CITY OF LONG BEACH

LABOR COMPLIANCE PROGRAM

Policies and Procedures

May 2020

City of Long Beach

Labor Compliance Program

TABLE OF CONTENTS

Introduction…… 1

I. Public Works Subject to Prevailing Wage Laws …….. 2

II. Competitive Bidding on City Public Works Contracts …….. 3

III. Composition, Components and Responsibilities of Labor Compliance Programs… 4

A. Overview …… 4

B. Duty of the Awarding Agency …… 4

C. Responsibility and Authority of Awarding Body to Enforce LC 1726 …… 5

D. Responsibilities of a Labor Compliance Program …… 5

E. Responsibility to Maintain Written Record …… 5

F. Labor Commissioner's Right to Provide for Training ……..... 5

G. Failure to Enforce Not a Defense …….. 5

H. Annual Report …… 5

IV. Pre-Construction Meeting…….. 7

A. Agenda …….. 8

B. Document Distribution / Opportunity for Questions and Answers …… 8

V. Responsibility of Contractors…… 9

A. Certified Payroll …….. 9

B. Furnishing of Certified Payroll Reports …… 9

C. Reporting Format …… 10

D. Cost of Preparation of Records Requested …… 10

E. Use of Electronic Reporting Forms …… 10

F. Submission of Certified Payroll Records …….. 11

G. Full Accountability …… 11

H. Responsibility for Subcontractors …….. 11

I. Payment to Employees …… 11

J. Subcontractors …….. 11

K. Required Wage Rates and Overtime …… 12

L. Apprentices …… 12

VI. Enforcement…… 14

A. Duty of the Awarding Agency and LCP …… 14

B. Request for Certified Payroll Records …….. 14

C. Records Requested for Use by the Labor Compliance Program…….. 16
D. Privacy Considerations ……..... 16
E. Withholding Payments When Payroll Records are Delinquent/Inadequate……. 16
F. On-Site Visits …… 17
G. Complaints …… 17
H. Review of Certified Payroll Records …… 18
I. Confirmation of Certified Payroll Records …… 18
J. Audit of Certified Payroll Records …… 18
K. Notification and Informal Resolution …… 19
L. Withholding Contract Payments When, After Investigation, it is Established That Underpayment or Other Violation Has Occurred …… 19
M. Provisions Relating to Penalties …… 20
N. Forfeitures Requiring Approval by the Labor Commissioner …… 21
O. Determination of Amount of Forfeiture by the Labor Commissioner ……..…….. 21
P. Withholding Procedures After Forfeiture Determination …… 23
Q. Settlement Meeting …… 23
R. Request for Review of Labor Compliance Enforcement Action ……..…… 23
S. Review of Notice of Withholding of Contract Payments ……..…….. 24
T. Determination and Ruling on the Review by DIR …… 24
U. Settlement Authority …… 25
V. Deposits of Penalties and Forfeitures Withheld …….. 25
W. Debarment Policy …… 25
X. Disposition of Forfeited Sums …… 26
Y. Reporting of Willful Violations to the Labor Commissioner …… 26

VII. Enforcement of Apprenticeship Requirements……..……..…….. 28

VIII. Appendices

A. Initial Review of Certified Payroll Records…… 29
B. Confirmation and Audit of Certified Payroll Records…….. 30
C. Public Works Case Audits…….. 31
D. Investigation Case Processing……... 33
E. Prevailing Wage Hearing Regulations…….. 38
F. Field Representative Minimum Standards…… 40
G. Forms…… 44

INTRODUCTION

The City of Long Beach ("City") issues this Labor Compliance Program (LCP) manual for the purpose of identifying its policy relative to the responsibilities and procedures of prevailing wage enforcement for construction contracts funded by California Proposition 84 and other programs for which an LCP is required and is applicable to such projects. This LCP contains the labor compliance standards required by state and federal laws, regulations, and directives, as well as the City policies and contract provisions.

The California Labor Code Section 1770 et seq. requires that contractors and subcontractors on public works projects pay their workers based on the prevailing wage rates established and issued by the Department of Industrial Relations, Office of Policy Research and Legislation (OPRL).

In establishing this LCP, the City adheres to the statutory requirements as outlined in Section 1771.5(b) of the Labor Code and the provisions contained in the California Code of Regulations Section 16000 et seq.

It is the intent of the City to actively enforce this LCP on all projects required by statute to enforce or contract to enforce an LCP that contains or meets the requirements of Labor Code Section 1771.5. Should any other applicable Labor Code or Code of Regulations undergo revision or deletion, the City will modify that portion of the program to comply with the modified or deleted sections.

