partners who are only performing duties in an administrative, project management or supervisory capacity and not performing the function of a worker or laborer.

14-2-1(c) Supervisory and Managerial Personnel

- Employees whose work is supervisory or non-manual in nature are not considered laborers or mechanics. The fact that an employee is salaried or is called a foreperson does not mean that the person may not be a laborer or mechanic.
- If a salaried employee or a supervisor performs journeyman work for a significant part of the day, the employee is considered a journeyman for that portion of the day and is subject to the payment of prevailing wages for the classification of work performed.

14-2-2 Extra Work Bills

All extra work bills must be checked for the proper use of labor classifications, hours worked, and rates of pay against daily reports and certified payrolls provided by the contractor. The resident engineer or labor compliance representative make these checks. Two scenarios may occur from discrepancies when crosschecking these documents.

14-2-2(a) Example 1

The contractor has overcharged on the extra work bill. This would occur when the contractor:

- Listed wages higher than what was shown on the payroll
- Listed more hours than the employee worked
- Used classifications that require a higher rate of pay than the classification for the work that was performed

- Listed an employee who did not work

If a discrepancy is noted, contact the resident engineer.

14-2-2(b) Example 2

The resident engineer has verified that the extra work bill has the correct hours, wages, and classifications, but one of the following has occurred:

- An employee on the extra work bill who worked is not listed on the payroll.
- The hours on the payroll are less than the extra work hours and the hours shown on the daily report.
- The wages shown on the payroll are less than the minimum wages due and less than those shown on the extra work bill.

The labor compliance representative must schedule a source document review to investigate payroll discrepancies. In this scenario, the extra work bill can be paid because the problem is not with the billing.

CHAPTER 15: PAYROLL REVIEW AND CONFIRMATION

15-1 Introduction

Payroll analysis is one of the methods used to verify compliance with contract special provisions and with federal and state labor laws. Even if a contractor correctly fills in payroll documents with all the proper prevailing wages, correct classifications, and hours that match the daily reports, the contractor may not be in compliance. Payroll confirmation by cross-checking daily reports, employee interviews, complaints, or other source documents may show that a contractor has falsified records. Labor Compliance may also complete a full audit and source document review.

15-2 Initial Review

15-2-1 Construction Administered Contracts

In accordance with California [Labor Code 1776](#), and Caltrans Labor Compliance Policy Bulletin 11-01, "Labor Compliance Program Investigations," within 30 days of receipt, the Labor Compliance staff must check certified payrolls submitted by the contractor or subcontractor for the following items:

- Employee name
- Complete address
- Full Social Security number
- DIR work classification with appropriate group number, when applicable
- Check number
- Straight time and overtime worked each day
- A signed Form CEM-2503, "Statement of Compliance"
- Form CEM-2501, "Fringe Benefit Statement," with the first submitted payroll or when there is a change in the fringe benefit schedule
 - Verify that the contractor's fringe benefits were paid to a third-party trust, an approved private plan, or in cash.
 - Verify that the fringe benefit statement shows to whom and where they were paid.

- If a craft is apprenticeable, confirm that the mandatory training fund payment was made to an approved training program or the California Apprenticeship Council and captured on the fringe benefit statement.

The Labor Compliance staff should follow these steps when checking certified payrolls and contact the resident engineer for clarification or questions:

1. Gather all documents pertaining to the contract, including:
 - a. The resident engineer's daily reports
 - b. Apprentice agreements
 - c. Weekly listings
 - d. Any interviews that may have taken place
2. Verify that the daily and weekly status reports match.
3. Check the daily reports for accuracy and completeness. Make sure they include:
 - a. Name of contractor all subcontractors performing work
 - b. Employees' names
 - c. For each item of work involving equipment, list the name of the operator with equipment operated, and name of the operator's employer
 - d. Classifications of employees
 - e. Hours worked
 - f. Description of work performed
4. Compare the daily reports against the payroll record:
 - a. Names of workers should agree on both documents
 - b. Verify the number of people represented on both documents
 - c. Compare classifications to type of work listed in the daily report
 - d. Verify that the number of hours listed on the payroll meets or exceeds the hours listed on the daily report
5. Check the payroll:

- a. Check that the wage rate is correct for the proper classification
 - e. Check that the contractor paid overtime when employees worked more than 8 hours in a day and 40 hours in a week
 - f. Verify workers were paid at the appropriate shift, overtime, holiday or Saturday and Sunday premium rates as required by the classification
 - g. Verify that apprentice agreements are on file for apprentices listed
 - h. Verify that travel and subsistence was paid if the project is in a subsistence area.
 - i. All other deductions are explained on the weekly payroll or on the statement of compliance
6. Sign and date all certified payroll documents that are checked.

15-2-2 Other Division Administered Contracts

For service contracts, including A&E, the contract manager or designee will complete the following steps during their review.

- All data elements are reported on the certified payroll record, Form CEM-2502, "Contractor or Subcontractor Payroll":
 - Contractor or subcontractor name and address
 - Caltrans contract number
 - Name, address, Social Security number of each worker
 - DIR work classification
 - Straight time and overtime hours worked each day and week
 - Actual wages paid to each journeyman, apprentice, worker or other employee in connection with the public work
 - Check number or direct deposit transaction number
 - Project location
- Form CEM-2503, "Statement of Compliance," is completed and signed showing whether the fringe benefit amount went to the fund or employee. Other deductions must be indicated and explained in item 4 of the statement of compliance in the "Remarks" section.

- The fringe benefits statement shows the amount the employer is paying per hour and to whom.

15-3 Payroll Confirmation

Payroll confirmation is defined in California Code of Regulations, Title 8, Section 16432 (8 CCR 16432), "Investigation Methods for Labor Compliance Program-Definitions and Minimum Requirements, Including Review, Confirmation and Audits of Payroll Records; On-Site Visits; and Early Resolution of Audits," and is a verification of the accuracy of certified payroll records, including:

- Names, classification and reported hours compared with Caltrans project records, including daily report entries
- Confirmation of benefit payments
- Trust fund statements
- Employee interviews
- Canceled payroll checks
- Employee timesheets
- Earning statements
- Bank statements

The confirmation process is performed at random and is for at least 1 worker and a minimum of 1 weekly payroll per month for the prime contractor and subcontractor. If an issue is found, then all payrolls must be checked.

- Other documentation that confirms hours of work, classification, and payments made

Once payroll entries are confirmed, write "confirmed," date and method confirmed, and the analyst's initials on confirmation document.

15-3-1 Payroll Confirmation of Construction Contracts

Consult with the assistant resident engineer or resident engineer to obtain all supporting information necessary for payroll confirmation or when there is a conflict between the daily report and payroll records. Check to see if there were previous violations from a contractor or subcontractor.

Confirm the prevailing wage rates by verifying that:

- The correct wage rate used for the proper classification or group with single or double asterisks, and check for increases
- The basic hourly rate paid is equal to or higher than required
- Overtime was paid for any day showing more than 8 hours worked
- The Saturday or Sunday wage rate was paid, if applicable
- The shift differential for night or weekend work was paid, if applicable
- The authorized deductions were made, and verified and documented
- The journeyman rate was paid to a non-registered apprentice

15-3-2 Payroll Confirmation of Service Contracts

The contract manager must obtain all supporting information for payroll confirmation or when there is a conflict between the Caltrans project records and submitted payroll records. The confirmation steps for service contracts include:

1. Confirm prevailing wage rates:
 - a. Determine if a contractor's classification is correct:
 - (1) Based on work performed and not the title of the worker within the company
 - (2) Listed the correct wage determinations or classifications
 - (3) Used the scope of work to determine the type of worker
 - (4) Noted employee names and tools or equipment used.
2. Determine if the rate and calculations on the payroll are accurate:
 - a. Verify the basic rate and fringe benefits
 - b. Verify that deductions are identified and authorized

3. Determine if the reported hours are correct:
 - a. Verify that correct wage rates are paid for straight time
 - b. Verify that overtime is paid appropriately
 - c. Verify shift work, holiday, and Saturday or Sunday rates are paid appropriately
4. Perform independent verification of reported prevailing wage payments through:
 - a. Worker interviews documented on Forms CEM-2504, "Employee Interview: Labor Compliance/EEO," or CEM-2504(Spanish), "Entrevista de Empleado: Cumplimiento Laboral/IOE." Examination of paychecks or paycheck stubs
 - b. Direct confirmation of payments from third party recipients of fringe benefits
5. Confirm that the certified payroll records match the daily account of work performed on the daily reports, task orders, and truck tags.

15-3-3 Review the Fringe Benefit Statement

The fringe benefit statement (FBS) captures all payments made directly to a fund, plan, or program, such as health benefits, a trust fund or to a fund authorized by the employee, for example, a 401k plan.

An employee working in a classification must be paid at least the total hourly rate (base rate plus fringes) identified on the determination.

The employee's total hourly rate is the hourly rate of pay or base rate, identified on the payroll plus any fringe benefits identified on the employer's FBS as claimed for payment by the employee.

The fringe benefits can be paid to third parties or to the employee on their paycheck as cash.

Fringe benefits paid directly to a third-party trust, or fund, or program, by the employer are considered part of the employee's total hourly rate

A contractor may receive credits for payments made in accordance with California Labor Code 1773.1.

The FBS should capture what a contractor is paying to the third parties to receive credit toward the total hourly rate.

This credit on the FBS cannot reduce the basic hourly rate paid to the employee.

A contractor or subcontractor may take credit up to the aggregate amount of fringe benefits as show on the DIR wage determination toward the total hourly rate.

- Example: The wage determination shows the rates of \$1.00 vacation, \$2.00 health and welfare, \$5.00 pension, \$0.75 training, \$0.25 other. The total allowable fringe benefits credit is \$9.00.
- A contractor whose benefits are for health and welfare and training may show \$4.00 health and welfare and \$0.75 for training for a total of \$4.75 credit on their FBS. The other \$4.25 must be paid to the worker as cash.

CHAPTER 16: VIOLATIONS

16-1 Introduction

This section covers procedures for identifying payroll violations. Violations may result from late submission, failure to provide complete reports, or entering incorrect information. Violations apply to certified payroll reports, and all ancillary documents, such as fringe benefit statements, and apprentice forms, that are not in accordance with Section 7-1.02K(3), “Certified Payroll Records (Labor Code § 1776),” of the [Standard Specifications](#), or for service, Minor B, or emergency contracts, the appropriate provisions related to payment and reporting requirements for prevailing wages.

16-2 Violations - Delinquent and Inadequate Payroll Records

Certified payroll records and fringe benefit statements are considered inadequate if there are missing California [Labor Code 1776](#) data elements identified during the review process including:

- Contractor or subcontractor name and address
- Name, address, Social Security number of each worker
- Caltrans contract number
- DIR recognized work classification
- Straight time and overtime hours worked each day and week
- Actual per diem wages paid to each journeyman, apprentice, or other worker employed in connection with the public work
- Unidentified deductions
 - All non-standard deductions, other than taxes, must be explained by the contractor and verified or authorized by the worker. Non-standard or unidentified deductions display on the payroll report as “Other.” Failure by the contractor provide sufficient information to explain the deduction and show it is authorized by the worker is considered a violation.
- On Division of Construction-administered contracts, when a delinquency or inadequacy occurs, the Labor Compliance officer must notify the resident engineer and the contractor of missing or inadequate information.

- For other division-administered contracts: when a delinquency or inadequacy occurs, the contract manager notifies the contractor through the notification process described in the previous section. The contract manager then disputes the invoice through the invoice dispute notification and withholds the entire payment until the contractor complies.

16-3 Types of Violations

16-3-1 *Delinquent*

Payroll and related documents that are not submitted or submitted late and not in accordance with statutory or contractual requirements are delinquent.

16-3-2 *Inadequate*

Documents are received but are inadequate if missing required labor code elements, including:

- Caltrans contract number
- Worker personal information
- DIR or federally recognized worker classification or trade
- Payroll week beginning and ending period
- Hours, rate of pay, gross and net wages, and deductions
- Check or direct deposit transaction numbers
- Signatures

16-3-3 *Discrepant*

Documents are received, but upon review are found to have an error or discrepancy in the information provided when cross-referenced with other source records. This includes:

- Misclassification of worker
- Prevailing wage or fringe benefit underpayment
- Hours and dates worked
- Calculation errors

16-4 Violation Review and Research

16-4-1 Preliminary Research

When discrepancies are found during payroll review and confirmation, the following actions must be taken by the district Labor Compliance representative or contract manager:

- Gather all supporting, related documents and organize chronologically. Obtain relevant names, dates, places, and whatever else is pertinent to the issue.
- Obtain information from the resident engineer, review daily reports, if applicable.
- Review job site interviews, if available.
- Document your resolution efforts and create a work history that forms a narrative.

16-4-2 Violation Review and Resolution

When the issue is discovered while reviewing, issue the proper Notice of Delinquent or Inadequate Payroll.

- It is important to only use templates and notices that are pre-approved for the following reasons:
 - Specific regulations must be referenced when issuing notices for prevailing wage violations
 - Templates and notices are updated with approved changes and the most current Caltrans letterhead [LETTER TEMPLATES | Division of Construction \(ca.gov\)](#)
- Create and enter the invoice dispute note to “stop the clock” for contracts paid in arrears such as Minor B, emergency, service or maintenance, and A&E contracts.
- Depending on the type of violation, request that the contractor submit a supplemental payroll correcting the discrepancy.

NOTE: Under no circumstances should the incorrect or incomplete certified payrolls be returned to the contractor for revision. However, the contractor may make corrections to certified payrolls if those corrections are written in ink, initials each correction, and submits the corrected document to Caltrans.

- If a supplemental payroll is created for an underpayment, obtain proof of wage restitution for all affected employees in the form of canceled checks, copied both front and back and corresponding check stubs.
 - Use a tabulation or summary sheet to record discrepancies and note when and how each error was corrected.
- Withholding of contractor payments
 - Certain violations require withholding payment from the contractor. Reference Section 16-5, “Withholding Requirements,” of this manual for specific withholding requirements.

16-5 Withholding Requirements

16-5-1 Project Pay Estimate-based Payroll Projects

Progress pay estimate projects are typically those that are construction, more than \$333,000, or both. For such projects, the Labor Compliance officer withholds 10 percent of the monthly progress pay estimate, not less than \$1,000 or more than \$10,000, for non-submittal of payroll documents. This withhold is called a labor compliance violation and should not be confused with an actual labor compliance case withhold, which is held as an administrative deduction.

- Make withholds separately for each payment period in which a new delinquency or inadequacy appears. When all delinquencies or inadequacies for a period have been corrected, release the withhold covering that period on the next progress payment.
- Withholds can only be taken once and do not compound on each monthly estimate. District Labor Compliance offices will advise the resident engineer when funds should be withheld or returned during a payment period.

For more information on processes to withhold money refer to [Section 8-103](#), “Certified Payroll Requirements,” of the *Construction Manual*.

16-5-2 Receiver or Invoice-based Payroll Projects

Receiver or Invoiced-based projects such as Minor B, emergency and service contracts are paid in arrears. The following sections outline withholding the entire invoice amount or withholding a portion of an invoice.

Withhold Entirety of Invoice Amount

When withholding the entire invoice amount, nothing is sent to accounting until all items are received and the total of the invoice can be processed. The receiver and invoice are held until all delinquent or inadequate payrolls are received.

