

ATTACHMENT A

PREVAILING WAGE REQUIREMENTS

A. All or a portion of the Scope of Work in the Contract requires the payment of prevailing wages and compliance with the following requirements:

1. Determination of Prevailing Rates:

Pursuant to California Labor Code sections 1770, et seq., the County has obtained from the Director of the Department of Industrial Relations (DIR) pursuant to the Labor Code, the general prevailing rates of per diem wages and the prevailing rates for holiday and overtime work in the locality in which the Scope of Work is to be performed. Copies of said rates are on file with the County, will be made available for inspection during regular business hours, may be included elsewhere in the specifications for the Scope of Work, and are also available online at <https://www.dir.ca.gov/OPRL/DPreWageDetermination.htm>. The wage rate for any classification not listed, but which may be required to execute the Scope of Work, shall be commensurate and in accord with specified rates for similar or comparable classifications for those performing similar or comparable duties. In accordance with Labor Code section 1773.2, the Contractor shall post, at appropriate and conspicuous locations on the job site, a schedule showing all applicable prevailing wage rates and shall comply with the requirements of Labor Code sections 1773, et seq.

2. Payment of Prevailing Rates

Each worker of the Contractor, or any subcontractor, engaged in the Scope of Work, shall be paid not less than the general prevailing wage rate, regardless of any contractual relationship which may be alleged to exist between the Contractor or any subcontractor, and such worker.

3. Prevailing Rate Penalty

The Contractor shall, as a penalty, forfeit two hundred dollars (\$200.00) to the County for each calendar day or portion thereof, for each worker paid less than the prevailing rates as determined by the Director of the DIR for such work or craft in which such worker is employed by the Contractor or by any subcontractor in connection with the Scope of Work. Pursuant to Labor Code section 1775, the difference between such prevailing wage rates and the amount paid to each worker for each calendar day, or portion thereof, for which each worker was paid less than the prevailing wage rate, shall be paid to each worker by the Contractor.

4. Ineligible Contractors:

Pursuant to the provisions of Labor Code sections 1777.1 and 1771.1(o), the Labor Commissioner publishes and distributes a list of contractors ineligible to perform work as a contractor or subcontractor on a public works project. This list of debarred contractors is available from the DIR website at <https://www.dir.ca.gov/dlse/debar.html>. Any contract entered into between a contractor and a debarred subcontractor is void as a matter of law. A debarred subcontractor may not receive any public money for performing work as a subcontractor on a public works contract, and any public money that may have been paid to a debarred subcontractor by a contractor on the project shall be returned to the County. The Contractor shall be responsible for the payment of wages to workers as a debarred subcontractor who has been allowed to work on the Scope of Work.

5. Payroll Records:

a. Pursuant to Labor Code section 1776, the Contractor and each subcontractor, shall keep accurate certified payroll records, showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker or other employee employed by them in connection with the Scope of Work. The payroll records enumerated herein shall be verified by a written declaration made under penalty of perjury that the information contained in the payroll record is true and correct and that the Contractor or subcontractor has complied with the requirements of the Labor Code sections 1771, 1811, and 1815 for any Scope of Work performed by his or her employees. The payroll records shall be available for inspection at all reasonable hours at the principal office of the Contractor on the following basis:

- i. A certified copy of an employee's payroll record shall be made available for inspection or furnished to such employee or his/her authorized representative on request;

