



Top 10 Tips for California Contractors

Presented by Deborah Wilder, President
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Disclaimer

- This presentation discusses general prevailing wage obligations and is not intended to provide legal advice.
- Attendees should refer any specific matters which require legal advice to their legal counsel.



Deborah Wilder

Deborah Wilder is the president of Contractor Compliance and Monitoring Inc. and a practicing attorney for over 40 years. Her expertise in prevailing wage makes her one of the most highly regarded experts in the field. She has represented Public Agencies as well as developers and contractors in the field of prevailing wage in more than 20 states and before local, state and federal jurisdictions.

As the author of three books and the presenter on scores of webinars and workshops, Deborah is thrilled to work with LCPtracker in presenting the California track for contractors and agencies in the LCPtracker Academy.

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What are the Most Common Errors Contractors Make on PW Projects?

- Contractor Registration
 - Correct Wage Determination
 - DAS-140
 - DAS-142
 - Training Contributions
 - eCPR
 - Trucking
 - Travel and Subsistence
 - Skilled and Trained Workforce
 - Understanding Burden of Proof and Liability

Contractor Registration

Contractor forgets to register or fails to check that sub is registered

* Contractors pay \$400 a year (fiscal year) in order to perform public works

Renewal required every July 1st

Includes all entities which must pay prevailing wage even if not CSLB contractors:

- Trucking
- Inspections
- Surveying
- Material Testing
- Employment Agencies



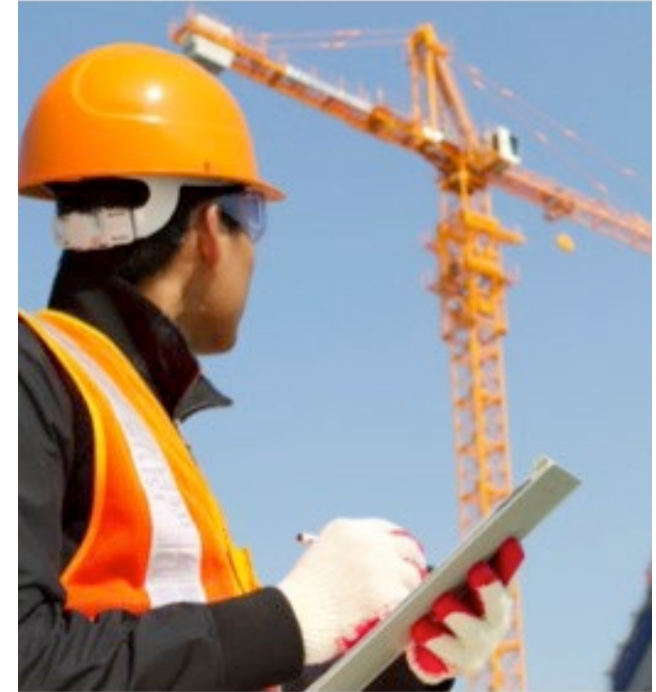
■ Contractor Registration Fine

FINES

- Offending Contractor fined \$2,000 to register plus
 - \$100 per day for each day unregistered contractor works on project
- Prime contractor fined \$100 per day for each day unregistered contractor works on project
- Awarding Agency is fined \$100 per day for each day unregistered contractor works on the project.

Failing to Select and Understand the Correct Wage Determination

- CA- first bid advertisement date
 - February 22/August 22 + 10 days
 - 2023-1 or 2023-2
- All increases tied to that bid advertisement
- Understanding OT and DT, especially premium pay for weekend, holiday work and shift work
- FOOTNOTES
 - Examples: Laborers, Trucking





Apprenticeship

- DAS-140
- DAS-142
- Supervision and Ratios

■ DAS-140

- Fill in all the boxes-No TBD or Throughout the Project
- Box 2 and 3 gets this sent to every apprenticeship committee in the County
- <https://www.dir.ca.gov/databases/das/pwaddrstart.asp>

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/databases/das/pwaddrstart.asp> 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 | CONTRACTORS 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

- We are already approved to train apprentices by the _____ Apprenticeship Committee. We will employ and train under their Standards. Enter name of the Committee
- We will comply with the standards of _____ Apprenticeship Committee for the duration of this job only. Enter name of the Committee
- 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

DAS 140 (REV. 1/04)

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Signature _____ *Date* _____