Once all payroll items are received, update the bottom portion of Form STD 209, “Invoice Dispute Notification,” to show that the dispute has been resolved. Indicate the receiver is “Approved for Payment,” and date and sign the receiver.

Send an email “Contract Number, Contractor, Invoice Number” in the subject line and attach the receiver, contractor invoice, STD 209, and proof of delivery of the STD 209 to:

- The appropriate accounting personnel
- Other recipients for Division of Construction may include:
 - The resident engineer
 - The office engineer
 - The Labor Compliance manager

Update the database and tracking spreadsheet to reflect that the withheld amount has been paid.

Withhold a Portion of Invoice Amount

While partial withholds for labor compliance are rare and generally not performed, the process is as follows:

- On the invoice, indicate “Labor Compliance Withhold – \$ Dollar Amount” under the invoice total and write in the new total.
- Change the total on the receiver to reflect the new total after the withhold.
- Notify the contractor with the Notice of Delinquent or Inadequate payrolls and send the STD 209.

For receiver or invoiced-based projects that are administered by the Division of Construction, the following process applies:

- Indicate the receiver is “Approved by Labor Compliance” then date and sign the receiver.

Note: Not all invoice withholds for service contracts need to be approved by the Labor Compliance unit. Contract managers may withhold invoice payment without contacting Labor Compliance.

- Send an email “Contract Number, Contractor, Invoice Number” in the subject line and attach the receiver, contractor invoice, STD 209, and proof of delivery of the STD 209 to:

- The appropriate accounting personnel
- The resident engineer
- The office engineer
- The Labor Compliance manager

STD 209s entered into the AMS Advantage system would not require submission to accounting.

Labor Compliance is not responsible for signing off on received records that have no items for labor or wages.

Once the delinquent or inadequate payroll items are received from the contractor:

- Send up the original receiver, but replace the total amount on the receiver with the withheld amount. This indicates to accounting that the previous deduction has been released.
- Indicate on the invoice that the withhold is being released.
- Update the bottom portion of the STD 209 to show that the dispute has been resolved.
- Send an email with “Contract Number, Contractor, Invoice Number” in the subject line and attach the receiver, contractor invoice, STD 209, and proof of delivery of the STD 209 to:
 - The appropriate accounting personnel
 - The resident engineer
 - The office engineer
 - The Labor Compliance manager

Update the database and tracking spreadsheet to reflect that the withheld amount has been paid.

CHAPTER 17: NOTIFICATION PROCESS

17-1 Notice of Delinquent, Inadequate and Discrepant Payrolls

When a delinquent, inadequate, or discrepant certified payroll record violation occurs, send a [letter](#) each month to the prime contractor and instruct them to provide the requested information or corrections within 15 calendar days from the date of the letter.

NOTE: For receiver and invoice-based payrolls, the district Labor Compliance office or the contract manager of the service contract, will also need to send Form STD-209, "Invoice Dispute Notification," to avoid penalties that accrue when payrolls are not processed in a timely manner.

17-1-1 Delinquent and Inadequate

For delinquent and inadequate certified payroll records, the prime contractor is informed of:

- The details on each violation
- The temporary withholding of contract payments

Under [California Labor Code 1742](#), the affected contractor or subcontractor is also informed that they may request an expedited hearing to review the temporary withholding of contract payments.

17-1-2 Discrepant

For discrepant certified payroll records, the prime contractor is informed of:

- The details of the discrepancy
- An estimated withholding or release amount in the event the contractor fails to provide the information to correct the discrepancy

The listed discrepancies are not subject to the expedited hearing process.

17-2 Final Notice

The Final Notice of Delinquent, Inadequate or Discrepant Payroll Records is a letter sent to the prime contractor providing final notice of delinquent or inadequate payroll records. This notice is typically sent when the contractor fails to respond or address the violations outlined in the initial monthly notice in a timely fashion.

This notice includes:

- An estimated amount of penalties and wages
- A referral to the Division of Construction Labor Compliance unit to process a wage violation case

17-2-1 Delinquent

For delinquent certified payroll records, in accordance with California Labor Code [Section 1776](#)(h), the prime contractor is [notified](#) that failure to provide payrolls to Caltrans within 10 days from receipt of the request will be subject to a penalty of \$100 for each calendar day, or portion thereof, for each worker, until the required payrolls have been received. Similarly, subcontractors are notified by [letter](#).

17-2-2 Inadequate and Discrepant

For inadequate and discrepant certified payroll records, the prime contractor is instructed to provide:

- A supplemental certified payroll
- A signed statement of compliance
- A copy of the front and back of the canceled checks or other source records that reflect resolution of identified violations

Failure to provide requested documents within 10 days from the receipt of the [inadequate final notice](#) or [discrepant final notice](#) results in a wage violation case and the Division of Construction Labor Compliance unit submits a formal forfeiture request to the California Department of Industrial Relations.

CHAPTER 18: EMPLOYEE INTERVIEWS AND EQUAL EMPLOYMENT OPPORTUNITY (EEO) COMPLIANCE

18-1 Introduction

An essential component of the employee interview, or job site visit, is to collect information that can be used to validate information on the payroll records, and to verify Equal Employment Opportunity (EEO) worker protections.

In addition to questions regarding wage rates, hours of work, and type of work performed, ask the worker about EEO and anti-discrimination policies. Ask employees if they have been informed of the EEO policies and procedures for filing an EEO-related complaint.

The following sections describe the related regulatory provisions, prime contractor responsibilities, how employee interviews help disseminate information to the worker, and processing of EEO complaints.

18-2 Equal Employment Opportunity Regulations and Applicability

All contractors, subcontractors, and material suppliers must comply with applicable EEO statutes, regulations, and policies to promote equal employment opportunities and equal treatment of employees without regard to race, color, sex, age, disability, religion, or national origin.

The minimum EEO requirements are communicated in FHWA Form 1273, "Required Contract Provisions, Federal-Aid Construction Contracts." This document contains the required federal EEO contract provisions and proposal notices that must be incorporated into federal construction contracts and subcontracts of \$10,000 or more.

California nondiscrimination and EEO requirements for public works contractors are in Title VI of the Civil Rights Act of 1964; California Government Code, Section 12990; Title 2 of the regulations of the Fair Employment and Housing Commission; and California Code of Regulations, Title 2, Section 8107 (2 CCR 8107), "Nondiscrimination Clause," and Section 8203 (2 CCR 8203), "Standard California Nondiscrimination Construction Contract Specifications."

18-3 Prime Contractor Responsibilities

The prime contractor is responsible for EEO, prevailing wage, and Title VI compliance by all lower-tier subcontractors and service providers. Contractors must remain in compliance with their contractual obligations throughout the duration of their contract.

At a minimum, contractors must implement and maintain the following EEO-related procedures and documents:

- Document and implement, through a company officer, EEO policy and procedures, and adhere to the stated requirements.
- Appoint an EEO officer and make sure the appointment is continuous. Provide the EEO officer's name and contact information to regulatory agencies.
- Communicate EEO policy, procedures, and EEO officer contact information to all employees.
- Maintain a written record documenting policy, procedures, officer designations, programs, and communications.
- Post company EEO policy on the job site with other required project posters.

Contractors and subcontractors should routinely notify project employees of their EEO civil rights, contractor's policies, procedures, and wage and payroll protections.

18-3-1 Methods of Communication

Contractors may present EEO policy and procedures information to project personnel in one or more ways, such as:

- Employee handbooks that include the EEO policy and procedures
- Notices or posters describing the EEO policy and procedures
- Staff meetings describing the EEO policy and procedures

Regardless of the method, contractors are required to maintain records that document compliance with EEO communication requirements for all employees.

18-4 Equal Employment Opportunity Employee Interviews

Legal authorization for conducting employee interviews is defined in the federal Copeland "Anti-kickback" Act, which requires that employee interviews be conducted on all public works construction projects that use federal funds. Federal regulations do not establish a minimum frequency of interviews, only a "representative sample" of interviews.

Employee interviews are treated confidentially but can be disclosed in a court of law. Do not disclose to the employer the identity of the employee without the employee's consent. If an employee does not want to be interviewed, the

inspector should stop the interview, document it in the diary, and notify the Labor Compliance officer.

18-4-1 Site Visit Observations

During the interview site visit, it must be confirmed that:

- EEO posters are displayed in a conspicuous place and are legible
- Supervisory personnel are familiar with contractor's EEO obligations
- The employee referral source system is being implemented
- Meetings or other methods of communication have been used to communicate EEO policies
- Employees are aware of their right to file complaints of discrimination

18-4-2 Job Site Bulletin Board Requirements

The prime contractor is responsible for the job site installation and maintenance of a fixture that displays information on the rights, protections and appeals available to all workers. The fixture should be labeled as "job site bulletin board" or similar, and conform to the following requirements:

- Located in a prominent, safe, maintained, accessible site within the limits of the project. Relocate the bulletin board fixture as work conditions necessitate.
- The number of boards may be dependent on the length of the project and whether there is a central location for workers to report.
- The job site bulletin board must be in place during the duration of a project or while there are workers at the job site location.

Posters are required, as listed in Table 18-A, "Job Site Bulletin Board Posters."

• TABLE 18-A: JOB SITE BULLETIN BOARD POSTERS

FORM	DESCRIPTION
FHWA 1273	NOTICE Federal-aid project (Form FHWA-1022)
WH1321	Employee Rights under the Davis-Bacon Act
FHWA 1273	Wage Determination Appeal Process

FHWA 1273	EEO Policy & Officer
FHWA 1273	Wage Rate Decisions
FHWA 1273	Additional Wage Determinations
U.S. Equal Employment Opportunity Commission	Equal Employment Opportunity is THE LAW
Required by Executive Order 11246, as amended by Executive Order 13665 (April 8, 2014)	"EEO is the Law" Supplement Poster
U.S. Department of Labor	Employee Rights & Responsibilities under Family & Medical Leave Act
U.S. Department of Labor	OSHA: Safe and Healthful Workplace Rights
U.S. Department of Labor	Employee Polygraph Protection

The job site bulletin board may also be used to display other documents of general relevance to the project and its employees, such as environmental permits, worker's compensation rights, and safety guidance.

18-4-3 Worker Interviews

The resident engineer's field inspector must take employee interviews on [Form CEM-2504](#), "Employee Interview: Labor Compliance / EEO," or Form CEM-2504 (Spanish), "Entrevista de Empleado: Cumplimiento Laboral / IOE.". The resident engineer is responsible for making sure interviews are conducted at a rate of at least two employees per contract, per month, including at least one interview from the prime contractor and each subcontractor, until the contract is accepted or all employees on the project have been interviewed.

After reviewing the completed interview form, the resident engineer submits it to the district Labor Compliance office. Any deficiencies, unwritten complaints, or comments are brought to the attention of the Labor Compliance officer.

If an interview indicates a reporting deficiency or labor compliance violation, the Labor Compliance officer must conduct a full investigation. See Chapter 20, "Audits and Investigations Process," of this manual for more information.

Make sure inspectors are conducting the minimum required number of employee interviews. If the minimum number of interviews is not taken, remind the resident engineer of legal requirements and Caltrans policy. It may be necessary to request assistance from the deputy district director of Construction in the form of a memo reiterating the interview frequency.

18-4-4 Labor Compliance Procedure

Log the interview forms into the labor compliance database or posting log. After logging them in, review the following items on the form:

Step 1: Form Item 1 - To be filled in by interviewer

- Verify name and classification of the employee by crosschecking against the employer's payroll for the day worked
- Insert a wage rate for the contract and the payroll for both base rate and fringe benefits
- Verify that the work is consistent with the classification. If not, the contractor may be working the employee out of class, and additional wages may be due.

Step 2: Form Item 2 - Questions to be asked of employee

- A, B, C, and D - Compare the interview form to the certified payroll. Note any discrepancies.
- E and F - If the inspector gets a "No" response, the resident engineer should talk to the contractor's EEO officer and notify them that the posters are not available to the employees and to correct the problem. A few days later, the inspector should take another interview to see if corrective action has been taken.
- E, F, and G - If any of these responses are negative, send a copy of form to the Division of Construction Labor Compliance unit for processing.

Step 3: Form Item 3 - Additional questions for owner-operators

Verify owner-operator status based on submitted certified payrolls. For more information on owner-operators, see Chapter 9, Section 9-4, "Owner-Operators," of this manual.

Step 4: Form Item 4 - Employee comments

- Take note of comments.

Step 5: Form Item 5 - Interviewer's comments

- Take note of comments.

18-4-5 Owner-Operator Interviews

In addition to conducting employee interviews, truck and equipment operators designated as owner-operator should also be interviewed to determine the correctness of this classification. Interviews must be taken from the owner-operator on the Form CEM-2504, "Employee Interview: Labor Compliance / EEO," and can be used to validate that the owner-operator is an owner-operator and not an employee. If review of the payroll record shows that deductions for Social Security taxes or state unemployment insurance taxes are withheld for the owner-operator, it is an indication that the operator is an employee and not an independent contractor.

18-5 Employee Equal Employment Complaints

A discrimination complaint can be received at any point during the labor compliance monitoring process, including from information gathered through the worker interviews. When a complaint indicates that the practices of Caltrans have the effect of discrimination, it is a Title VI complaint. Complaints may originate as a direct complaint, which is made by the public or by a contractor.

For complaints that occur during construction, refer such Title VI complaints to the district Labor Compliance officer. The Labor Compliance officer will then refer the complaint to the district Title VI liaison. Make sure to include the name and contact information of the complainant. The district Title VI liaison will process the complaint, gather the required information, including relevant documents, and refer the complaint for formal investigation to the Office of Civil Rights, Title VI branch.

For additional details on the Title VI complaints process, refer to the Caltrans [internal](#) and public website links.

CHAPTER 19: COMPLAINTS PROCESS

19-1 Introduction

The California Code of Regulations, Title 8, [Section 16434\(b\)](#) (8 CCR 16434(b)), “Duties of Labor Compliance Program,” indicates that upon receipt of a written complaint alleging that a contractor or subcontractor has failed to pay prevailing wages as required by the California Labor Code, the Labor Compliance program must do all of the following:

1. Within **15 days** after receipt of the complaint, send a written acknowledgment to the complaining party that the complaint has been received, and provide the name, address, and telephone number of the investigator assigned to the complaint
2. Within **15 days** after receipt of the complaint, provide the affected contractor with the notice required under California Labor Code Section 1775(c) if the complaint is against a subcontractor
3. Notify the complaining party in writing of the resolution of the complaint within **10 days** after the complaint has been resolved by the Labor Compliance program
4. Notify the complaining party in writing at least once every **30 days** of the status of a complaint that has not been resolved by the Labor Compliance program
5. Notify the complaining party in writing at least once every **90 days** of the status of a complaint that has been resolved by the Labor Compliance program but remains under review or in litigation before another entity.

For contracts that are administered by the Division of Construction, the district or region Labor Compliance office will handle the complaint investigation process.

In the event a contract manager receives a complaint for a contract that is not administered by the Division of Construction, they are to send the complaint to headquarters Labor Compliance unit for further investigation and enforcement.