- ii. A certified copy of all payroll records shall be made available for inspection or furnished upon request to the County and the Division of Labor Standards Enforcement of the DIR;
 - iii. A certified copy of payroll records shall be made available upon request to the public for inspection or copies thereof made; provided, however, that a request by the public shall be made through either the County or the Division of Labor Standards Enforcement. If the requested payroll records have not been previously provided to the County or the Division of Labor Standards Enforcement, the requesting party shall, prior to being provided the records, reimburse the cost of preparation by the Contractor, subcontractor and the entity through which the request was made; the public shall not be given access to such records at the principal office of the Contractor;
 - iv. The Contractor shall file a certified copy of the payroll records with the entity that requested such records within ten (10) days after receipt of a written request; and
 - v. Copies provided to the public, by the County or the Division of Labor Standards Enforcement shall be marked or obliterated in such a manner as to prevent disclosure of an individual's name, address and social security number. The name and address of the Contractor or any subcontractor, performing a part of the Scope of Work shall not be marked or obliterated. The Contractor shall inform the County of the location of payroll records, including the street address, city and county and shall, within five (5) working days, provide a notice of a change of location and address.
- b. The Contractor shall have ten (10) days from receipt of the written notice specifying in what respects the Contractor must comply with the above requirements. In the event Contractor does not comply with the requirements of this section within the ten (10) day period, the Contractor shall, as a penalty to the County, forfeit one-hundred dollars (\$100.00) for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. Upon the request of the Division of Labor Standards Enforcement, such penalty shall be withheld from progress payments then due to the Contractor. A contractor is not subject to a penalty assessment pursuant to this section due to the failure of a subcontractor to comply with this section.
- c. At least monthly (at least once every 30 days), the Contractor and all subcontractors must submit electronic certified payroll records online to the Labor Commissioner, in a format prescribed by the Labor Commissioner. The County reserves the right to require Contractor and all subcontractors to submit certified payroll to the Labor Commissioner more frequently than monthly.
- i. A contractor or subcontractor who fails to furnish electronic certified payroll records to the Labor Commissioner as required by Labor Code section 1771.4, is subject to a penalty by the Labor Commissioner of one hundred dollars (\$100) per day, until such payroll records are furnished, not to exceed a total penalty of five thousand dollars (\$5,000) per project.
 - ii. This requirement does not apply to public works projects \$25,000 or less when the project is for construction, alteration, demolition, installation or repair work, or if the public works project is \$15,000 or less when the project is for maintenance work. However, the Contractor must still keep accurate certified payroll records and retain those records, as specified in Labor Code section 1776, for at least three years after completion of the work.

6. Limits on Hours of Work:

Pursuant to Labor Code section 1810, eight (8) hours of labor shall constitute a legal day's work. Pursuant to Labor Code section 1811, the time of service of any worker employed at any time by the Contractor or by a subcontractor, upon the Scope of Work or upon any part of the Scope of Work, is limited and restricted to eight (8) hours during any one calendar day and forty (40) hours during any one calendar week, except as provided for under Labor Code section 1815. Notwithstanding the foregoing provisions, work performed by employees of Contractor or any subcontractor, in excess of eight (8) hours per day and forty (40) hours during any one week, shall be permitted upon compensation for all hours worked in excess of eight (8) hours per day at not less than one and one-half (1½) times the basic rate of pay.

7. Penalty for Excess Hours:

The Contractor shall pay to the County a penalty of twenty-five dollars (\$25.00) for each worker employed on the Scope of Work by the Contractor or any subcontractor, for each calendar day during which such worker is required or permitted to work more than eight (8) hours in any calendar day and forty (40) hours in any one calendar week, in violation of the provisions of the Labor Code, unless compensation to the worker so employed by the Contractor is not less than one and one-half (1½) times the basic rate of pay for all hours worked in excess of eight (8) hours per day.

8. Jobsite Notices

This project is subject to compliance, monitoring, and enforcement by the DIR. As required by the DIR, Contractor is required to post jobsite notices, as prescribed by regulation, regarding compliance monitoring and enforcement by the DIR.

