

RESOLUTION SCV-55

RESOLUTION OF THE BOARD OF DIRECTORS OF SANTA CLARITA VALLEY WATER AGENCY ADOPTING AND IMPLEMENTING A LABOR COMPLIANCE PROGRAM ON CERTAIN GRANT-FUNDED PUBLIC WORKS CAPITAL IMPROVEMENT PROJECTS

WHEREAS, the Castaic Lake Water Agency (CLWA) applied for and was awarded funding from Proposition 84 for public works capital improvement projects to enhance the reliability of water resources or improve water quality; and

WHEREAS, the Newhall County Water District (NCWD) applied for and was awarded funding from Proposition 84 for public works capital improvement projects to enhance the reliability of water resources; and

WHEREAS, the Santa Clarita Valley Water Agency (SCV Water), a California special act agency (Chapter 833, Statutes of 2017), is successor to CLWA and NCWD; and

WHEREAS, the Department of Industrial Relations (DIR) requires that the CLWA and NCWD LCPs be closed out and that SCV Water apply for and obtain approval of a LCP from the DIR for applicable Proposition 84 funded projects; and

WHEREAS, California Labor Code Section 1770, et seq., requires contractors on public works projects 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; and

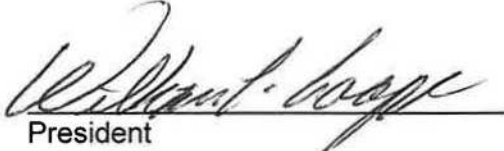
WHEREAS, California Labor Code Section 1776 requires contractors to keep accurate payroll records of trades workers on all public works projects and to submit copies of certified payroll records upon request; and

WHEREAS, California Labor Code Section 1777.5 requires contractors to employ registered apprentices on public works projects; and

WHEREAS, the provisions of the California Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006 (Proposition 84) require the establishment of a Labor Compliance Program (LCP) to monitor the prevailing wage and apprenticeship requirements on any project using Proposition 84 funding; and

WHEREAS, SCV Water may utilize the services of a third party labor compliance consulting firm to implement the Agency's California Department of Industrial Relations-approved LCP.

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of the Santa Clarita Valley Water Agency approves the Labor Compliance Program on certain grant-funded public works capital improvement project contracts and authorizes staff to pursue approval of such a Labor Compliance Program with the California Department of Industrial Relations and authorizes staff to contract with a labor compliance consulting firm for services related to the Labor Compliance Program.


President

I, the undersigned, hereby certify: That I am the duly appointed and acting Secretary of the Santa Clarita Valley Water Agency, and that at a regular meeting of the Board of Directors of said Agency held on October 2, 2018, the foregoing Resolution No. SCV-55 was duly and regularly adopted by said Board, and that said resolution has not been rescinded or amended since the date of its adoption, and that it is now in full force and effect.

DATED: October 2, 2018


Secretary



**Application to Director for Approval of Awarding Body's Labor Compliance Program
for Proposition 84 funded projects only
(8 CCR §16425)**

Awarding Body Seeking Approval:

**Santa Clarita Valley Water Agency
27234 Bouquet Canyon Road
Santa Clarita, CA 91350**

Awarding Body's Contact Persons:

**Matthew G. Stone, General Manager
Cheryl Fowler, Administrative Analyst
Santa Clarita Valley Water Agency
27234 Bouquet Canyon Road
Santa Clarita, CA 91350**

- A. Identify the individuals who will be enforcing the Labor Compliance Program (LCP).
(Note: If using outside consultants or an approved third party contract provider, identify the awarding body personnel who will monitor or supervise the outside work as well as the individuals and affiliations of the individuals who will perform the enforcement work.)

1. Brian Folsom, Chief Engineer, Santa Clarita Valley Water Agency

Experience/training on public works/labor compliance issues (Please provide specific dates, details and examples of public works prevailing wage rate enforcement activities, including whether such experience involve federal, state, or local law. In addition, please include private sector experience on behalf of unions or contractors or on a joint labor management committee pursuant to the federal Labor Management Cooperation Act of 1978 (29 U.S.C. section 175a). Furthermore, please include participation in any public works enforcement training provided by the Division of Labor Standards Enforcement (DLSE)):

Brian Folsom, a civil engineer with thirty-one years of experience, has been with the Agency since 2007 and currently holds the title of Chief Engineer. He is responsible for design, construction, program/project management, project controls, and construction contract management of capital improvement and operations and maintenance projects, including the oversight of preparation of the bid documents and specifications.

2. Contractor Compliance and Monitoring Inc.

**635 Mariners Island Blvd, Suite 200
San Mateo, CA 94404
650-522-4403 fax: 650-522-4402
Deborah Wilder, President
Yvonne Nickles Sr. Analyst
Alisha Heagy, Analyst**

Experience/training on public works/labor compliance issues (Please provide specific dates, details and examples of public works prevailing wage rate enforcement activities, including whether such experience involve federal, state, or local law. In addition, please include private sector experience on behalf of unions or contractors or on a joint labor management committee pursuant to the federal Labor Management Cooperation Act of 1978 (29

U.S.C. section 175a). Furthermore, please include participation in any public works enforcement training provided by the Division of Labor Standards Enforcement (DLSE):

Contractor Compliance and Monitoring Inc. (CCMI) has been providing labor compliance assistance to public agencies for nearly 15 years. CCMI was originally approved by the California Department of Industrial Relations as a Third Party Labor Compliance Program in March 2003¹. CCMI personnel have more than a decade of experience in providing prevailing wage compliance, payroll review, apprenticeship compliance and training to contractors and public agencies. CCMI works on projects involving California prevailing wage, Federal Prevailing Wage, as well as special local public works requirements. CCMI has provided services to over 100 public agencies since its inception in 2002.

Deborah Wilder, CCMI's president and a licensed attorney, has been writing Labor Compliance Programs since the early 1990s, is a published author on California and Federal Prevailing Wages and is a nationally recognized speaker on the subject.

Yvonne Nickles has been with CCMI since its 2005 and is both the Northern California Operations Manager and a Senior Analyst. She is well versed in all aspect of LCP requirements. She previously worked for the City of Dublin's Public Works Department.

Alisha Heagy is fully familiar with prevailing wage and labor compliance requirements. She has a background in detailed accounting work and is meticulous in her work. She has been with CCMI since 2017.

LCP duties and responsibilities to be performed including percentage of time to be devoted to LCP work:

CCMI will provide assistance to the Agency on all aspects of Proposition 84 LCP requirements. CCMI has no authority to control whether or not funds are released nor the authority to withhold funds on any project. That responsibility remains with the Agency. CCMI will report its findings each month for each project to the Agency and its LCP Officer.

- B. State the average number of public work projects the awarding body annually administers:

The Agency annually administers between 10 and 25 public works capital improvement projects.

- C. State whether the proposed LCP is a joint or cooperative venture among awarding bodies; and, if so, how the resources and expanded responsibilities of the LCP compare to the awarding bodies involved:

The LCP will be administered solely by the Agency and will be implemented by the Agency ONLY for those projects funded by Proposition 84 or other projects which allow the use of a Third Party Labor Compliance Program.

¹ The DIR stopped approving Third Party LCPs in September 2011

- D. Describe the awarding body's record of taking cognizance of Labor Code violations in the preceding five years, including any withholding of funds from public works contractors pursuant to LC 1726.

The Santa Clarita Valley Water Agency is a California special act agency (Chapter 833, Statutes of 2017), which was created pursuant to Senate Bill 634 on January 1, 2018. The Agency has not had any violations regarding prevailing wage, no notices to withhold or civil wage and penalty assessments, or any other issues with the DIR since its creation.

- E. Identify the attorney or law firm available to provide legal support for the LCP, including handling of the LCP's responsibilities during the administrative review process set forth in Labor Code Section 1771.6.

NAME OF AGENCY'S LAW FIRM- attach bio of attorney/firm showing experience in prevailing wage matters

**Law Office of Deborah Wilder
635 Mariners Island Blvd, Suit 200
San Mateo, CA 94404
650-522-4400 fax: 650-522-4402**

and

**Best Best & Kreiger, LLP
3390 University Avenue, 5th Floor
Riverside, CA 92501
951-826-8291 fax: 951-686-3083
Joseph Thomas Ortiz, Partner**

- F. Identify the method by which the LCP will notify the Labor Commissioner of willful violations as defined in Labor Code Section 1777.1(d):

In accordance with the current requirement to provide a Request for Forfeitures to the Labor Commissioners when wages or penalties on a project exceed \$1,000, that report also provides a provision for recommendation of debarment of contractors who have willfully violated the provisions of the Labor Code. The Agency intends to use this format for such notification.

- G. Indicate whether the Awarding Body has established its own Labor Compliance Program in accordance with the requirements of Labor Code Section 1771.5(b) and subchapter 4 of chapter 8 of Title 8 of California Code of Regulations or has contracted with a third party that has been approved by the Director to operate a Labor Compliance Program in accordance with the requirements of Labor Code Section 1771.5(b) and subchapter 4 of chapter 8 of Title 8 of California Code of Regulations. If the Awarding Body has contracted with one or more persons or entities to operate all or any part of the Awarding Body's Labor Compliance Program, please identify (name, address, telephone, and principal contact) all of those persons or entities.

The Agency has applied for Proposition 84 bond funds, has received such funds and has commenced or will commence construction shortly on various projects. CCMI has been retained and will continue to provide advice and assistance throughout this project for full LCP compliance as mandated by the provisions of the Labor Code and Proposition 84.

H. Indicate whether the Awarding Body intends to enforce labor compliance on all of its public works projects (*i.e.*, not limited to projects that are funded by bonds or other statutes that require the Awarding Body to have an LCP as a condition of funding). If not, please indicate the kinds of projects on which you intend to enforce labor compliance and whether you are required to have a labor compliance program as a condition for obtaining funding for the project or projects.

The Agency intends to enforce its LCP only on those projects funded by Proposition 84.

- I. Attach a copy of the Awarding Body's resolution adopting the LCP and, if applicable, any other resolution approving any contracts with persons or entities identified in G above.
- J. Attach the proposed manual outlining the responsibilities and procedures of the LCP.

The DIR has already reviewed and approved CCMI (Contractor Compliance and Monitoring Inc.) several times before and has reviewed its administrative manual.

Matthew G. Stone, General Manager

Date Signed

Mail two copies of this form and attachments to:

**OFFICE OF THE DIRECTOR
DEPARTMENT OF INDUSTRIAL RELATIONS
1515 CLAY ST., 17th FLOOR
OAKLAND, CA 94612
ATTENTION: EXECUTIVE ASSISTANT TO THE DIRECTOR**

JOSEPH THOMAS ORTIZ

Best Best & Krieger, 3390 University Ave., 5th Flr., CA, 92501; Tele.: 951-826-8291; Email: Joseph.Ortiz@bbklaw.com

PROFESSIONAL EXPERIENCE

- BEST BEST & KRIEGER, LLP, Riverside, CA 2008-Present
A premier full-service law California law firm.
Associate 2008-11; Of Counsel 2011-12; Partner since 2012 – AV Rated, Martindale-Hubbell
- Litigates and settles numerous employment law claims, including wrongful discharge, breach of contract, misclassification of contractors, trade secrets, confidentiality and non-compete agreements.
 - Handles complex cases regarding wage-and-hour compliance, workplace violence, negligent hiring and retention and discrimination.
- EPSTEIN BECKER & GREEN, PC, Los Angeles, CA 2006-2008
A national top-ranked labor & employment practice.
Labor & Employment Attorney
- Litigated and settled numerous employment law claims, including wrongful discharge, breach of contract, misclassification of contractors, trade secrets, confidentiality and non-compete agreements.
 - Handled complex cases regarding workplace violence, negligent hiring and retention, product and consumer boycotts and discrimination.
- GRESHAM SAVAGE NOLAN & TILDEN, APC, Riverside, CA 2003-2006
Associate
- Maintained a strong litigation record, serving as First and Second Chair for numerous trials in the area of labor and employment litigation, including FEHA discrimination and wage/hour issues.

CLERKSHIPS

- MINNESOTA COURT OF APPEALS, St. Paul, MN 2002-2003
Law Clerk for the Honorable Bruce Willis

EDUCATION

- UNIVERSITY OF MINNESOTA LAW SCHOOL, Minneapolis, MN
JD, Cum Laude, 2001
- Won numerous awards, including the *Legal Writing Honor* and *Maynard Pirsig Moot Court Finalist*.
- UNIVERSITY OF CALIFORNIA, LOS ANGELES, Westwood, CA
BA, Philosophy, 1997

ADDITIONAL RELEVANT WORK EXPERIENCE

- UNITED PARCEL SERVICE, Various Locations 1990-1999
A Fortune 500 company
Various labor and management
- Experienced one of the largest unionized workforces in the U.S. in both union and management-side capacities.
 - Management-side perspective of the 1997 strike of approximately 185,000 Teamsters.

COMMUNITY SERVICE

- CAL. FAIR EMPLOYMENT & HOUSING COUNCIL, COUNCIL MEMBER March 2017-Present
Executive Committee
- CAL. STATE BAR, LABOR & EMPLOYMENT SECTION 2015-Present
Executive Committee
- GREATER RIVERSIDE CHAMBERS OF COMMERCE 2008-Present
Downtown Bus. Council, Executive Board, Chair Elect 2016-17
- RIVERSIDE SUNRISE ROTARY 2013-Present
Member, President 2016-17
- RIVERSIDE COMMUNITY POLICE REVIEW COMMISSION 2011-Present
Ward 1 Rep. 2011-14, Ward 2 Rep. 2015 to Present
- DOLLARS FOR SCHOLARS, Riverside, CA 2010-Present
Board Member, Chair 2013 to Present
- RIVERSIDE LEGAL AID, Riverside, CA 2010-Present
Board Member, Volunteer Attorney

**LABOR COMPLIANCE PROGRAM IMPLEMENTED BY
CONTRACTOR COMPLIANCE AND MONITORING, INC.
ON BEHALF OF THE SANTA CLARITA VALLEY WATER DISTRICT**

INTRODUCTION

CONTRACTOR COMPLIANCE AND MONITORING, INC. (hereinafter referenced collectively as the "CCMI") implements this Labor Compliance Program on behalf of the above named Public Agency for the purpose of complying with Labor Code Section 1771.3 and/or 1771.5. CCMI was previously approved by the DIR as a Third Party LCP from March 2003 through 2011. This Administrative Manual is a summary of the services CCMI will provide and the implementation of the LCP we perform as part of the Agency's continuing commitment to the requirements of LCP laws and regulations. CCMI will continue to update its program as the laws and regulations relating to Labor Compliance Programs are changed and updated.

California Labor Code Section 1770, et seq., requires contractors on public works projects 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.

California Labor Code Section 1776 requires contractors to keep accurate payroll records of tradeworkers on all public works projects and to submit copies of certified payroll records upon request.

California Labor Code Section 1777.5 requires contractors to employ registered apprentices on public works projects.

This labor compliance program contains the labor compliance standards required by State for project subject to the requirements of Proposition 84 which include, but are not limited, the following:

1. Payment of applicable general prevailing wage rates.
2. Employment of properly registered apprentices.
3. Providing certified payroll records upon request but not less than monthly.
4. Monitoring Agency construction sites for the verification of proper payments of prevailing wage rates and work classification.
5. Conducting pre-job conferences with contractors/subcontractors.
6. Withholding contract payments and imposing penalties for noncompliance.
7. Applicable reports to the California Labor Commissioner
8. Preparation and submittal of an Annual Report to the Department of Industrial Relations.

CCMI is committed to providing a current, complete and accurate LCP program for all applicable projects. As such, CCMI has adopted and will update this administrative manual and LCP documents each time the Labor Code is amended and /or the DIR issues new regulations relating to LCPs. CCMI will also continue see that its staff receives updated training when the Labor Code and DIR regulations relating to LCP change.

SECTION I.