Questions regarding the City's LCP should be directed to**:**

Melissa Pyun
Labor Compliance Officer
City of Long Beach
411 W. Ocean Blvd, 6th Floor
Long Beach, CA 90802
Phone: (562) 570-6037

City of Long Beach

Labor Compliance Program

Section I

PUBLIC WORKS SUBJECT TO PREVAILING WAGE LAWS

A. State prevailing wage rates apply to all public works contracts valued over $1,000, as set forth in Labor Code Section 1771, et. seq., including, but not limited to, such types of work as construction, alteration, demolition, installation, or repair work, as set forth in Labor Code 1720 et seq. The Director of the Department of Industrial Relations determines, from time to time, the appropriate prevailing wage rates for particular construction trades and crafts by county and publishes those determinations through the Office of Policy Research and Legislations (OPRL), usually on February 22 and August 22 of each calendar year.

B. Whenever an Awarding Agency is required by statute to enforce or contract to enforce an LCP that contains or meets the requirements of Labor Code Section 1771.5, the Awarding Agency must have its own program that has been approved by the Director pursuant to Code of Regulations Section 16425.

C. A list of statutes that require Awarding Agencies to have an LCP as a condition of project authorization, project funding, or use of specified contracting authority shall be maintained on the Department of Industrial Relations' website.

City of Long Beach

Labor Compliance Program

Section II

COMPETITIVE BIDDING ON CITY PUBLIC WORKS CONTRACTS

The City publicly advertises upcoming public works projects to be awarded according to competitive bidding processes. All City bid advertisements (or bid invitations), construction contracts, design build requests for proposal, and purchase orders shall contain appropriate language concerning the requirements of the Public Works chapter of the Labor Code, comprised of Labor Code Sections 1720-1861.

City of Long Beach

Labor Compliance Program

Section III

COMPOSITION, COMPONENTS, AND RESPONSIBILITIES OF LABOR COMPLIANCE PROGRAMS

A. In accordance with the California Labor Code and California Code of Regulations, an LCP shall include, but not be limited to, the following requirements:

I. The Call for Bids, Design-Build Request, and the contract or purchase order shall contain appropriate language concerning the requirements of Chapter 1 of Part 7 of Division 2 of the Labor Code.

II. A pre-construction meeting shall be conducted before commencement of the work with the contractors and subcontractors listed in the bid or who are required to be identified or prequalified in a Design-Build Contract. At the pre-construction meeting applicable federal and state labor law requirements shall be discussed, and copies of suggested reporting forms furnished. A checklist, showing which federal and state labor law requirements were discussed, shall be kept for each meeting. The checklist example in Appendix A of 8 CCR §16421 presumptively meets this requirement.

III. A requirement that certified payroll records be kept by the contractor in accordance with Labor Code Section 1776 and furnished to the LCP at times designated in the contract, which shall be at least monthly, or within 10 days of any requests by City. Use of the current version of DIR's "Public Works Payroll Reporting Form" (A-1-131) and Statement of Employer Payments (PW26) constitute presumptive compliance with the requirements for certified payroll records kept in accordance with Labor Code Section 1776, provided the forms are filled out accurately and completely. These suggested forms are available from the Department of Industrial Relations.

IV. A program for orderly review of payroll records and, if necessary, for audits to verify compliance with the requirements of Chapter 1 of Part 7 of Division 2 of the Labor Code.

V. A prescribed routine for withholding penalties, forfeitures, and underpayment of wages for violations of the requirements of Chapter 1 of Part 7 of Division 2 of the Labor Code.

VI. All contracts to which prevailing wage requirements apply shall include a provision that contract payments shall not be made when payroll records are delinquent or inadequate.

VII. The LCP shall review, and if appropriate, audit payroll records to verify compliance with the requirements of Chapter 1 of Part 7 of Division 2 of the Labor Code.

VIII. The City shall, with the approval of the Labor Commissioner, withhold contract payments equal to the amount of underpayment and applicable penalties, when, after investigation, it is established that underpayment has occurred.

IX. The City, as the Awarding Body, shall comply with any other prevailing wage monitoring and enforcement activities that are required to be conducted by LCP's by the Department of Industrial Relations.

B. Duty of the City as the Awarding Body

The City, pursuant to its approved LCP, has a duty to the Director of the Department of Industrial Relations to ensure compliance of contractors and enforce the Public Works Chapter of the Labor Code and Title 8 of the Code of Regulations in a manner consistent with the practice of the Labor Commissioner. The Labor Compliance Office of the City will maintain records relating to activities and relevant facts that pertain to each project that demonstrates that reasonable and sufficient efforts have been made to enforce prevailing wage requirements.

C. Nothing in this section shall be construed as limiting the responsibility and authority of the Awarding Body to take cognizance of prevailing wage violations under Section 1726 of the Labor Code and take any appropriate actions pursuant to, and in accordance with, that responsibility and authority.