19-2 Labor Compliance Policy Bulletin 09-3: Prevailing Wage Complaints

Labor Compliance Policy Bulletin (LCPB) 09-3, “Prevailing Wage Complaints,” lists the procedure for processing labor compliance complaints. The complaints are legitimate inquiries into a contractor’s administration and may indicate a more widespread labor compliance issue.

If the investigation of complaints is not timely, consistent, and sufficient, Caltrans runs the risk of creating an unfair playing field for contract bidders, which in turn, may lead to the revocation of the approved Labor Compliance program and jeopardize federal-aid funding.

Processing complaints is composed of three standardized elements:

1. Notice requirements
2. Investigation
3. Resolution

19-3 Notice Requirements

Upon receipt of a written complaint, the Labor Compliance staff must do all of the following:

1. Within 15 days after receiving the complaint:
 - a. Send the Notice Complaint Assignment to the complainant acknowledging receipt of the complaint and the name, address and telephone number of the assigned investigator.
 - b. Send the Notice of Complaint Filed to the affected prime contractor with the notice required under California Labor Code Section 1775(c) if the complaint is against a subcontractor.
2. For complaints that have not been resolved by Caltrans' Labor Compliance unit, notify the complainant in writing at least once every 30 days of the status using the Notice of Complaint Status.
3. For complaints that have been resolved by Caltrans' Labor Compliance unit, notify the complainant within 10 days of resolution using the Notice of Complaint Closed and the Notice of Complaint Closed-Contractor.
4. If a complaint has been referred by Caltrans' labor compliance program as a wage case to DIR and is currently within the labor case approval or administrative hearing process, send the Notice of Complaint Status – Department of Industrial Relations Referral at least once every 90 days.

If the complaint is made verbally, the date a verbal complaint is received is considered the receipt date. Labor compliance staff will:

- Obtain as much information from the complainant as possible regarding pay, record of hours worked.

- Maintain comprehensive written documentation of the conversation.
- Send the [Notice of Complaint Assignment](#) within 15 days of receipt of the verbal complaint.
 - Include confirmation of the conversation with the complainant
 - Send the Caltrans [Prevailing Wage Complaint Form](#) to help the complainant provide additional information that may contribute to the investigation. Send the [Spanish](#) version, if needed.
- **NOTE:** The complainant is not required to return the complaint form to initiate an investigation.

If the complaint involves a bona fide apprentice registered with DIR Division of Apprenticeship Standards, send the [Notice of Apprenticeship Referral](#) to the Division of Apprenticeship Standards, in addition to the notices above.

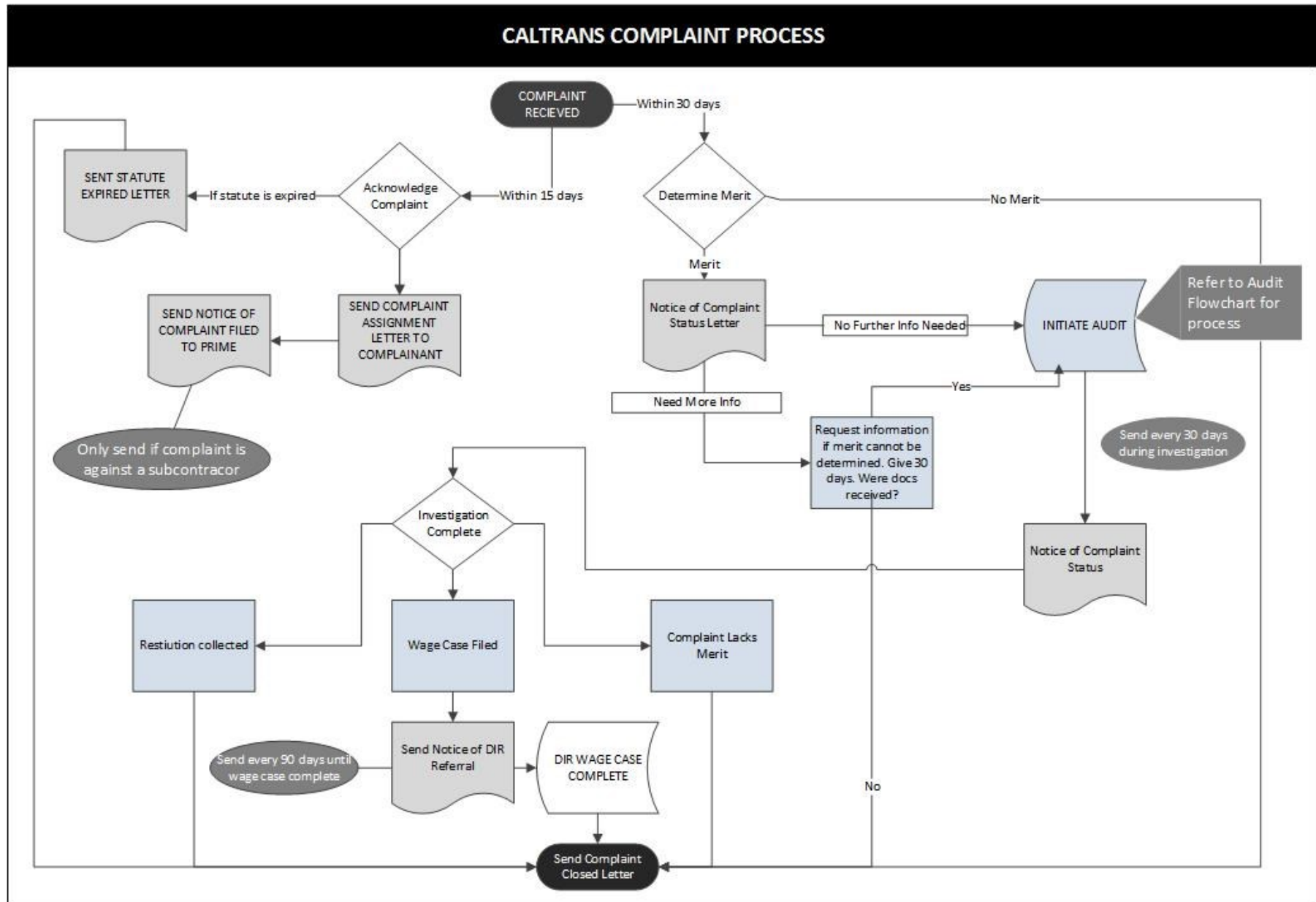
19-4 Tracking of Complaint Processing

Each district or region needs to track all received complaints as well as the status of all complaints.

Headquarters Labor Compliance unit is working on implementing an online complaint-management process using the Smartsheet system.

Figure 19-A, “Complaint Process,” presents an overview of the complaint process.

• FIGURE 19-A: COMPLAINT PROCESS



CHAPTER 20: AUDITS AND INVESTIGATIONS PROCESS

20-1 Introduction

An audit enables the Labor Compliance office to determine compliance with the requirements of the California Labor Code and the federal Davis-Bacon Act requirements. Its purpose is to determine:

- If wage rates and hours reported on the certified payrolls are true and correct
- That the classifications of workers employed on the project are supported by factual evidence provided by the contractor.

The LCO may conduct an audit when any of the following conditions exist:

- Discrepancies between the certified payroll records and assistant resident engineer's daily reports, fringe benefit statements, or apprentice agreements
- Missing payroll records
- Evidence of falsified payroll records
- Receipt of employee complaints
- Discrepancies on employee interviews
- Receipt of statements from contractor employee of possible wage violations
- Discrepancies between extra work bills and the certified payrolls
- Complaints received
- Contractor history of violations
- DIR referral

The evidence gathered at the audit is used to calculate wage restitution due to workers and any penalties for wage underpayment.

Each district or region's Construction Labor Compliance staff is responsible for performing an audit for each contract whether or not the contractor's home office is within the geographic boundaries of the district or region where the work is performed.

Headquarters Labor Compliance unit performs any audit and investigation activities for any non-Construction division contracts.

NOTE: Current letter templates referenced in this chapter can be accessed on the [Caltrans Labor Compliance intranet site](#).

20-2 Initiation

The first step is to send the Notice of Source Document Audit, also known as the 30-Day Audit Notice, to the prime contractor and affected subcontractors and request documents that cover the entire time period the contractor has worked on the contract. Source documents requested and used as evidence are defined in California Code of Regulations, Title 8, Section 16000 (8 CCR 16000), "Definitions." Refer to the Headquarters Labor Compliance intranet website for the 30-Day Audit Notice templates for construction projects and service contracts.

<https://construction.onramp.dot.ca.gov/letter-templates>

If the project is ongoing:

- The request will be for the time period to the date of the notification
- Additional documents can be requested later with another notification

Source document audit evidence is any type of supporting documentation including:

- Cancelled checks
- Earnings statements, such as itemized wage statements or payroll vouchers
- Accounting records
- Bank statements
- Time cards
- Foreperson's journals
- Trust fund statements

A minimum of 10 days are given for the prime contractor and affected subcontractor to submit the requested items pursuant to California Labor Code Section 1776.

Collect and organize documents, such as payroll records, fringe benefit statements, or daily reports, previously submitted by the contractor.

Gather additional items needed once the audit documents are received, including:

- DIR prevailing wage determinations
- Associated travel, shift, and holiday provisions
- The bid item list
- The first page of special provisions
- A copy of the pre-job checklist
- Pre-construction meeting sign-in sheet

20-2-1 If Documents are Not Received

If a contractor does not comply with the request by the due date:

- The Labor Compliance unit should contact the contractor to determine whether the documents had been sent.
- The Labor Compliance unit will send the Final Notice – Failure to Comply with Audit letter. Refer to the headquarters Labor Compliance intranet website for the Final Notice templates to be sent to the prime contractor and any subcontractors.

<https://construction.onramp.dot.ca.gov/letter-templates>

- If the contractor does not comply after 10 calendar days from the date of the Final Notice letter, prepare a wage case for failure to furnish records for submission to headquarters.

20-2-2 If the Contractor Requests an Extension

If the contractor's request for an extension is approved, send the Approval of Request for Extension letter.

- If the contractor complies with the extension, refer to Section 20-2-3, "When Documents are Received," of this manual.
- If the contractor fails to provide the records by the new due date, refer to Section 20-2-1, "If Documents are Not Received," of this manual.

If the request for an extension is denied, send the Request for Extension Denied letter and prepare a wage case for failure to furnish records for submission to headquarters.

20-2-3 When Documents are Received

When the requested documents are received by the Labor Compliance office:

- Send the Initial Receipt of Audit Records letter to the prime contractor and subcontractor, identify which documents were included in the submission and which, upon initial review, were not provided.
- Sort the documents into a binder or file that is separated by week-end date to allow for an easier review once the audit process begins.

The first section of the binder should include copies of the applicable DIR prevailing wage determinations and associated travel, shift, and holiday provisions, the bid item list, the first page of the special provisions, a copy of the pre-job checklist and pre-job meeting sign-in sheet, and fringe benefit statements.

The trust fund statements, and proof of payment are placed in their own section. Every case is different, but it is generally easier to review the documents when the payroll records, supporting check stubs, cancelled checks, and daily reports are sorted by week-end date.

20-3 Scheduling the Audit

In accordance with California Labor Code Section 1741, Caltrans enforcement authority extends to 18 months from contract acceptance or completion. Caltrans must have all audits and investigations completed and submitted to DIR before this date.

When a complaint is received or a potential violation is suspected, check the estimated completion date of the project. Depending on the estimated contract completion date, the Labor Compliance officer may have to rearrange date priorities to accommodate projects that are ending soon. Assign a priority to each investigation.

Request that the Division of Construction Labor Compliance unit determine if another district Labor Compliance office has completed an audit of this contractor recently, and request information regarding the outcome. If another district or region is in the process of scheduling an audit, the Labor Compliance officer should contact that district and coordinate the reviews.

20-3-1 Scheduling Letter

Send the prime contractor a letter by certified mail that includes the scheduled date, time, and location of the audit. Request a return receipt. Direct all correspondences to the prime contractor, and if affected, the subcontractor.

The Labor Compliance officer should mail the scheduling letter early enough to allow no more than 10 working days between the anticipated receipt of the letter and the audit. If the contractor refuses to accept certified mail, send a copy of the audit scheduling letter by first class mail showing service of process by mail.

The certified scheduling letter should request that the contractor furnish:

- All payroll records, including:
 - Time cards
 - Foreperson logs
 - Payroll journals
 - Payroll vouchers
 - Cancelled checks
 - Check stubs
 - W-2s
- Trust fund statements, verification of payment, and a list of covered employees, if applicable.
- Documentation of travel and subsistence payments, if applicable.
- State [Form DE-9](#), “Quarterly Contribution Return and Report of Wages under the Unemployment Insurance and Revenue Taxation Codes.”

20-4 Audit Preparation

Before conducting the audit, prepare the following forms and information:

- Form [CEM-2508](#), “Contractor Payroll Source Document Audit Summary”
 - This form summarizes contractor payroll source document audit activities. Details on how to complete this form are included on the second page of Form CEM-2508.
- Form CEM-2509, “Checklist — Source Document Audit”
 - This form is used when verifying payroll records reviewed during a source document audit. Instructions on how to complete this form are on the third page of Form CEM-2509.
 - If a wage case is prepared as a result of an audit, submit Form CEM-2509 to the Division of Construction Labor Compliance unit.
- Determine correct prevailing wages

- On the contract special provisions, use the date of advertisement on the lower left-hand corner below the bid opening date
- Copy the state prevailing wage pages that were in effect at the time of advertisement for the crafts, or classifications that are to be used on the project.
- Copy any subsequent state prevailing wage rate pages on any of these wage rates that have a double asterisk.
- If federal funds are involved, check federal rates referred to in the contract special provisions and any existing addendum against the state rates and use the higher of the two.
- Check the subsistence map by classification to see if the project is in a subsistence area.
- Check in the DIR, Division of Labor Statistics and Research website for travel requirements by classification.

20-4-1 Contract Records used for the Audit

Gather the following documents for the wage case file or binder to complete the audit:

- Form CEM-2501, "Fringe Benefit Statement"
- Contractor certified payrolls
- Form CEM-2503, "Statement of Compliance"
- Form CEM-2504, "Employee Interview: Labor Compliance / EEO," or CEM-2502 (Spanish), "Entrevista del Empleado: Cumplimiento Laboral / IOE," (do not show to the contractor)
- Form CEM-2506, "Labor Compliance Wage Violation," if any documents have been completed
- Form CEM-2507, "Labor Violation: Case Summary"
- Form CEM-2508, "Contractor Payroll Source Document Audit Summary"
- Form CEM-2509, "Checklist — Source Document Audit"
- Apprentice agreements
- Form CEM-4601, "Assistant Resident Engineer's Daily Report"

20-5 Conducting the Audit

Audits may be completed by examining records at the contractor's office, or records sent by mail to Labor Compliance or submitted electronically. For staff safety, however, it is encouraged for records to be received by mail or electronically submitted.

Complete the audit with documents that have been submitted even if complete records have not been furnished. An audit of the records received should still be performed and any delinquent records should be identified in an Audit Findings letter as detailed in Section 20-6, "Completion of Audit and Notification of Audit Findings," of this manual.

Received audit documents differ for each contract and identified issue. Each week should be reviewed and listed on Form [CEM-2506](#), "Labor Compliance Wage Violation," to document the review process and compile findings. Instructions for completing this form are included on the second page of the form.