PUBLIC WORKS SUBJECT TO PREVAILING WAGE LAWS

State prevailing wage rates as set forth in Labor Code Sections 1720, 1720.2, 1720.3, and 1771, have been made applicable to construction contracts funded with public funds and include, but are not limited to, such types of work as construction, alteration, demolition, repair, or maintenance work. The Division of Labor Statistics and Research (DLSR) predetermines the appropriate prevailing wage rates for particular construction trades and crafts by county.

A. Types of Contracts to Which Prevailing Wage Requirements Apply

As provided in Proposition 84 and/or Labor Code Section 1771.5, an Awarding Body shall implement a Labor Compliance Program (LCP) that includes the following steps. CCMI will perform or assist in the performance of these items:

1. Provide LCP compliance under the requirements of the California Labor Code.
2. Submit appropriate Application and forms to DIR for approval of LCP compliance on Proposition 84 projects.
3. Review specifications and bid and contract documents (as requested) for compliance with prevailing wage language.
4. Conduct a Preconstruction Conference meeting and provide training and information on LCP requirements including providing handout materials (checklist) for all contractors and subcontractors.
5. Provide a phone line and e-mail contact where contractors and subcontractors can contact CCMI for clarification on prevailing wage, certified payrolls, apprenticeship and compliance issues.
6. License check and confirmation with California Contractor's State License Board of current and active license status, as well as worker's compensation coverage of all contractors and all listed subcontractors.
7. Review and comparison of work classification with California prevailing wage classification to ensure the contractor is paying the correct prevailing wage rate.

8. Monitoring of all Apprenticeship Requirements. Collection and review of all DAS-140 and DAS-142 forms. Review of applicable apprenticeship ratios employed, correct wages paid, training contributions (CAC2 forms).
9. Monthly audit of certified payrolls forms. This includes obtaining the applicable prevailing wage determinations for each project. Certified Payrolls are generally delivered by the Contractor to CCMI for review and audit. Auditing the payrolls includes: checking proper trade classifications, checking for overtime, weekend, holiday or shift work, checking for ** increases, reviewing fringe benefit contribution and verifying that amortization is correct (when used) and review of training contributions made. When appropriate, travel and subsistence is also reviewed
10. Monthly jobsite audits and random interviews of workers (to determine veracity of certified payroll information, compliance with anti-kickback, equal employment opportunity requirements, jobsite posting requirements, etc.).
11. Verification of posting on the projects on a regular basis.
12. Monthly request for verification of payment by requesting each contractor and subcontractor on the project provide proof of payment (cancelled check and wage statement or direct deposit and wage statement) for an employee selected (by CCMI) on a random basis from the certified payrolls.
13. Additional detailed audit and/or investigations of contractors through review of cancelled checks, time cards, and related records (as needed).
14. Monthly report to the Agency by CCMI regarding compliance of contractors and subcontractors audited. To the extent that a contractor is either not in compliance and/or additional paperwork is needed for review, the Agency and the general contractor are contacted by CCMI.
15. Communication of potential violations to the Agency with recommended action. In the event that potential paperwork or compliance issues with a contractor cannot be resolved quickly, the Agency will be notified of this potential problem and a recommendation will be made to the Agency to retain a certain portion of the scheduled progress payment until the issue is resolved. The Awarding Body shall always maintain the authority whether or not to withhold funds or take other corrective action.
16. Communications with Contractors. CCMI will work with all contractors and subcontractors with the goal of amicable agreement on resolving issues related to violations, penalties and compliance. All meeting and calls with contractors will be documented in the project folder maintained by CCMI.
17. Third Party Requests for documents. A project with a high profile oftentimes draws the attention of certain local watchdog groups who frequently request copies of certified payrolls and related "Public Documents". CCMI will provide the appropriate

redacted copies of certified payroll and related LCP documentation to any third party who makes an appropriate request.

18. Issuing of all final close of project reports, including imposition of penalties and reports to Labor Commissioner (Request for Forfeiture); issuing Notices to Withhold and other close out documentation with the approval of the Awarding Body.
19. Provide Annual Report to DIR for all LCP projects on which CCMI provided LCP services.

SECTION II.

COMPETITIVE BIDDING ON PUBLIC WORKS CONTRACTS – CONTRACT LANGUAGE

CCMI will provide the following information to Awarding Agencies with whom it has been contracted. All Public Agency bid advertisements (or bid invitations) and public works contracts requiring LCP compliance shall contain appropriate language concerning the requirements of the Public Works chapter of the Labor Code similar to the sample language listed below:

This project is subject to the requirements of Section 1770 et seq. of the California Labor Code requiring the payment of prevailing wages, the training of apprentices and compliance with other applicable requirements. Contractors and all subcontractors who perform work on the project are required to comply with these requirements. Prevailing wage information for this project is available at the Agency's main office or may be obtained via the internet at: www.dir.ca.gov.

This project is subject to the requirements of a Labor Compliance Program as required by the California Labor Code. This requires full compliance by all contractors and subcontractors on the project in accordance with the provisions of Labor Code Section 1720 et. seq. The Agency is required by law to review and audit the work performed on this project to ensure that proper prevailing wages and all apprenticeship requirements are met. Specifically, contractors are reminded the need for compliance with Labor Code Section 1774 (the payment of prevailing wages and documentation of such), Section 1776 (the keeping and submission of accurate certified payrolls), Section 1777.5 in the employment of apprentices on public works projects and Section 1811-1813 regarding the payment of overtime on public works projects.

SECTION III.

JOB START MEETING

After the Agency awards the public works contract, and prior to the commencement of the work, a mandatory Pre-Construction Conference shall be conducted with the contractor and subcontractors for the particular project. The general contractor is responsible to see that the information provided at the Pre Construction Conference, relating to Labor Compliance Program (LCP) requirements, is distributed to its subcontractors.

At that meeting, the Agency will discuss the federal and state labor law requirements applicable to the contract, including prevailing wage requirements, the respective record keeping responsibilities, the requirement for the submittal of certified payroll records to the Agency, the prohibition against discrimination in employment and other items required to be covered at the pre-job conference (see Appendix A).

Included in the handout package is a “Checklist of Labor Law Requirements for Review at Job Start Meetings” and is a brief summary of the labor laws which will be reviewed in the Pre-Construction Conference.

Additionally, the handout material includes the following sample forms:

Certified Payroll Form

Fringe Benefit Reporting Form (PW 26)

DAS 140- Register to Train Apprentices

DAS 142 – Request for Dispatch of Apprentices

CAC 2- Apprenticeship Contribution Form

Notice of LCP Contact Information- required to be posted on jobsite

Also included in the packet for illustrative purposes, is a sample copy of a prevailing wage determination. This assists the contractors as the Agency reviews prevailing wage requirements and such things as the double asterisk rule, the difference between Basic Hourly Rate and Total Hourly Rate, etc.

Contractors are referred to the DIR website at www.dir.ca.gov for updated prevailing wage information, apprenticeship regulations, forms, etc. And, the contractor is provided with information regarding the LCP contact person assigned to the specific project. Contractors are reminded that all of the steps required of the Labor Compliance Program are the same steps currently required on all prevailing wage projects. It is just that the LCP now requires that all the documentation be submitted and reviewed.

The last page of the handout is a duplicate copy of the signature page from the "Checklist" included earlier in the packet. This page is repeated so the contractor can merely remove the last page from the packet, sign it and turn it in to the Agency staff at the conclusion of the meeting.

The contractors and subcontractors present at the Pre Construction Meeting will be given the opportunity to ask questions of the Agency and CCMI relative to the items contained in the Labor Law Requirements Checklist. The checklist will then be signed by the contractor's representative and a copy will be kept by the Agency and/or CCMI.

The average time to review this information with contractors is approximately 30 minutes to one hour, depending on the number of contractors in attendance and the number of questions asked.

The General (Prime) Contractor is responsible to provide copies of the LCP Pre Construction Package and Checklist of Labor Law Requirement to all subcontractors on the project who are not in attendance at the Pre Construction Conference.

SECTION IV.

REVIEW OF CERTIFIED PAYROLL RECORDS

A. Certified Payroll Records Required

The contractor and each subcontractor shall maintain "payrolls records" (timecards, canceled checks, cash receipts, trust fund forms, accounting ledgers, tax forms, superintendent and foreman daily logs (as defined by Title 8 CCR Section 16000) during the course of the work and shall preserve them for a period of three (3) years thereafter for all trades workers working at the Agency'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 to provide fringe benefits), daily and weekly number of hours worked, overtime worked and paid, training contributions paid (if applicable), deductions made, actual wages paid and check number or other tracking number for direct deposit confirming payment to the worker.

1. Submittal of Certified Payroll Records

The contractor and each subcontractor shall maintain weekly certified payroll records for submittal to the Agency as required, but not less than monthly. The contractor shall be responsible for the submittal of payroll records of all its subcontractors. All certified payroll records shall be accompanied by a statement of compliance or "certification" signed by the contractor indicating that the payroll records are correct and complete, that the wage rates contained therein are not less than those determined by the Director of the Department of Industrial Relations, and that the classifications set forth for each employee conform with the work performed and shall include at least the following language:

I, _____ (Name-print) the undersigned, am _____ (position in business) with the authority to act for and on behalf of _____, (name of business and/or contractor) certify under penalty of perjury that the records or copies thereof submitted and consisting of _____ (description, no. of pages) are the originals or true, full and correct copies of the originals which depict the payroll record(s) of the actual disbursements by way of cash, check, or whatever form to the individual or individuals named. Date: _____
Signature: _____

The Public Agency reserves the right to include more stringent language.

For weeks in which a contractor/subcontractor is not working on a project, a Statement of Non-Performance is required. Once a particular contractor/subcontractor has completed their work, the last Certified Payroll submitted should be identified as the "Final" Certified Payroll.

The certified payroll records required by Labor Code Section 1776 shall be submitted to the DIR electronically through the eCPR system. Complete certified payroll information shall also be maintained and submitted either in hard copy or electronically to the City subject to all of the following conditions:

- (a) The reports must contain all of the information required by Labor Code Section 1776, with the information organized in a manner that is similar or identical to how the information is reported on the Department of Industrial Relations' suggested "Public Works Payroll Reporting Form" (Form A-1-131);
- (b) The reports shall be in a format and use software that is readily accessible and available to contractors, awarding bodies, Labor Compliance Programs, and the Department of Industrial Relations;
- (c) Reports submitted to an awarding body, a Labor Compliance Program, the Division of Labor Standards Enforcement, or other entity within the Department of Industrial Relations must be either (1) in the form of a non-modifiable image or record that bears an electronic signature or includes a copy of any original certification made on paper, or alternatively (2) printed out and submitted on paper with an original signature;
- (d) The requirements for redacting certain information shall be followed when certified payroll records are disclosed to the public pursuant to Labor Code Section 1776(e), whether the records are provided electronically or as hard copies; and
- (e) No contractor or subcontractor shall be mandated to submit or receive electronic reports when it otherwise lacks the resources or capacity to do so, nor shall any contractor or subcontractor be required to purchase or use proprietary software that is not generally available to the public.

2. Full Accountability

Each individual, laborer or craftsman working on a public works contract 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 apprenticeable trade. 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 record listing the days and hours worked, and the trade classification descriptive of the work actually done. The contractor shall permit such representatives of the Agency and/or the DIR to interview trades workers during working hours on the project site.

3. Responsibility for Subcontractors

The contractor shall be responsible for ensuring adherence to labor standards provisions by its subcontractors in the manner specified by Labor Code Section 1775. Moreover, the contractor is responsible for Labor Code violations by its subcontractors of which it has knowledge.

- a. The contractor shall monitor the payment of the specified general prevailing per diem wages by each subcontractor to its employees by periodic review of the subcontractor's certified payroll records.
- b. Upon becoming aware of a subcontractor's failure to pay the specified prevailing rate of wages, the contractor shall diligently take corrective action to halt or rectify the failure, including, but not limited to, retaining sufficient funds due the subcontractor

for work performed on the public works project (upon receipt of notification that a wage complaint has been resolved, the contractor shall pay any money retained from and owed to a subcontractor).

- c. Prior to making final payment to the subcontractor for work performed on the public works project, the contractor shall obtain an affidavit signed under penalty of perjury from the subcontractor that the subcontractor has paid the general prevailing rate of per diem wages to its employees on the public works project, as well as any penalties which may have been imposed for working hours violations (Labor Code Section 1775 and 1813).

4. Payment to Employees

Employees must be paid unconditionally, the full amounts which are due and payable for the period covered by the particular payday. An employer must, therefore, establish a fixed workweek (i.e., Sunday through Saturday). On each and every payday, each worker must be paid all sums due 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 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 contractor who contracted for his or her services for purposes of 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 (overtime) 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. Additionally, appropriate shift pay and applicable travel and subsistence pay is also required.

5. Maintaining Records:

The Agency/CCMI shall maintain all records relating to any project subject to Labor Compliance for a period of three (3) years from the date of the filing of the Notice of Completion of the Project. In the event no Notice of Completion is filed, the Agency/CCMI shall maintain all LCP records relating to a specific project for three (3) years from the date of actual completion or beneficial occupancy, whichever is later.

B. Apprentices

Apprentices shall be permitted to work as such only when they are registered, individually, under a bona fide apprenticeship program registered and approved by the State Division of Apprenticeship Standards. The allowable ratio of apprentices to journeypersons 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.

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, upon request by the Agency or CCMI.

Pre-apprentices, 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. Register the prevailing wage project (DAS-140);
2. Request to Train apprentices on public works projects in a ratio to journeypersons 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 hour to each five (5) journeypersons hours worked on the project. (DAS-142 or equivalent documentation or the actual employment of apprentices).
3. Contribute to the training fund in the amount identified in the prevailing wage rate publication for journeypersons 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. It should be noted that a prior approval for a separate project does not confirm approval to train on any other project. The contractor/subcontractor must check with the applicable Apprenticeship Committee to verify status.

C. Payroll Review and Audits

Payroll review and audits shall be conducted by the CCMI.

CCMI preference and practice is to review all certified payroll for all employees for all weeks of work on a project at least once a month. However, CCMI **shall** review the certified payrolls not less than one a month. The CCMI **shall** review payrolls for **at least** one full week of payroll for each contractor or subcontractor performing work on the applicable project for each month in which work was performed on the project.

1. Audit of the obligation to pay the prevailing per diem wage means review and audit of weekly-certified payroll records for compliance with:

- 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 in effect on the date of the call for bids, or as reflected in any subsequent revised determination issued by the Director's office, copies of which are available at the Agency's Facility Office and posted at the public works job site;
- b. All elements defined as Employer Payments to Workers set forth in Title 8 CCR Section 16000, which were determined to be prevailing in the Director's determination in effect on the date of the call for bids, or as reflected in any subsequent revised determination issued by the Director's office, copies of which are available at the Agency's Facility Office and posted at the public works job site.

CCMI shall also request verification of proper payment of prevailing wages to workers by randomly requesting paycheck verification for at least one worker from each contractor/subcontractor for at least one weekly period within each month.¹

2. Audit of the obligation to employ and train apprentices means inquiry to the program sponsor for the apprenticeable craft or trade in the area of the public work as to: whether contract award information was received (DAS-140), including an estimate of journeyman hours to be performed and the number of apprentices to be employed; whether apprentices have been requested (DAS-142), and whether the request has been met; whether the program sponsor knows of any amounts received from the contractor or subcontractor for the training fund or the California Apprenticeship Council (CAC-2); and whether persons listed on the certified payroll in that craft or trade being paid less than the journeyman rate are apprentices registered with that program and working under apprentice agreements approved by the Division of Apprenticeship Standards. Alternatively, or in addition to inquiring of the program sponsor, CCMI shall, as appropriate, reference the DIR website for the listing of enrolled apprentices and any contribution alleged made by a contractor on a CAC-2 form for the payment of training contributions.

