



**SAN LUIS OBISPO COUNTY
OFFICE OF EDUCATION**
LEADERSHIP • COMMUNITY • SERVICE
JULIAN D. CROCKER, SUPERINTENDENT

***Labor Compliance Program
Approved 11/13/03***

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November 13, 2003

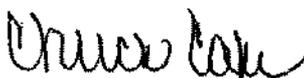
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Peggy Edwards:

In accordance with the provisions of Title 8, California Code of Regulations, Section 16426, initial approval of the San Luis Obispo County Office of Education (SLOCOE) Labor Compliance Program is hereby granted effective November 13, 2003 .

As indicated in Section 16426(c), this approval automatically expires one year after approval date unless an extension of the initial approval is requested in writing or the Director grants final approval at least 30 days prior to the anniversary date of this approval. As you know, you may apply for final approval of the program after eleven continuous months of operation (CCR §16427).

Sincerely Yours,


Chuck Cake
Acting Director

The San Luis Obispo County Office of Education is adopting this CASH Labor Compliance Program Manual for the purpose of implementing its policy relative to the Labor Compliance provisions of state and federally funded public works contracts.

INTRODUCTION

The School District issues this Labor Compliance Program (LCP) manual for the purpose of identifying its policy relative to the responsibilities and procedures applicable to the labor compliance provisions of the state and federally funded public works contracts. This LCP contains the labor compliance standards required by state and federal laws, regulations, directives, as well as School District policies and contract provisions.

The California Labor Code Section 1770 *et seq.* and Education Code Section 17424 require that all contractors on public works pay their workers based on the prevailing wage rates, which are established and issued by the Department of Industrial Relations, Division of Labor Statistics and Research.

In establishing this LCP, the School District adheres to the statutory requirements as enunciated in Section 1771.5(b) of the Labor Code, which include:

1. All bid invitations and public works contracts shall contain appropriate language concerning the requirements of this chapter.
2. A prejob conference shall be conducted with the contractor and subcontractors to discuss federal and state labor law requirements applicable to the contract.
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.

It is the intent of the School District to actively enforce this LCP on all School District public works projects which use funds derived from either the Kindergarten - University Public Facilities Bond Act of 2002 or 2004 in accordance with Labor Code Section 1771.7.

Should applicable sections of the Labor Code or Title 8 of the California Code of Regulations undergo alteration, amendment, or deletion, the School District will modify the affected portions of this program accordingly.

Questions regarding the School District's LCP should be directed to Peggy Edwards, SLOCOE
Questions regarding the California Labor Code, including issues relating to this LCP, should be directed to Peggy Edwards, Purchasing Agent, San Luis Obispo Co. Office of Ed.

805/782-7218

I. PUBLIC WORKS SUBJECT TO PREVAILING WAGE LAWS

State prevailing wage rates apply to all public works contracts as set forth in Labor Code Sections 1720, et seq., and include, but are not limited to, such types of work performed under contract as construction, modernization, alteration, demolition, installation or repair. The Division of Labor Statistics and Research (DLSR) predetermines the appropriate prevailing wage rates for particular construction trades and crafts by county.

Applicable Dates for Enforcement of the LCP

The applicable dates for enforcement of awarding body LCP is established by Section 16425 of the California Code of Regulations. Contracts are not subject to the jurisdiction of the LCP until after the Program has received initial or final approval.

II. COMPETITIVE BIDDING ON DISTRICT PUBLIC WORKS CONTRACTS

The School District publicly advertises upcoming public works projects to be awarded according to a competitive bidding process.

All School District bid advertisements (or bid invitations) and construction contracts shall contain appropriate language concerning the requirements of the Public Works chapter of the Labor Code.

III. JOB CONFERENCE MEETING

After the School District awards the public works contract and prior to the commencement of the work, a Pre-Job Conference shall be held by the School District with the contractor(s) and subcontractor(s). At that meeting, the School District will discuss the federal and state labor law requirements applicable to the contract and will provide the contractor(s) and each subcontractor with a Checklist of Labor Law Requirements (presented in Attachment A) and will discuss in detail the following checklist items:

1. The contractor's duty to pay prevailing wages (Labor Code Section 1770, et seq.);
2. The contractor's and subcontractor's duty to employ registered apprentices on public works projects (Labor Code Section 1777.5);
3. The penalties for failure to pay prevailing wages failing to employ apprentices, and failing to submit complete Certified Payroll Reports, which include forfeitures and debarment (Labor Code Sections 1775, 1776, 1777.7, and 1813);

4. The requirement to maintain and submit copies of certified payroll reports on a weekly basis to the School District at times designated in the contract or within 10 days of request by the School District, and penalties for failure to do so under Labor Code Section 1776 (g). This requirement includes and applies to all subcontractors performing work on School District projects even if their portion of the work is less than one half of one percent (0.5%) of the total amount of the contract;
5. The prohibition against employment discrimination (Labor Code Sections 1735 and 1777.6; the Government Code; and Title VII of the Civil Rights Act of 1964, as amended);
6. The prohibition against accepting or extracting kickbacks from employee wages (Labor Code Section 1778);
7. The prohibition against accepting fees for registering any person for public works (Labor Code Section 1779) or for filing work orders on public works (Labor Code Section 1780);
8. The requirement to list all subcontractors (Public Contract Code Section 4100, *et seq.*);
9. The requirement to be properly licensed and to require all subcontractors to be properly licensed, and the penalty for employing workers while unlicensed (Labor Code Section 1021 and 1021.5, and Business and Professions Code Section 7000, *et seq.*, under California Contractors License Law);
10. The prohibition against unfair competition (Business and Professions Code Sections 17200-17208);
11. The requirement that the contractor(s) and subcontractor(s) be properly insured for Workers' Compensation (Labor Code Section 1861);
12. The requirement that the contractor(s) abide by the Occupational Safety and Health laws and regulations that apply to the particular public works project; and

The contractor(s) and subcontractor(s) present at the meeting will be given the opportunity to ask questions of the LCPR relative to any of the Labor Law Requirements Checklist. The Checklist of Labor Law Requirements will then be signed by the prime contractor's representative, subcontractor's representative, and the School District's LCPR.

At the Pre-Job Conference, the LCPR will provide the contractor(s) with two (2) copies of the School District's LCP package which includes: a copy of the approved LCP, the checklist of Labor Law Requirements, applicable Prevailing Wage Rate Determinations,

blank certified payroll report forms, fringe benefit statements, State apprenticeship requirements, and a copy of the Labor Code relating to Public Works and Public Agencies (Part 7, Chapter 1, Sections 1720-1861).