The Labor Compliance office should verify every aspect of prevailing wage requirements for each week being audited. The following items provide an overview of what should be identified and verified by the auditor.

Check All Payroll Records

- Itemized wage statements, for example, check stubs, should be examined to confirm they match the copies of the cashed checks, and all math should be verified to confirm accuracy.
- The amounts documented on itemized wage statements should be added to Form CEM-2506 as what the contractor has paid.
- If items like subsistence, travel, and fringes were paid in cash to the employee, they should also be verified on the itemized wage statement.
 - To verify hours worked, compare the daily reports to the timesheets submitted by the contractor. Determine whether the type of work each employee has performed is correctly classified.
 - If daily reports are not available, verify that the timesheets match the contractor's itemized wage statement. This is a common place to locate inconsistencies in an audit, and careful attention should be paid to the cross-reference of timesheets, daily reports, and itemized wage statements.
 - It is important to add the hours paid only after a review of the itemized wage statement has been completed. Then the hours paid at the rates as shown on the itemized wage statement should be added to Form CEM-2506 as the contractor's hours paid.

- If fringe benefits were paid to a fund, examine each month of trust fund statements. Trust fund statements must be accompanied by copies of cashed checks, and the amounts on the statements should match these checks.
 - Statements need to be reviewed against employees documented as working on the audited contract. The hours on the trust fund statement must be equal to or exceed those worked on the audited contract. If they do not match, there may be an underpayment of fringes.
- Careful consideration should be taken to verify that the actual amounts paid for each employee are calculated accurately. These amounts should be added to Form CEM-2506 as the fringe benefits and training paid on behalf of that employee.
 - For the Caltrans side of Form CEM-2506, it is important to use Caltrans records, such as daily reports, to determine the hours worked. In most cases, the timesheets of the contract are more accurate, and issue should be raised when there are marked discrepancies between the contractor's timesheets and the daily reports; the Caltrans inspector can verify the hours as documented on the daily reports are accurate.
 - The wage rates included on the Caltrans side of Form CEM-2506 should be pulled from DIR based on the advertised date of the contract. It is imperative that these amounts are accurately calculated, especially if there were increases that took effect for the classification listed by the contractor.

Time Cards

When examining paper records, determine whether time cards are originals, written in different hands, at different times, or appear to be written by the same person.

Review any notations written on the cards, such as:

- The type of work performed
- “No lunch”
- “Plus other jobs”
- “Minus expenses” or similar notations

Note who signed the time cards, and if the time cards contain hours for more than one project. Verify that the time cards match the payrolls and earning statement documentation. If time cards do not show hours for all projects worked for the week, ask for those records. If an employee only worked part of the week

on the project, the Labor Compliance officer cannot verify payment of prevailing wages without seeing all the hours for the week.

Payroll Journals

Request payroll journals to verify how the contractor calculated the wage rate.

The contractor transfers hours from the time cards to payroll journals, which are individual employee records, in order to:

- Calculate the employee's wages
- Track project breakdown for cost of project
- Keep individual employee records for the year to send out the W-2s

Trust Fund Statements

Trust fund statements show the monthly payments a contractor makes and can be used to verify hours that were paid on behalf of the employee. If a contractor is reporting too few hours or wages, review trust fund statements for similar violations. Ask to see cancelled checks for trust fund deposits.

Signatory contractors' trust fund statements would be payments made to the union. Non-signatory contractors may have private pension plans or health insurance. Verify payments to these funds. If they are monthly payments, hourly rates should be calculated by dividing the amount paid by the working hours.

For full time employees, refer to the annualization method covered in [Section 4.2.6](#) of the DIR *Public Works Manual*. Divide the annual rate of construction (yearly) total by 2,080 hours.

Example of annualization: A monthly medical contribution of \$400 over 12 months equals \$4,800; divide \$4,800 by 2,080 hours, to determine an hourly credit of \$2.307

Deductions

Any deductions from the employees' pay should be verified to be lawful deductions. Deductions include items such as retirement, health benefits, and contractor administered vacation or leave policies.

- If deductions are taken from the employee's pay for something other than employment taxes, ask to see proof of payment to the third party, such as checks made out for court-ordered payments or 401K plans.
- Training funds are not paid to the worker and should not be included as a deduction. Training funds are paid to the local training trust fund of an

approved apprenticeship program, or to the California Apprenticeship Council (CAC) submitted on Form CAC 2, "Training Fund Contributions."

Verify Travel and Subsistence

If travel and subsistence is required on the project, they should be verified as paid on the certified payroll or fringe benefit statement. On occasion, items such as hotel receipts and mileage logs will need to be requested and reviewed to verify the DIR travel and subsistence requirements were met.

Cancelled Checks

Examine cancelled checks for:

- Signature – Determine if the signature on the back of the check is consistent each week, or if it may have been made by someone other than the employee.
- Bank account number – Determine if the check goes into the same account each week. Confirm it is not deposited back into the employer's account.
- Cashed checks have a computer-generated number showing the amount of cashed check located in the lower right-hand corner of the check. Confirm that the computer-generated number matches the amount the check was written for.
- If a check is stamped "insufficient funds," ask to see the replacement check. Confirm the replacement check is for that work and not work done later or for another project.
- Compare checks against the certified payrolls. If the certified payrolls are fraudulent, and do not represent the actual payroll records, use the certified checks to determine what was actually paid.
- Itemized wage statements, such as check-stubs, earning statements, payroll vouchers, should show the hours worked and the wages paid for the week. The Labor Compliance officer should compare the payroll records and cancelled checks with wage statements that an employee has furnished to them if they are available
- If cancelled checks cannot be located, look at bank statements to compare against the checkbook.

Direct Deposit

When employees are paid by direct deposit, the following items need to be requested:

- Copies of their signed direct deposit enrollment forms, account number can be redacted except for last four digits
- Copies of their itemized wage statements, such as, check-stubs, earning statements, payroll vouchers
- Business banking records showing the outgoing payments to the employee's account

In some cases, a payroll journal showing itemized payments and business banking records showing a lump sum equal to the total of the payroll journal listing may also be accepted.

20-6 Completion of Audit and Notification of Audit Findings

Once the audit has been performed on all submitted records, complete an Audit Findings letter, identifying any:

- Violations found
- Delinquent records
- Inadequate records
- Underpayment of wages
- Other discrepancies identified

The Audit Findings letter template can be found on the headquarters Labor Compliance intranet website. Include the following:

1. Send the completed Audit Findings letter to the prime contractor. If you need to confer with the resident engineer or follow up on any information, inform the contractor and estimate a response date.
2. Establish deadlines for any actions that the contractor must take.
3. Provide the opportunity to resolve a wage underpayment to the prime contractor or offending subcontractor.
4. If the problems found were unintentional and this is the contractor's first offense, allow the contractor to make restitution to the employees, furnish copies of the cancelled checks, copied both front and back, and submit supplemental payrolls showing the wage restitution.
5. If the project is nearing completion and there is not enough time to wait for the checks to clear the bank, request that the contractor send certified checks,

- cashier's checks, or money orders to the Labor Compliance office for disbursement to the employees.
6. Request that the contractor make restitution within 10 working days or submit additional evidence to refute the findings.
 7. Notification guidelines:
 - a. Notify by certified mail, return receipt requested, with a copy to the offending subcontractor, if applicable.
 - b. Include copies of the completed Form CEM-2506, "Labor Compliance Wage Violation," for each underpaid employee in the letter as attachments showing the wage underpayment calculations.
 - c. Reference applicable sections of the labor code, contract, law, statute, or act.

20-6-1 Failure to Provide Records

If the contractor or subcontractor fails to make restitution or fails to submit records for review and consideration to resolve violations identified within 10 calendar days of the Audit Findings letter, send an Audit Findings Final Notice letter which can be found on the Headquarters Labor Compliance intranet website.

Depending on the audit findings, use the use the appropriate letter to coincide with the violations:

- If there are delinquent records, only check the first box.
- If there are underpayments only, check the second box and fill in the underpayment information and complete Form CEM-2506, "Labor Compliance Wage Violation."
- If both violations are present, check both boxes, complete the underpayment section, and complete Form CEM-2506.

20-6-2 Receipt and Review of Supplemental Records

If the contractor sends records to resolve the violations, review newly submitted records and issue one of the following:

- If the submitted records do not resolve all identified violations, send an Audit Findings Review of Supplemental Records letter and include any violations that remain outstanding.

- If they fail to submit any further records, refer to Section 20-6-1, “Failure to Provide Records,” of this manual, send an Audit Findings Final Notice letter, and complete the process to prepare for a wage case.
- If the submitted records resolve all identified violations send an Audit Closed letter. The audit is now closed, and no further action is needed.
- If an audit did not result in the filing of a wage case, complete Form CEM-2508, “Contract Payroll Source Document Audit Summary,” and Form CEM-2509, “Checklist – Source Document Audit Summary,” and send copies to headquarters Labor Compliance unit showing all audit findings and resolutions.

20-6-3 When the Contractor Fails to Resolve Violations

If the Audit Findings Final Notice letter has been issued and the contractor fails to resolve the violations, take the following steps:

1. Prepare a wage case for submission to headquarters.
2. Complete Forms CEM-2506, CEM-2507, CEM-2508, and CEM-2509.
3. Submit these forms with the wage case checklist and copies of all communications, records, and evidence applicable to your case.
4. Contact the headquarters wage case administrator for guidance if you have questions.

20-6-4 When a Contractor Fails to Comply with an Audit

If the Labor Compliance officer is unable to perform the audit because of a contractor’s refusal to meet, the Labor Compliance officer must document all attempts to reach the subcontractor by mail, phone, discussions with prime contractor, or letters to employees. Do not write a zero-wage case without making every attempt to conduct the source document review. The Labor Compliance officer, however, can write a case showing a zero payment if no response is received.

The Labor Compliance officer may request that the Legal Division obtain an inspection warrant or writ from a court ordering the contractor to provide the information requested and permit the performance of duties as mandated by law. Submit this request through the Division of Construction Labor Compliance unit at the time of the occurrence. Include the facts and statements made by the contractor or others, and a list of witnesses, if applicable.

If interviews are not possible because of completion of that item of work, write to the employees directly to verify payment of specified prevailing wages. Include a

self-addressed stamped envelope. If necessary, send copies of letters in Spanish and English.

20-6-5 When the Statute of Limitations Expires

If at any point during the audit the statute of limitations expires and Caltrans no longer has enforcement authority, complete the Notice of Audit Closed – Expired Statute letter.

20-6-6 Investigative Interviews

Investigative interviews can be completed with ongoing wage cases to obtain more detailed information from employees to confirm information already included in the wage case.

Field staff can also be interviewed to obtain confirmation of the validity of their daily reports, types of work performed on the job site, or information already included in the wage case.

Interviews should be scheduled in advance, and the interviewee should be made aware of the reason and scope of the interview when it is scheduled. Interviews must be conducted with at least one witness present and can be done in person, through conference call, or through a meeting software program such as Microsoft Teams.

The interviewer should not lead the interviewee to answer questions and should instead ask follow-up questions if further clarification is needed.

Caltrans' contract number, attendee's names, interviewee's name, questions, and answers all need to be documented on the interview sheet and answers should be documented as accurately as possible.

Refer to the following link to the headquarters Labor Compliance intranet website for the template of the Wage Case Interview form and other templates discussed in this chapter.

<https://construction.onramp.dot.ca.gov/letter-templates>

20-6-7 Disputes

There may be multiple situations in which a contractor disputes the findings sent to them by the Labor Compliance officer. If there are disputes, the contractor is asked to submit additional documentation to substantiate their assertions.

If errors were made by the Labor Compliance officer, then the Labor Compliance officer can make corrections to Form CEM-2506 and send a revised Notification of Audit Findings.

If the dispute does not appear to be valid and the Labor Compliance officer and contractor do not agree, a final Notification of Audit Findings is sent indicating Caltrans' position on the discrepancy.

20-6-8 Wage Cases

In the event violations cannot be resolved between the Labor Compliance officer and contractors, or when restitution is not received, it will be necessary to conduct a wage case. The case is prepared for submission to headquarters Labor Compliance for submission to DIR. It is imperative that every case is prepared and analyzed with the understanding that the case may not be resolved at the district level and the Labor Compliance officer may have to testify to their findings if the case goes to DIR and a hearing is held. The Labor Compliance officer must work concisely and carefully to make sure their findings are accurate and have merit.

The history of events is the foundation of any future wage case.

Documentation guidelines:

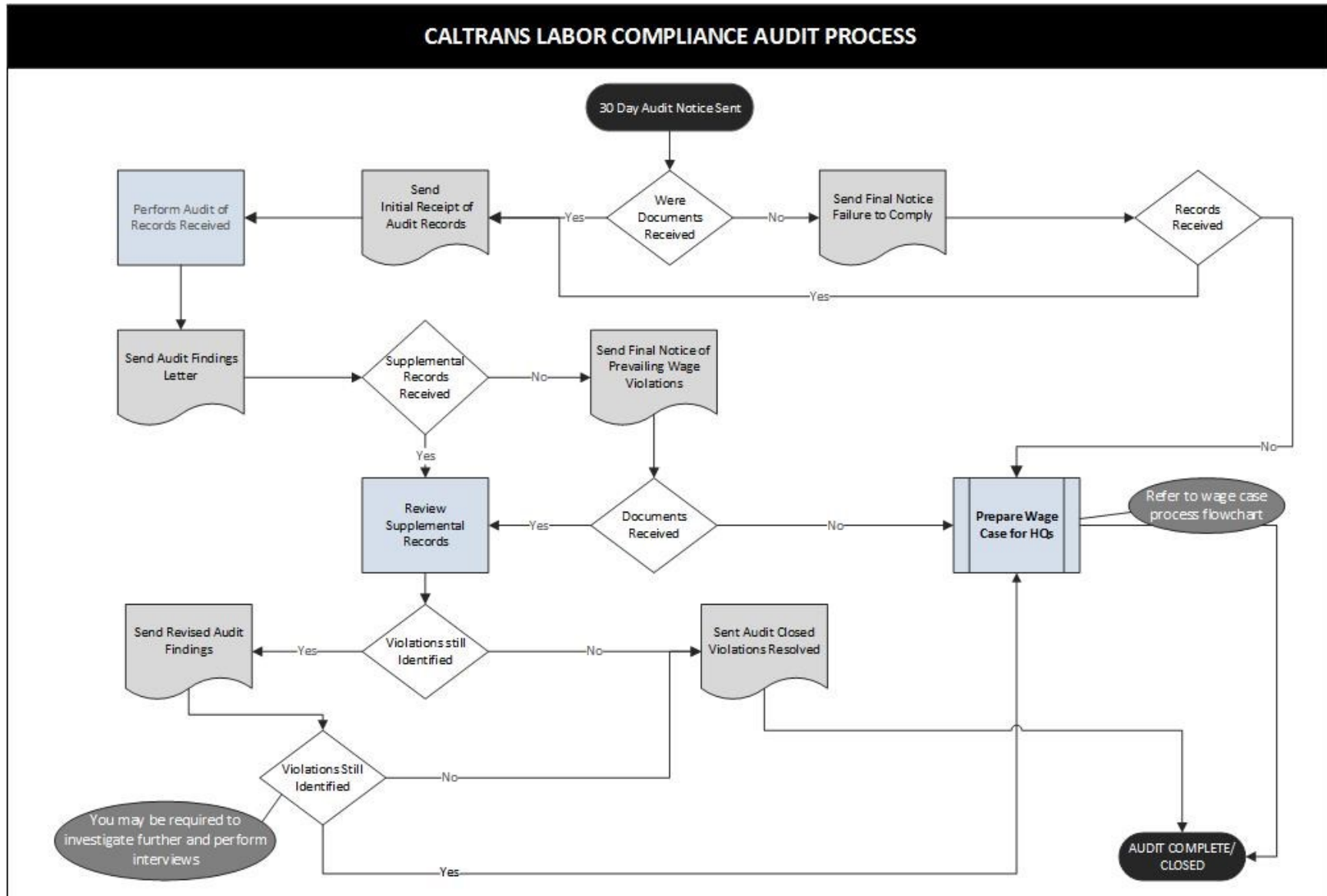
- Document the history of events chronologically.
- Document discussions, correspondence, good faith efforts to resolve disputes, and anything that could be related to a possible wage case with the contractor, employees, and resident engineers.
- The history of events should contain all contacts, such as phone conversations, letters sent or received, meetings, witness statements taken, or any other contacts.