DAS 140 - Register to Train – CCMI will collect a DAS-140 from each contractor for **each** apprenticeable craft employed on the project. The original DAS-140 should be sent within ten days of each contractor/subcontractor signing the contract, but not later than the first day the contractor/or applicable subcontractor commenced work on the project. A copy of DAS 140 forms should be turned in with each contractor's and subcontractor's first certified payroll. If the form is not completed correctly or is not submitted, the

¹ Title 8 CCR §16432- (c) "Confirmation" of payroll records furnished by contractors and subcontractors shall be defined as an independent corroboration of reported prevailing wage payments. Confirmation may be accomplished through worker interviews, examination of paychecks or paycheck stubs, direct confirmation of payments from third party recipients of "Employer Payments" (as defined at section 16000 of Title 8 of the California Code of Regulations), or any other reasonable method of corroboration. For each month in which a contractor or subcontractor reports having workers employed on the public work, confirmation of furnished payroll records shall be undertaken randomly for at least one worker for at least one weekly period within that month"

contractor/subcontractor will be notified of this deficiency and asked to take corrective action by completing and filing a correct DAS-140 form.

DAS 142 - Request apprentices- CCMI will look for apprentices being employed on the project (through examination of certified payrolls) in proper ratio and/or look to receive a DAS-142 (or its equivalent) from the contractor/subcontractor for each apprenticeable trade employed on the project and confirmation that the DAS-142 form was sent to an appropriate apprenticeship committee. A contractor is NOT REQUIRED to use the DAS-142 form, but can document its request for apprentices by any other written means. However, if a contractor does use the 142 form (filling it out properly and filing it promptly), with a delivery receipt, the contractor is “legally presumed” to be in compliance.

Employ Apprentices in 1:5 ratio – To the extent that apprentices are available for employment, the Labor Code mandates that apprentices are employed in a 1:5 ratio. This means an average (calculated at the end of the project) of one apprentice hour for every 5 journeymen hours. Some approved Apprenticeship Standards recognize a different ratio and those other ratios may be used so long as the apprenticeship committee has DAS approval.

Pay correct apprenticeship rates - Apprenticeship wage rates paid will also be verified by CCMI against the applicable prevailing wage determination for such apprentice level.

Pay correct training contribution (CAC 2) - CCMI will review and confirm that the training contributions set forth in the prevailing wage determination are paid to either an approved apprenticeship committee or to the California Apprenticeship Council. (CAC-2 contributions to be confirmed through DIR website).

Additional Review: CCMI will also engage in the following additional review to determine LCP compliance:

Proper Licensing

Businesses and Professions Code Section 7000 et seq. requires all companies performing construction work to be properly licensed and bonded. CCMI will check the contractor’s/subcontractor’s license status through the Contractors State License Board website at: www.cslb.ca.gov. Contractors working without a valid license will be removed from the project.

Worker’s Compensation Insurance

Labor Code Section 1861- All contractors and subcontractors employing workers on the project are required to provide worker’s compensation coverage. CCMI will verify that all contractors/subcontractors have appropriate worker’s compensation while employing workers on

the project. This information can also be verified through the California Contractor's State Licensing Board website.

Electrician Certification:

The Division of Labor Standard Enforcement also requires that all electricians employed by a C-10 licensed contractor in the State of California possess adequate training to perform their job. As such, all electricians must fall into one of the following categories:

- Journeyman- Certified
- Journeyman- Trainee
- Apprentice

CCMI will check the status of all electricians employed by using the DIR website. A list of any electricians which do not fall into one of these categories will be communicated immediately to the Agency and the prime contractor so that the individual can be removed from the project. And, the incident will be reported to the DLSE/CSLB at the end of the project.

The Agency shall also review and provide compliance review for all other items listed on the Checklist (Appendix A).

SECTION V.

ONSITE JOB VISITS AND WORKER INTERVIEWS

Site Visitations

1. Safety is the paramount factor for any site visit to any Agency construction projects. CCMI's site monitor is will comply with all safety rules and exercise reasonable caution at all times.
2. All personnel working on or visiting any Agency construction sites are required to be properly identified and visibly wear CCMI issued picture ID's (badge). Additionally, all authorized personnel are required to wear hard hats and safety shoes.
3. Authorized personnel shall visit all sites on a non-interference basis and take a minimum amount of the workers' time for interview purposes.
 - a. Upon arrival at a site, the site monitor will check in at the site superintendent's (contractor's) trailer to determine if the appropriate postings are on the jobsite. These include, but are not limited to:
 - EEO Posters
 - Prevailing wage sheets posted
 - Notice informing the employees that the project is subject to a Labor Compliance Program and providing the Agency's LCP contact information.
 - Other appropriate required postings required by law.

Where a jobsite trailer is not present on the site, CCMI or the Agency shall seek to confirm that this information is posted elsewhere on the site or available to the employees at the jobsite or at their place of employment and is readily accessible and visible to each such employee.

Interviewing

1. Not less than once a month, job site interviews of employees will take place. It is CCMI's practice to attempt to interview at least one employee from each contractor/subcontractor who performs work on the project. With that goal in mind, interviews may be conducted on a weekly basis, but in no event less than monthly.
2. Once CCMI's staff checks in with the site superintendent and obtains access to the site, the Interviewer will attempt to locate tradespersons working in clusters. For instance, several painters, electricians, roofers, etc. working in one area. The interviewer shall identify themselves as a CCMI employee and Agency representative, and ask to speak to the employee for a few minutes. Interviews should not be conducted in an area or during

a time when either the interviewer or the worker would be subject to injury due to worksite activity.

These interviews are random; two or three tradespersons for each subcontractor is sufficient for one visit. Any persons missed are usually interviewed on subsequent visits. Thirty minutes of interviewing per site is typically sufficient, depending upon the site size and/or number of subcontractors present. Contractor tradespersons should also be interviewed.

3. Using the Labor Compliance Site Visitation Interview form, each person will be asked the following: name, social security number, employer, title (trade), rate of pay, and task being performed at the time of interview. (See Appendix B).

Guidelines for Interviewers:

- a. Should someone decline to speak with you, respect those wishes. If someone asks if this is union-related, tell them no. CCMI works with both open and closed shop trades.
- b. If you try to interview someone who does not speak English and you cannot communicate in the appropriate language, try to locate a coworker who can interpret for you. If you find an entire crew unable to speak English and no interpreter, include this in your report. CCMI's Interviewer staff is also fluent in Spanish.
- c. If someone refuses to disclose his/her social security number to you, respect those wishes. However, assure that person that all information given is kept strictly confidential.
- d. If someone does not know their rate of pay (most tradespersons do not know the exact penny of wages earned), ask for an estimate. If the response is, "whatever prevailing wage is", so indicate on the form.
- e. If someone indicates that he/she is an apprentice, make sure that you ask him/her what period. These can be anywhere from 1st to 10th. If s/he's not sure, ask him/her how many years s/he's been apprenticed in the specific trade and/or to estimate and so indicate on the interview form.
- f. ALWAYS thank them for their time.
- g. Keep in mind that you are there to collect information only, do not tell them how to do their jobs. Should you witness what you consider a potentially unsafe or unwarranted condition, you are to contact the site inspector or job superintendent of your findings immediately and make a note on your site visitation log of what you observed. Upon your return to the office, report your findings to the CCMI staff person responsible for the certified payroll audit for this project.

Reporting

All original interview forms shall be submitted to the CCMI no later than the end of each workweek.

Daily Job Logs

The Daily Job Logs will be used by the Agency/CCMI to cross check staffing on the various LCP projects. The Daily Reports should list those contractors and subcontractors present on the site on a specific day as well as the number of employees employed on the project by each contractor/subcontractor. While the Daily Reports are merely a “snap shot” of the project at the time of the report information, the Daily Reports are used by the Agency/CCMI to determine if a Contractor has failed to properly list all employees performing work on the project.

Extended Audits

When the Agency/CCMI finds a potential violation which leads it to believe that prevailing wages has not been properly paid and the documentation submitted by the contractor/subcontractor is inconclusive, the Agency/CCMI will exercise its authority to conduct a full investigation to verify whether appropriate prevailing wages were paid on the project

1. Requesting Additional Documentation from Contractor

The Agency/CCMI shall request additional documents in writing, listing the specific documentation requested. The Agency/CCMI will also invoke the provisions of Labor Code Section 1776 in demanding that the documents be produced within 10 days.

2. Conducting Additional Interviews

Based on CCMI’s investigation, the CCMI may engage in additional interviewing of employees who worked on the project. These interviews may be conducted in person or via other means of communication (i.e. email, telephone, mail).

SECTION VI.

ENFORCEMENT

Duty of the Awarding Body

A Labor Compliance Program shall have a duty to the Director to enforce the requirements of Chapter 1 of Part 7 of Division 2 of the Labor Code and these regulations in a manner consistent with the practice of the Labor Commissioner. It is the practice of the LCP to refer to the Director's ongoing advisory service of web-posted public works coverage determinations as a source of information and guidance in making enforcement decisions. It is also the practice of the LCP to be represented by an attorney in prevailing wage hearings conducted pursuant to Labor Code Section 1742(b) and sections 17201-17270 of Title 8 of the California Code of Regulations.

CCMI has a duty to report all violations and proposed remedial action to the Agency who in turn has a duty to enforce the Labor Code public works requirements (Chapter 1 of part 7 of Division 2 and Division 3 of the Labor Code).

Audits:

An Audit shall be conducted as deemed necessary whenever the Labor Compliance Program has determined that there has been a violation of the Public Works Chapter of the Labor Code resulting in the underpayment of wages. An "Audit" for this purpose shall be defined as a written summary reflecting prevailing wage deficiencies for each underpaid worker, and including any penalties to be assessed under Labor Code Sections 1775 and 1813, as determined by the Labor Compliance Program after consideration of the best information available as to actual hours worked, amounts paid, and classifications of workers employed in connection with the public work. Such available information may include, but is not limited to, worker interviews, complaints from workers or other interested persons, all time cards, cancelled checks, cash receipts, trust fund forms, books, documents, schedules, forms, reports, receipts or other evidences which reflect job assignments, work schedules by days and hours, and the disbursement by way of cash, check, or in whatever form or manner, of funds to a person(s) by job classification and/or skill pursuant to a public works project. An Audit is sufficiently detailed when it enables the Labor Commissioner, if requested to determine the amount of forfeiture under section 16437, to draw reasonable conclusions as to compliance with the requirements of the Public Works Chapter of the Labor Code, and to enable accurate computation of underpayments of wages to workers and of applicable penalties and forfeitures. An Audit using the forms in Appendix B of 16437, when accompanied by a brief narrative identifying the Bid Advertisement Date of the contract for public work and summarizing the nature of the violation and the basis upon which the determination of underpayment was made, presumptively demonstrates sufficiency. Records supporting an Audit shall be maintained by the Labor Compliance Program to satisfy its burden of coming forward with evidence in administrative review proceedings under Labor Code Section 1742 and the Prevailing Wage Hearing Regulations found at sections 17201-17270 of Title 8 of the California Code of Regulations.

After the Labor Compliance Program has determined that violations of the prevailing wage laws

have resulted in the underpayment of wages and an audit has been prepared, notification shall be provided to the contractor and affected subcontractor of an opportunity to resolve the wage deficiency prior to a determination of the amount of forfeiture by the Labor Commissioner pursuant to these regulations. The contractor and affected subcontractor shall be provided at least 10 days following such notification to submit exculpatory information consistent with the "good faith mistake" factors set forth in Labor Code Section 1775(a)(2)(A)(i) and (ii). If, based upon the contractor's submission, the Labor Compliance Program reasonably concludes that the failure to pay the correct wages was a good faith mistake, and has no knowledge that the contractor and affected subcontractor have a prior record of failing to meet their prevailing wage obligations, the Labor Compliance Program shall not be required to request the Labor Commissioner for a determination of the amount of penalties to be assessed under Labor Code Section 1775 if the underpayment of wages to workers is promptly corrected and proof of such payment is submitted to the Labor Compliance Program. For each instance in which a wage deficiency is resolved in accordance with this regulation, the Labor Compliance Program shall maintain a written record of the failure of the contractor or subcontractor to meet its prevailing wage obligation. The record shall identify the public works project, the contractor or affected subcontractor involved, and the gross amount of wages paid to workers to resolve the prevailing wage deficiency; and the record shall also include a copy of the Audit prepared pursuant to subpart (e) above along with any exculpatory information submitted to the Labor Compliance Program by the affected contractor or subcontractor.

Monthly Communication to the Contractor:

Upon completion of the monthly review of certified payrolls, CCMI shall communicate to the Agency and with the prime contractor on the project as to all violations, inadequacies, or deficiencies for the prime contractor and any applicable subcontractor. CCMI shall create Monthly Audit Reports for each contractor/subcontractor on the project who has failed to submit correct LCP documentation and/or has failed to pay the applicable prevailing wage or comply with other LCP requirements.

CCMI on behalf of the Public Agency shall take reasonable, vigorous, and prompt action to (1) determine whether violations exist, and (2) enforce compliance, including through imposition of appropriate penalties and formal enforcement action, when violations are found. The Public Agency shall not avoid the use of its enforcement authority based on cost considerations nor use that authority in an unreasonable manner to gain leverage over a contractor or subcontractor. Unreasonable use of enforcement authority includes, but is not necessarily limited to, prolonged or excessive withholdings of contract payments without making a determination that a violation has occurred.

CCMI's monthly report to the Contractor shall include:

- Name of Project
- Prime Contractor
- Subcontractor with outstanding violation
- Weeks of Certified Payrolls reviewed
- Any deficiency in paperwork
Incorrect or Missing:

- Certified Payrolls
 - Fringe Benefit Statement
 - DAS 140
 - DAS 142
 - CAC 2
- Identify any wage deficiencies, classification issues, etc.
 - Direct Contractor to correct said deficiencies and provide documentation of corrective action.
 - Request verification of payment (cancelled check or proof of direct deposit) for randomly selected employee from the certified payroll.
 - Invoke 1776 documents request – as needed.

A. Withholding Contract Payments When Payroll Records are Delinquent or Inadequate

1. “Withhold” means to cease payments by the awarding body, or others who pay on its behalf, or agents, to the contractor. Where the violation is by a subcontractor, the contractor shall be notified of the nature of the violation and reference made to its rights under Labor Code Section 1729. A release bond under Civil Code Section 3196 may not be posted for the release of the funds being withheld for the violation of the prevailing wage law.
2. “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;
3. “Delinquent payroll records” means those not submitted on the basis set forth in the Agency contract and the Labor Compliance Program;
4. “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) pay period, after the awarding body has given the contractor notice of inaccuracies/omissions detected by audit or record review; provided, however, that prompt correction will stop any duty to withhold if such inaccuracies/omissions do not amount to 1 percent 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.

The withholding of contract payments when payroll records are delinquent or inadequate is required by Labor Code Section 1771.5(b)(5), and it does not require the prior approval of the Labor Commissioner. The Agency shall only withhold those payments due or estimated to be due to the contractor or subcontractor whose payroll records are delinquent or inadequate, plus any additional amount that the Labor Compliance Program has reasonable cause to believe may be needed to cover a back wage and penalty assessment against the contractor or subcontractor whose payroll records are delinquent or inadequate; provided that a contractor shall be required in turn to cease all payments to a subcontractor whose payroll records are delinquent or inadequate until the Public Agency/CCMI provides notice that the subcontractor has cured the delinquency or deficiency.

When contract payments are withheld under this section, the Public Agency/CCMI shall provide the contractor and subcontractor, if applicable, with immediate written notice that includes all of the following: (1) a statement that payments are being withheld due to delinquent or inadequate payroll records, and that identifies what records are missing or states why records that have been submitted are deemed inadequate; (2) specifies the amount being withheld; and (3) informs the contractor or subcontractor of the right to request an expedited hearing to review the withholding of contract payments under Labor Code Section 1742, limited to the issue of whether the records are delinquent or inadequate or the Labor Compliance Program has exceeded its authority under this section.

No contract payments shall be withheld solely on the basis of delinquent or inadequate payroll records after the required records have been produced.

In addition to withholding contract payments based on delinquent or inadequate payroll records, penalties shall be assessed under Labor Code Section 1776(g) for failure to timely comply with a written request for certified payroll records. The assessment of penalties under Labor Code Section 1776(g) does require the prior approval of the Labor Commissioner under section 16436 of these regulations.