It will be the contractor's responsibility to provide copies of the LCP package to all subcontractors and to any substituted subcontractor performing work on the School District's project(s).

IV. RESPONSIBILITIES OF CONTRACTOR(S) AND EACH SUBCONTRACTOR

A. Certified Payroll Records Required

The contractor(s) shall maintain payrolls and "basic payroll records" during the course of the work and shall preserve them for a period of three (3) years thereafter for all tradesworkers working at the School District's project sites. Such records shall include the name, address, and social security number of each worker, his or her classification, a general description of the work each employee performed each day, the rate of pay (including rates of contributions for, or costs assumed to provide fringe benefits), daily and weekly number of hours worked, deductions made, and actual wages paid.

1. Submission of Certified Payroll Reports

The contractor(s) shall maintain and submit all weekly certified payroll reports including those of all subcontractors to the School District at a School District-designated time, not less than monthly. The contractor(s) shall be responsible for the submittal of payroll reports of all its subcontractors. All weekly certified payroll reports shall be accompanied by a statement of compliance signed by the contractor(s) under penalty of perjury pursuant to Labor Code Section 1771.5(b)(3) and applicable regulations.

Basic payroll records may be requested by the School District or LCPR at any time and shall be provided within 10 days following the receipt of the request.

2. Review of Certified Payroll Reports

Certified payroll reports shall be routinely reviewed by the Contractor for the payment of prevailing wage rates.

3. Full Accountability

The name, address and social security number of every individual, laborer or

craftsperson working at the project site must appear on the payroll. The basic concept is that the employer who pays the tradesworker must report that individual on its payroll. This includes individuals working as apprentices in an apprenticeship craft. Owner-operators are to be reported by the contractor employing them, rental equipment operators are to be reported by the rental company paying the workers' wages.

Sole owners and partners who work on a contract must also submit a certified payroll report listing the days and hours worked, and the trade classification descriptive of the work actually done. The contractor(s) shall make the records required under this section available for inspection by the LCPR, an authorized representative of the School District and the Department of Industrial Relations, and shall permit such representatives to interview tradesworkers during working hours on the project site.

4. Responsibility for Subcontractor(s)

The contractor(s) shall be responsible for ensuring adherence to labor standards provisions by its subcontractor(s). Moreover, the prime contractor is responsible for Labor Code violations by its subcontractors in accordance with Labor Code Section 1775 and applicable sections of the Labor Code and California Code of Regulations.

5. Payment to Employees

Employees must be paid unconditionally, and not less often than once each week, the full amounts which are due and payable for the period covered by the particular payday. Thus, an employer must, therefore, establish a fixed workweek (i.e., Sunday through Saturday) and an established payday (such as every Friday or the preceding day should such payday fall on a holiday). On each and every payday, each worker must be paid all sums due as of the end of the preceding workweek and must be provided with an itemized wage statement.

If an individual is called a subcontractor, when, in fact, he/she is merely a journey level mechanic supplying only his/her labor, such an individual would not be deemed a bona fide subcontractor and must be reported on the payroll of the prime contractor who contracted for his or her services as a tradesworker. Moreover, any person who does not hold a valid contractor's license cannot be a subcontractor, and anyone hired by that person is the worker or employee of the general contractor who contracted for his or her services for purposes of prevailing wage requirements, certified payroll reporting and workers' compensation laws.

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

B. Apprentices

Apprentices shall be permitted to work as such only when they are registered, individually, under a bona fide apprenticeship program registered with a State apprenticeship agency which is recognized by the State Division of Apprenticeship Standards. The allowable ratio of apprentices to journey persons in any craft/classification shall not be greater than the ratio permitted to the contractor as to its entire workforce under the registered program. Any worker listed on a payroll at an apprentice wage rate who is not registered shall be paid the journey level wage rate determined by the Department of Industrial Relations for the classification of the work he/she actually performed. An apprentice who is registered and has worked outside of the prescribed geographic area is not qualified to receive the apprentice rate and must be paid the journey level rate.

The contractor shall furnish written evidence of the registration (i.e., Apprenticeship Agreement or Statement of Registration) of its training program and apprentices, as well as the ratios allowed and the wage rates required to be paid thereunder for the area of construction, prior to using any apprentices in the contract work.

Pre-apprentice trainees, trainees in nonapprenticeable crafts, and others who are not duly registered will not be permitted on public works projects unless they are paid full prevailing wage rates as journeypersons.

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

1. Apply for a Certificate of Approval for the employment and training of apprentices for each craft or trade;
2. Request dispatch of apprentices and employ apprentices as available on public works projects in a ratio to journey persons as stipulated in the Apprenticeship Standards under which each Joint Apprenticeship Committee operates, but in no case shall the ratio be less than one (1) apprentice to each

five (5) journey person hours, unless a Certificate of Exemption is obtained and provided to the LCPR;

3. Contribute to the training fund in the amount identified in the prevailing wage rate publication for journey persons and apprentices. Where the trust fund administrators cannot accept the contributions, then payment shall be made to the California Apprenticeship Council, Post Office Box 420603, San Francisco, CA 94142; and
4. If the contractor is registered to train apprentices it should be noted that a prior approval for a separate project does not confirm approval to train on any project. The contractor/subcontractor must check with the applicable Joint Apprenticeship Committee to verify status.

V. ENFORCEMENT ACTION

A. Duties of the School District as LCP

The School District, as the awarding body having an approved LCP, has a duty to the Director of the Department of Industrial Relations to enforce Labor Code section 1720 et seq. in a manner consistent with the practice of the Division of Labor Standards Enforcement (DLSE) and as set forth in regulations found at 8 CCR section 16000 et seq., and in accordance with Precedential Public Works Decisions issued by the Director and which are available at the Department of Industrial Relations Home Page (www.dir.ca.gov) and links to that page. The School District shall undertake enforcement action in furtherance of its responsibilities as follows:

1. Review Certified Payroll Records. Certified payroll records furnished by contractors and subcontractors shall be regularly and timely reviewed by the School District to monitor payment of prevailing wages.

2. Audits/Investigations. Audits/investigations may be conducted by the School District when deemed necessary, and shall be conducted at the request of the Labor Commissioner.

- a. An audit consists of a comparison of payroll records to the best available information as to the actual hours worked and classifications of workers employed on the contract. Records should be made available to show that the audits conducted are sufficiently detailed to verify compliance with the prevailing wage requirements of the Labor Code.

- b. An audit record in the form set out in Attachment B, and as provided in 8 CCR section 16432, complies with the Labor Code requirements.