Typed Name _____

Title _____

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

■ DAS-142

- 72 hours notice excluding weekends and holiday
- Send to all committees until ratio is met or unless no more apprentices
- Special Ratios for OE, Signatory Laborers and Trucking/Teamsters

|  REQUEST FOR DISPATCH OF AN APPRENTICE – DAS 142 FORM
<small>DO NOT SEND THIS FORM TO DAS</small> | |
|---|---|
| <p>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/databases/das/pwaddrstart.asp 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 journeyworkers work, you must request and employ apprentices in no less than 8 hour increments.
 <small>List one occupation/craft per form</small></p> | |
| Date: _____ | Contractor Requesting Dispatch:
Name: _____
Address: _____

License No. _____
PWC Registration Number: _____
Tel. No. _____ Fax No. _____ |
| To Applicable Apprenticeship Committee:
Name: _____
Address: _____

Tel. No. _____ Fax No. _____ | |
| Project Information: PWC Project Number _____ Contract Number _____
Total Contract Amount _____ Sub-Contract Amount _____
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: _____
_____ | |
| <small>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 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 https://www.dir.ca.gov/das/PublicWorksForms.htm
 DAS 142 (Revised 10/18)</small> | |



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|--|--|
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| Name: _____ | Address: _____ |
| Address: _____ | _____ |
| _____ | License No. _____ |
| Tel. No. _____ Fax No. _____ | PWC Registration Number: _____ |
| | Tel. No. _____ Fax No. _____ |

Project Information: PWC Project Number _____ Contract Number _____

Total Contract Amount. _____ Sub-Contract Amount _____

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 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 <https://www.dir.ca.gov/das/PublicWorksForms.htm>

DAS 142 (Revised 10/18)

Apprenticeship

All apprentices must be properly supervised

All apprentices must be employed in proper ratio

If not, then apprentice is entitled to full payment of JM wages and fringe benefits

Training Contributions

- Must go to an approved apprenticeship training committee
 - <https://www.dir.ca.gov/databases/das/pwaddrstart.asp>

OR

- To the California Apprenticeship Council

EACH month, Not later than the 15th

eCPR

Must be submitted monthly on all projects over \$15,000 for Maintenance and \$25,000 for other construction

- * This is required even if the Agency requests CPRs separately**
- * eCPRs do not contains ALL the information required by the Labor Code so Agency or Prime may request separate CPR**
 - * DIR can still request complete CPRs in addition to eCPR**
 - * DIR can now fine contractors for not submitting eCPRs (\$100 per day for late eCPRs - 10 days after request to file)**

Trucking and Concrete Deliveries

Trucking

- * Pure supplier delivery does not apply
Exceptions: incorporation of materials,
certain paving materials and concrete
- * Contractor control of delivery or drive time is
subject to PW.
- * Use On Haul/Off Haul - Dump Truck Rates
Applies to all “trucks” not just dump trucks
Flat beds
Pick up trucks



Watch out for contractor registration of drivers who are owner operators

Trucking and Concrete Deliveries

Concrete Delivery Contracts awarded after July 1, 2016

* PW time starts at batch plant; continues through delivery to project and cleaning of truck

*PW rate of county where batch plant is located applies until truck arrives at next batch plant

*Use On Haul/Off Haul - Mixer Truck Rates



Travel and Subsistence Rules

Watch out for travel and subsistence rules on your project:

- Some travel is calculated from your permanent shop
- Some from the employee's residence
- Some from the local union hiring hall or City Hall
- Each craft has a different travel policy

Do NOT assume that your company travel policy will cover PW travel

PW travel is paid separately as a reimbursement and is not tracked on the CPR (although should be mentioned in "notes")

Skilled and Trained Workforce

- Now Applies to 15 different situations
 - <https://www.dir.ca.gov/Public-Works/ADA-Compliant-STW-Chart-without-New-PRC-Provision.pdf>
 - Requires all workers on project to be skilled
 - JM graduate of apprenticeship program, or
 - JM with equivalent experience
 - Apprentice
 - Requires certain percentage of workers to absolutely be graduates of Apprenticeship programs. 30% or 60% depending on craft

DIR can impose penalties up to \$5,000 per month for noncompliance.