9. Registration with the DIR (Labor Code section 1725.5)

- a. Contractor must be registered with the DIR to bid or submit a proposal on this project, unless the public works project is \$25,000 or less when the project is for construction, alteration, demolition, installation or repair work, or if the public works project is \$15,000 or less when the project is for maintenance work. No contractor or subcontractor may be listed on a bid proposal for a public works project unless registered with the DIR pursuant to Labor Code section 1725.5, with limited exceptions from this requirement for bid purposes only as allowed under Labor Code sections 1771.1(a) and 1725.5(f).
 - i. An inadvertent error in listing a subcontractor who is not registered pursuant to Labor Code section 1725.5 in a bid proposal shall not be grounds for filing a bid protest or grounds for considering the bid nonresponsive, provided that any of the following apply:
 - 1) The subcontractor is registered prior to the bid opening.
 - 2) Within 24 hours after the bid opening, the subcontractor is registered and has paid the penalty registration fee.
 - 3) The subcontractor is replaced by another registered subcontractor pursuant to Section 4107 of the Public Contract Code.
- b. Contractor must be registered with the DIR (unless an exception applies) to be awarded a contract or perform any work on this project. No contractor or subcontractor may be awarded a contract for a public work project or perform work on a public works project unless registered with the DIR pursuant to Labor Code section 1725.5 (unless an exception applies).
 - i. A contract entered into with any contractor or subcontractor in violation Labor Code section 1725.5 shall be subject to cancellation.
 - ii. If the Labor Commissioner determines that a contractor or subcontractor engaged in the performance of any public work contract without having been registered in accordance with Labor Code section 1771.1, the contractor or subcontractor is subject to civil penalties of one hundred dollars (\$100) for each day of work performed in violation of the registration requirement, not to exceed an aggregate penalty of eight thousand dollars (\$8,000), payable to the state. Contractor may also be subject to additional penalties, up to an additional \$10,000, for entering into a contract with an unregistered subcontractor.
 - iii. Where a contractor or subcontractor engages in the performance of any public work contract without having been registered with the DIR, the Labor Commissioner shall issue and serve a stop order prohibiting the use of the unregistered contractor or subcontractor on all public works until they are registered. The stop order shall not apply to work by registered contractors or subcontractors on the public work. Any employee of an unregistered contractor or subcontractor who is affected by a work stoppage ordered by the commissioner shall be paid at their regular hourly prevailing wage rate by that employer for any hours the employee would have worked but for the work stoppage, not to exceed 10 days. Failure of a contractor or subcontractor to observe a stop order issued and served upon them is guilty of a misdemeanor punishable by imprisonment in county jail up to 60 days or by a fine of up to ten thousand dollars (\$10,000), or both.

- c. To qualify for registration with the DIR, Contractor must meet all requirements listed in [Labor Code Section 1725.5](#).
- d. Registration with the DIR is not required if the public works project is \$25,000 or less when the project is for construction, alteration, demolition, installation, or repair work, or if the public works project is \$15,000 or less when the project is for maintenance work.

B. STATE PUBLIC WORKS APPRENTICESHIP REQUIREMENTS

1. State Public Works Apprenticeship Requirements:

- a. The Contractor is responsible for compliance with Labor Code section 1777.5 and the California Code of Regulations, title 8, sections 230 – 230.2 for all apprenticeable trades or crafts (denoted with “#” symbol next to craft name in DIR Prevailing Wage Determination), whether employed by the Contractor, subcontractor, vendor or consultant. Included in these requirements is (1) the Contractor’s requirement to provide notification (i.e. DAS-140) to the appropriate apprenticeship committees; (2) pay training contributions for each apprenticeable hour employed on the Contract to either the local training fund or the California Apprenticeship Council; and (3) utilize apprentices in a minimum ratio of not less than one apprentice hour for each five journeyman hours by completion of Contract work (unless an exemption is granted in accordance with Labor Code section 1777.5) or request for the dispatch of apprentices.
- b. Any apprentices employed to perform any of the Scope of Work shall be paid the prevailing rate of per diem wages for apprentices in the craft or trade for which such apprentice is employed, and such individual shall be employed only for the work of the craft or trade to which such individual is registered. Unless otherwise provided by a collective bargaining agreement, when the Contractor requests the dispatch of an apprentice to perform work on a public works project and requires the apprentice to fill out an application or undergo testing, training, an examination, or other preemployment process as a condition of employment, the apprentice shall be paid for the time spent on the required preemployment activity, including travel time to and from the required activity, if any, at the prevailing rate of per diem wages for apprentices in the trade to which he or she is registered. Unless otherwise provided by a collective bargaining agreement, Contractor is not required to compensate an apprentice for the time spent on preemployment activities if the apprentice is required to take a preemployment drug or alcohol test and he or she fails to pass that test.
- c. Only apprentices, as defined in Labor Code section 3077, who are in training under apprenticeship standards and written apprenticeship agreements under Labor Code sections 3070 et seq. are eligible to be employed for the Scope of Work. The employment and training of each apprentice shall be in accordance with the provisions of the apprenticeship standards and apprentice agreements under which such apprentice is training, or the rules and regulations of the California Apprenticeship Council.