3. Withholding Contract Payments for Violations of the Requirements of Chapter 1 of Part 7 of Division 2 of the Labor Code. The School District shall withhold contract payments when payroll records are delinquent or inadequate or when, after an investigation, it is established that underpayment of the prevailing wage has occurred. The authority of an approved LCP to withhold contract

payments is found in Labor Code section 1771.6 and is also subject to provisions contained at 8 CCR section 16435 et seq. As explained more fully below, the School District will first obtain approval from the Labor Commissioner of the amounts of unpaid penalty and wage money assessed by the School District ("forfeitures") for violations of the prevailing wage laws; thereafter, the School District will provide notice of withholding of contract payments to the contractor and other affected parties (a subcontractor and bonding company, if applicable) as required by law. The procedures to be followed by the School District in obtaining approval of a forfeiture from the Labor Commissioner and providing notice of withholding to the contractor and other affected parties will be consistent with the code sections and regulations cited above, and definitions included therein (see Appendix A – "Definitions" – attached hereto), and are summarized as follows:

Step No. 1 Approval of Amount of Forfeiture by the Labor Commissioner

a. The School District shall request approval of the amount of a proposed forfeiture by filing a report with the Labor Commissioner which contains at least the following information:

1. The date that the public work was accepted, and the date that a Notice of Completion was recorded;
2. Any other deadline which if missed would impede collection;
3. Evidence of violation, in narrative form;
4. Evidence of the audit/investigation that has occurred;

Note: A report requesting approval of the amount of a proposed forfeiture only assessed for delinquent or inadequate payroll records pursuant to Labor Code section 1776 (g) need only refer to evidence that the contractor failed to provide certified payroll records or basic payroll records (see, section IV A. 1. above) within ten (10) days of receipt of the request, and the amount of the proposed forfeiture for delinquent or inadequate payroll records calculated at twenty-five dollars (\$25) for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated.

5. Evidence that the contractor and subcontractor were given the opportunity to explain why there was no violation, or whether the failure to pay the correct rate of wages was a good faith mistake and, if so, whether the error was promptly and voluntarily corrected upon being brought to the attention of the contractor and subcontractor;

6. Where the School District seeks not only amounts of wages but also a penalty under Labor Code section 1775 as part of the forfeiture, and the contractor or subcontractor has unsuccessfully contended that the cause of the violation was a good faith mistake, a short statement should recommend a penalty amount (computed at not more than fifty dollars (\$50) for each calendar day, or portion thereof, for each worker paid less than the prevailing wage rates), and reasons therefor; if the amount of wages sought involves overtime, penalties under

Labor Code section 1813 should be calculated as follows: twenty-five dollars (\$25) for each calendar day during which each worker was required or permitted to work more than eight hours in any one calendar day and 40 hours in any one calendar week;

7. Where the School District seeks only wages, or a penalty under Labor Code section 1775 of less than fifty dollars (\$50) per calendar day as part of the forfeiture, and the contractor has successfully contended that the cause of the violation was a good faith mistake, a short statement should recommend a penalty amount, and reasons therefor, pursuant to Labor Code section 1775; if the amount of wages sought involves overtime, penalties under Labor Code section 1813 should be calculated as follows: twenty-five dollars (\$25) for each calendar day during which each worker was required or permitted to work more than eight hours in any one calendar day and 40 hours in any one calendar week;

8. Whether the contractor or subcontractor has a prior record of failing to meet its prevailing wage obligations

9. Whether the LCP for the School District has been granted initial, extended initial or final approval.

b. The report should be served on the Labor Commissioner as soon as practicable after the violation has been discovered, and not less than thirty days before final payment, but in no event later than 320 days after the School District's acceptance of the public work or 320 days after the filing of a valid Notice of Completion in the Office of the County Recorder, whichever occurs last.

c. A copy of the proposed forfeiture and the report shall be served on the contractor and subcontractor, if applicable, at the same time as it is sent to the Labor Commissioner. The School District may exclude from the documents served on the contractor and subcontractor copies of documents secured from the contractor or subcontractor during an audit, investigation, or meeting, if those are clearly referenced in the report. The report shall be accompanied by the Notice of Deadlines form attached hereto as Attachment C.

d. The Labor Commissioner shall affirm, reject, or modify the forfeiture in whole or in part as to penalty and/or wages due.

e. The Labor Commissioner's determination of forfeiture is effective on one of the two following dates:

1. For programs with initial approval or an extension of initial approval pursuant to 8 CCR section 16426, on the date the Labor Commissioner serves by first class mail, on the political subdivision and on the contractor, an endorsed copy of the proposed forfeiture, or a newly drafted forfeiture statement which sets out the amount of forfeiture approved. Service on the contractor is effective if made on the last address supplied by the contractor in the record. The Labor Commissioner's approval, modification or disapproval of the proposed forfeiture shall be served within 30 days of receipt of the proposed forfeiture.

2. For programs with final approval, approval is effective 20 days after the requested forfeitures are served upon the Labor Commissioner,

unless the Labor Commissioner serves a notice upon the parties, within that time period, that this forfeiture request is subject to further review. For such programs, a notice that approval will follow such a procedure will be included in the transmittal of the forfeiture request to the contractor. If the Labor Commissioner notifies the parties of a decision to undertake further review, the Labor Commissioner's final approval, modification or disapproval of the proposed forfeiture shall be served within 30 days of the date of notice of further review.

Step No. 2 Notice of Withholding and Review Thereof

a. Notice of Withholding of Contract Payments

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

b. Review of NWCP

1. An affected contractor or subcontractor may obtain review of a NWCP under this chapter by transmitting a written request for a review hearing to the office of the LCP that appears on the NWCP within 60 days after service of the NWCP. If no hearing is requested within 60 days after the service of the NWCP, the NWCP shall become final.

2. Within ten days following the receipt of the request for a review hearing, the LCP shall transmit to the Office of the Director-Legal Unit the request for review and copies of the Notice of Withholding of Contract Payments, any audit summary that accompanied the notice, and a proof of service or other documents showing the name and address of any bonding company or surety that secures the payment of the wages covered by the notice. **A copy of the required Notice of Transmittal to be utilized by the School District is found as Attachment E to this document.**

3. Upon receipt of a timely request, a hearing shall be commenced within 90 days before the director, who shall appoint an impartial hearing officer possessing the qualifications of an administrative law judge pursuant to subdivision (b) of Section 11502 of the Government Code. The appointed hearing officer shall be an employee of the department, but shall not be an employee of the Division of Labor Standards Enforcement. The contractor or subcontractor shall be

provided an opportunity to review evidence to be utilized by the LCP at the hearing within 20 days of the receipt by the LCP of the written request for a hearing. Any evidence obtained by the LCP subsequent to the 20-day cutoff shall be promptly disclosed to the contractor or subcontractor. **A copy of the Notice of Opportunity to Review Evidence Pursuant to Labor Code Section 1742 (b) form is found as Attachment F to this document.**

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

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

The director has adopted regulations setting forth procedures for hearings under this subdivision. **The regulations are found as Attachment G to this document.**

4. An affected contractor or subcontractor may obtain review of the decision of the director by filing a petition for a writ of mandate to the appropriate superior court pursuant to Section 1094.5 of the Code of Civil Procedure within 45 days after service of the decision. If no petition for a writ of mandate is filed within 45 days after service of the decision, the order shall become final. If it is claimed in a petition for writ of mandate that the findings are not supported by the evidence, abuse of discretion is established if the court determines that the findings are not supported by substantial evidence in the light of the whole record.