20-7 Audit Completion and Close of Investigation

Once proof of restitution is received, the Labor Compliance officer:

- Sends an Audit Closed letter to the prime contractor and the affected subcontractor notifying them that the audit is complete.
- Updates Form CEM-2506 to reflect the check number and amounts to verify all restitution has been paid.
- Restitution proof should be either copies of the front and back of cashed restitution checks and corresponding check stubs, or the actual restitution checks. Restitution checks sent directly to the Labor Compliance officer are forwarded to the employees by USPS certified mail with a notice explaining the reason the check is being mailed. Figure 20-A: "Compliance Audit Process," shows the steps.

• FIGURE 20-B: COMPLIANCE AUDIT PROCESS



CHAPTER 21: WAGE CASE SUBMITTAL

21-1 Introduction

Upon conducting a source document review and subsequent full investigation, and determining that a labor compliance violation has occurred, the violating contractor is given an opportunity to clear the violations. If violating contractor fails to clear the addressed violations by the given due dates, a labor compliance wage case is prepared. The wage case can be against the prime contractor, first-tier subcontractors, or any lower tier subcontractors.

A wage case should include the source document review, statements from complainants and witnesses, employee interviews, tips from outside sources such as unions and joint labor organizations, and other contractors. Analyze all evidence provided by the contractor to refute or confirm conclusions.

Caltrans does not have statutory authority for approving or ruling on determinations of California Labor Code violations. When Caltrans has found a violation of state prevailing wage laws and ordered a withholding of contractor funds, the contractor has a right to a hearing administered by the Department of Industrial Relations (DIR). State labor compliance violators are entitled to participate in an administrative hearing process administered through the DIR to arrive at the final determination of a labor code violation.

The Federal Highway Administration (FHWA) has delegated authority to Caltrans for federal labor contract compliance. Appeals to final determinations for wage cases based on federal law are addressed in federal court.

21-2 Wage Case Documents: CEM Forms and Documentation

The district Labor Compliance officer should include the following documents in the labor violation wage case when submitting it to headquarters Division of Construction labor compliance wage case administrator for review:

1. Labor Compliance Checklist
 - a. Review all checked and unchecked items
 - d. Read through the Summary sections A-E (pages 3-5)
 - e. What happened: such as violations, actions taken, evidence
 - f. Check for a Wage Case Timeline or Case History if any
2. Form CEM-2506, "Labor Compliance Wage Violation"

This form is used to record each employee's classifications, hours and wages in order to calculate any underpayment. Attach a copy of the spreadsheet that was sent to the violating contractor showing a summary of wages and penalties due each employee.

- a. Confirm and verify documentation used to complete Form CEM 2506:
 - (1) Certified payroll records
 - (2) Daily reports
 - (3) Timesheets
 - (4) DIR prevailing wage determination year and rates
 - (5) DOL Davis-Bacon wage determination and rates
 - (6) Other, such as employee earnings statements, or contractor records
 - b. Confirm and verify that the information reflected on the evidence: prevailing wage rates, certified payroll records, daily reports, timesheets, matches what is reflected on the Form CEM-2506 spreadsheet:
 - (1) Employee name and information, for example, classification and addresses
 - (2) Employee work days or hours or shifts
 - (3) Rate of pay, fringe benefits, training fees
 - g. Comments section: Are there any explanations or references noted?
 - h. Double-check the formulas on the spreadsheet. You may have to manually check the calculations and totals reflected on the Form CEM-2506 spreadsheet summary tab.
 - i. Summary tab: The Penalty End Date for the California Labor Code Section 1776 calculation must be determined by headquarters management. This date is usually the same date as when headquarters management signs the Request for Approval of Forfeiture (RAF).
3. Form CEM 2507, "Labor Violation Case Summary"

This form is used to summarize the data on Form CEM-2506 and provide a chronological record of the case. Attach an analysis of the facts based on the source document review, certified payroll documentation, and calculations shown on Form CEM-2506.

4. Form CEM 2508, "Contractor Payroll Source Document Audit Summary"

5. Form CEM 2509, "Checklist - Source Document Audit"
6. Employee complaints and witness statements
7. Correspondence between the Labor Compliance officer and the prime contractor pertaining to the wage violation
8. Case history
9. Copy of the signed certified mail receipt

Completion of the wage case checklist, along with all required forms, should be submitted to the Division of Construction headquarters' Labor Compliance unit. Include the following information: a brief description of the work performed by the offending contractor; a description of the facts and documentation collected to build the labor compliance case, wages, and penalties due; and the Labor Compliance officer's recommendations.

All source audit documents, including, but not limited to, contract daily reports, payroll and fringe benefit records, trust fund records, and statements made by the contractor that were used to complete the case audit or investigation should be submitted to headquarters' Division of Construction Labor Compliance wage case administrator.

The district must submit all case information to the headquarters' Division of Construction Labor Compliance wage case administrator 60 to 90 days before the statute of limitation expiration date on prevailing wage violations. The timing gives the wage case administrator sufficient time to process the case for submission to Department of Industrial Relations.

21-3 Review of Submittal Documents

Headquarters' Division of Construction Labor Compliance wage case administrator will review of the wage case submittal documents, determine whether there is sufficient evidence to support the wage case, and notify the district Labor Compliance officer. The district Labor Compliance officer may provide additional support or withdraw and later resubmit the case to the headquarters' Labor Compliance wage case administrator if there is sufficient time for review before the statute of limitation expires on the case.

If a wage case is accepted, the Labor Compliance wage case administrator prepares the case file and sends a Request for Approval of Forfeiture (RAF) letter to DIR for state violations. The RAF must include the Statement of Labor Case Findings describing the investigative process and findings on the case, a copy of Form CEM-2506, "Labor Compliance Wage Violation," listing all violation underpayments and applicable state or federal penalties, or both.

Upon DIR's approval of the RAF, the headquarters' Division of Construction Labor Compliance wage case administrator sends a withhold memo to headquarters Division of Accounting, granting the authority to withhold wages, penalties, and liquidated damages. In addition, a copy of the approved RAF letter from DIR and a copy of the accounting memo granting the authority to withhold wages, penalties, and liquidated damages is forwarded to the district Labor Compliance officer.

21-3-1 District Labor Compliance Steps after Wage Case Acceptance

When the district receives notification of the RAF approval from DIR, the Labor Compliance officer must:

- Release any administrative deductions being withheld for labor compliance at this district level.
- Notify the resident engineer of case approval and headquarters' accounting withhold on the contract. This notice is issued by the headquarters Labor Compliance wage case administrator.

21-4 Timeline

A Wage Case Timeline graphic is included at the end of this section, refer to Figure 21-A, "Wage Case Timeline."

21-4-1 Request for Approval of Forfeiture

Headquarters receives wage case from district and determines if the statute of limitations has expired.

If the statute of limitations has not expired, headquarters reviews the case documentation and prepares a Request for Approval of Forfeiture (RAF) to DIR. A copy of the RAF is also sent to the contractors, contractor's bonding company, and district.

DIR reviews of RAF and headquarters revisions within 30 days.

21-4-2 Request for Approval of Forfeiture Approval and Notice of Withholding

If the RAF is approved, headquarters notifies the district of DIR approval, prepares and sends copies of a Notice of Withholding (NOW) along with the proof of service to the contractors, bonding company, and Caltrans Legal Division. A copy is also forwarded to the district.

A withholding memo is simultaneously sent to headquarters Division of Accounting. Once the withhold has been placed by Accounting, inform the district to release their withhold.

The contractor and all other affiliated parties then have 65 days upon receipt of the Notice of Withholding to respond.

Liquidated Damages

In accordance with [California Labor Code Section 1742.1](#), the contractor, subcontractor, and bonding company are liable for liquidated damages in the amount equal to the wages that remain unpaid 60 days after receipt of the Notice of Withholding of Contract Payments.

21-4-3 After Service of the Notice of Withholding

No response to Notice of Withholding

If the contractor does not respond to the Notice of Withholding within 60 days, plus 5 days for postal services, the wage case assessment becomes final. Headquarters will send a cover letter and W-9 forms to the affected employees and entities for signatures.

Affected employees will have 30 days to return the signed W-9 forms. After 30 days, headquarters Labor Compliance will send a disbursement memo to Accounting listing the employees and entities due money.

Accounting will forward checks to headquarters in 1-2 months with a cover letter and tax responsibility form for affected employees and entities.

Note: Headquarters can only disburse money to the employees if there were monies withheld. If there were no monies withheld for the contract, do not send the W-9 forms to the affected employees.

Request for Settlement

Within 30 days of service of the Notice of Withholding, the contractor may request a settlement meeting. The settlement meeting may be held in person or by telephone and must take place before the expiration of the 65-day period.

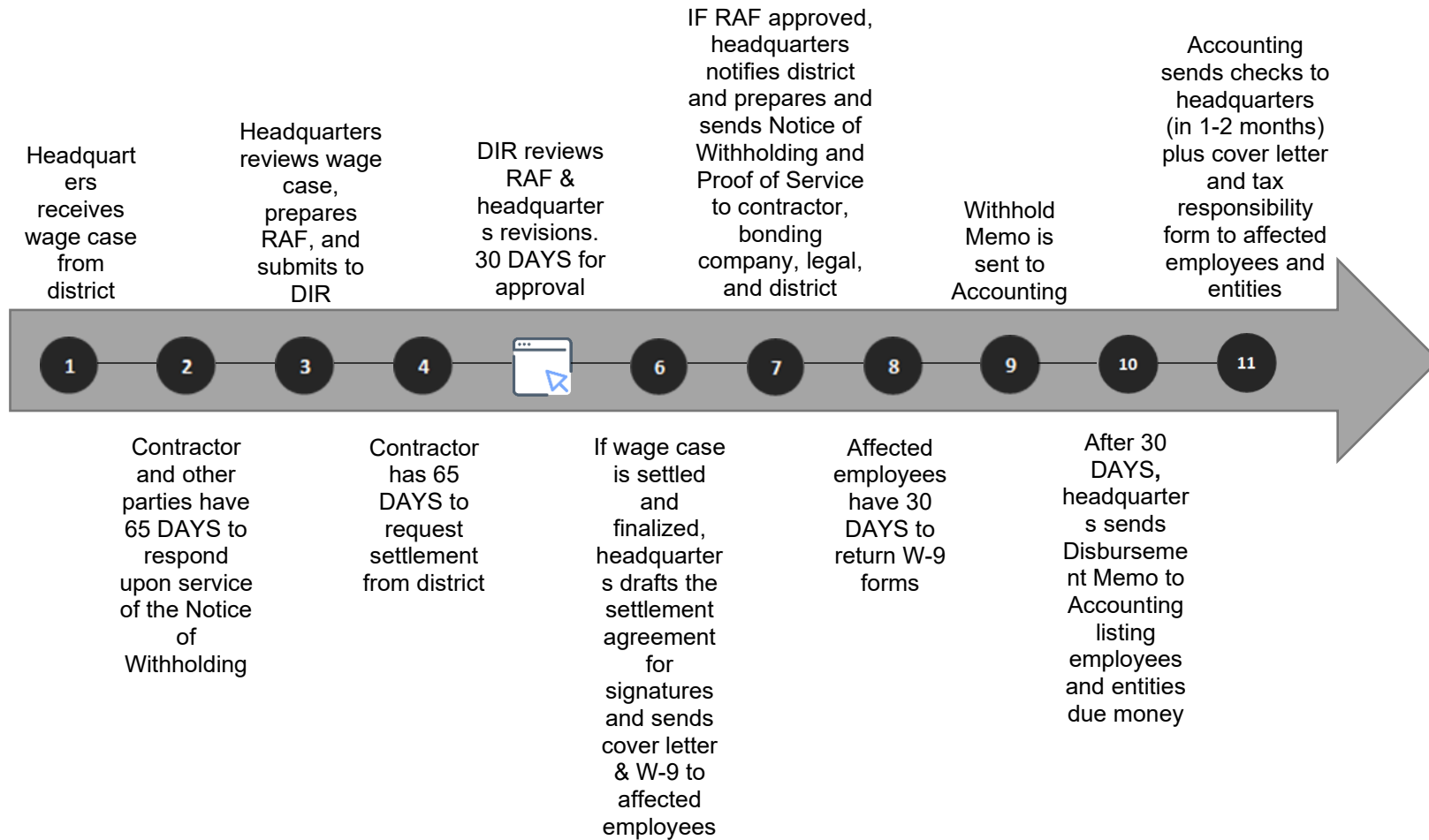
If the wage case is settled, headquarters will draft a settlement agreement for all parties to sign. Headquarters will send a cover letter and W-9 forms to the affected employees and entities for signatures.

Affected employees will have 30 days to return the W-9 forms. After 30 days, headquarters will send a disbursement memo to Accounting listing the employees and entities due money.

Accounting will forward checks to headquarters in 1-2 months, with a cover letter and tax responsibility form for affected employees and entities.

For additional details on this process, please refer to Section 21-5-1, "Settlement Meeting," in this manual.

• **FIGURE 21-A: WAGE CASE TIMELINE**



Request for Hearing

For additional details on this process, please refer to the [Request for Review Hearing](#) subsection in the following section of this chapter.

Within 65 days of service of the Notice of Withholding, the contractor can submit a Request to Review Hearing letter to headquarters. Within 10 working days of the receipt of this request, headquarters will send the contractor the Notice of Opportunity to Request to Review Evidence letter to the contractor. Below is a template and a sample of this letter.