2. Compliance with Labor Code section 1777.5 requires all public works contractors to:

- a. Submit Contract Award Information (DAS-140) to an applicable apprenticeship program that can supply apprentices to the site of the public work. The information submitted must include the contractor’s name, address, telephone number and state license number; the full name and address of the public work awarding body; the exact location of the public work site; the date of the contract award; an estimate of journeyman hours to be performed under the contract; the number of apprentices proposed to be employed; and the approximate dates the apprentices would be employed.
- b. Although there are a few exemptions (identified below), all Contractors, regardless of union affiliation, must submit contract award information when performing on a California public works project.
- c. The DAS-140 is a notification “announcement” of the Contractor’s participation on a public works project—*it is not a request for the dispatch of an apprentice (to do this use DAS Form 142)*.
- d. Contractors shall submit the contract award information (you may use form DAS 140) within 10 days of the execution of the prime contract or subcontract, but in no event later than the first day in which the Contractor has workers employed on the public work.

- e. Contractors who are already approved to train apprentices (i.e. check "Box 1" on the DAS-140) shall only be required to submit the form to their approved program.
- f. Contractors who are NOT approved to train apprentices (i.e. those that check either "Box 2" or "Box 3" on the DAS-140) shall submit the DAS-140 TO EACH of the apprenticeship program sponsors in the area of your public works project. For a listing of apprenticeship programs see <http://www.dir.ca.gov/Databases/das/pwaddrstart.asp>.
- g. Employ Registered Apprentices
 - i. Labor Code section 1777.5 requires that a contractor performing work in an "apprenticeable" craft or trade must employ one (1) hour of apprentice work for every five (5) hours performed by a journeyman, not including overtime hours. If Contractor has agreed to be covered by an apprenticeship program's standards, Contractor must employ the number of apprentices or the ratio of apprentices to journeymen stipulated in the applicable apprenticeship standards, which cannot be less than the 1 to 5 ratio required above.
 - ii. Contractor must attempt, to the greatest extent possible, to employ apprentices during the same time period that the journeyman in the same craft or trade are employed at the jobsite. This ratio shall be met prior to the Contractor's completion of work on the project. "Apprenticeable" crafts or trades are denoted with a pound symbol "#" in front of the craft or trade name on the prevailing wage determination.
 - iii. All Contractors who do not fall within an exemption category (see below) must request for dispatch of an apprentice from an apprenticeship program (for each apprenticeable craft or trade) by giving the program actual notice of at least 72 hours (business days only) before the date on which apprentices are required.
 - iv. Contractors may use the "DAS-142" form for making a request for the dispatch of an apprentice.
 - v. Contractors who are participating in an approved apprenticeship training program and who did not receive sufficient number of apprentices from their initial request must request dispatch of apprentices from ALL OTHER apprenticeship committees in the project area in order to fulfill this requirement.
 - vi. Contractor should maintain and submit proof (when requested) of its DAS-142 submittal to the apprenticeship committees (e.g. fax transmittal confirmation). A Contractor has met its requirement to employ apprentices only after it has successfully made a dispatch request to all apprenticeship programs in the project area.
 - vii. Apprentices employed to fulfill the requirements of Labor Code section 1777.5 must be registered apprentices who are training under apprenticeship standards that include the work processes that the Contractor will perform on the project. Where a Contractor employs apprentices under the rules and regulations of the California Apprenticeship Council, apprentices must, at all times work under the direct supervision of a Journeyman (Cal. Code Regs., tit 8, § 230.1).
- h. Make Training Fund Contributions
 - i. Contractors performing in apprenticeable crafts or trades on public works projects, must make training fund contributions to the California Apprenticeship Council, in the amount established by the Director of the Department of Industrial Relations as the prevailing amount for apprenticeship training contributions in the area of the public works site.
 - ii. Contractors may use the "CAC-2" form for submittal of their training fund contributions.
 - iii. Contractors may take as a credit for payments to the Council any amounts paid by the contractor to an approved apprenticeship program that can supply apprentices to the site of the public works project.
 - iv. Training fund contributions are due and payable on the 15th day of the month for work performed during the preceding month.
- i. Submit a Verified Statement within 60 Days of Conclusion of Work Under the Contract
 - i. Each contractor and subcontractor must submit a verified statement of the journeyman and apprentice hours performed on the contract, which information shall be public and retained by the apprenticeship programs for 12 months.