5. A certified copy of a final order may be filed by the Labor Commissioner in the office of the clerk of the superior court in any county in which the affected contractor or subcontractor has property or has or had a place of business. The clerk, immediately upon the filing, shall enter judgment for the state against the person assessed in the amount shown on the certified order.

6. A judgment entered pursuant to this procedure shall bear the same rate of interest and shall have the same effect as other judgments and shall be given the same preference allowed by law on other judgments rendered for claims for taxes. The clerk shall not charge for the service performed by him or her pursuant to this section.

7. This procedure shall provide the exclusive method for review of a decision by the School District to withhold contract payments pursuant to Section 1771.5.

Note: A release under Civil Code section 3196 may not be posted for the release of funds being withheld for violations of the prevailing wage law.

B. Deposits of Penalties and Forfeitures Withheld

1. Where the involvement of the Labor Commissioner has been limited to a determination of the actual amount of penalty, forfeiture, or underpayment of wages, and the matter has been resolved without litigation by or against the Labor Commissioner, the School District shall deposit penalties and forfeitures into its construction fund or other fund of its choice.
2. Where collection of fines, penalties, or forfeitures results from court action to which the Labor Commissioner and the School District are both parties, the fines, penalties, or forfeitures shall be divided between the General Funds of the State and the construction fund or other fund of the School District's choice, as the court may decide.
3. All amounts recovered by suit brought by the Labor Commissioner, and to which the School District is not a party, shall be deposited in the General Fund of the State of California.
4. All wages and benefits which belong to a worker and are withheld or collected from a contractor or subcontractor, either by withholding or as a result of court action pursuant to Labor Code Section 1775, and which have not been paid to the worker or irrevocably committed on the worker's behalf to a benefits fund, shall be deposited with the Labor Commissioner, who will deal with such wages and benefits in accordance with Labor Code Section 96.7.

VI. REPORTING OF WILLFUL VIOLATIONS TO THE LABOR COMMISSIONER
Debarment Policy

It is the policy of the School District that the public works prevailing wage requirements set forth in the California Labor Code, Sections 1720-1861, be strictly enforced. In furtherance thereof, contractors and subcontractors found to be willful violators under Section 1777.1 of the California Labor Code shall be referred to the Labor Commissioner for debarment from bidding on or otherwise being awarded any public work contract, within the state of California, for the performance of construction and/or maintenance services for the period not to exceed three (3) years in duration. The duration of the debarment period shall depend upon the nature and severity of the labor code violations and any mitigating and/or aggravating factors, which may be presented at the hearing conducted by the Labor Commissioner for such purpose.

If an investigation reveals that a willful violation of the Labor Code Section 1777.1 has occurred, the LCPR will make a written report to the School District and the Labor Commissioner which shall include: (1) an audit consisting of a comparison of payroll

records to the best available information as to the actual hours worked and (2) the classification of workers employed on the public works contract. Six types of willful violations are reported as follows:

A. For Failure to Comply with Prevailing Wage Rate Requirements

Failure to comply with prevailing wage rate requirements (as set forth in the Labor Code and School District contracts) is determined a willful violation whenever less than the stipulated basic hourly rate is paid to tradesworkers, or if overtime, holiday rates, fringe benefits, and/or employer payments are paid at a rate less than stipulated. The facts related to such willful violations may result in a determination that the contractor intended to defraud its employees of their wages.

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

Falsification of payroll records and failure to accurately report hours of work is characterized by deliberate underreporting of hours of work; underreporting the headcount; stating that the proper prevailing wage rate was paid when, in fact, it was not; clearly misclassifying the work performed by the worker; and any other deliberate and/or willful act which results in the falsification or inaccurate reporting of payroll records. Such violations are deemed to be willful violations committed with the intent to defraud.

C. For Failure to Submit Certified Payroll Reports

Refusing to comply with a request by the LCPR for certified payroll reports or substantiating information and records as contained in Section IV.A.1. will be determined to be a willful violation of the Labor Code. Additionally, refusing to correct inaccuracies or omissions that have been discovered will also be determined to be willful violation of the Labor Code.

D. For Failure to Pay Fringe Benefits

Fringe benefits are defined as the amounts stipulated for employer payments or trust fund contributions and are determined to be part of the required prevailing wage rate. Failure to pay or provide fringe benefits and/or make trust fund contributions in a timely manner is equivalent to payment of less than the stipulated wage rate and shall be reported to the School District and Labor Commissioner as a willful violation, upon completion of an investigation and audit.

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

Failure to pay the correct apprentice rate or classifying a worker as an apprentice

when not properly registered is equivalent to payment of less than the stipulated wage rate and shall be reported to the School District and Labor Commissioner as a willful violation, upon completion of an investigation and audit.

F. For the Taking of Kickbacks

Accepting or extracting kickbacks from employee wages under Labor Code Section 1778 constitutes a felony and may be prosecuted by the appropriate enforcement agency.

VII. PRIORITY DISTRIBUTION OF FORFEITED SUMS

A. Withholding of Forfeited Sums

Pursuant to Labor Code Sections 1726 and 1771.6, it shall be the policy of the School District that prior to making payment to the prime contractor of monies due under any contract for public works, the School District shall withhold and retain from the prime contractor's account all amounts which have been forfeited pursuant to any stipulation under said contract for public works.

B. Disposition of Forfeited Sums

1. Out of any funds withheld, recovered, or both, there shall first be paid the amount due each worker notwithstanding the filing of any Stop Notice by any person pursuant to Civil Code Section 3179, *et seq.* Thus, all workers employed on the public works project who are paid less than the prevailing wage rate shall have **PRIORITY** over all Stop Notices filed against the prime contractor.
2. In the event that there are "insufficient funds" available in the prime contractor's account to pay the total amount of prevailing wage violations and penalty amounts due, the unpaid prevailing wages shall have **PRIORITY STATUS** and must be paid first.