Once the Public Agency/CCMI has determined that violations of the prevailing wage laws have resulted in the underpayment of wages and an audit has been prepared, notification shall be provided to the contractor and affected subcontractor of an opportunity to resolve the wage deficiency prior to a determination of the amount of forfeiture by the Labor Commissioner pursuant to these regulations. The contractor and affected subcontractor shall be provided at least 10 days following such notification to submit exculpatory information consistent with the "good faith mistake" factors set forth in Labor Code Section 1775(a)(2)(A)(i) and (ii). If, based upon the contractor's submission, the Labor Compliance Program reasonably concludes that the failure to pay the correct wages was a good faith mistake, and has no knowledge that the contractor and affected subcontractor have a prior record of failing to meet their prevailing wage obligations, the Labor Compliance Program shall not be required to request the Labor Commissioner for a determination of the amount of penalties to be assessed under Labor Code Section 1775 if the underpayment of wages to workers is promptly corrected and proof of such payment is submitted to the Labor Compliance Program

Where the violation is by a subcontractor, the general contractor shall be notified of the nature of the violation and reference made to its rights under Labor Code Section 1729. The withholding of contract payments when, after investigation, it is established that underpayment or other violations have occurred requires the prior approval of the Labor Commissioner under sections 16436 and 16437 of these regulations.

Apprenticeship Obligations:

The duties of a Labor Compliance Program with respect to apprenticeship standards are as follows:

(1) Either the Awarding Body or the Labor Compliance Program acting on its behalf shall (A) inform contractors and subcontractors bidding public works about apprenticeship requirements, (B) send copies of awards and notices of discrepancies to the Division of Apprenticeship Standards as required under Section 1773.3 of the Labor Code, and (C) refer complaints and promptly report suspected violations of apprenticeship requirements to the Division of Apprenticeship Standards.

(2) The Labor Compliance Program shall be responsible for enforcing prevailing wage pay requirements for apprentices consistent with the practice of the Labor Commissioner, including (A) that any contributions required pursuant to Labor Code Section 1777.5(m) are paid to the appropriate entity, (B) that apprentices are paid no less than the prevailing apprentice rate, (C) that workers listed and paid as apprentices on the certified payroll records are duly registered as apprentices with the Division of Apprenticeship Standards, and (D) requiring that the regular prevailing wage rate be paid (i) to any worker who is not a duly registered apprentice and (ii) for all hours in excess of the maximum ratio permitted under Labor Code Section 1777.5(g), as determined at the conclusion of the employing contractor or subcontractor's work on the public works contract.

Request for Forfeitures

"Forfeitures" means the amount of wages, penalties, and forfeitures assessed by the Public Agency and proposed to be withheld pursuant to Labor Code section 1771.6(a), and includes the following: (1) the difference between the 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 by the contractor or subcontractor; and (2) penalties assessed under Labor Code Sections 1775, 1776 and 1813.

If the aggregate amount of forfeitures assessed as to a contractor or subcontractor is less than \$1000.00, the forfeitures shall be deemed approved by the Labor Commissioner upon service and the Labor Commissioner's receipt of copies of the following: (1) the Notice of Withholding of Contract Payments authorized by Labor Code Section 1771.6(a); (2) an Audit as defined in

section 16432(e) of these regulations, and (3) a brief narrative identifying the Bid Advertisement Date of the contract for public work and summarizing the nature of the violation, the basis of the underpayment, and the factors considered in determining the assessment of penalties, if any, under Labor Code Section 1775.

For all other forfeitures, approval by the Labor Commissioner shall be requested and obtained in accordance with Title 8 CCR Section 16437, set forth below:

Where the Labor Compliance Program requests a determination of the amount of forfeiture, the request shall include a file or report to the Labor Commissioner which contains at least the information specified in subparts (1) through (9) below. Appendix D is a suggested format for a Request for Approval of Forfeiture under this section.

(1) Whether the public work has been accepted by the awarding body and whether a valid notice of completion has been filed, the dates if any when those events occurred, and the amount of funds being held in retention by the Awarding Body;

(2) Any other deadline which if missed would impede collection;

(3) Evidence of violation, in narrative form;

(4) Evidence of violation obtained under section 16432 of these regulations and a copy of the Audit prepared in accordance with section 16432(e) setting forth the amounts of unpaid wages and applicable penalties;

(5) Evidence that before the forfeiture was sent to the Labor Commissioner (A) the contractor and subcontractor were given the opportunity to explain why there was no violation, or that any violation was caused by good faith mistake and promptly corrected when brought to the contractor or subcontractor's attention, and (B) the contractor and subcontractor either did not do so or failed to convince the Labor Compliance Program of its position;

(6) Where the Labor Compliance Program seeks not only wages but also a penalty as part of the forfeiture, and the contractor or subcontractor has unsuccessfully contended that the cause of violation was a good faith mistake that was promptly corrected when brought to the contractor or subcontractor's attention, a short statement should accompany the proposal for a forfeiture, with a recommended penalty amount pursuant to Labor Code Section 1775(a);

(7) Where the Labor Compliance Program seeks only wages or a penalty less than \$200 per day as part of the forfeiture because the contractor or subcontractor has successfully contended that the cause of the violation was a good faith mistake that was promptly corrected when brought to the contractor or subcontractor's attention, the file should include the evidence as to the contractor or subcontractor's knowledge of his or her obligation, including the program's communication to the contractor or subcontractor of the obligation in the bid invitations, at the prejob conference agenda and records, and any other notice given as part of the contracting process. With the file should be a statement, similar to that described in (6), and recommended penalty amounts, pursuant to Labor Code Section 1775(a);

(8) The previous record of the contractor and subcontractor in meeting their prevailing wage obligations; and

(9) Whether the Labor Compliance Program has been granted approval on only an interim or temporary basis under sections 16425 or 16426 above or whether it has been granted extended approval under section 16427 above.

(b) The file or report shall be served on the Labor Commissioner as soon as practicable after the violation has been discovered, and not less than 30 days before the final payment, but in no event not less than 30 days before the expiration of the limitations period set forth in Labor Code Section 1741.

(c) A copy of the recommended forfeiture and the file or report shall be served on the contractor and subcontractor at the same time as it is sent to the Labor Commissioner. The Labor Compliance Program 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 file or report.

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

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

(1) For all programs other than those having extended authority under section 16427 of these regulations, on the date the Labor Commissioner serves by first class mail, on the Labor Compliance Program, on the Awarding Body if different, on the contractor and on the subcontractor, if any, 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 or subcontractor is effective if made on the last address supplied by the contractor or subcontractor 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 extended authority under section 16427 above, 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.

SECTION VII.

THIRD PARTY REQUESTS AND ENFORCEMENT

1. Third Party Requests for Payroll

When the Agency receives a request for certified payrolls of a contractor /subcontractor from a third party pursuant to Labor Code Section 1776, any records which the Agency makes available to such a third party shall be appropriately redacted pursuant to Labor Code Section 1776 (e) to protect the privacy of the individual worker. Pursuant to Title 8 CCR 16403. Such requests are frequently forwarded from the Agency to CCMI. CCMI will comply with the provisions of 1776(e) whenever providing payrolls to any third party.

Records received from the employing contractor shall be kept on file in the office or entity that processed the request for at least 6 months following completion and acceptance of the project. Thereafter, they may be destroyed unless administrative, judicial or other pending litigation, including arbitration, mediation or other methods of dispute resolution, are in process. Copies on file shall not be obliterated in the manner prescribed below;

Copies provided to the public upon written request shall be marked, obliterated or provided in such a manner that the name, address and Social Security number, and other private information pertaining to each employee cannot be identified. All other information including identification of the contractor shall not be obliterated;

The Public Agency/CCMI may affirm or deny that a person(s) was or is employed on a public works contract (by a specific contractor) when asked, so long as the entity requires such information of an identifying nature which will reasonably preclude release of private or confidential information.

Requests for certified copies of payroll records pursuant to Section 1776 of the Labor Code may be made by any person. However, any such request shall be in writing and contain at least the following information:

- (1) The body awarding the contract;
- (2) The contract number and/or description;
- (3) The particular job location if more than one;
- (4) The name of the contractor;
- (5) The regular business address, if known.

Acknowledgment of Request. The public entity receiving a request for payroll records shall acknowledge receipt of such, and indicate the cost of providing the payroll records based on an

estimate by the contractor, subcontractor or public entity. The acknowledgment of the receipt of said request for payroll records may be accomplished by the public entity's furnishing a copy of its written correspondence requesting certified copies of the payroll records sent to the specific contractor pursuant to Section 16400(d) below, to the person who requested said records

Request to Contractor. The request for copies of payroll records by the requesting public entity shall be in any form and/or method which will assure and evidence receipt thereof. The request shall include the following:

(1) Specify the records to be provided and the form upon which the information is to be provided;

(2) Conspicuous notice of the following:

(A) that the person certifying the copies of the payroll records is, if not the contractor, considered as an agent acting on behalf of the contractor; and

(B) that failure to provide certified copies of the records to the requesting public entity within 10 working days of the receipt of the request will subject the contractor to a penalty of twenty-five (\$25.00) dollars per calendar day or portion thereof for each worker until strict compliance is effectuated;

(3) Cost of preparation as provided in Section 16402; and

(4) Provide for inspection.

Inspection of Payroll Records. Inspection of the original payroll records at the office of the contractor(s) pursuant to subdivision (b) of Section 1776 of the Labor Code shall be limited to the public entities upon reasonable written or oral notice.

Costs of Certified Payrolls: The cost of preparation to each contractor, subcontractor, or public entity when the request was made shall be provided in advance by the person seeking the payroll record. Such cost shall be \$1 for the first page of the payroll record and 25 cents for each page thereafter, plus \$10 to the contractor or subcontractor for handling costs. Payment in the form of cash, check or certified money order shall be made prior to release of the documents to cover the actual costs of preparation.

2. Third Party Complaints

Upon receipt of a written complaint from a third party alleging that a contractor or subcontractor has failed to pay prevailing wages as required by the Labor Code, CCMI will respond to the complaining party as follows:

(1) Within 15 days after receipt of the complaint, send a written acknowledgment to the complaining party that the complaint has been received and identifying the name,

address, and telephone number of the investigator assigned to the complaint;

(2) Within 15 days after receipt of the complaint, provide the effected contractor with the notice required under Labor Code Section 1775(c) if the complaint is against a subcontractor;

(3) Notify the complaining party in writing of the resolution of the complaint within ten days after the complaint has been resolved by the Labor Compliance Program;

(4) Notify the complaining party in writing at least once every 30 days of the status of a complaint that has not been resolved by the Labor Compliance Program; and

and

(5) Notify the complaining party in writing at least once every 90 days of the status of a complaint that has not been resolved by the Labor Compliance Program but remains under review or in litigation before another entity.

SECTION VIII.

PROJECT CLOSE-OUT- FORFEITURES AND PENALTIES

IF NO WAGE VIOLATIONS HAVE OCCURRED during the course of the project, and nothing is outstanding, the CCMI shall issue a close out report See Appendix H to the Agency and keep this data to reference for the Agency's Annual Report.

CCMI is aware of its obligation to take prompt and vigorous enforcement of all violations of the LCP and is committed to doing so. Wage Violations which occur during the course of the project will be promptly corrected and the following penalties assessed: (after consultation with the Agency)

•**Wage Violation** – Labor Code 1775 - \$200 per day per worker per violation. The Agency now has discretion to reduce or waive penalties. Reductions or waivers will only be made if the contractor meets the requirements of Labor Code Section 1775, subparagraph (b) i.e. good faith or inadvertent error, prompt correction and no additional violations. No reduction or waiver shall be made if there are outstanding wages still due. Reasons for reduction of penalties will be documented and included in Notice of Request for Forfeitures to the Labor Commissioner.

•**Overtime Violation** – Labor Code Section 1813 - \$25.00 per day per worker. Mandated by statute with no discretion for reduction. Even if certain union agreements allow for employees to work four days of 10 hours each day without overtime, it is Labor Code Section 1813 which controls with overtime pay being mandated after 8 hours worked in a day. Labor Code Section 1811.

•**Failure to Provide Certified Payrolls** (including fringe benefit statements, timecards, canceled checks, etc.) within 10 days of Request - Labor Code 1776 (h). The penalty of \$100.00 per day per worker continues until strict compliance is met (all documents delivered). Before imposing 1776 penalties, the CCMI/Agency will ensure that any request for documentation includes:

- Identification of the specific documents requested
- Identification that the request is made pursuant to Section 1776(h) of the Labor Code and that penalties of \$100 per day per worker will be imposed until there is strict compliance
- Delivery of the notice must be by certified mail or other means where the contractor signed a receipt of the notice

•**Willful and/or Repeat Offenders** will be subject to maximum penalties as stated above and a recommendation of debarment from public works will be made to the DIR.

•**Liquidated Damages** – If prevailing wages remains unpaid 60 days after a Notice to Withhold is issued to the contractor, the contractor shall be assessed liquidated damages equal to the amount of any unpaid wages. CCMI will advise the Agency shall hold

appropriate funds at the conclusion of the project to cover all wages due, penalties and liquidated damages.

• **Apprenticeship Violation** - Labor Code Section 1777.7 \$100 - \$300 per calendar day of noncompliance and debarment up to 3 years. This may include failure to pay training contributions, employ apprentices at the ratio required, etc. The Agency does not have the authority to impose penalties for Apprenticeship Violations, but instead will have CCMI file a Public Works Complaint detailing the violation and submitting relevant documentation of the violations to the DLSE (who is now enforcing DAS violations).

• **Unlicensed Contractor** – Labor Code Section 1021. Any contractor working without a valid contractor license shall be subject to a penalty of \$200 per day per worker. This is not a penalty that LCPs enforce. Rather, the Agency may direct CCMI to file a complaint with the DIR, as well as with the Contractors State License Board (CSLB).

3. If the total wages and penalties outstanding and due are less than \$1,000, then the CCMI (with the direction and approval of the Agency) will proceed to issue a Notice to Withhold to the Contractor/and any applicable subcontractor. (See Notice to Withhold Appendix E).

4. If wages and penalties exceed \$1,000, CCMI will prepare and file (with the approval and direction of the Agency) the Request for Forfeiture form (see Appendix D) and send it with the appropriate documentation to the Labor Commissioner for review and decision. “LCP Request for Forfeitures” and “Penalty Worksheet” spreadsheet will be completed in full. Penalty worksheet will list dates of violation and include summary worksheet, including the following:

- a. Audit summary (Agency’s penalty worksheet summary and individual employee penalty worksheets).
- b. 1st Bid Advertisement Publication Notice of Completion (if filed).
- c. Scope of Work.
- d. Complaint forms and declarations, if any from third parties or employees.

The close out documents will be sent to the following:

General Contractor – certified and regular mail;
Affected Subcontractor – certified and regular mail;
Overnight delivery (with signature required) or certified mail to the Labor Commissioner

5. The Labor Commissioner then has 30 days to respond. (Once the Agency/CCMI has a response from the Labor Commissioner, a Notice to Withhold shall issue). In the event the Labor Commissioner does not respond within 30 days, the Agency/CCMI shall then issue a Notice to

Withhold based on the information provided in the Request for Forfeiture Notice. The Notice to Withhold shall be sent as follows:

General Contractor –certified and regular mail
Effected Subcontractor – certified and regular mail

6. Allow 60 days for the contractor to contest the penalties. If the contractor contests the Notice to Withhold, then the Agency/CCMI (upon receipt of the written Request for Review) will promptly forward the Request for Review to the Agency’s General Counsel.