3. Exemptions to Apprenticeship Requirements:

- a. The following are exempt from having to comply with California apprenticeship requirements. These types of contractors do not need to submit a DAS-140, DAS-142, make training fund contributions, or utilize apprentices:
 - i. Contractors performing in non-apprenticeable crafts. "Apprenticeable" crafts are denoted with a pound symbol "#" in front of the craft name on the prevailing wage determination.
 - ii. When the Contractor has a direct contract with the public agency that is under \$30,000.
 - iii. When the project is 100% federally-funded and the funding of the project does not contain any city, county, and/or state monies (unless the project is administered by a state agency in which case the apprenticeship requirements apply).
 - iv. When the project is a private project not covered by the definition of public works as found in Labor Code section 1720 et seq.

4. Exemption from Apprenticeship Ratios:

- a. The Administrator of Apprenticeship may grant a certificate exempting the Contractor from the 1-to-5 ratio set forth in this Section if Contractor can show that he or she employs apprentices in a particular craft or trade in the state on all of his or her contracts on an annual average of not less than one hour of apprentice work for every five hours of labor performed by journeymen
- b. An apprenticeship program has the discretion to grant a certificate to a participating contractor or contractor association which shall be subject to the approval of the Administrator of Apprenticeship, exempting the Contractor from the 1-to-5 ratio set forth in this Section when it finds that any one of the following conditions are met:
 - i. Unemployment for the previous three-month period in such area exceeds an average of fifteen percent (15%); or
 - ii. The number of apprentices in training in such area exceeds a ratio of 1-to-5 in relation to journeymen; or
 - iii. There is a showing that the apprenticeable craft or trade is replacing at least one-thirtieth (1/30) of its journeymen annually through apprenticeship training, either on a statewide basis or on a local basis; or
 - iv. Assignment of an apprentice to any work performed under the Contract documents would create a condition which would jeopardize such apprentice's life or the life, safety or property of fellow employees or the public at large, or if the specific task to which the apprentice is to be assigned is of such a nature that training cannot be provided by a journeyman.
- c. When an exemption from subsection b. above is granted to an organization which represents contractors in a specific trade on a local or statewide basis, the member contractors will not be required to submit individual applications for approval to local joint apprenticeship committees, provided they are already covered by the local apprenticeship standards.

5. Contractor's Compliance:

- a. The responsibility for compliance with this Section for all apprenticeable trades or crafts is solely and exclusively that of the Contractor. Violations of Labor Code section 1777.5 are subject to penalties pursuant to Labor Code section 1777.7, as determined by the Labor Commissioner.