Furthermore, if insufficient funds are withheld, recovered, or both, to pay each underpaid worker in full, the money shall be prorated among all workers affected. From the amount recovered by the School District, the wage claim shall be satisfied prior to the amount being applied to penalties. If insufficient money is recovered to pay each worker in full, the money shall be prorated among all workers. Wages for workers who cannot be located shall be placed in the Industrial Relations Unpaid Wage Fund and held in trust for the workers pursuant to Section 96.7. Penalties shall be paid into a construction fund or other fund of the School District's choosing.

VIII. ANNUAL REPORTS

A. Annual Report on the School District Labor Compliance Program to the Director of the Department of Industrial Relations

The School District shall submit to the Director of the Department of Industrial Relations an Annual Report on the operation of its LCP within sixty (60) days after the close of its fiscal year, or accompany its request for an extension of initial approval, whichever comes first. Pursuant to Title 8, CCR Section 16431, the Annual Report shall contain, at the minimum, the following information:

1. Number of construction contracts using bond funds subject to the LCP which were awarded, and their total value;
2. A summary of wages due to workers resulting from failure by contractors to pay prevailing wage rates, the total amount withheld from money due to the contractors, and the total amount recovered by action in any court of competent jurisdiction;
3. A summary of penalties and forfeitures imposed and withheld, or recovered in a court of competent jurisdiction;
4. A LCP whose contract responsibilities are statewide, or which involves widely dispersed and numerous contracts, or which is required to report contract enforcement to federal authorities in a federal format, may adopt a summary reporting format to aggregate small contracts and estimate numbers and dollar values required by 1 and 2. A summary reporting format may be adopted by agreement with the Director after advance notice to interested parties, and a list of parties requesting such notice shall be kept by the Director.

Copies of the LCP's required Annual Report submitted to the Director of the Department of Industrial Relations will be distributed to the Superintendent and School Board of the School District.

APPENDIX A
DEFINITIONS

1. "Amount equal to the underpayment" is the total of the following determined by payroll review, investigation, audit, or admission of the contractor or subcontractor:
 - a. The difference between the amounts paid to workers and the correct General Prevailing Wage Rate of Per Diem Wages as defined in Title 8, CCR Section 16000, *et seq.*;
 - b. The difference between the amounts paid to workers and the correct amounts of employer payments, as defined in Title 8, CCR Section 16000, *et seq.* and determined to be part of the prevailing rate costs of contractors due for employment of workers in such craft, classification or trade in which they were employed and the amounts paid.
 - c. Estimated amounts of "illegal taking of wages," and
 - d. Amounts of apprenticeship training contributions paid to neither the program sponsor's training trust nor the California Apprenticeship Council.
2. "Basic Payroll Records" means time cards, front and back copies of cancelled checks, cash receipts, trust fund forms, daily logs, employee sign-in sheets, accounting ledgers, tax forms and/or any other record maintained for the purposes of reporting payroll.
3. "Contracts," except as otherwise provided by agreement, means only contracts under a single master contract, or contracts entered into as stages of a single project which may be the subject of withholding pursuant to Labor Code Sections 1720, 1720.2, 1720.3, 1720.4, 1771, and 1771.5;
4. "Delinquent payroll records" means those not submitted on the basis set forth in the School District contract and the LCP;
5. "Failing to pay the correct rate of prevailing wages" means those public works violations which the Labor Commissioner has exclusive authority to approve before they are recoverable by the LCP, and which are appealable by the contractor in court or before the Director of the Department of Industrial Relations under Labor Code Sections 1742 and 1742.1 pursuant to the California Code of Regulations Title 8, Chapter 8, Subchapter 8 (Sections 17201 through 17270). Regardless of what is defined as prevailing "wages" in contract terms, noncompliance with the following are considered failures to pay prevailing wages:
 - a. Nonpayment of items defined as "Employer Payments" and "General Prevailing Rate of Per Diem Wages" in Title 8, CCR Section 16000 and Labor Code Section 1771.
 - b. Payroll records required by Labor Code Section 1776;
 - c. Labor Code Section 1777.5 but only insofar as the failure consists of paying

apprentice wages lower than the journey level rate to a worker who is not an apprentice as defined in Labor Code Section 3077, working under an apprentice agreement in a recognized program;

- d. Labor Code Section 1778, Kickbacks;
 - e. Labor Code Section 1779, Fee for Registration;
 - f. Labor Code Sections 1813, 1815, and Title 8, CCR Section 16200(a)(3)(F) overtime for work over eight (8) hours in any one (1) day or forty (40) hours in any one (1) week (Monday through Friday). All work performed on Saturday, Sunday, and/or a holiday shall be paid pursuant to the prevailing wage determination.
6. "Forfeitures" are the amounts of unpaid penalties and wages assessed by the School District for violations of the prevailing wage laws.
7. "Inadequate payroll records" are any one of the following:
- a. A record lacking the information required by Labor Code Section 1776;
 - b. A record which contains the required information but which is not certified, or certified by someone not an agent of the contractor or subcontractor;
 - c. A record remaining uncorrected for one (1) payroll period, after the School District has given the contractor notice of inaccuracies detected by audit or record review; provided, however, that prompt correction will stop any duty to withhold if such inaccuracies do not amount to one percent (1%) of the entire certified weekly payroll in dollar value and do not affect more than half the persons listed as workers employed on that certified weekly payroll, as defined in Labor Code Section 1776 and Title 8 CCR Section 16401. Prompt correction will stop any duty to withhold if such inaccuracies are de minimus.
8. "Withhold" means to cease payments by the awarding body, or others who pay on its behalf, or agents, to the general contractor.

ATTACHMENT A

CHECKLIST OF LABOR LAW REQUIREMENTS TO REVIEW AT
JOB CONFERENCE MEETINGS

(Pursuant to Title 8, Section 16430 of the California Code of Regulations)

NAME (print) _____ Date _____

COMPANY _____ Phone _____

ADDRESS _____ Fax # _____

_____ School _____

SUPERINTENDENT _____ Project # _____

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

1. Payment of Prevailing Wage Rates

The contractor to whom the contract is awarded and its subcontractors hired for the public works project are required to pay not less than the specified general prevailing wage rates to all workers employed in the execution of the contract.

The contractor is responsible for ascertaining and complying with all current general prevailing wage rates for crafts and any rate changes that occur during the life of the contract. Information on all prevailing wage rates and all rate changes are to be posted at the job site for all workers to view.