****Potential Settlement Options** – CCMI will advise the Agency that it has the ability to engage in settlement discussions and will do so before the filing of a Request for Forfeiture. CCMI shall engage in these discussions as requested by the Agency. Specifically, once the Agency/CCMI has determined/confirmed an actual violation has occurred, notification will be provided to the effected contractor/subcontractor with an opportunity to correct the wage deficiency. The contractor/subcontractor shall have at least 10 days from such notification to submit information/documentation that such error was made in good faith and corrected promptly. If the correction is made promptly and a waiver of penalties is determined, no Request for Forfeiture will be made to the Labor Commissioner. However, the Agency will keep this information and include it with its Annual Report. When considering the compromise or waiver of penalties, the Agency will consider the nature of the violation, good faith error versus a knowing violation.

If, after a Notice to Withhold is issued, a contractor or subcontractor may request a settlement meeting pursuant to Labor Code Section 1742.1(b). CCMI will assist the Agency in exercising the same rights and responsibilities of the Enforcing Agency (as defined in Section 17202(f) of Title 8 of the California Code of Regulations), in responding to such a request for review, including but not limited to the obligations to serve notices, transmit the Request for Review to the hearing office, and provide an opportunity to review evidence in a timely manner, to participate through counsel in all hearing proceedings, and to meet the burden of establishing prima facie support for the Notice of Withholding of Contract Payments.

If a contractor or subcontractor seeks review of a Labor Compliance Program enforcement action, the Labor Commissioner may intervene to represent the Awarding Body, or to enforce relevant provisions of the Labor Code consistent with the practice of the Labor Commissioner, or both.

Except in cases where the Labor Commissioner has intervened pursuant to subpart (b) of CCR Title 8 Section 16439, the Agency shall have the authority to prosecute, settle, or seek the dismissal of any Notice of Withholding of Contract Payments issued pursuant to Labor Code Section 1771.6 and any review proceeding under Labor Code Section 1742, without any further need for approval by the Labor Commissioner. Whenever the Agency settles in whole or in part or seeks and obtains the dismissal of a Notice of Withholding of Contract Payments or a review proceeding under Labor Code Section 1742, the Agency/CCMI shall document the reasons for the settlement or request for dismissal and shall make that documentation available to the Labor Commissioner upon request.

7. If the 60-day time period expires and no request for review is filed, then the sums set forth in the Notice to Withhold are deemed forfeit to the Agency (except to the extent that any wages due, must be turned over by the Agency to the affected employees (if the employees cannot be

located after a diligent search, then those wage funds are turned over to the Labor Commissioner).

Close Out Completion Report:

For each project, CCMI shall prepare a Project Completion Report, deliver such report to the Agency and keep such report in the applicable project file. The Project Completion Report is attached hereto as Appendix H.

APPRENTICE/TRAINING VIOLATION:

- Unpaid training contribution for any trade
- No DAS 140 form submitted
- No DAS 142 form submitted and no apprentices on the project
- Electrician certification violation

For any violation relating to apprenticeship or training, the CCMI shall complete and file (on behalf of the Agency) a Public Works Complaint with the Division of Apprenticeship Standards and enclose the applicable documentation.

The Public Works Complaint and applicable documents shall be sent to:

- General Contractor – certified and regular mail;
- Effected Subcontractor – certified and regular mail;
- DLSE:

Southern California

Division of Labor Standards Enforcement
BOFE- Public Works (1777.5 and 1777.7)
Attention: Lorna Espiritu, Senior Deputy
300 Oceangate, Suite 850
Long Beach, California 90802

Northern California

Division of Labor Standards Enforcement
BOFE- Public Works (1777.5 and 1777.7)
Attention: Sherry Gentry, Senior Deputy
7718 Meaney Avenue
Bakersfield, California 93308

SECTION IX.

NOTIFICATION OF CONTRACTOR AND APPEAL RIGHTS OF PROGRAM ENFORCEMENT ACTION

Notice of Withholding of Contract Payments (NWCP)

After determination of the amount of forfeiture by the Labor Commissioner, the CCMI/Agency 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. Notice to Contractor shall be deemed notice to its performance bond surety. The notice shall advise the contractor and subcontractor, if applicable, of the procedure for obtaining review of the withholding of contract payments. CCMI/Agency shall also serve a copy of the notice by certified mail to any bonding company issuing a bond that secures the payment of wages covered by the notice and to any surety on such 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 Agency is found as Appendix E to this document.

A. Review of NWCP

1. An affected contractor or subcontractor may obtain review of a NWCP under this chapter by transmitting a written request to the Agency/CCMI that appears on the NCWP within 60 days after service of the NWCP. If no hearing is requested within 60 days after service of the NWCP, the NWCP shall become final.
2. Within ten days following the receipt of the Request for Review, the Agency/CCMI shall complete and serve a Notice of Transmittal on the DIR and the applicable contractor(s). Within 20 days of receipt of the Request for Review, the Agency/CCMI shall provide to the party requesting review and a copy of the Opportunity to Review Evidence. (A copy of the required Notice of Transmittal to be utilized is found as Appendix F to this document. A copy of a Notice of Opportunity to Review Evidence Pursuant to Labor Code Section 1742(b) form is found as Appendix G 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 Agency at the hearing within 20 days of the receipt of the written request for a hearing. Any evidence obtained by the Agency subsequent to the 20-day cutoff shall be promptly disclosed to the contractor or subcontractor.

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.

Pursuant to Labor Code Section 1742.1, there shall be no liability for liquidated damages if the full amount of the assessment or notice, including penalties has been deposited by the contractor with the Department of Industrial Relations within 60 days following service of Notice to Withhold.

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 Agency. 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.

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 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 NWCP by the Agency to withhold contract payments pursuant to Section 1771.7.

SECTION X

PRIORITY DISTRIBUTION OF FORFEITED SUMS

A. Withholding of Forfeited Sums

CCMI shall assist the Agency in distributing any withheld sums in the following manner:

1. Before making payments to the contractor of money due under a contract for public work, the Agency shall withhold and retain from sums owing Contractor, if any, all amounts required to satisfy the NWCP. The amounts required to satisfy the NWCP shall not be disbursed by the Agency until receipt of a final order that is no longer subject to judicial review.
2. Pending a final order, or the expiration of the time period for seeking review of the Notice of the Withholding, the Agency shall not disburse any contract payments withheld.
3. From the amount recovered, 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 employed on the public works project who are paid less than the prevailing wage rate. Said wages due shall have **PRIORITY** over all Stop Notices filed against the prime contractor.
5. Wages for workers who cannot be located shall be placed in the Industrial Relations Unpaid Fund and held in trust for the workers pursuant to Section 96.7. Penalties shall be paid into the General Fund of the Agency that has enforced this chapter pursuant to Section 1771.7.
6. If insufficient funds are withheld, recovered, or both, to pay each underpaid worker in full, the money shall be prorated among all said underpaid workers.
7. 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 Labor Compliance Program shall deposit penalties and forfeitures with the Agency.

Where collection of fines, penalties or forfeitures results from administrative proceedings or court action to which the Labor Commissioner and Agency or its Labor Compliance Program are both parties, the fines, penalties or forfeitures shall be divided between the general funds of the state and the Awarding Body, as the Hearing Officer or court may decide.

All penalties recovered in administrative proceedings or court action brought by or against the Labor Commissioner and to which the Agency or its Labor Compliance Program is not a party, shall be deposited in the general fund of the State.

SECTION XI.

ANNUAL REPORTS AND RECORDKEEPING

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

CCMI shall assist the Agency in submitting to the Director of the Department of Industrial Relations an annual report (LCP-AR1) on the operation of its Labor Compliance Program on or before August 31 (60 days after the close of its fiscal year.). The annual report will contain, as a minimum, the following information:

1. Labor Code violations identified and reported to the Labor Commissioner;
2. The number of public works contracts awarded which require LCP compliance;
3. A summary of wages due to workers resulting from failure by contractors to pay prevailing wage rates; the total amount withheld from money due the contractors; and the total amount recovered by action in any court of competent jurisdiction;
4. A summary of apprenticeship violations;
5. And all other information required as part of the Annual Reporting requirements as required by CCR Title 8 Section 16431.

- B. For each public work project subject to a Labor Compliance Program's enforcement of prevailing wage requirements, a separate, written summary of labor compliance activities and relevant facts pertaining to that particular project shall be maintained. That summary shall demonstrate that reasonable and sufficient efforts have been made to enforce prevailing wage requirements consistent with the practice of the Labor Commissioner. Appendix C following this section provides a suggested format for tracking and monitoring enforcement activities. Compliance records for a project shall be retained until the later of (1) at least one year after the acceptance of the public work or five years after the cessation of all labor on a public work that has not been accepted, or (2) one year after a final decision or judgment in any litigation under Labor Code Section 1742. For purposes of this section, a written summary or report includes information maintained electronically, provided that the summary or report can be printed out in hard copy form or is in an electronic format that (1) can be transmitted by e-mail or compact disk and (2) would be acceptable for the filing of documents in a federal or state court of record within this state.

Revised 01/12/2013

Appendix A

CHECKLIST OF LABOR LAW REQUIREMENTS FOR REVIEW AT JOB START MEETINGS

(In accordance with CCR Section 16430)

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

1. Payment of Prevailing Wage Rates

The award of a public works contract requires that all workers employed on the project be paid not less than the specified general prevailing wage rates by the contractor and its subcontractors. Prevailing wage determinations for this project can be obtained at: www.dir.ca.gov. This includes a total package including fringe benefits and training contributions which are paid to the employee or for the benefit of the employee to a bona fide ERISA approved or otherwise unconditionally paid for the benefit of the employee Trust Fund.

The contractor is responsible for obtaining and complying with all applicable general prevailing wage rates for trades workers and any rate changes, which may occur during the term of the contract. Prevailing wage rates and rate changes are to be posted at the job site for workers to view. Or the contractor may post a notice stating where the prevailing wage determinations are available on the jobsite and the contractor shall provide access to such information upon reasonable notice.

2. All individuals or companies performing prevailing wage work on this project must be registered as a public works contractor and pay an annual fee of \$300 to the Department of Industrial Relations (DIR). This includes all work covered by prevailing wage such as trucking, surveying, building inspection and so on.

3. Apprentices

It is the duty of the contractor and subcontractors to employ registered apprentices on public works projects per Labor Code Section 1777.5; Contractors and subcontractors must submit proof of Public Works Contract Award Information (DAS140) or other documentation for Division of Apprenticeship Standards approved apprenticeship programs. Apprentices are to be employed in all crafts and in all trades with approved training programs. Contractors are to employ apprentices on a ratio of 1 apprentice hour for every 5 journeymen hours or as otherwise approved by the DAS approved Apprenticeship Training Committee. Contractors and subcontractors who do not meet this ratio must submit documentation that apprentices were requested and were not provided and/or not available in sufficient number to meet this ratio. The submission of an accurate DAS142(s) meets this requirement. Additional documentation may be required to verify the apprenticeship status of employees.

4. Penalties

Penalties, including forfeitures and debarment, shall be imposed for contractor/subcontractor failure to pay prevailing wages, failure to maintain and submit accurate certified payroll records upon request, failure to employ apprentices, and for failure to pay employees for all hours worked at the correct prevailing wage rate, in accordance with Labor Code Sections 1775, 1776, 1777.7, and 1813. Monetary penalties of \$200 per day per worker shall be imposed for failure to pay correct prevailing wage; \$25 per day per worker shall be imposed for overtime violated; \$100 per day per worker for failure to provide certified payroll information; \$100-\$300 per calendar day for noncompliance of Apprenticeship issues.

5. Certified Payroll Records

Per Labor Code Section 1776, contractors and subcontractors are required to keep accurate payroll records which reflect the name, address, social security number, and work classification of each employee; the straight time and overtime hours worked each day and each week; the fringe benefits; and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee hired in connection with a public works project. A listing of all current prevailing wage determinations can be

obtained from the Agency's main office or by accessing the Department of Industrial Relation's website at: www.dir.ca.gov

Employee payroll records shall be certified (signed under penalty of perjury by someone in authority at the company) 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 to his or her authorized representative on request. Disclosure of certified payroll information to anyone other than the Awarding Body, its agent, or the Department of Industrial Relations requires that personal information about the employees (name, address and social security number) listed on the forms be redacted (omitted) to protect employee privacy.

Contractors and subcontractors shall maintain their certified payrolls on a weekly basis and shall submit said payrolls on a monthly basis in conjunction with contractor's requests progress or final payment. In the event that there has been no work performed during a given week, the Certified Payroll Record shall be annotated "No Work" for that week. The Agency or its authorized representative is also authorized to request and review all related payroll records such as time cards, cancelled checks, etc. the contractor must also submit electronic certified payroll to the Department of Industrial Relations through its eCPR portal for ALL work performed after August 1, 2016.

While the DIR accepts electronic versions of your certified payroll, the DIR and this agency may also request copies of the original certified payroll and supporting documentation at any time.

6. Nondiscrimination in Employment

Prohibitions against employment discrimination are contained in Labor Code Sections 1735 and 1777.6; the Government Code; the Public Contracts Code; and Title VII of the Civil Rights Act of 1964, as amended. All contractors and subcontractors are required to implement equal employment opportunities as delineated below:

a. Equal Employment Poster

The equal employment poster shall be posted at the job site in a conspicuous place visible to employees and employment applicants for the duration of the project. All other labor and employment related posters are also to be properly displayed on the jobsite.

7. Kickback Prohibited

Per Labor Code Section 1778, contractors and subcontractors are prohibited from accepting, taking wages illegally, or extracting "kickback" from employee wages;

8. Acceptance of Fees Prohibited

Contractors and subcontractors are prohibited from exacting any type of fee for registering individuals for public work (Labor Code Section 1779); or for filling work orders on public works contracts (Labor Code Section 1780);

9. Listing of Subcontractors

Contractors are required to list all subcontractors hired to perform work on a public works project when that work is equivalent to more than one-half of one percent of the total contract amount or \$10,000 whichever is greater. (Public Contract Code Section 4100, et seq.);

10. Proper Licensing

Contractors and subcontractors are required to be properly licensed. Penalties will be imposed for employing workers while unlicensed (Labor Code Section 1021 and Business and Professions Code Section 7000, et seq. under California Contractors License Law);

11. Unfair Competition Prohibited
Contractors and subcontractors are prohibited from engaging in unfair competition (Business and Professions Code Sections 17200-17208);
12. Workers' Compensation Insurance
All contractors and subcontractors are required to be insured against liability for workers' compensation, or to undertake self-insurance in accordance with the provisions of Labor Code Section 3700 (Labor Code Section 1861);
13. OSHA
Contractors and subcontractors are required to comply with the Occupational, Safety and Health laws and regulations applicable to the particular public works project.
14. Prompt Payment of Subcontractors and Suppliers
Contractors are required by law to promptly pay their subcontractors and suppliers within seven (7) days of receipt of any progress or final payment from the Public Agency. Likewise the subcontractor and supplier are required to pay their respective subcontractors and suppliers within seven (7) days of receipt of payment from the general contractor. When the payment to the contractor is a release of final retention on the project, those funds must be paid within seven (7) days of receipt.
15. IRCA
Pursuant to the Immigration Reform and Control Act of 1986, employers are required to verify that all employees working on public works contracts are legally able to work in the United States. Employers shall keep on file appropriate I-9 forms and documentation for all workers employed on the jobsite and make such forms available to inspection and review by the LCO upon request.
16. Jobsite Interviews
Jobsite interviews are required on a regular basis on this project, CCMI may conduct random jobsite interviews as necessary to meet labor compliance obligations.
17. Certification of Electricians
Those employing electricians must comply with employment testing and certification requirements for electricians. Additional information may be required to verify the certification status of those employed.
18. Employee Wage Statements - It is required to provide itemized wage statements (pay stubs) to Employees under Labor Code Section 226.
19. Posting of Labor Compliance – Notice of Labor Compliance Approval is required to be posted at the job site in accordance with section 16429, listing a telephone number to call for inquiries, questions, or assistance with regard to the Labor Compliance Program. (Sample attached in handout).
20. Confirmation of Payroll Records – Confirmation of payment to employees for each contractor and subcontractor shall be undertaken randomly for at least one worker for at least one weekly period within that month. This will entail a monthly request of the front and back of a canceled check and employee pay stub for each contractor/subcontractor. Per Title 8 of the California Code Regulations section 16432(c).
21. Public Works Contractor Registration – Only those businesses who have registered and paid the applicable fee to the Department of Industrial Relations as a Public Works Contractor will be allowed to work on the project.