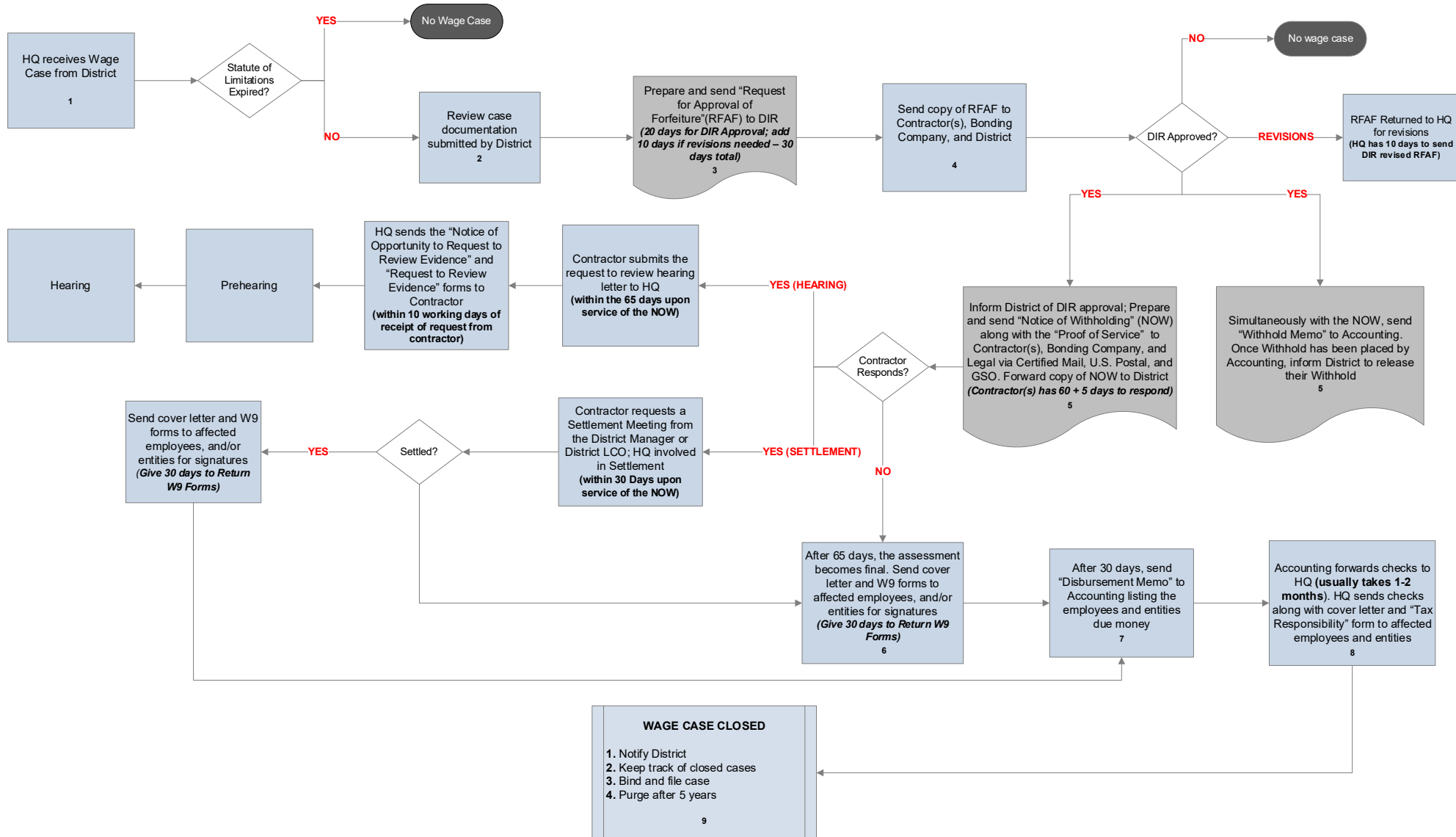
For additional details on this process, please refer to the [Request to Review Evidence](#) subsection in the following section of this chapter.

A prehearing and hearing date will be issued by the DIR upon receiving the notice of transmittal from the enforcing agency. For additional details on these processes, please refer to the [Prehearing Conference](#) and [The Hearing](#) subsections in the following section of this chapter.

21-4-4 Closing of the Wage Case

Once the wage case has been resolved by the administrative hearing process, settlement or non-response and closed, headquarters will notify the district. The district will bind, file the case, and retain it for 5 years, after which they will purge these files.

• FIGURE 21-B: WAGE CASE PROCEDURE



21-5 Administrative Hearing Process

The administrative hearing process includes the settlement meeting, the opportunity to review evidence, and the hearing. The administrative hearing process makes sure that the contractor is afforded due process before contract payments are permanently withheld.

21-5-1 Settlement Meeting

The “Notice of Withholding of Contractor Payments” notifies the contractor of their right to request a settlement meeting within 30 days of receipt of the “Notice of Withholding of Contractor Payments.”

An informal settlement meeting between the contractor and Caltrans may be held in person or by telephone and must take place before the expiration of the 60-day period plus 5 days for postal services. This meeting is conducted without the presence of a DIR hearing officer in accordance with California Code of Regulations, Title 8, Section 17221 (8 CCR 17221), “Opportunity for Early Settlement,” and California Labor Code Section 1742.1.

21-5-2 Request for Review Hearing

The contractor or subcontractor may request a review hearing within 60 days plus 5 days for postal services of receipt of “Notice of Withholding of Contractor Payments,” in accordance with 8 CCR 17222, “Filing of Request for Review,” and California Labor Code Section 1742 (a). The contractor or subcontractor submits a Request for Review Hearing to the headquarters Division of Construction Labor Compliance wage case administrator.

The wage case administrator must:

- Keep the envelope containing the Request for Review Hearing showing the postmarked date.
- Submit the notice of transmittal, a copy of the hearing request, a copy of the “Notice of Withholding of Contractor Payments,” and a copy of the Form CEM-2506, “Labor Compliance Wage Violation,” to DIR’s lead hearing officer in Oakland, California, as soon as possible, informing them of the contractor’s request for a hearing.

21-5-3 Request to Review Evidence

Upon receiving the Request for a Review Hearing from the contractor or subcontractor, the headquarters Division of Construction Labor Compliance wage case administrator has 10 days from the receipt of the request to notify the affected contractor or subcontractor of its opportunity and the procedures for reviewing evidence to be used by the enforcing agency at the hearing.

The "Notice of Opportunity to Review Evidence" and the "Request to Review Evidence" is sent to the contractor in accordance with 8 CCR 17224, "Disclosure of Evidence."

If a contractor requests to review evidence, they must sign and date the request and send it to the headquarters Division of Construction Labor Compliance wage case administrator address stated on the "Notice of Opportunity to Review Evidence Pursuant to Labor Code Section 1742(b)."

This district Labor Compliance officer is notified that the contractor has requested a review hearing and a review of evidence.

The headquarters Division of Construction Labor Compliance wage case administrator and the Legal Division will obtain copies of all documentation and prepare the case for hearing.

After a contractor is sent a "Notice of Withholding of Contract Payment," Caltrans is required to produce all the documentation it intends to present at hearing. Caltrans must strictly comply with statutory and regulatory timeframes in responding to a contractor's "Request to Review Evidence." The district Labor Compliance officer may be requested to provide additional documents and be called as a witness at the hearing.

21-5-4 Prehearing Conference

Upon receiving the notice of transmittal from Caltrans notification of the contractor's request for review hearing, DIR will assign a hearing officer to the case and schedule a prehearing date for all parties to meet in a notification to Caltrans and all other affiliated parties listing the date, time and place of the prehearing conference.

At the prehearing conference, the assigned DIR hearing officer will discuss with both parties the option of a formal settlement meeting or if both parties agree, to move forward with a hearing on the merits.

21-5-5 The Hearing

A hearing may be conducted within 90 days of DIR's receipt of the notice of transmittal. While experienced Labor Compliance officers may represent Caltrans at some DIR, the headquarters Division of Construction Labor Compliance office usually requests representation from the Legal Division if the contractor has retained an attorney.

The Labor Compliance officer may be called as a witness at the hearing and must remain available during the time established for the hearing. DIR hearings are informal and usually last no more than 2 days.

21-6 Debarment of Contractors

21-6-1 Introduction

Contractors are required to pay prevailing wages on public works contracts. Restitution is required if a contractor is found to have paid less than the prevailing wage. In addition, contractors are subject to sanctions for violating the California Labor Code. The most severe sanction is debarment. Debarment should be considered for repeat or egregious offenders.

21-6-2 State Legal Authority

Legal authority for debarment of a contractor is in accordance with California Labor Code Section 1777.1, "Penalties for willful violations of chapter; Notice; Hearing," which states two reasons for debarment of a contractor:

- Section 1777.1(a) requires that a contractor or subcontractor on a public works project and violating public works law, except Section 1775.5, with intent to defraud may be debarred as long as 3 years. Debarment may result from any single violation if intent to defraud is proved.
- Section 1777.1(b) requires that a contractor or subcontractor working on a public works project and willfully violating the public works law, except Section 1775.5, may be debarred as long as 3 years for two or more separate willful violations within a three-year period.

In addition, 8 CCR 16800, "Definitions"; 8 CCR 16801, "Investigations: Duties, Responsibilities and Rights of the Parties"; and 8 CCR 16802, "Penalties," provide additional legal authority to debar contractors from conducting business with Caltrans.

A debarment order may be taken against a contractor, or subcontractor, whether they have a written contract, an oral contract, a purchase order, or no contract. The intent of the law is to debar and prevent contractors from bidding on public works projects when they have been found to have committed any public works violation with the intent to defraud, or when they have committed more than one willful violation within a three-year period.

The DIR, Division of Labor Standards Enforcement has the authority to debar contractors from bidding on public works projects. Caltrans, through its approved labor compliance program, does not directly investigate the contractor for debarment, but can prepare a written complaint to the Division of Labor Standards Enforcement recommending debarment based on approved cases and a track record. This complaint is forwarded to DIR for a final determination.

21-6-3 Verification of Debarment Status

The alleged offending contractor's standing can be checked through the federal and state debarment listings and contractor license. The debarment listings identify contractors ineligible to bid on or be awarded a public works contract because of a violation of the law or substandard contract performance. Use the following websites to determine debarment status:

- Labor Code violations: <http://www.dir.ca.gov/dlse/debar.html>
- Professionalism, law violations: <http://www.cslb.ca.gov/>
- [Federal Excluded Parties Listing System](#), contract performance or law violations

21-6-4 Guidelines for Filing a Debarment Complaint

Guidelines for filing a debarment complaint are as follows:

- When the Labor Compliance officer determines that a contractor should be debarred for any of the reasons in California Labor Code Section 1777.1, the Labor Compliance officer should send the debarment recommendation to the Division of Construction Labor Compliance unit. The debarment recommendation should explain the contractor's violations and should include the contractor's position on the complaint, and the contractor's explanations of any audit findings.
- The following documents should accompany the debarment recommendation:
 - Contracts between the awarding body and the prime contractor
 - Contracts between the prime contractor and subcontractors
 - California State License Board information, including entity information
 - Witnesses: affected workers and the Caltrans personnel
 - The Caltrans inspector's daily reports
 - The prime contractor's daily reports, if available
 - Copies of all wage cases filed against the contractor
- The Division of Construction Labor Compliance unit must:
 - Review and determine if other districts have similar complaints.

- Prepare a cover memorandum containing a recommended action based on review of the available facts regarding the contractor's performance. The report should be one to two pages in length and contain the basis for the recommendation and a summary of Caltrans' conclusion.
- Forward the request for debarment to the Legal Division for review.
- Submit the debarment request to the Division of Construction chief for signature.
- The Division of Construction chief forwards the request to the Division of Labor Standards Enforcement, Legal Unit. The Legal Unit reviews the report and initiates the debarment proceedings, if warranted. The contractor may contest the debarment at a debarment hearing. Caltrans staff may be called to present documentation of its position at the debarment hearing.

21-6-5 A Final Determination for Debarment

The investigation and final determination for debarment rests solely with the Division of Labor Standards Enforcement, Legal Unit. The Division of Labor Standards Enforcement, Legal Unit sends the final determination to Caltrans.

21-6-6 Federal Debarment

Legal authority for federal debarment of a contractor is provided by Code of Federal Regulations, Title 48, Section 9.4 (48 CFR 9.4), "Debarment, Suspension, and Ineligibility"; Executive Order 12549, "Debarment and Suspension"; 2 CFR Part 180, "OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," and DOT Order 4200.5G, "Suspension and Debarment, and Ineligibility Policies."

Section 14 of the special provisions requires the prime contractor to certify under penalty of perjury that they are not currently debarred or have not been debarred within the past three years. It also states that the prime contractor must not enter into a lower tier covered transaction with any person who is debarred.

This suspension and debarment process applies to all federal-aid highway construction projects. Both processes are discretionary administrative actions taken to protect the federal government by excluding offending persons from participation in the federal assistance programs. A suspension and debarment action assures that the federal government does not conduct business with a contractor that has an unsatisfactory record of integrity and business ethics. The suspension and debarment actions are administered government-wide; a contractor excluded by one federal agency is excluded from doing business with any federal agency.

Causes for Federal Debarment

The primary causes for debarment may include:

- Conviction of, or civil judgment for, fraud or a criminal offense connection with a public or private agreement or transaction; violation of federal or state antitrust statutes such as price fixing, or bid rigging; embezzlement, theft, forgery, bribery, falsification or destruction of records, false statements, receiving stolen property, false claims, obstruction of justice; or any other offense indicating a lack of business integrity or business honesty that seriously and directly affects the present responsibility of a person.
- Violation of the terms of a public agreement or transaction so serious it affects the integrity of an agency program; that is, willful failure to perform, a history of failure or of unsatisfactory performance, or willful violation of a statutory or regulatory provision or requirement including any of the following causes: A procurement for example, federal lands, debarment by any federal agency; knowingly doing business with a debarred, suspended, ineligible, or voluntarily excluded person in connection with a covered transaction; failure to pay substantial outstanding debts; violation of a voluntary exclusion agreement or of any settlement of a debarment or suspension action; or any other cause of so serious or compelling a nature that it affects the present responsibility of a person.

CHAPTER 22: RESTITUTION COLLECTION

22-1 Introduction

Restitution is a supplemental payment made by a contractor or subcontractor as a result of an underpayment to an employee or an organization, such as the California Apprenticeship Council (CAC) or a labor union. It is paid to meet the prevailing wage requirement. Labor Compliance officers who review certified payroll and fringe benefit statements will identify these underpayments, but they may also be identified as a result of a complaint, payroll audit, or wage case. In each of these scenarios, Labor Compliance officers will notify the prime contractor and subcontractors to either request:

- Restitution checks to be submitted to the district for distribution to the employees.
- Proof of payment to the employees, usually in the form of check stubs and copies of cancelled checks, front and back, and bank statements.
- Proof of restitution to the CAC in the form of an invoice to the CAC and the cashed check, or use of the CAC website to verify payments at: [CAC - Public works Training Fund Search](#)
- Proof of restitution to a labor union in the form of a copy of the cashed check, electronic funds transfer or automated clearing house payment record or a business bank statement, and corresponding union report.

During the restitution confirmation process, districts will monitor and identify contractor patterns of underpayment, which could be the result of an incorrect job classification or a change in pay rate. Factors considered include whether the underpayment occurred during the first or second payroll, and a contractor's willingness to pay the restitution. If the underpayments are more systemic, or if a contractor or subcontractor is uncooperative, districts will proceed with a district-level wage case similar to wage cases processed at headquarters.

22-2 Restitution Confirmation

The restitution confirmation process involves the verification of all documents provided as proof of restitution against each other. For example, the record of underpayment is verified against the submitted check stub. The check stub is verified against the cancelled check and the canceled check is validated to make sure it was signed by the employee it is paid to.