2. Apprentices

It is the duty of the contractor and subcontractors to employ registered apprentices on the public works project under Labor Code Section 1777.5;

3. Penalties

There are penalties required for contractor's/subcontractor's failure to pay prevailing wages and for failure to employ apprentices, including forfeitures and debarment under Labor Code Sections 1775; 1776; 1777.1; 1777.7 and 1813;

4. Certified Payroll Reports

Under Labor Code Section 1776, contractors and subcontractors are required to keep accurate payroll records showing the name, address, social security number

and work classification of each employee and owner performing work; also the straight time and overtime hours worked each day and each week, the fringe benefits, and, the actual per diem wage paid to each owner, journey person, apprentice worker or other employee hired in connection with the public works project.

Employee payroll records shall be certified and shall be made available for inspection at all reasonable hours at the principal office of the contractor/subcontractor, or shall be furnished to any employee, or his/her authorized representative on request, pursuant to Labor Code Section 1776;

Each contractor and subcontractor shall submit its weekly certified payroll reports to the District on a monthly basis. In the event that there has been no work performed during a given week, the Certified Payroll Report shall be annotated: "No work" for that week.

Under Labor Code Section 1776(g) there are penalties required for contractor's/subcontractor's failure to maintain and submit copies of certified payroll records on request.

5. Nondiscrimination in Employment

There exist prohibitions against employment discrimination under Labor Code Sections 1735 and 1777.6, the Government Code, the Public Contracts Code, and Title VII of the Civil Rights Act of 1964;

6. Kickbacks Prohibited

Contractors and subcontractors are prohibited from recapturing wages illegally or extracting "kickbacks" from employee wages under Labor Code Section 1778;

7. Acceptance of Fees Prohibited

There exists a prohibition against contractor/subcontractor acceptance of fees for registering any person for public work under Labor Code Section 1779; or for filling work orders on public works contracts pursuant to Labor Code Section 1780;

8. Listing of Subcontractors

All prime contractors are required to list properly all subcontractors hired to perform work on the public works projects covering more than one-half of one percent, pursuant to Government Code Section 4100 et seq.;

9. Proper Licensing

Contractors are required to be licensed properly and to require that all subcontractors be properly licensed. Penalties are required for employing workers while unlicensed under Labor Code Section 1021 and under the California

Contractor License Law found at Business and Professions Code Section 7000 et seq.

- 10. **Unfair Competition Prohibited**
Contractors/Subcontractors are prohibited from engaging in unfair competition as specified under Business and Professions Code Sections 17200 to 17208;
- 11. **Workers Compensation Insurance**
Labor Code Section 1861 requires that contractors and subcontractors be insured properly for Workers Compensation.
- 12. **OSHA**
Contractors and subcontractors are required to abide by the Occupational, Safety and Health laws and regulations that apply to the particular construction project.

In accordance with federal and state laws and with School District contract documents, the undersigned prime contractor wishes to assure the School District that it intends to comply with the above-referenced labor law requirements, fully understanding that failure to comply with the above requirements may subject it to penalties as provided above.

For the Contractor:

For the School District: & San Luis Obispo County
Office of Education

(Signature)

(Signature)

(Date)

(Date)

Prime Contractor

Project Name

**ATTACHMENT B
AUDIT RECORD FORM**

(For Use With Title 8, CCR Section 16432 Audits)

An audit record is sufficiently detailed to "verify compliance with the requirements of Chapter 1, Public Works, Part 7 of Division 2" when the audit record displays that the following procedures were accomplished:

1. Audits of the obligation to secure workers' compensation means demanding written evidence of a binder issued by the carrier, or telephone or written inquiry to the Workers' Compensation Insurance Rating Bureau;
2. Audits of the obligations to employ and train apprentices means inquiry to the program sponsor for the apprenticeable craft or trade in the area of the public works as to: whether contract award information was received, including an estimate of journey person hours to be performed and the number of apprentices to be employed; whether apprentices have been requested, and whether the request has been met; whether the program sponsor knows of any amounts sent by the contractor or subcontractor to it for the training trust, or the California Apprenticeship Council, and whether persons listed on the certified payroll in that craft or trade as being paid less than the journey person rate are apprentices registered with that program and working under apprentice agreements approved by the Division of Apprenticeship Standards;
3. Audits of the obligation to pass through amounts for apprenticeship training contributions, to either the training trust or the California Apprenticeship Council, means asking for copies of checks sent, or when the audit occurs more than 30 days after the month in which payroll has been paid, copies of cancelled checks;
4. Audits of "illegal taking of wages" means inspection of written authorizations for deductions (listed in Labor Code Section 224) in the contractor's or subcontractor's files and comparison to wage deduction statements furnished to employees (Labor Code Section 226), together with an interview of employees when warranted as to any payments not shown on the wage deduction statements;
5. Audits of the obligation to keep records of working hours and pay not less than required by Title 8, CCR Section 16200(a)(3)(F) for hours worked in excess of 8 hours per day or forty hours per week are the steps for review and audit of Certified Weekly Payrolls under Title 8, CCR Section 16432;
6. Audits of the obligations to pay the prevailing per diem wage, means such steps for review and audit of Certified Weekly Payrolls which will produce a report covering compliance in the areas of:
 - A. All elements defined as the "General Prevailing Rate of Per Diem Wages" in Title 8, CCR Section 16000, which were determined to be prevailing in the Director's determination which was in effect on the date of the call for bids, available in its principal LCP office and posted at the public works job site;
 - B. All elements defined as "Employer Payments" set forth in Section 16000 of these regulations, which were determined to be prevailing in the Director's Determination which was in effect on the date of the call for bids, and pursuant to Labor Code Section 1773.2 was to be specified in the call for bids, made available in its principal LCP office and posted at the public works job site.

ATTACHMENT C

NOTICE OF DEADLINES

(To go to Contractor for Forfeitures under Title 8, CCR Section 16437)

"This document requests the Labor Commissioner of California to approve a forfeiture of money you otherwise would be paid. The (Name of the labor compliance program) for the (Name of the awarding body) is asking the Labor Commissioner of California to agree, in 30 days, that the enclosed package of materials indicates that you have violated the law."

"Failure to respond to the (Name of the labor compliance program's) request that the Labor Commissioner approve a forfeiture by writing to the Labor Commissioner within 30 days of the date of service (date of postmark) of this document on you may lead the Labor Commissioner to affirm the proposed forfeiture. You must serve any written response on the Labor Commissioner, the (Name of the labor compliance program) and (Name of awarding body) by return receipt requested/certified mail. If you serve a written explanation, with evidence, as to why the violation did not occur, or why the penalties should not be assessed, within the 30-day period, it will be considered,"

and

"If you change address, or decide to hire an attorney, it is your responsibility to advise both the (Name of the labor compliance program) and the Labor Commissioner by certified mail. Otherwise, notices will be served at your last address on file, and deadlines might pass before you receive such notices."