In accordance with federal and state laws, and with the Public Agency's policy and contract documents, the undersigned contractor herein certifies that they will comply with the foregoing labor law requirements; and fully understands that failure to comply with these requirements will subject them to the penalties cited herein.

The contractor also herein certifies that it has been provided with a copy of the Labor Compliance Program Package for Contractors with includes:

1. Labor Law Requirements Checklist (included herein)
2. The Location of Applicable General Prevailing Wage Rate Determinations
3. Blank Certified Payroll Record form
4. Fringe Benefit Statements
5. State apprenticeship contribution form (CAC2)
6. State apprenticeship requirements and form to register apprentices (DAS-140)
7. Request for apprentices (DAS-142)
8. Copy of the Labor Code relating to Public Works and Public Agencies (Part 7, Chapter 1, Sections 1720-1816 can be found at www.dir.ca.gov).

IT IS THE CONTRACTOR'S RESPONSIBILITY TO PROVIDE COPIES OF THE LABOR COMPLIANCE PROGRAM PACKAGE TO ALL LISTED SUBCONTRACTORS AND TO ANY SUBSTITUTED SUBCONTRACTORS.

Project Name and Number: _____

Public Agency: _____

Contractor: Name _____

Contractor Address: _____

Contractor Phone: _____ Fax: _____

License Number: _____ Date: _____

I acknowledge that I have been informed and am aware of the foregoing requirements and that I am authorized to make this certification on behalf of _____
(Name of Contractor)

Signature/Name/Title of Contractor Authorized Representative

Additional Explanation And Instructions Relating To Required

LCP Forms and Information

Certified payroll or non performance documentation - is required for each week from the beginning of the contractor's /subcontractor's work on the project until completion of that contractor's/subcontractor's work. These documents need to reflect a consistent 7 day work week for the entirety of the project. The certified payroll forms need to be complete, listing the employee's correct name, address, social security number, hours worked per day, total hours worked per week, wages, deductions and check number. It is critical that the employee's craft classification be listed correctly. Just listing "Journeyman" or "Laborer" is not sufficient. Many trades have sub-classifications and it is the contractor's obligation to correctly classify the employees. Employees must be classified and paid based on what type of work they are performing, not merely by title. It is acceptable for an employee to work in more than one trade category per day, but it is the employer's obligation to keep accurate records of the different type of work performed by the employee.

Please be aware non performance statements must be submitted for weeks in which no work is performed. More information about trade classifications and wage rates can be found at www.dir.ca.gov.

Fringe Benefit Statement - In order to complete a payroll audit, we need a copy of the fringe benefit statement listing the fringes being paid to each employee or employees on each trade. You are not required to use the worksheet in the packet, however all the information on that worksheet needs to be included in the documentation we receive. This should show an hourly breakdown of the specific contributions (health, pension, etc.) for each trade and the addresses of the plans being paid into. For contractors who pay medical benefits directly to a medical plan, such as Kaiser or Blue Shield, the monthly payment for each employee must be amortized into an hourly rate. (For example: Joe's health premium is \$300 a month, that rate multiplied by 12 (months) divided by 2080 (hours) yields an hourly rate of \$1.72 per hour). Similar amortization is allowed for vacation and holiday time paid. Training contributions paid to an approved apprenticeship committee needs to be listed as a separate item on this form (i.e. not just training/other together).

Apprenticeship

Submit contract award information- DAS-140

Submit the contract award information in writing to each of the apprenticeship program sponsors in the area of your public works project within 10 days of the prime execution of the contract or subcontract, but in no event later than the first day in which the contractor has workers employed on the public work. This is simply a notification of award, it is not automatically a request for dispatch of a registered apprentice.

If you are not already approved to train apprentices with an approved apprenticeship committee and you are not willing to abide by the terms of and conditions of an apprenticeship program for this project, then (check Box 3) you must send a copy of the DAS-140 form to ALL approved apprenticeship Training Committee for that craft in the County in which the work is being performed.

Request to employ registered apprentices- DAS-142

A contractor on a public works project must employ one (1) hour of apprentice work for every five (5) hours performed by a journeyman.

All contractors must request for dispatch of an apprentice from an apprenticeship program (for each

apprenticeable craft or trade) by giving the program actual notice of the request at least 72 hours (business days only) before the date on which apprentices are required. Contractors who do not receive sufficient number of apprentices from their initial request must continue to request apprentices from all other approved apprenticeship committees in the county, if more than one exists, until the proper ratio of apprentices is reached or until all apprenticeship committees (for that trade) have been contacted at least once.

When an apprentice is dispatched, the employer is required to employ the apprentice for at least one full day of work (8 hours) or 20% of the total apprenticeship hours calculated for the project- unless the total number of journeyman hours total under 40 hours for that craft.

Make training fund contributions – CAC 2

Contractors who are awarded public works jobs must make training fund contributions in the amount established in the prevailing wage rate publication for journeymen and apprentices. This nominal fee contributes to the assurance that new apprentices coming into the craft will be guaranteed the highest level of training and as those skilled craftsmen retire, the trade will survive.

Contractors who contribute to an apprenticeship program are entitled to a full credit in the amount of those contributions for each apprentice working on the project and to not more than the specified training contribution amount for journeyman.. Contractors who do not contribute to an apprenticeship program must submit their contributions to the California Apprenticeship Council, PO Box 511283, Los Angeles, CA 90051-7838.

Training fund contributions to the Council are due and payable on the 15th day of the month for work performed during the preceding month. The contribution should be paid by check and be accompanied by a computer generated training fund contribution form (CAC – 2) or a letter containing the following information:

1. The name, address and telephone number of the contractor making the contribution.
2. The contractor's license number.
3. The name and address of the public agency that awarded the contract.
4. The jobsite location, including the county where the work was performed.
5. The contract or project number.
6. The time period covered by the enclosed contributions.
7. The contribution rate and total hours worked by apprenticeable occupation.
8. The name of the program(s) that provide apprentices if any.
9. The number if apprentice hours worked, by apprenticeable occupations and by program.

Comments, suggestions and questions welcome. Email to daspublicworks@dir.ca.gov or call your local district office.

* * * * *

* DAS-140 and DAS-142 forms are not required when the general contract is less than \$30,000 or when the company performing the work is a sole proprietor and is the only worker employed by that company on the project.

PUBLIC WORKS CONTRACT AWARD INFORMATION

Contract award information must be sent to your Apprenticeship Committee if you are approved to train. If you are not approved to train, you must send the information (which may be this form) to ALL applicable Apprenticeship Committees in your craft or trade in the area of the site of the public work. Go to: <http://www.dir.ca.gov/das/PublicWorksForms.htm> for information about programs in your area and trade. You may also consult your local Division of Apprenticeship Standards (DAS) office whose telephone number may be found in your local directory under California, State of, Industrial Relations, Division of Apprenticeship Standards.

Do not send this form to the Division of Apprenticeship Standards.

NAME OF YOUR COMPANY	CONTRACTOR'S STATE LICENSE NO.
MAILING ADDRESS- NUMBER & STREET, CITY, ZIP CODE	AREA CODE & TELEPHONE NO.
NAME & ADDRESS OF PUBLIC WORKS PROJECT	DATE YOUR CONTRACT EXECUTED
	DATE OF EXPECTED OR ACTUAL START OF PROJECT
NAME & ADDRESS OF PUBLIC AGENCY AWARDED CONTRACT	ESTIMATED NUMBER OF JOURNEYMEN HOURS
	OCCUPATION OF APPRENTICE
THIS FORM IS BEING SENT TO: NAME & ADDRESS OF APPRENTICESHIP PROGRAM(S)	ESTIMATED NUMBER OF APPRENTICE HOURS
	APPROXIMATE DATES TO BE EMPLOYED

This is not a request for dispatch of apprentices.

Contractors must make a separate request for actual dispatch, in accordance with Section 230.1(a) California Code of Regulations

Check One Of The Boxes Below

1. We are already approved to train apprentices by the _____ Apprenticeship Committee. We will employ and train under their Standards. Enter name of the Committee

2. We will comply with the standards of _____ Apprenticeship Committee for the duration of this job only Enter name of the Committee

3. We will employ and train apprentices in accordance with the California Apprenticeship Council regulations, including § 230.1 (c) which requires that apprentices employed on public projects can only be assigned to perform work of the craft or trade to which the apprentice is registered and that the apprentices must at all times work with or under the direct supervision of journeyman/men.

Signature _____ Date _____

Typed Name _____

Title _____

State of California - Department of Industrial Relations DIVISION
OF APPRENTICESHIP STANDARDS

REQUEST FOR DISPATCH OF AN APPRENTICE – DAS 142 FORM

DO NOT SEND THIS FORM TO DAS

You may use this form to request dispatch of an apprentice from the Apprenticeship Committee in the craft or trade in the area of the public work. Go to: <http://www.dir.ca.gov/DAS/PublicWorksForms.htm> for information about programs in your area and trade. You may also consult your local Division Apprenticeship Standards (DAS) office whose telephone number may be found in your local directory under California, State of, Industrial Relations, Division of Apprenticeship Standards. **Except for projects with less than 40 hours of journeyman work, you must request and employ apprentices in no less than 8 hour increments.**

Date: _____	Contractor Requesting Dispatch:
To Applicable Apprenticeship Committee:	
Name: _____	Name: _____
Address: _____ _____	Address: _____ _____
Tel. No. _____ Fax No. _____	License No. _____
	Tel. No. _____ Fax No. _____

Project Information:

Contract No. _____

Name of the Project: _____

Address: _____

Dispatch Request Information:

Number of Apprentice(s) Needed: _____ **Craft or Trade:** _____

Date Apprentice(s) to Report: _____ (72 hrs. notice required) **Time to Report:** _____

Name of Person to Report to: _____

Address to Report to: _____

*You may use this form to make your written request for the dispatch of an apprentice. Requests for dispatch must be in writing and submitted at least 72 hours in advance (excluding weekends and holidays) via either first class mail, fax or email. **Proof of submission may be required.** Please take note of California Code of Regulations, Title 8, § 230.1 (a) for all applicable requirements regarding apprenticeship requests and/or visit <http://www.dir.ca.gov/DAS/DASApprenticesOnPublicWorksSummaryOfRequirements.htm>*

DAS 142 (Revised 12/11)

GENERAL PREVAILING WAGE DETERMINATION MADE BY THE DIRECTOR OF INDUSTRIAL RELATIONS
PURSUANT TO CALIFORNIA LABOR CODE PART 7, CHAPTER 1, ARTICLE 2, SECTIONS 1770, 1773 AND 1773.1

FOR COMMERCIAL BUILDING, HIGHWAY, HEAVY CONSTRUCTION AND DREDGING PROJECTS

CRAFT: # CEMENT MASON

DETERMINATION: NC-23-203-1-2014-2

ISSUE DATE: August 22, 2014

EXPIRATION DATE OF DETERMINATION: June 28, 2015** The rate to be paid for work performed after this date has been determined. If work will extend past this date, the new rate must be paid and should be incorporated in contracts entered into now. Contact the Office of the Director - Research Unit for specific rates at (415) 703-4774.

LOCALITY: All localities within Alameda, Alpine, Amador, Butte, Calaveras, Colusa, Contra Costa, Del Norte, El Dorado, Fresno, Glenn, Humboldt, Kings, Lake, Lassen, Madera, Marin, Mariposa, Mendocino, Merced, Modoc, Monterey, Napa, Nevada, Placer, Plumas, Sacramento, San Benito, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Shasta, Sierra, Siskiyou, Solano, Sonoma, Stanislaus, Sutter, Tehama, Trinity, Tulare, Tuolumne, Yolo, and Yuba counties.

CLASSIFICATION (JOURNEYPERSON)	Employer Payments					Training Hours ^d	Total Hourly Rate	Overtime Hourly Rate		
	Basic Hourly Rate	Health and Welfare	Pension	Vacation and Holiday				Daily 1 1/2X	Saturday ^e 1 1/2X	Sunday and Holiday
Cement Mason	\$30.00	8.15	9.80	5.24 ^b	0.47	8	53.66	68.660	68.660 ^e	83.66
Mastic Magnesite Gypsum, Epoxy, Polyester, Resin and ull composition masons, swing or slip form scal/folds	\$30.75	8.15	9.80	5.24 ^b	0.47	8	54.41	69.785	69.785 ^e	85.16

Indicates an apprenticeable craft. The current apprentice wage rates are available on the Internet at <http://www.dir.ca.gov/OPRL/PWAppWage/PWAppWageStart.asp>. To obtain any apprentice wage rates as of July 1, 2008 and prior to September 27, 2012, please contact the Division of Apprenticeship Standards or refer to the Division of Apprenticeship Standards' website at <http://www.dir.ca.gov/das/das.html>.

^a Saturdays in the same work week may be worked at straight time if a job is shut down during the normal work week due to inclement weather or major mechanical breakdown (limited to curb and gutter machine, concrete pump, and concrete plant).

^b Includes an amount for supplemental dues.

^c Rate applies to the first 8 hours of work on Saturday. All other hours worked on Saturday are paid at the Sunday/Holiday rate.

^d Where multiple shifts are worked, the day shift shall work eight (8) hours and for such work they shall be paid the regular straight time rate for eight (8) hours; the second (2nd) shift shall work seven and one-half (7 1/2) hours, and for such work they shall be paid the regular straight time rate for eight (8) hours; if a third (3rd) shift is worked, they shall work seven (7) hours and for such work they shall be paid eight (8) hours regular straight time pay. No multiple shift shall be started for less than five (5) consecutive days.

RECOGNIZED HOLIDAYS: Holidays upon which the general prevailing hourly wage rate for Holiday work shall be paid, shall be all holidays in the collective bargaining agreement, applicable to the particular craft, classification, or type of worker employed on the project, which is on file with the Director of Industrial Relations. If the prevailing rate is not based on a collectively bargained rate, the holidays upon which the prevailing rate shall be paid shall be as provided in Section 6700 of the Government Code. You may obtain the holiday provisions for the current determinations on the Internet at <http://www.dir.ca.gov/OPRL/PWD>. Holiday provisions for current or superseded determinations may be obtained by contacting the Office of the Director - Research Unit at (415) 703-4774.

TRAVEL AND/OR SUBSISTENCE PAYMENT: In accordance with Labor Code Sections 1773.1 and 1773.9, contractors shall make travel and/or subsistence payments to each worker to execute the work. You may obtain the travel and/or subsistence provisions for the current determinations on the Internet at <http://www.dir.ca.gov/OPRL/PWD>. Travel and/or subsistence requirements for current or superseded determinations may be obtained by contacting the Office of the Director - Research Unit at (415) 703-4774.

SAMPLE⁵³

California Apprenticeship Council - Training Fund Contributions

1. Go to this web link: <https://www.dir.ca.gov/DAS/tf/cac2.asp> and add it to your favorites.
2. Fill out the New Easy Web App with the necessary information.
3. Please use your Contractor's License Number without the alpha digit. This number can also be used to look up your contributions on the website at:
<http://www.dir.ca.gov/CA/trainingfund/Tfsearch.html>
4. Select the County and Occupation, then fill in the hours and rate and when you hit "tab" the amount is calculated for you.
5. Once you are done filling out the form and verified your information, print out your invoice.
6. **VERY IMPORTANT:** Mail **both** the **invoice** and your **check** payable to:
California Apprenticeship Council to:

Remit to: CALIFORNIA APPRENTICESHIP COUNCIL
PO BOX 511283
Los Angeles, CA 90051-7838

CONTRACTOR FRINGE BENEFIT STATEMENT

Contract Number / Name:	Contract Location:	Today's Date:
Contractor / Subcontractor Name:		Business Address:

In order that the proper Fringe Benefit rates can be verified when checking payrolls on the above contract, the hourly rates for fringe benefits, subsistence and/or travel allowance payment made for employees on the various classes of work are tabulated below.