Once an underpayment has been identified, the prime contractor or subcontractor is notified, and proof of restitution is requested. This proof is normally in the form of:

- Copies of cancelled checks, front and back
- Check stubs from the original payroll on which there is an underpayment
- New check stubs to go with the restitution check
- If employee payments are in the form of direct deposit, proof of these payments will look different for every company, but are normally:
 - Itemized wage statements, such as check stubs accompanied by a check, direct deposit confirmation or bank statement, earning statements, payroll vouchers
 - Copies of the direct deposit enrollment forms for the employee being paid
 - Business banking statements showing outgoing payment to the employee

2-22-1 Restitution Confirmation Process Overview

Notify the contractor of underpayment and required restitution, include a request they pay restitution to resolve underpayment violation.

NOTE: In some cases, an identified underpayment is noted in the monthly letter only.

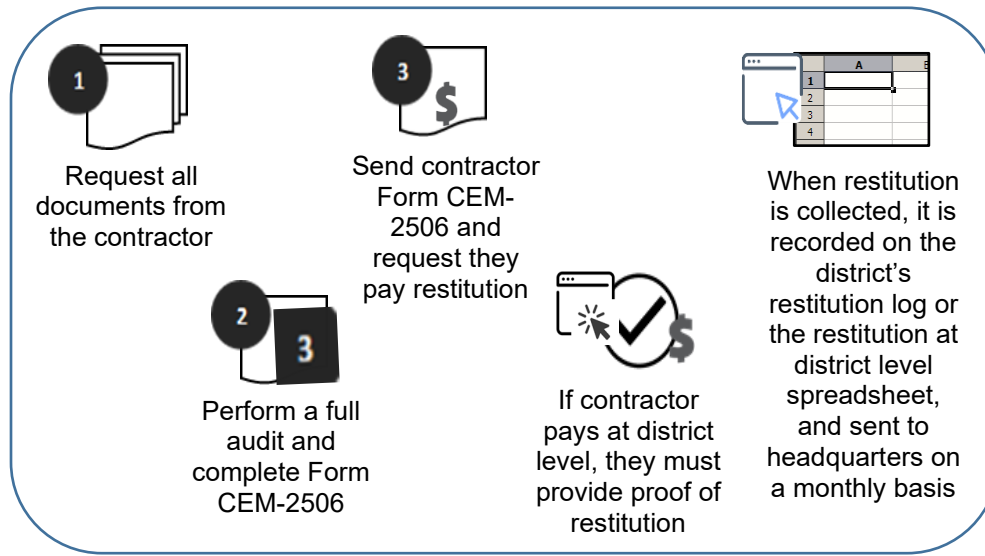
If the contractor pays the restitution at the district level, proof of restitution must be provided in source records, but the issue does not need to be escalated to Headquarters.

If there are unresolved restitution requirements or if there is a complaint, perform a full audit and complete the CEM-2506, "Labor Compliance Wage Violation."

When restitution is collected, the Labor Compliance officer will record it on a Smartsheet form available at the following Labor Compliance intranet page:

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

- **FIGURE 22-A: RESTITUTION PROCESS OVERVIEW**



22-3 Restitution Collection Close-out

As part of the restitution collection close-out process, district staff will be required to go to the Labor Compliance intranet website to complete a form that will populate a “Smartsheet system” in real-time.

22-3-1 Smartsheet System

In accordance with Labor Compliance Policy Bulletin 22-1, “Labor Compliance Restitution at District Level Reporting,” Labor Compliance officers who monitor and receive restitution for underpayment violations will have access to the [restitution at district level form](#) in the Smartsheet system. Submitting this form will assist in monitoring and recording restitution in real-time and provide more accurate data for semi-annual and annual reporting.

Forms can be completed on a one-for-one basis for each contract or project for which restitution is requested or when restitution payments are received from the contractor. Likewise, restitution payments can be recorded in bulk on the spreadsheet.

Labor Compliance officers will only have review and edit access to the contract numbers they enter in the Smartsheet system. Labor Compliance managers will have limited access to edit the contracts in the system that coincide with the districts they oversee and manage. They should review and finalize the restitution at district level data by the 15th of each month for the previous month’s collected restitution.

CHAPTER 23: PUBLIC RECORDS ACT REQUEST

23-1 Introduction

Labor Compliance officers are responsible for managing California Public Records Act (CPRA) requests for certified payroll reports for the Division of Construction. Contract managers are responsible for CPRA requests received for service contracts.

Figure 23-A, “Public Records” shows that public records include any written communication containing information pertaining to the conduct of Caltrans’ business that is prepared, owned, used, or retained by Caltrans according to California Government Code Section 6252 (e). Figure 23-B, “Records Exempt from Disclosure,” lists items that are not part of the public domain.

- **FIGURE 23-A: PUBLIC RECORDS**

PUBLIC RECORDS

The following are considered public records:

- Certified payroll
- Correspondence
- Memos
- Reports
- Manuals
- Maps
- Photos
- Recordings
- Emails
- Plans
- Any information that can be viewed, printed, or downloaded

- **FIGURE 23-B: RECORDS EXEMPT FROM DISCLOSURE**

EXEMPT RECORDS

The following documents are exempt from disclosure:

- Personal information
- Personnel records, medical or similar
- Preliminary notes, drafts, and memoranda
- Pending claims or litigation
- Real estate appraisals
- Engineering estimates & bids
- Correspondence to or from the governor's office
- Attorney-client privilege or attorney work product
- Trade secrets and proprietary information
- Audits and investigations
- Labor compliance documents

Certified payroll records (CPR) refer to weekly payroll reports prepared by the contractor. This includes the contractor's weekly work force for each day of a workweek, together with the schedule of direct wage payments, fringe benefit payments, and all other withholdings authorized by law.

Statement of compliance is part of the CPR and the certification, and it is automatically sent as an additional page. Fringe benefit statements are also part of CPR. Failure to provide the fringe benefit statements may make the requestor think there is an underpayment when there is not.

There are two ways Caltrans responds to Public Records Act requests and disbursement of records based on how the request is received. If received by mail, email, or fax, the response is manual. If received in digital public records request system, GovQA, the response is sent electronically, except for

payments. Both response types require receipt of payment by check before the records can be released.

Caltrans has developed policies and procedures that are consistent with regulations governing the release of public records:

- In accordance with California Labor Code Section 1776 (a), (b3), (e) and (f), Caltrans has the legal obligation to supply a certified copy of an employee's payroll record to any party who requests the record.
- California Labor Code Section 1776 (j) also authorizes that Caltrans be paid a reasonable fee to defray the cost of providing the record.
- The California Public Records Act (CPRA), California Government Code Sections [6250–6276.48](#) contains the legal requirement to provide a written response to requests within 10 calendar days following receipt of a request.

Headquarters Division of Construction Labor Compliance unit is available to answer questions about written determinations, document requests, and the legal ramifications of providing records. The Division of Construction Labor Compliance unit may forward requests to the Legal Division for advice regarding privacy and legal rights based on the facts and circumstances presented.

23-2 Public Records Act Request Coordinator

Labor Compliance officers and contract managers can respond directly to payroll requests. However, Labor Compliance officers and contract managers are to send the request to the district Public Records Act Coordinator if the CPRA is specifically cited in the written request for records. District Public Records Act Coordinators can be found online in the FAQ section of the [Public Records Center](#).

23-3 Response Time

CPRA California [Government Code Section 6253 \(c\)](#) contains the legal requirement to provide a written response to requests within 10 calendar days following the receipt of the request.

Response to Written Request

Caltrans receives written requests for copies of certified payrolls by way of GovQA or mail, email, or fax. Written requests must include all of the following information:

1. A contract number or description.

2. The job location, and if more than one job location, the name of the contractor performing the work and the regular business address, if known.
3. Any request for records of more than one contractor or subcontractor must clearly define the responsibilities regarding each individual contractor, regardless if all requests pertain to the same public works project.

If any of the information is missing, the assigned staff should request the missing information by telephone. Make sure a reasonable effort has been made to obtain the missing information before returning a request to the requestor.

As previously stated, the assigned staff must acknowledge all written requests within 10 calendar days. An acknowledgement is automatically generated for requests submitted through the GovQA system. For requests received by mail, email or fax, staff must generate an acknowledgment letter. An acknowledgment letter template can be found on the online Caltrans [template library](#).

23-4 Reproduction Costs

California Labor Code Section 1776 (j) and 8 CCR 16402, "Cost," authorize Caltrans to be paid a reasonable fee for the cost of reproducing a record.

Pursuant to 8 CCR 16402, the costs are:

- \$1 for the face sheet of each weekly-certified payroll document
- \$0.25 for each subsequent page

For example, if records for three successive weeks are requested from a given contractor's payroll documents, \$1 is charged for the face sheet of each of the three separate weekly reports and \$0.25 for each of the following subsequent pages contained in each of those weekly reports.

23-5 Certified Payroll Requests and Redaction Requirements

Requests for certified payrolls may come from multiple requestors including, but not limited to: members of the public, competing companies, joint labor-management committees trust funds, and the Joint Enforcement Strike Force. There are specific redaction requirements for each of these requestor groups pursuant to the requirements in California Labor Code Section 1776 (e)(f) as outlined in the following sections. Additional information can be found in the [Redaction Guidelines](#).

Note: Requests made by joint labor-management committees, Taft-Hartley trust fund or Joint Enforcement Strikeforce must specify their request is made pursuant to the appropriate California Labor Code section. If the request does not

indicate the request is being made pursuant to one of these, staff should redact according to public requirements.

23-5-1 Joint Labor-Management Committees

Any copies of records made available for inspection by, or furnished to, a joint labor-management committee established pursuant to the federal Labor Management Cooperation Act of 1978 (United States Code, Title 29, Section 175a (29 USC 175a), "Assistance to Plant, area, and industrywide labor management committees," and California Labor Code Section 1776 (e), must be marked or obliterated to prevent only the disclosure of the Social Security number, as shown.

Pat Worker
1234 Construction Circle
Any City, CA 92110
[REDACTED]

23-5-2 The Public

Any documents furnished to the public pursuant to California Labor Code Section 1776 (e) must be marked or obliterated to prevent the disclosure of name, address, and Social Security number as shown.

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Note: The name and address of the contractor awarded the contract or the subcontractor performing the contract does not need to be obliterated.

23-5-3 Taft-Hartley Trust Funds

Any copies of records made available for inspection by, or furnished to, a multi-employer Taft-Hartley trust fund, 29 USC 186(c)(5), "Restrictions on Financial Transactions," that requests the records for the purpose of allocating contributions to participants, must be marked or obliterated to prevent only the full disclosure of the Social Security number, but provide the last 4 digits, as shown.

Pat Worker
1234 Construction Circle
Any City, CA 92110
[REDACTED]-6789

23-5-4 Joint Enforcement Strike Force

California Labor Code Section 1776 (f) requires that agencies included in the Joint Enforcement Strike Force on the Underground Economy established pursuant to California Unemployment Insurance Code Section 329 and other law enforcement agencies investigating violations of law must, upon request, be provided nonredacted copies of certified payroll records. Any copies of records or certified payroll made available for inspection and furnished upon request to the public by an agency included in the Joint Enforcement Strike Force on the Underground Economy or to a law enforcement agency investigating a violation of law shall be marked or redacted to prevent disclosure of an individual's name, address, and Social Security number.

23-6 Requests Received from GovQA

Individuals or entities seeking public records are encouraged to use [GovQA](#), which is an online portal used to:

- Submit a request to Caltrans
- Track the status of the request
- Provide a communication link between Caltrans and the requestor
- Send out the requested documents electronically

Note: Payment for the public record received must be made by check and not through GovQA.

Both Caltrans staff and requestors must create a GovQA account to use the site. Caltrans Labor Compliance staff should contact Labor Compliance headquarters to set up account access, while other Caltrans staff should contact their public information officer or External Affairs unit. Requestors may create their accounts by visiting the [Caltrans website](#) and scroll down on the main page to "Online Services/Permits" and select "Request Public Records" to access the site.

23-6-1 GovQA Request Steps

Many of the steps to respond to a CPRA request received in GovQA are electronic. The following steps outline the process.

- The Labor Compliance officer, or contract manager, receives a [PRA request through GovQA portal. An acknowledgement of receipt is automatically generated.](#)
- The Labor Compliance officer, or contract manager, reviews the request for completeness. The request must include:

- A contract number or description.
- The job location and if more than one job location, the name of the contractor performing the work and the regular address if known.
- Any request for records of more than one contractor or subcontractor must clearly define the responsibilities regarding each contractor, even if all requests pertain to the same public works project.

If any of the required information listed is missing, the Labor Compliance officer or contract manager should request the missing information by telephone and must make sure a reasonable effort is taken to obtain the missing information before returning the request to the requestor.

Labor Compliance officers or contract managers respond to payroll record requests or forward requests to the district public records act coordinator if the CPRA is specifically cited in the written request for records.

District public records act coordinators can be found online in the FAQ section of the [Public Records Center](#).

The Labor Compliance officer or contract manager must review requests for certified payroll records before furnishing copies to a requesting party. The payroll records are also reviewed for compliance, and any corrective action must be initiated before responding to the requesting party.

The cost to reproduce the record is determined [pursuant to regulations](#) and a fee letter is sent to the requestor through GovQA. A customizable template fee letter is available in GovQA.

Upon receipt of a check for reproduction costs, staff will forward it through interoffice mail to the local accounting office or cashiering.

Checks are made payable to the California Department of Transportation.