ATTACHMENT D

Labor Compliance Program <hr/> <hr/> <hr/> <hr/> Phone: Fax: Date:	(Seal)
	In Reply Refer to Case No.:

Notice of Withholding Contract Payments

Awarding Body	Work Performed in County of
Project Name	Project No.
Prime Contractor	
Subcontractor	

After an investigation concerning the payment of wages to workers employed in the execution of the contract for the above-named public works project, the Labor Compliance Program ("Labor Compliance Program") has determined that violations of the California Labor Code have been committed by the contractor and/or subcontractor identified above. In accordance with Labor Code sections 1771.5 and 1771.6, the Labor Compliance Program hereby issues this Notice of Withholding of Contract Payments.

The nature of the violations of the Labor Code and the basis for the assessment are as follows:

The Labor Compliance Program has determined that the total amount of wages due is: \$ _____

The Labor Compliance Program has determined that the total amount of penalties assessed under Labor Code Sections 1775 and 1813 is: \$ _____

The Labor Compliance Program has determined that the total amount of penalties assessed under Labor Code section 1776 is: \$ _____

LABOR COMPLIANCE PROGRAM

By: _____

Notice of Right to Obtain Review – Formal Hearing

In accordance with Labor Code sections 1742 and 1771.6, an affected contractor or subcontractor may obtain review of this Notice of Withholding of Contract Payments by transmitting a written request to the office of the Labor Compliance Program that appears below within 60 days after service of the notice. **To obtain a hearing, a written Request for Review must be transmitted to the following address:**

Labor Compliance Program

Review Office-Notice of Withholding of Contract Payments

A **Request for Review** either shall clearly identify the Notice of Withholding of Contract Payments from which review is sought, including the date of the notice, or it shall include a copy of the notice as an attachment, and shall also set forth the basis upon which the notice is being contested. In accordance with Labor Code section 1742, the contractor or subcontractor shall be provided an opportunity to review evidence to be utilized by the Labor Compliance Program at the hearing within 20 days of the Labor Compliance Program's receipt of the written **Request for Review**.

**Failure by a contractor or subcontractor to submit a timely Request for Review will result in a final order which shall be binding on the contractor and subcontractor, and which shall also be binding, with respect to the amount due, on a bonding company issuing a bond that secures the payment of wages and a surety on a bond.
Labor Code Section 1743.**

In accordance with Labor Code 1742(d), a certified copy of a final order may be filed by the Labor Commissioner in the office of the clerk of the superior court in any county in which the affected contractor or subcontractor has property or has or had a place of business. The clerk, immediately upon the filing, shall enter judgment for the State against the person assessed in the amount shown on the certified order.

(continued on next page)

Opportunity for Settlement Meeting

In accordance with Labor Code Section 1742.1 (b), the Labor Compliance Program shall, upon receipt of a request from the affected contractor or subcontractor within 30 days following the service of this Notice of Withholding of Contract Payments, afford the contractor or subcontractor the opportunity to meet with the Labor Compliance Program's designee to attempt to settle a dispute regarding the notice. The settlement meeting may be held in person or by telephone and shall take place before the expiration of the 60-day period for seeking a hearing as set forth above under the heading Notice of Right to Obtain Review. No evidence of anything said or any admission made for the purpose of, in the course of, or pursuant to, the settlement meeting is admissible or subject to discovery in any administrative or civil proceeding. No writing prepared for the purpose of, in the course of, or pursuant to, the settlement meeting, other than a final settlement agreement, is admissible or subject to discovery in any administrative or civil proceeding. This opportunity to timely request an informal settlement meeting is in addition to the right to obtain a formal hearing, and a settlement meeting may be requested even if a written Request for Review has already been made. Requesting a settlement meeting, however, does not extend the 60-day period during which a formal hearing may be requested.

A written request to meet with the Labor Compliance Program's designee to attempt to settle a dispute regarding this notice must be transmitted to _____ at the following address:

Liquidated Damages

In accordance with Labor Code section 1742.1, after 60 days following the service of this Notice of Withholding of Contract Payments, the affected contractor, subcontractor, and surety on a bond or bonds issued to secure the payment of wages covered by the notice shall be liable for liquidated damages in an amount equal to the wages, or portion thereof that still remain unpaid. If the notice subsequently is overturned or modified after administrative or judicial review, liquidated damages shall be payable only on the wages found to be due and unpaid. If the contractor or subcontractor demonstrates to the satisfaction of the Director of the Department of Industrial Relations that he or she had substantial grounds for believing the assessment or notice to be an error, the Director shall waive payment of the liquidated damages.

The Amount of Liquidated Damages Available Under this Notice is \$_____.

Distribution:

Prime Contractor
Subcontractor

Page 1 of 1

Case 1:09-cv-00001 Document 1-1 Filed 01/14/10 Page 1 of 1

Page 1 of 1

ATTACHMENT E

LABOR COMPLIANCE PROGRAM <hr/> Review Office - Notice of Withholding of Contract Payments <hr/> <hr/> <hr/> Phone: Fax:	(SEAL)
Date:	In Reply Refer to Case No.:

Notice of Transmittal

To: Department of Industrial Relations
Office of the Director-Legal Unit
Attention: Lead Hearing Officer
P. O. Box 420603
San Francisco, CA 94142-0603

Enclosed herewith please find a Request for Review, dated _____, postmarked
_____, and received by this office on _____.

Also enclosed please find the following:

- _____ Copy of Notice of Withholding of Contract Payments
- _____ Copy of Audit Summary

LABOR COMPLIANCE PROGRAM

By: _____

cc: Prime Contractor
Subcontractor
Bonding Company

Please be advised that the Request for Review identified above has been received and transmitted to the address indicated. Please be further advised that the governing procedures applicable to these hearings are set forth at Title 8, California Code of Regulations sections 17201-17270. These hearings are not governed by Chapter 5 of the Government Code, commencing with section 11500.

ATTACHMENT F

LABOR COMPLIANCE PROGRAM <hr/> Review Office - Notice of Withholding of Contract Payments <hr/> <hr/> Phone: Fax:	(SEAL)
Date:	In Reply Refer to Case No.:

Notice of Opportunity to Review Evidence Pursuant to Labor Code Section 1742(b)

To: Prime Contractor

Subcontractor

Please be advised that this office has received your **Request for Review**, dated _____, and pertaining to the Notice of Withholding of Contract Payments issued by the Labor Compliance Program in Case No. _____.

In accordance with Labor Code section 1742(b), this notice provides you with an opportunity to review evidence to be utilized by the Labor Compliance Program at the hearing on the Request for Review, and the procedures for reviewing such evidence.