	Classification:	Effective Date:	Subsistence or Travel Pay: \$ _____
FRINGE BENEFITS	Health & Welfare \$ _____	PAID TO: Name: _____ Address: _____	
	Pension \$ _____	PAID TO: Name: _____ Address: _____	
	Vacation/ Holiday \$ _____	PAID TO: Name: _____ Address: _____	
	Training Other \$ _____	PAID TO: Name: _____ Address: _____	
	Classification:	Effective Date:	Subsistence or Travel Pay: \$ _____
FRINGE BENEFITS	Health & Welfare \$ _____	PAID TO: Name: _____ Address: _____	
	Pension \$ _____	PAID TO: Name: _____ Address: _____	
	Vacation/ Holiday \$ _____	PAID TO: Name: _____ Address: _____	
	Training Other \$ _____	PAID TO: Name: _____ Address: _____	
	Classification:	Effective Date:	Subsistence or Travel Pay: \$ _____
FRINGE BENEFITS	Health & Welfare \$ _____	PAID TO: Name: _____ Address: _____	
	Pension \$ _____	PAID TO: Name: _____ Address: _____	
	Vacation/ Holiday \$ _____	PAID TO: Name: _____ Address: _____	
	Training Other \$ _____	PAID TO: Name: _____ Address: _____	

Submitted: Contractor / Subcontractor	By: Name / Title
---------------------------------------	------------------

Supplemental statements must be submitted during the progress of work should a change in rate of any of the classifications be made.



PUBLIC WORKS PAYROLL REPORTING FORM

NAME OF CONTRACTOR		CONTRACTORS LICENSE #		ADDRESS																	
: SUB CONTRACTOR		SPECIALTY LICENSE #																			
ROLL NO.		FOR WEEK ENDING		SELF-INSURED CERTIFICATE #																	
				PROJECT OR CONTRACT NO.																	
				WORKERS' COMPENSATION POLICY #																	
				PROJECT AND LOCATION																	
(3) WORK CLASSIFICATION	(4) Day							(5) TOTAL HOURS	(6) HOURLY RATE OF PAY	(7) GROSS AMOUNT EARNED	(8) DEDUCTIONS, CONTRIBUTIONS AND PAYMENTS							(9)			
	M	T	W	TH	F	S	S														
	Date																				
	Hours Worked Each Day																				
S									THIS PROJECT	ALL PROJECTS	FED TAX	FICA (SOC SEC)	STATE TAX	SDI	VAC/ HOL	HEALTH & WELF	PENSION				
											TRAINING	FUND ADMIN	DUES	TRV/ SUBS	SAVINGS	OTHER*	TOTAL DEDUCTIONS				
O																					
S									THIS PROJECT	ALL PROJECTS	FED TAX	FICA (SOC SEC)	STATE TAX	SDI	VAC/ HOL	HEALTH & WELF	PENSION				
											TRAINING	FUND ADMIN	DUES	TRV/ SUBS	SAVINGS	OTHER*	TOTAL DEDUCTIONS				
O																					
S									THIS PROJECT	ALL PROJECTS	FED TAX	FICA (SOC SEC)	STATE TAX	SDI	VAC/ HOL	HEALTH & WELF	PENSION				
											TRAINING	FUND ADMIN	DUES	TRV/ SUBS	SAVINGS	OTHER*	TOTAL DEDUCTIONS				
O																					

*Straight Time
 *Overtime
 I = State Disability Insurance

*OTHER - Any other deductions, contributions and/or payment whether or not included or required by prevailing wage determinations must be separately listed. Use extra sheet if necessary.

CERTIFICATION must be completed

_____, the undersigned, am _____ with the authority to act for and on behalf of _____ (position with business) (name of business and/or contractor)

_____ copies thereof submitted and consisting of _____ are the originals or true, full and correct copies of the originals which depict the payroll (description, no. of pages)

of cash, check, or whatever form to the individual or individuals named.

Signature: _____

or more extensive form of certification.

California Code and Regulations Section 16429, please be advised that this project is subject to the Labor Compliance Regulations. The Labor Compliance Program contact information is as follows:

ACT INFORMATION FOR CCMI

Projects subject to the payment of prevailing wage. The prevailing wage for projects subject fall under determination **XXXX**. To obtain information on prevailing wages due for the project, please go to www.dir.ca.gov.

In accordance with federal and state laws, and with the Public Agency's policy and contract documents, the undersigned contractor herein certifies that they will comply with the foregoing labor law requirements; and fully understands that failure to comply with these requirements will subject them to the penalties cited herein.

The contractor also herein certifies that it has been provided with a copy of the Labor Compliance Program Package for Contractors with includes:

1. Labor Law Requirements Checklist (included herein)
2. The Location of Applicable General Prevailing Wage Rate Determinations
3. Blank Certified Payroll Record form
4. Fringe Benefit Statements
5. State apprenticeship contribution form (CAC2)
6. State apprenticeship requirements and form to register apprentices (DAS-140)
7. Request for apprentices (DAS-142)
8. Copy of the Labor Code relating to Public Works and Public Agencies (Part 7, Chapter 1, Sections 1720-1816 can be found at www.dir.ca.gov).

IT IS THE CONTRACTOR'S RESPONSIBILITY TO PROVIDE COPIES OF THE LABOR COMPLIANCE PROGRAM PACKAGE TO ALL LISTED SUBCONTRACTORS AND TO ANY SUBSTITUTED SUBCONTRACTORS.

Project Name and Number: _____

Public Agency: _____

Contractor: Name _____

Contractor Address: _____

Contractor Phone: _____ Fax: _____

License Number: _____ Date: _____

I acknowledge that I have been informed and am aware of the foregoing requirements and that I am authorized to make this certification on behalf of _____
(Name of Contractor)

Signature/Name/Title of Contractor Authorized Representative

Appendix B
LABOR COMPLIANCE SITE VISIT INTERVIEW FORM

Job Site-General Contractor- Project

Job Site-General Contractor- Project

Job Site-General Contractor- Project

Contractor/Subcontractor: _____

Time of Interviews: _____ Weather Conditions: _____

Prevailing Wage info Posted

LCP information Posted

Craft:

Carpenter Laborer Cement Operator Drywall Electrician Tile Setter Plumber

Glazier Painter Taper Plasterer Roofer Sheet Metal Tile Finisher Pipe Tradesman

Other _____

Trade Level: Journeyman Apprentice

Apprentice Level and Program: _____

Person Interviewed: _____

SS#: _____ Hourly Pay Rate: _____ Benefits: _____

Have you performed overtime, Saturday or Sunday work? _____ Have you worked nights? _____

Total number of workers observed on the visit: _____

Type of work observed: _____

Was the worker believable? Yes No

Observations and other work being performed on site: _____

Comments: _____

Did the superintendent or foreman accompany you on the site? Yes No

Interview Conducted by: _____

Signed: _____ Date: _____

APPENDIX C

[Name and Contact Information for person issuing Notice]	
Date:	Case or Contract No.:

NOTICE OF TEMPORARY WITHHOLDING OF CONTRACT PAYMENTS DUE TO DELINQUENT OR INADEQUATE PAYROLL RECORDS (8 CCR §16435)

Awarding Body:	Work performed in County of:
Project Name and Number (if any):	
Prime Contractor:	
Subcontractor:	

Pursuant to Labor Code §1771.5(b)(5) and 8 CCR §16435, contract payments are being withheld due to delinquent or inadequate payroll records.

Contractor or subcontractor whose payroll records are delinquent or inadequate:

The following payroll records are delinquent (specify weeks and due dates):

The following payroll records are inadequate (specify weeks and ways in which records are deemed inadequate under 8 CCR §16435(d)):

Estimated amount of contract payments due to contractor or subcontractor that are being withheld pursuant to this Notice:

See page 2 for additional information, including appeal rights.

Labor Compliance Officer

Prime Contractor Obligations: If contract payments are being withheld due to the delinquency or inadequacy of your subcontractor's payroll records, you are required to cease all payments to that subcontractor until the Labor Compliance Program provides notice that the subcontractor has cured the delinquency or deficiency.

Notice of Right to Obtain Review – Expedited Hearing

An affected contractor or subcontractor may request review an expedited hearing to review this Notice of Withholding of Contract Payments under Labor Code §1742. *The only issue in any such review proceeding is whether the specified payroll records are in fact delinquent or inadequate within the meaning of 8 CCR §16435 or whether the Labor Compliance Program has exceeded its authority under 8 CCR §16435. To obtain an expedited hearing, a written request must be transmitted to the both the Labor Compliance Program and to the Lead Hearing Officer for the Director of the Department of Industrial Relations, as follows:*

(On behalf of the Public Agency)
CCMI
635 Mariners Island Blvd, Suite 200
San Mateo, CA 94404
650-522-4403/ fax: 650-522-4402
Attn Deborah Wilder
dwilder@ccmi-tpa.com

Office of the Director – Legal Unit
Attention: Lead Hearing Officer
Expedited Hearing Request
Fax to: (415) 703-4277

The request for expedited hearing should specify the basis for challenging this Notice and include a copy of this Notice as an attachment. The request should also identify and provide contact information for the person who will represent the contractor or subcontractor at the hearing.

Important Additional Information: This is a Notice of Temporary Withholding of Contract Payments for Delinquent or Inadequate Payroll Records *only*. This is *not* a determination of liability for wages or penalties under Labor Code §§1775 and 1776 or any other statute. *Contract payments cannot continue to be withheld pursuant to this notice, once the required records have been produced.* However, the contractor and subcontractor may still be subject to the assessment of back wages and penalties and the withholding of contract payments if, upon investigation, a determination is made that the contractor or subcontractor violated the public works requirements of the Labor Code.

This Notice only addresses rights and responsibilities under state law. Awarding bodies, labor compliance programs, and contractors may have other rights or responsibilities under federal or local law, where applicable, and may also have additional rights or remedies under the public works contract.

§16435. Withholding Contract Payments When Payroll Records are Delinquent or Inadequate.

(a) "Withhold" means to cease payments by the Awarding Body, or others who pay on its behalf, or agents, to the general contractor. Where the violation is by a subcontractor, the general contractor shall be notified of the nature of the violation and reference made to its rights under Labor Code Section 1729.

(b) "Contracts." Except as otherwise provided by agreement, only contracts under a single master contract, including a Design-Build contract, or contracts entered into as stages of a single project, may be the subject of withholding.

(c) "Delinquent payroll records" means those not submitted on the date set in the contract.

(d) "Inadequate payroll records" are any one of the following:

(1) A record lacking any of the information required by Labor Code Section 1776;

(2) A record which contains all of the required information but is not certified, or is certified by someone who is not an agent of the contractor or subcontractor;

(3) A record remaining uncorrected for one payroll period after the Labor Compliance Program has given the contractor or subcontractor notice of inaccuracies detected by audit or record review. However, prompt correction will stop any duty to withhold if such inaccuracies do not amount to one (1) percent 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 section 16401 of Title 8 of the California Code of Regulations.

(e) The withholding of contract payments when payroll records are delinquent or inadequate is required by Labor Code Section 1771.5(b)(5), and it does not require the prior approval of the Labor Commissioner. The Awarding Body shall only withhold those payments due or estimated to be due to the contractor or subcontractor whose payroll records are delinquent or inadequate, plus any additional amount that the Labor Compliance Program has reasonable cause to believe may be needed to cover a back wage and penalty assessment against the contractor or subcontractor whose payroll records are delinquent or inadequate; *provided that* a contractor shall be required in turn to cease all payments to a subcontractor whose payroll records are delinquent or inadequate until the Labor Compliance Program provides notice that the subcontractor has cured the delinquency or deficiency.

(f) When contract payments are withheld under this section, the Labor Compliance Program shall provide the contractor and subcontractor, if applicable, with immediate written notice that includes all of the following: (1) a statement that payments are being withheld due to delinquent or inadequate payroll records, and that identifies what records are missing or states why records that have been submitted are deemed inadequate; (2) specifies the amount being withheld; and (3) informs the contractor or subcontractor of the right to request an expedited hearing to review the withholding of contract payments under Labor Code Section 1742, limited to the issue of whether the records are delinquent or inadequate or the Labor Compliance Program has exceeded its authority under this section.

(g) No contract payments shall be withheld solely on the basis of delinquent or inadequate payroll records after the required records have been produced.

(h) In addition to withholding contract payments based on delinquent or inadequate payroll records, penalties shall be assessed under Labor Code Section 1776(g) for failure to timely comply with a written request for certified payroll records. The assessment of penalties under Labor Code Section 1776(g) does require the prior approval of the Labor Commissioner under section 16436 of these regulations.

Labor Compliance Program Regulations – APPENDIX D

REQUEST FOR APPROVAL OF FORFEITURE -- Suggested format

1. AWARDING BODY / THIRD PARTY LCP:

Name and Contact Information:	Date of Request:
Name and Contact Information for Awarding Body if different from LCP:	LCP Approval Status (specify if either interim or temporary or if LCP has extended authority):

2. PROJECT INFORMATION:

Project Name:	Contract Number:
Project Location:	
Bid Advertisement Dates:	Estimated Date Project is to be completed:
Acceptance Date of Project by the Awarding Body:	Notice of Completion/Date Recorded with County Recorder:
Other Relevant Deadline (specify):	Amount being held in Retention:

3. CONTRACTOR INFORMATION:

Name and address of Affected Contractor:	Name and address of Affected Subcontractor:
General Description of Scope of Work of the Entire Project:	
General Description of Scope of Work covered in the proposed Forfeiture (describe and attach relevant portions of contract or subcontract):	

4. LABOR COMPLIANCE PROGRAM INVESTIGATION AND FINDINGS:

Total Amount of Request for Notice of Withholding of Contract Payments:			
Wages Due:	Training Funds Due:	Total Penalties Due:	Potential Liquidated Damages [Wages + Training Funds]:
LC 1775 Penalties Due:	LC 1813 Penalties Due:	LC 1776 Penalties Due:	Other:

[Provide narrative summaries covering the following]:

- A. *Statement of Issues.*
- B. *Investigative Report (detailed narrative including but not limited to how the investigation was conducted including worker declarations, reviewing certified payroll records, verification of employer payment contributions, etc.).*
- C. *Audit Report (detailed explanation of how audit was completed addressing each of the issues above).*
- D. *Affected contractor and subcontractor information (how affected contractor and subcontractor were informed of potential violations; summary of their response with respect to violations and penalty issues; and any other information considered in determining recommended penalties).*
- E. *Recommended penalties under Labor Code Section 1775(a) and basis for recommendation, including how factors in subsection (a)(2) of Section 1775 were applied to arrive at the recommended amount(s).*

ATTACHMENTS

1. Audit Summary (Appendix B)
2. 1st Bid Advertisement Publication
3. Notice of Completion
4. Scope of Work
5. Complaint form(s) and Declarations, if any

Send the Request and all Attachments to:

Division of Labor Standards Enforcement
 Bureau of Field Enforcement
 Attn.: Regional Manager
 300 Ocean Gate Blvd., No. 850
 Long Beach, CA 90802

COPIES OF THIS REQUEST, INCLUDING ALL ATTACHMENTS, SHALL BE SERVED ON THE AFFECTED CONTRACTOR AND AFFECTED SUBCONTRACTOR AT THE SAME TIME THAT IT IS SENT TO THE DIVISION OF LABOR STANDARDS ENFORCEMENT.

Appendix E

(On behalf of the Public Agency) CCMi 635 Mariners Island Blvd, Suite 200 San Mateo, CA 94404 650-522-4403 / fax: 650-522-4402 Attn: XXXXXXXX Email: XXXXXXXX	
	Date:

Notice of Withholding of 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 for XXXXXXXX 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:

- Failure to pay correct prevailing wage rate Section 1775
- Failure to pay correct overtime Section 1813
- Failure to submit certified payrolls and other requested documents within timeframe set forth by statute Section 1776

Explanation:

The Labor Compliance Program has determined that the total amount of wages due is: \$0.00

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 amount of penalties assessed under Labor Code section 1776 is: \$ -0-

The Labor Compliance Program has determined that the amount of penalties assessed under Labor Code section 1777.5 is: \$ -0-

LABOR COMPLIANCE PROGRAM

By: _____
 Analyst

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:**

(On behalf of the Public Agency)
CCMI
635 Mariners Island Blvd, Suite 200
San Mateo, CA 94404
650-522-4403/ fax: 650-522-4402
Attn Deborah Wilder
dwilder@ccmi-tpa.com

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 section 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.