D. It is the responsibility of the LCP to enforce prevailing wage requirements, consistent with the policy of the state as expressed in Labor Code Section 90.5(a). An LCP take reasonable, vigorous, and prompt action to (1) determine whether a violation exists, and (2) enforce compliance, including through imposition of appropriate penalties and formal enforcement action, when violations are found. An LCO shall neither avoid use of its enforcement authority based on cost considerations, nor shall it use that authority in an unreasonable manner to gain leverage over a contractor or subcontractor. Unreasonable used 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.

E. For each public work project subject to an LCP'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 8 CCR § 16434 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. 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.

F. The Labor Commissioner may provide, sponsor, or endorse training on how to enforce prevailing wage requirements, including but not necessarily limited to the subjects of (1) ascertaining prevailing wage requirements and rates from the Division of Labor Statistics and Research, (2) monitoring and investigation under section 16432, (3) enforcement responsibilities under this section and sections 16435-16439, and (4) procedural requirements and responsibilities as an enforcing agency under Labor Code sections 1741-1743 and 1771.6 and sections 17201-17270 of Title 8 of the California Code of Regulations.

G. The failure of an Awarding Body or LCP to comply with any requirement imposed by this subchapter shall not of itself constitute a defense to the failure to pay prevailing wages or to comply with any other obligation imposed by Chapter 1 (commencing with Section 1720), Part 7, Division 2 of the Labor Code.

H. Annual Report

I. The LCP shall submit to the Director an annual report on its operation by no later than August 31 of each year. The annual report shall cover the twelve-month period commencing on July 1 of the preceding calendar year and ending on June 30 of the year in which the report is due. For good cause, the Director may authorize an LCP to use a different reporting period and provide for the annual report to be due no later than 60 days following the close of that reporting period.

II. The annual report shall be made on the appropriate form [LCP-AR1, LCP-AR2, or LCP-AR3], for the type of LCP that is submitting the report, unless the Director has agreed to a different reporting format for a Program that has been granted extended authority under section 16427 above. A third-party LCP that contracted with more than one Awarding Body or Joint Powers Authority during the annual reporting period shall separately report on Labor Code Section 1771.5(b) enforcement activities for each Awarding Body or Joint Powers Authority covered by the report.

III. Information in the Annual Report shall be reported in sufficient detail to afford a basis for evaluating the scope and level of enforcement activity of the LCP. An annual report shall also include such additional information as the LCP may be required to report as a condition of its approval.

IV. A Labor Compliance Program that has ceased operating, either due to the voluntary termination of its program or the revocation of its approval by the Director, shall file a closing annual report within sixty (days) following its last day of operation as an approved program.

City of Long Beach

Labor Compliance Program

Section IV

PRE-CONSTRUCTION MEETING

A. Agenda

A Pre-Construction Meeting shall be held prior to the start of construction with all contractors and subcontractors. At that meeting, the LCP Representative (LCPR) will discuss applicable State and Federal labor law requirements applicable to the contract and will provide the contractor and each attending subcontractor with a Checklist of Labor Law Requirements which addresses:

I. The contractor's and subcontractors' duty to pay prevailing wages under Labor Code Section 1770, et seq., should the project exceed the exemption amounts;

II. The contractors and subcontractor's duty to employ registered apprentices on public works projects under Labor Code Section 1777.5;

III. The penalties for failure to pay prevailing wages for nonexempt projects, failing to employ apprentices, and failing to submit Certified Payroll reports which include forfeitures and debarment (Labor Code Sections 1775, 1776, 1777, and 1813);

IV. The requirement to maintain and submit copies of certified payroll report records to the Awarding Agency's LCP Representative (Labor Code Section 1776) on a weekly basis and as stipulated in contract documents. This requirement includes and applies to all subcontractors performing work on agency projects even if their portion of the work is less than half of 1 percent of the total amount of the contract, and penalties for failure to do so (Labor Code Section 1776(h);

V. The prohibition against employment discrimination under Labor Code Sections 1735 and 1777.6; the Government Code; and Title VII of the Civil Rights Act of 1964, as amended;

VI. The prohibition against accepting or extracting kickbacks from employee wages under Labor Code Section 1778;

VII. The prohibition against accepting fees for registering any person for public works under Labor Code Section 1779 or for filling work orders on public works under Labor Code Section 1780;

VIII. The requirement to list all subcontractors under Public Contracts Code Section 4104; The requirement to be properly licensed and to require all subcontractors to be properly licensed, and the penalty for employing workers while unlicensed under Labor Code Section 1021 and 1021.5, and under California Contractors License Law, found at Business and Professions Code Section 7000, et seq.;