Rule 17224 of the Prevailing Wage Hearing Regulations provides as follows:

“(a) Within ten (10) days following its receipt of a Request for Review, the Enforcing Agency shall also notify the affected contractor or subcontractor of its opportunity and the procedures for reviewing evidence to be utilized by the Enforcing Agency at the hearing of the Request for Review.

(b) An Enforcing Agency shall be deemed to have provided the opportunity to

review evidence required by this Rule if it (1) gives the affected contractor or subcontractor the option at said party's own expense to either (i) obtain copies of all such evidence through a commercial copying service or (ii) inspect and copy such evidence at the office of the Enforcing Agency during normal business hours; or if (2) The Enforcing Agency at its own expense forwards copies of all such evidence to the affected contractor or subcontractor.

(c) The evidence required to be provided under this Rule shall include the identity of witnesses whose testimony the Enforcing Agency intends to present, either in person at the hearing or by declaration or affidavit. This provision shall not be construed as requiring the Enforcing Agency to prepare or provide any separate listing of witnesses whose identities are disclosed within the written materials made available under subpart (a).

(d) The Enforcing Agency shall make evidence available for review as specified in subparts (a) through (c) within 20 days of its receipt of the Request for Review; *provided that*, this deadline may be extended by written request or agreement of the affected contractor or subcontractor. The Enforcing Agency's failure to make evidence available for review as required by Labor Code Section 1742(b) and this Rule, shall preclude the enforcing agency from introducing such evidence in proceedings before the Hearing officer or the Director.

(e) This Rule shall not preclude the Enforcing Agency from relying upon or presenting any evidence first obtained after the initial disclosure of evidence under subparts (a) through (d), *provided that*, such evidence is promptly disclosed to the affected contractor or subcontractor. This Rule also shall not preclude the Enforcing Agency from presenting previously undisclosed evidence to rebut new or collateral claims raised by another party in the proceeding."

In accordance with the above Rule, please be advised that the Labor Compliance Program's procedure for you to exercise your opportunity to review evidence is as follows:

Within five calendar days of the date of this notice, please transmit the attached Request to Review Evidence to the following address:

Attention: _____

Request to Review Evidence

To: _____

From: _____

Regarding Notice of Withholding of Contract Payments Dated _____

Our Case No.: _____

The undersigned hereby requests an opportunity to review evidence to be utilized by the Labor Compliance Program at the hearing on the Request for Review.

Phone No.: _____
Fax No.: _____

ATTACHMENT G

Prevailing Wage Hearing Request

(see Title 8 of the California Code of Regulations Sections 17201-17270)

Contact and resource information

Department Of Industrial Relations

For labor compliance program information when you have a question on the components of a LCP:

Troy Fernandez (415) 703-5070

Debbie Jimenez (415) 703-4810

E-mail info@dir.ca.gov

Requests for information are encouraged to be in writing or faxed to:

Department of Industrial Relations

Division of Labor Standards Enforcement

Labor compliance programs

Attn: Debbie Jimenez

455 Golden Gate Avenue, 9th floor

San Francisco, CA 94102

Fax: (415) 703-4807

Art Lujan, labor commissioner, contact: Debbie Jimenez (415) 703-4810

For California labor compliance program information when you have a question on the components of a LCP or on the labor code:

Division of Labor Standards Enforcement

Susan Nakagama, regional manager (562) 499-6308

Lauro Cons, senior deputy (213) 897-4231

Tom Fredericks, attorney (562) 590-5461

Contact: Lisa Cervantes (562) 499-6311

When you have questions about classifications and scope of work:

Division of Labor Statistics and Research

Headquarters and library address:

455 Golden Gate Avenue, 8th floor

San Francisco, CA 94102

(415) 703-4780

http://www.dir.ca.gov/DLSR/statistics_research.html

When you have questions about prevailing wage determinations or special determinations for a specific project:

Division of Labor Statistics and Research

Headquarters and library address:

455 Golden Gate Avenue, 8th floor

San Francisco, CA 94102

http://www.dir.ca.gov/DLSR/statistics_research.html

Mailing address:

Department of Industrial Relations

Division of Labor Statistics and Research
PO Box 420603
San Francisco, CA 94142
(415) 703-4780
Hotline: (415) 703-4774
Fax: (415) 703-4771

When you need to verify the status of an individual apprentice or an apprenticeship program:

Division of Apprenticeship Standards
455 Golden Gate Avenue, 8th floor
San Francisco, CA 94102
(415) 703-4920
Fax: (415) 703-5477

Helpful Web sites

California Apprenticeship Council, www.dir.ca.gov/CAC/cac.html
Department of General Services Office of Public School Construction, www.opsc.dgs.ca.gov
Department of Industrial Relations, www.dir.ca.gov
Division of Labor Statistics and Research, www.dir.ca.gov/DLSR/statistics_research.html
Division of Labor Standards Enforcement, www.dir.ca.gov/DLSE/dlse.html
Division of Apprenticeship Standards, www.dir.ca.gov/DAS/das.html
Northern California basic trade journey person rates, <http://www.dir.ca.gov/DLSR/PWD/index.htm>

Forms

- Notice of Withholding of Contract Payments (Appendix 1)
- Notice of Transmittal (Appendix 2)
- Notice of Opportunity to Review Evidence (Appendix 3)
- Public Works Contract Award Form DAS 140, <http://www.dir.ca.gov/DAS/DASForm140.pdf>
- Certified Payroll Reporting Form A-1-131, <http://www.dir.ca.gov/dlse/publicWorksPayrollInstructions.htm>
- Statement of Employer Payments of PW 26, <http://www.dir.ca.gov/dlse/DLSEForm-PW26.pdf>
- California Apprenticeship Council 2 Training Fund Contributions, <http://www.dir.ca.gov/DAS/DASCAC2.pdf>

Law codes

Law codes must be obtained from the Internet or the Department of Industrial Relations.

California Code of Regulations, <http://ccr.oal.ca.gov/>

Relevant code sections:

Division 1. Department of Industrial Relations

Chapter 8. Office of the Director

Subchapter 4. Awarding Body Labor Compliance Programs

- Article 1. Applicable Dates for Enforcement of Awarding Body Labor Compliance Programs (Section 16425)
- Article 2. Approval and Revocation of Approval of Labor Compliance Programs by Director (Section 16426–16428)
- Article 3. Notice and Components of LCP (Section 16429–16432)

- Article 5. Enforcement (Section 16434–16439)
- Article 6. Severability (Section 16500)
- Article 8. Debarment (Section 16800–16802)
- Appendix A, Appendix B and Appendix C

California Labor Code, www.leginfo.ca.gov

Relevant code section

Labor Code Section 1771.5 – Labor Compliance Programs