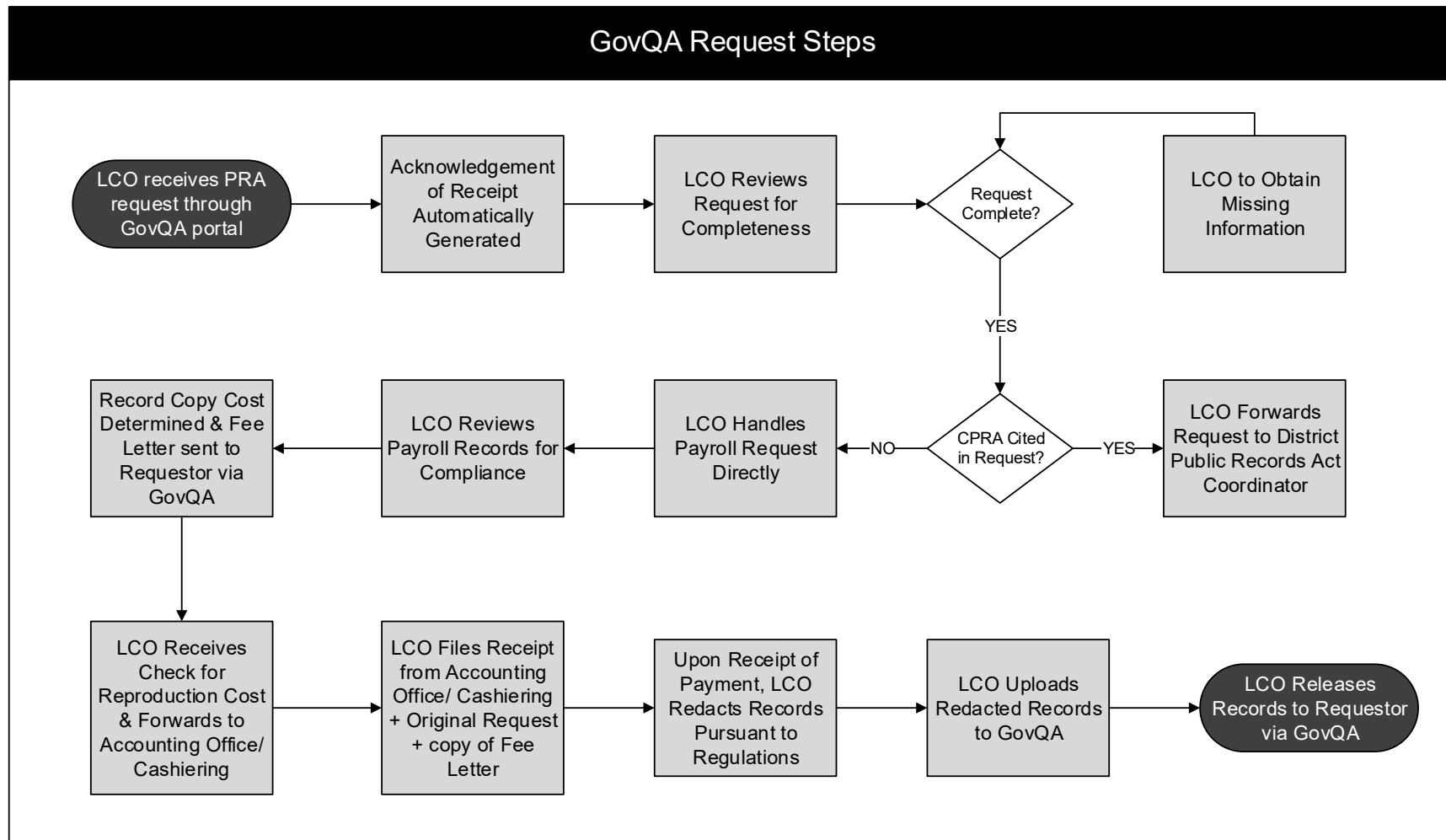
File the receipt received from the accounting office or cashiering along with the original request and a copy of the fee letter.

Upon receipt of payment, the Labor Compliance officer or contract manager redacts the records pursuant to regulations.

The Labor Compliance officer or contract manager uploads the redacted records and releases them to the requestors through GovQA. A customizable “release of record” letter is available in GovQA.

The steps to handling a PRA request are summarized in Figure 23-C, “Public Records Act (PRA) Request Process – GovQA.”

• FIGURE 23-C: PUBLIC RECORDS ACT (PRA) REQUEST PROCESS - GovQA



23-7 Requests from Mail, Email or Fax

Requests for copies of certified payroll records can also be submitted by mail, email, or fax. Following are the steps to remit the requested documents to the requestor.

23-7-1 Mail, Email or Fax Request Steps

The Labor Compliance officer or contract manager receives a written PRA request by mail, email or fax and an acknowledgement letter is sent within 10 business days pursuant to regulations. An acknowledgement letter template can be found on the online Caltrans template library.

<https://construction.onramp.dot.ca.gov/letter-templates>

The Labor Compliance officer or contract manager reviews the request. The request must include all of the following:

1. A contract number or description.
2. The job location and if more than one job location, the name of the contractor performing the work and the regular address if known.
3. Any request for records of more than one contractor or subcontractor must clearly define the responsibilities regarding each individual contractor, even if all requests pertain to the same public works project.

If any of the required information listed is missing, staff should request the missing information by telephone and must make sure a reasonable effort is taken to obtain the missing information before returning the request to the requestor.

The Labor Compliance officer or contract manager either handles the payroll request directly or forwards to the district public records act coordinator if the CPRA is specifically cited in the written request for records.

District public records act coordinators can be found online under the FAQ section of the [Public Records Center](#).

The Labor Compliance officer or contract manager must review requests for certified payroll records before furnishing copies to a requesting party. The payroll records are also reviewed for compliance, and any corrective action must be initiated before responding to the requesting party.

The cost to reproduce the record is determined [pursuant to regulations](#).

An acknowledgement letter and fee letter are generated manually. Letter templates can be found on the online Caltrans [template library](#).

Upon receipt of the check for reproduction costs, staff must forward it through interoffice mail to local accounting office or cashiering.

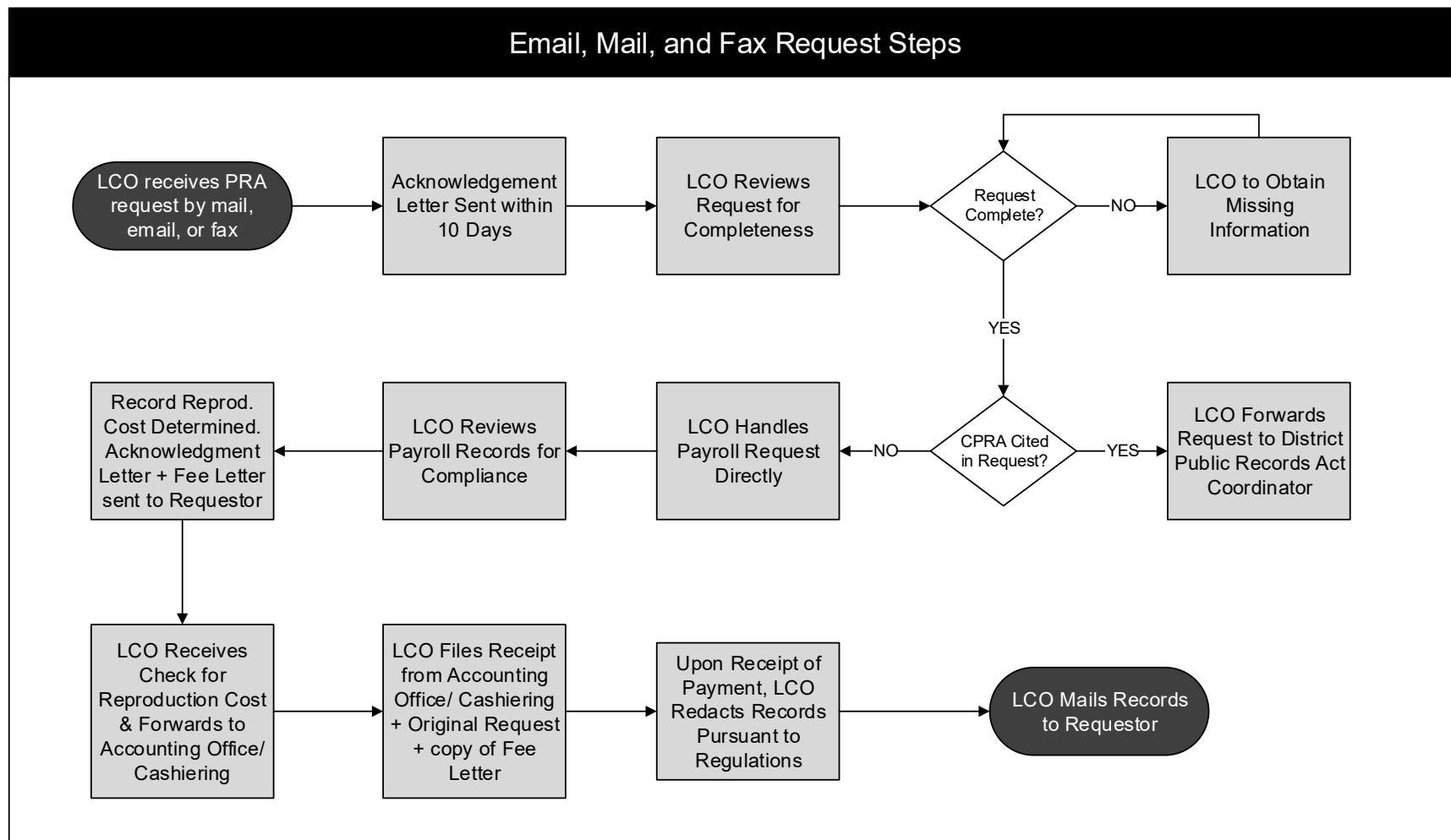
Checks are made payable to the California Department of Transportation.

File the receipt received from the accounting office or cashiering along with the original request and a copy of the fee letter.

Upon receipt of payment, the Labor Compliance officer or contract manager redacts the records pursuant to regulations.

The Labor Compliance officer or contract manager mails the payroll records to the requestor. A release of record letter template can be found on the Labor Compliance template library.

• FIGURE 23-D: PUBLIC RECORDS ACT (PRA) REQUEST PROCESS



CHAPTER 24: COMPLETION OF PROJECT/CLOSEOUT

24-1 Closeout Process

Once a project has been completed, the following steps are taken to confirm that all outstanding issues have been resolved and missing documentation was requested and received:

1. Receive completed Form CEM-6301, "Contract Acceptance."
2. Determine if all daily reports and weekly status reports have been received through the completion date. If not, contact the resident engineer and request immediate submission.
3. Notify the prime contractor and the resident engineer of missing payroll documents.
4. Prepare and send Final Notice of Delinquent, Inadequate or Discrepant Certified Payroll Records for any delinquent, inadequate or discrepant payrolls still outstanding at the time of contract acceptance.

- a. Delinquent

For delinquent certified payroll records, in accordance with California Labor Code [Section 1776\(h\)](#), the prime contractor is [notified](#) that failure to provide payrolls to Caltrans within 10 days from receipt of this request will be subject to a penalty of \$100 for each calendar day, or portion thereof, for each worker, until the required payrolls have been received. Similarly, subcontractors are notified using this [letter](#).

- b. Inadequate and Discrepant

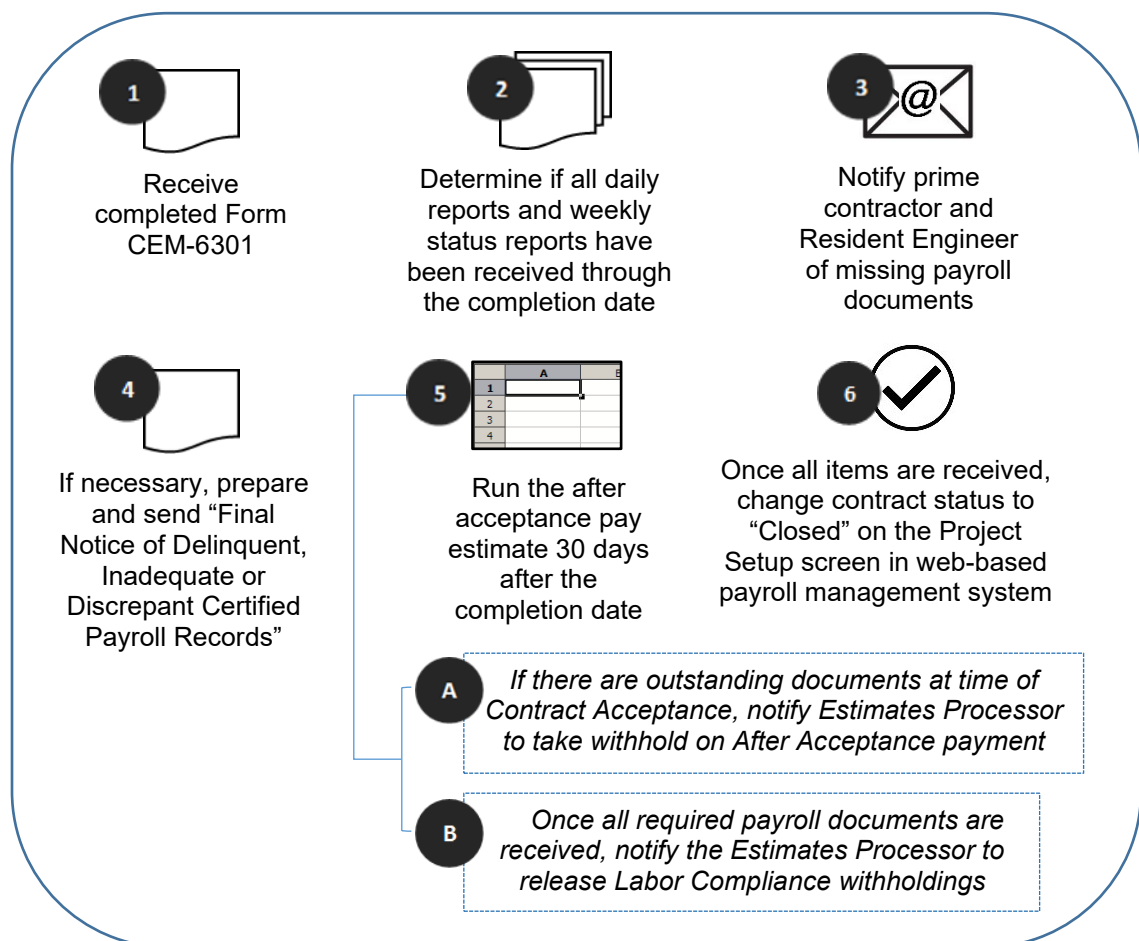
For inadequate and discrepant certified payroll records, the prime contractor is instructed to provide:

- A supplemental certified payroll
- A signed statement of compliance
- A copy of the front and back of the canceled checks

Failure to provide these documents within 10 days from the receipt of the [inadequate final notice](#) or [discrepant final notice](#), a wage violation case to the Division of Construction Labor Compliance unit and submit a formal forfeiture request to DIR.

5. Run the after-acceptance pay estimate 30 days after the completion date.
 - If there are missing documents or payroll records at the time of contract acceptance, notify the estimates processor to take a withhold on the after acceptance payment to cover any deductions because of these missing items.
 - Once all required payroll documents are received, notify the estimates processor to release any labor compliance withholdings in place.
6. Once all items are received, change the contract status to “Closed” on the project setup screen if the project is subject to submission of payrolls using a web-based payroll management system.

• **FIGURE 24-A: CLOSEOUT PROCESS**



Additional Consideration:

Any source document audit reviews in process at the time of contract acceptance are subject to an 18-month statute of limitations from the time of acceptance. It is imperative that source document audit reviews are processed in a timely manner after contract acceptance.

24-2 Project Archive Process

When the resident engineer completes a project, the project files will be taken district to be archived. Depending on the project size, there can be anywhere from 2 to 30 banker boxes of all printed documentation related to the project.

Districts will send the Category 25, "Labor Compliance and Equal Employment Opportunity," records that they have been maintaining with the resident engineer's documentation to their respective Construction Administration team to be compiled, organized and archived in a secured location for a period of three years. Maintaining records allows districts to be able to locate information on completed projects in the event there is an audit or investigation.

After the 3-year period, the Construction Administration team will purge and destroy the records.

For projects subject to submission using the web-based payroll management system, the system maintains the records, and they will not need to be added to the project hard copy files to be archived.

24-2-1 Electronic Records

To reduce the amount of paper, districts have been moving to implement electronic maintenance methods of project history documents, which includes the project award summary, pre-job checklists, certified payroll records and fringe benefit statements.

With the implementation of the web-based payroll management system, districts will be maintaining all payroll records and requested documentation from the contractor electronically as long as headquarters requires.