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:

(On behalf of the Public Agency)
CCMI
635 Mariners Island Blvd, Suite 200
San Mateo, CA 94404
650-522-4403/ fax: 650-522-4402
Attn Deborah Wilder
dwilder@ccmi-tpa.com

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 \$ -0-.

Distribution:

General Contractor - certified and regular mail
Subcontractor - certified and regular mail
Public Agency - regular mail only

Appendix F

LABOR COMPLIANCE PROGRAM On behalf of XXXX (Public Entity) CCMI 635 Mariners Island Blvd, Suite 200 San Mateo, CA 94404 650-522-4403 / fax: 650-522-4402 Attn XXXXXXXX Email: xxxxxxxx	(SEAL)
Date:	In Reply Refer to Case No.:

Notice of Transmittal

Public Entity
Address

Project Identification:

General Contractor:

Subcontractor:

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 and received by this office on or about
Also enclosed please find the following:

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

LABOR COMPLIANCE PROGRAM

By: _____

cc: *General Contractor:*

Subcontractor:

STATE OF CALIFORNIA – DEPARTMENT OF INDUSTRIAL RELATIONS

TO: California Department of Industrial Relations
 Division of Apprenticeship Standards
 P.O. Box 420603
 San Francisco, CA 94142

AWARDING AGENCY ID NUMBER

If you do not have an ID number please contact DAS

FROM:

**EXTRACT OF
PUBLIC WORKS CONTRACT AWARD**

A CONTRACT TO PERFORM PUBLIC WORKS UNDER LABOR CODE SECTION 1777.6 HAS BEEN AWARDED TO:

1. NAME OF GENERAL CONTRACTOR			2. CONTRACTOR'S LICENSE NO	
3. MAILING ADDRESS (STREET NUMBER OR P.O. BOX)			4. CITY	
			5. ZIP CODE	6. TELEPHONE NUMBER
7. GENERAL CONTRACTOR'S CONTACT EMAIL ADDRESS			8. ADDRESS/LOCATION OF PUBLIC WORKS SITE (INCLUDE CITY AND COUNTY):	
9. NAME OF PROJECT			9a. County	
10. CONTRACT NUMBER	11. PROJECT NUMBER		12. DOLLAR AMOUNT OF CONTRACT AWARD	
13. FIRST ADVERTISED BID DATE MONTH DAY YEAR		14. CONTRACT AWARD DATE MONTH DAY YEAR		13a. ESTIMATED TOTAL PROJECT COSTS, IF DIFFERENT FROM ITEM 12 (see instructions).
15. WHICH STATUTE, IF ANY, APPLIES TO THIS PROJECT?				
16. STATE CONSTRUCTION BONDS If YES, List the Sources and Dollar Amount of Bonds Issued: DOLLAR AMOUNT			17. WILL YOU OPERATE A DIR-APPROVED LABOR COMPLIANCE PROGRAM (LCP) FOR THIS PROJECT? YES NO	
			18. IS THERE A PROJECT LABOR AGREEMENT (PLA) ASSOCIATED WITH THIS PROJECT? If yes, please email a copy to cmupla@dir.ca.gov YES NO	
19. STARTING DATE (ESTIMATED OR ACTUAL) (MM/DD/YYYY)			20. COMPLETION DATE (ESTIMATED OR ACTUAL) (MM/DD/YYYY)	
21. BRIEF DESCRIPTION OF WORK TO BE PERFORMED			22. NEW CONSTRUCTION REMODELING ALTERATION, DEMOLITION, REPAIR OR MAINTENANCE	
23. CLASSIFICATION OR TYPE OF WORKER (CARPENTER, PAINTER, ETC.) THAT WILL BE EMPLOYED BY THE CONTRACTOR(S)				
Please list Subcontractors and their worker classifications on page 2				
24. Is language included in the Contract Award to effectuate the requirements of sections 1771, 1772, 1775, 1776, 1777.5, 1813, and 1815 of the Labor Code?			YES NO	
25. SIGNATURE		26. TITLE		27. DATE
28. PRINTED OR TYPED NAME		29. E-MAIL ADDRESS		30. TELEPHONE NUMBERS
If different from above, name, title, and contact information of person responsible for carrying out Awarding Body's LCP or CMU responsibilities				
31. NAME		32. TITLE		33. E-MAIL ADDRESS
				34. TELEPHONE NUMBER

Duplication of this form is permissible

DIR-PWC 100 (rev. 10/11) successor to the DAS 13 form

EXTRACT OF PUBLIC WORKS CONTRACT AWARD (Continued)

Listing of Sub Contractors

Con. Lic. #	Contractor	Classification of workers

Provided for Reference Only.
Please use the Web Application
to submit your Contract Award information
<https://www.dir.ca.gov/PWC100>

Appendix G

LABOR COMPLIANCE PROGRAM <hr/> Review Office - Notice of Withholding of Contract Payments Name and Address of Public Agency	(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

Appendix G

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:

Name and Address phone and fax of public entity

Appendix G

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.: _____

Appendix H
Suggested Single Project Labor Compliance Review and Enforcement Report Form
[Appendix C following 8 CCR §16434]

Awarding Body: _____
Project Name: _____
Name of Approved Labor Compliance Program: _____
Bid Advertisement Date: _____
Acceptance Date: _____
Notice of Completion Recordation Date: _____

Summary of Labor Compliance Activities

1. Contract Documents Containing Prevailing Wage Requirements (Identify)

2. Prejob Conference(s) -- Attach list(s) of attendees and dates

3. Notification to Project Workers of Labor Compliance Program's Contact Person. (Explain Manner of Notification for each project work site.)

4. Certified Payroll Record Review

- a. CPRs Received From:

<u>Contractor/Subcontractor</u>	<u>For weeks ending ("w/e") through w/e</u>
---------------------------------	---

_____	_____
_____	_____
_____	_____
_____	_____

b. Classifications identified in CPRs and applicable Prevailing Wage Determinations

<u>Classification</u>	<u>Determination No.</u>
_____	_____
_____	_____
_____	_____
_____	_____

5. Further investigation or audit due to CPR review, information or complaint from worker or other interested person, or other reason:

a. Independent Confirmation of CPR Data

<u>Contractor/Subcontractor</u>	<u>Worker Interviews (Yes/No)</u>	<u>Reconciled CPRs with Paychecks or Stubs (Yes/No)</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

b. Employer Payments (Health & Welfare, Pension, Vacation/Holiday) Confirmation

<u>Contractor/Subcontractor</u>	<u>Recipients of Employer Payments</u>	<u>Written confirmation Obtained (Yes/No)</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

c. Contributions to California Apprenticeship Council or Other Approved Apprenticeship Program

<u>Contractor/Subcontractor</u>	<u>Recipients of Contributions</u>	<u>Written confirmation Obtained (Yes/No)</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

d. Additional Wage Payments or Training Fund Contributions Resulting from Review of CPRs

<u>Contractor/Subcontractor</u>	<u>Additional amounts Paid to Workers</u>	<u>Additional Training Fund</u>	<u>Explanation</u>
_____	_____	_____	*
_____	_____	_____	*
_____	_____	_____	*
_____	_____	_____	*

* Use separate page(s) for explanation

6. Complaints Received Alleging Noncompliance with Prevailing Wage Requirements.

<u>Name of Complainant</u>	<u>Date Received</u>	<u>Resolution or Current Status</u>
_____	_____	*
_____	_____	*
_____	_____	*
_____	_____	*

*Use separate page(s) to explain resolution or current status

7. Requests for Approval of Forfeiture to Labor Commissioner

<u>Contractor/Subcontractor</u>	<u>Date of Request</u>	<u>Approved/Modified/Denied</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

8. Litigation Pending Under Labor Code Section 1742

<u>Contractor/Subcontractor</u>	<u>DIR Case Number</u>
_____	_____
_____	_____
_____	_____

9. (Check one): _____ Final report this project _____ Annual report this project

Authorized Representative for Labor Compliance Program

Appendix I

Labor Compliance Program Regulations – Appendix B

Audit Record Worksheets [8 Cal. Code Reg. §16432]

- Public Works Investigation Worksheet
- Public Works Audit Worksheet
- Prevailing Wage Determination Summary

HOURLY WAGE DETERMINATION SUMMARY

HOURLY RATE	Contributions	TRAINING TIME 1/2	HOLIDAY / TRAVEL & SUNDAY	Other hourly Requirements

WAGE DETERMINATION INFORMATION

CODE NO.	CLASSIFICATION	WAGE DETERMINATION NO.
1		
2		
3		
4		
5		
6		
7		
8		
9		
10		
11		
12		



California
Department of
Industrial Relations

PUBLIC WORKS PAYROLL REPORTING FORM

Page _____ of _____

NAME OF CONTRACTOR: OR SUBCONTRACTOR:		CONTRACTOR'S LICENSE NO.:		ADDRESS:																							
PAYROLL NO.:		FOR WEEK ENDING:		SELF-INSURED CERTIFICATE NO.:																							
WORKER'S COMPENSATION POLICY NO.:		PROJECT OR CONTRACT NO.:		PROJECT AND LOCATION:																							
(7) WORK CLASSIFICATION	(4) DAY						(5) TOTAL HOURS	(6) HOURLY RATE OF PAY	(7) GROSS AMOUNT EARNED	(8) DEDUCTIONS, CONTRIBUTIONS AND PAYMENTS								(9) NET WGS PAID FOR WEEK	CHECK NO								
	M	T	W	TH	F	S				S	DATE																
	HOURS WORKED EACH DAY																										
S	O	M	T	W	TH	F	S	S	TOTAL HOURS	HOURLY RATE OF PAY	GROSS AMOUNT EARNED	THIS PROJECT	ALL PROJECTS	FED. TAX	FICA (SOC. SEC.)	STATE TAX	SDI	VAC/ HOLIDAY	HEALTH & WELF.	PENSION	TRAINING	FUND ADMIN	DUES	TRAV/ SUBS.	SAVINGS	OTHER*	TOTAL DEDUCTIONS
S	O	M	T	W	TH	F	S	S	TOTAL HOURS	HOURLY RATE OF PAY	GROSS AMOUNT EARNED	THIS PROJECT	ALL PROJECTS	FED. TAX	FICA (SOC. SEC.)	STATE TAX	SDI	VAC/ HOLIDAY	HEALTH & WELF.	PENSION	TRAINING	FUND ADMIN	DUES	TRAV/ SUBS.	SAVINGS	OTHER*	TOTAL DEDUCTIONS
S	O	M	T	W	TH	F	S	S	TOTAL HOURS	HOURLY RATE OF PAY	GROSS AMOUNT EARNED	THIS PROJECT	ALL PROJECTS	FED. TAX	FICA (SOC. SEC.)	STATE TAX	SDI	VAC/ HOLIDAY	HEALTH & WELF.	PENSION	TRAINING	FUND ADMIN	DUES	TRAV/ SUBS.	SAVINGS	OTHER*	TOTAL DEDUCTIONS
S	O	M	T	W	TH	F	S	S	TOTAL HOURS	HOURLY RATE OF PAY	GROSS AMOUNT EARNED	THIS PROJECT	ALL PROJECTS	FED. TAX	FICA (SOC. SEC.)	STATE TAX	SDI	VAC/ HOLIDAY	HEALTH & WELF.	PENSION	TRAINING	FUND ADMIN	DUES	TRAV/ SUBS.	SAVINGS	OTHER*	TOTAL DEDUCTIONS

S = STRAIGHT TIME
O = OVERTIME
SDI - STATE DISABILITY INSURANCE

*OTHER - Any other deductions, contributions and/or payments whether or not included or required by prevailing wage determinations must be separately listed. Use extra sheet(s) if necessary.

CERTIFICATION MUST be completed
(See reverse side)

NOTICE TO PUBLIC ENTITY

For Privacy Considerations

Fold back along dotted line prior to copying for release to general public (private persons).

(Paper Size then 8-1/2 x 11 inches)

I, _____, the undersigned, am the
(Name - print)

_____ with the authority to act for and on behalf of
(Position in business)

_____, certify under penalty of perjury
(Name of business and/or contractor)

that the records or copies thereof submitted and consisting of _____
(Description, number of pages)

are the originals or true, full, and correct copies of the originals which depict the payroll record(s)
of the actual disbursements by way of cash, check, or whatever form to the individual or
individuals named.

Date: _____

Signature: _____

A public entity may require a stricter and/or more extensive form of certification.

LCP-ARI

LABOR COMPLIANCE PROGRAM ANNUAL REPORT

Format for Awarding Body that enforces its own Labor Compliance Program for some but not all projects

Report for the reporting period _____ to _____
(mm/dd/yyyy) (mm/dd/yyyy)

1. Name of Labor Compliance Program (LCP) :	
2. LCP I.D. Number (assigned by DIR):	3. Date of Initial Approval:
4. Contact person (include name, title, address, telephone, fax, and e-mail, if available):	
5. Did LCP perform any LC § 1771.5 enforcement activities during the 12 months in the reporting period? Please check one: <input type="checkbox"/> Yes If Yes, proceed to item 6 on the next page <input type="checkbox"/> No If No, complete the information below, sign the form and submit to DIR, Office of the Director, Attn: 455 Golden Gate Avenue, 10th Floor, S	
What suggestions do you have for the Department of Industrial Relations to better assist you with your program in the coming year? (necessary)	
SUBMITTED BY:	
Signature	Name and Title

LCP-AR1

6. LC § 1771.5 enforcement activities (provide all information requested, attaching as many sheets as necessary).

A. List projects handled by LCP within the past 12 months.

Project Name	Bid Advertisement Date	Prime Contractor
Total		

B. Summary of all wages and penalties assessed and/or recovered.

Project Name	Affected Contractor (who directly employed the worker)	Amount Assessed	Amount Recovered	Approval of Forfeiture Requested from Labor Commissioner? <input type="checkbox"/> Yes <input type="checkbox"/> No
				<input type="checkbox"/> Yes <input type="checkbox"/> No
				<input type="checkbox"/> Yes <input type="checkbox"/> No
				<input type="checkbox"/> Yes <input type="checkbox"/> No
				<input type="checkbox"/> Yes <input type="checkbox"/> No
				<input type="checkbox"/> Yes <input type="checkbox"/> No
				<input type="checkbox"/> Yes <input type="checkbox"/> No
				<input type="checkbox"/> Yes <input type="checkbox"/> No
				<input type="checkbox"/> Yes <input type="checkbox"/> No
				<input type="checkbox"/> Yes <input type="checkbox"/> No
Total				<input type="checkbox"/> Yes <input type="checkbox"/> No

LCP-ARI

C. For any amount identified in item B for which approval of forfeiture not requested from the Labor Commissioner, please explain below.

Project Name	Amount Assessed	Amount Recovered	Explanation
Total			

D. For any amount identified in item B for which approval of forfeiture was requested from the Labor Commissioner, please provide details below.

Project Name	Amount Assessed				Wages	Total	Amount Recovered		
	LC §1776(g)	LC § 1775	LC § 1813				LC § 1776(g)	LC § 1775	LC § 1813
Total									

E. Identify cases that are or were the subject of LC § 1742 proceedings.

Project Name	Contractor	Nature of Violation	ODL Case #

F. Did you refer any contractor to the Labor Commissioner for debarment per LC § 1777.1?

Please check one: Yes No

If yes, identify affected contractor(s) or subcontractor(s) and date(s) of referral: _____

G. Did you refer any apprenticeship violation to the Division of Apprenticeship Standards (DAS)?

Please check one: Yes No

If yes, identify affected contractor(s) or subcontractor(s) and date(s) of referral: _____