Skilled and Trained Workforce

1

- Monthly Compliance Report or Substantial Compliance Report is due to Awarding Agency

2

- Agency can withhold 150% of progress payment

3

- At end of project, Awarding Agency must report noncompliant contractors to DIR

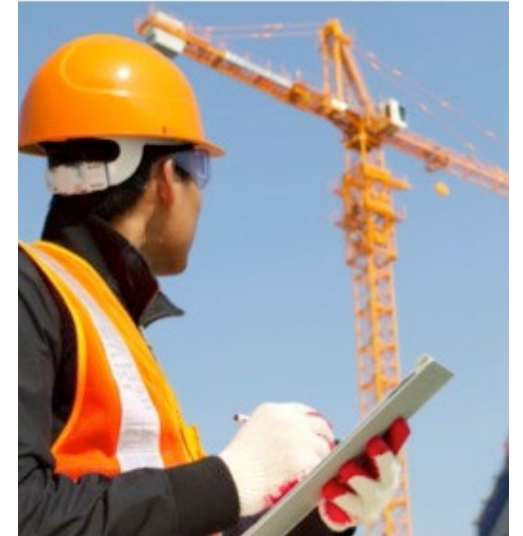
Understanding Your Burden of Proof and Liability

Prime contractor are always liable for wages due of all subcontractors and sub-tier subcontractors

Burden of proof is on the contractor to prove that PW was paid and compliance met

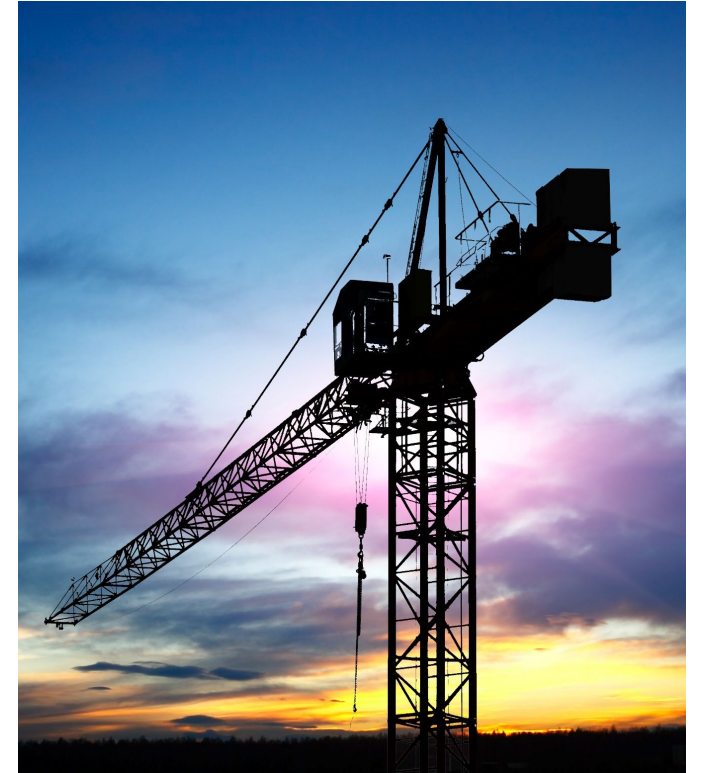
Safe Harbor for Prime Contractors

- Insert Specific Labor Code Sections in subcontract
- Collect and Monitor CPR and related documents
- Withhold Funds from Non-compliant Contractors
- Collect End of Project Affidavit from each subcontractor
- This will protect the contractor from penalties imposed upon subcontractors. However, a prime contractor will still remain liable for prevailing wages due to a subcontractor's workers.



■ Best Practices

- Subscribe to CPR delivery system such as LCPtracker
- Hire a Labor Compliance Specialist
- Enroll them in the LCPtracker Academy
- Use LCPtracker' s Daily Reporter
- Use LCPtracker' s Access
- Locate, hire, and use a labor compliance expert to help with difficult questions



■ Best Practices

- Collect and Review ALL CPRs
 - Look at CPRs not just for Notices
 - Look for weekend or Holiday work
 - Look to see if Shift work being performed
 - Look at craft classifications
 - Look for any odd patterns in hours worked
- Review and check Fringe Benefit documentation
- Confirm that training contributions have been made each month



■ Best Practices

- Get Documentation for “other” deductions
- Conduct random jobsite interviews
- Check for unsupervised or out of ratio apprentices
- Collect and review DAS-140 and DAS-142 forms
- Track Travel and Subsistence
- Investigate items which appear amiss
- Hold money if violations are identified
- Do not forget those End of Project Affidavits



Credentials

- 20 years president of CCMI; 40+ years as an attorney
- Author of *What Every Contractor Should Know About Prevailing Wages* © 3rd Edition 2021
 - Author of *AGC of America's Davis Bacon Compliance Manual* 5th Edition © October 2019
 - Author of *Davis Bacon Handbook for Public Agencies* © 2nd Edition © 2016

Nationally recognized speaker on the subject of state and federal prevailing wage compliance: Workshops, Webinars, and presentations before World of Concrete, APWA-American Public Works Association, CLE Workshops for Continuing Legal Education, Webinars with AGC, ABC, Builders Exchanges, ACWA, CSDA and more.