IX. The prohibition against unfair competition under Business and Professions Code Sections 17200-17208;

X. The requirement that the contractor and subcontractor be properly insured for Workers' Compensation under Labor Code Section 1861;

XI. The requirement that the contractor abide by the Occupational Safety and Health laws and regulations that apply to the particular public works projects;

XII. The Federal Prohibition against hiring undocumented workers and the requirement to secure proof of eligibility/citizenship from all workers;

XIII. The requirement to provide itemized wage statements to employees under Labor Code Section 226; and,

XIV. The Contractor's & Subcontractor's requirement under Labor Code Section 1725.5, et seq. that a contractor shall be registered pursuant to this section to be qualified to bid on, be listed in a bid proposal, subject to the requirements of Section 4104 of the Public Contract Code or engage in the performance of any public work contract that is subject to the requirements of this chapter. For the purposes of this section, "contractor" includes a subcontractor as defined by Section 1722.1.

B. The contractor(s) and subcontractor(s) present at the meeting will be given the opportunity to ask questions of the LCPR relative to any of the Labor Law Requirements Checklist. The Checklist of Labor Law Requirements will then be signed by the attending contractor and subcontractor representatives and submitted to the LCPR. At the Pre-con conference, the LCPR will provide the General Contractor (GC), or in the case of multi-prime Construction Management (CM) project, the Construction Manager, with two (2) copies of applicable Prevailing Wage Rate Determinations. All attending contractors and subcontractors shall be provided with instructions, samples and blank certified payroll record forms, DAS-140 form, fringe benefit statements, State apprenticeship requirements, and appropriate reference materials regarding Labor Code authorities for program requirements. It will be the GC or CM's responsibility to provide copies of the LCP package to any substituted or non-attending contractor or subcontractor performing work on the Project.

City of Long Beach

Labor Compliance Program

Section V

RESPONSIBILITY OF CONTRACTORS

A. Certified Payroll

I. Certified Payroll Records Required
Each contractor and subcontractor shall keep accurate payroll records, showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by him or her in connection with the public work. Each payroll record shall contain or be verified by a written declaration that it is made under penalty of perjury, stating both of the following:
   a. The information contained in the payroll record is true and correct.
   b. The employer has complied with the requirements Sections 1771, 1811, and 1815 for any work performed by his or her employees on the public works project.

II. Payroll records consist of, but are not limited to, time cards, front and back copies of canceled checks, records of cash receipts, trust fund forms, accounting ledgers, tax forms, Superintendent and foreman daily logs, employee sign in sheets and/or any other record maintained for the purpose of reporting payroll etc. during the course of the work and shall preserve them for a period of three (3) years thereafter for all trades workers working on the Awarding 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 assumed to provide fringe benefit, daily and weekly number of hours worked, deductions made, and actual wages paid.

B. Furnishing of Certified Payroll Records

I. Unless required to be furnished directly to the Labor Commissioner in accordance with paragraph (3) of subdivision (a) of Section 1771.4, the certified payroll records shall be on forms provided by the Division of Labor Standards Enforcement or shall contain the same information as the forms provided by the division. The payroll records may consist of printouts of payroll data that are maintained as computer records, if the printouts contain the same information as the forms provided by the division and the printouts are verified in the manner specified in subdivision V.(A.)(a.).

II. A contractor or subcontractor shall file a certified copy of the records enumerated in subdivision (a) with the entity that requested the records within 10 days after receipt of a written request.

III. Except as provided in subdivision "IV", below, any copy of records made available for inspection as copies and furnished upon request to the public or any public agency by the awarding body or the Division of Labor Standards Enforcement shall be marked or obliterated to prevent disclosure of an individual's name, address, and social security number. The name and address of the contractor awarded the contract or the subcontractor performing the contract shall not be marked or obliterated. Any copy of records made available for inspection by, or furnished to, a multiemployer Taft-Hartley trust fund (29 U.S.C. Sec.86(c)(5)) that requests the records for the purposes of allocating contributions to participants shall be marked or obliterated only to prevent disclosure of an individual's full social security number but shall provide the last four digits of the social security number. Any copy of records made available for inspection by, or furnished to, a joint labor-management committee established pursuant to the federal Labor Management Cooperation Act of 1978 (29 U.S.C. Sec. 175a) shall be marked or obliterated only to prevent disclosure of an individual's social security number.

IV. Notwithstanding any other provision of law, agencies that are included in the Joint Enforcement Strike Force on the Underground Economy established pursuant to Section 329 of the Unemployment Insurance Code and other law enforcement agencies investigating violations of law shall, upon

request, be provided non-redacted copies of certified payroll records. Any copies of records or certified payroll made available for inspection and furnished upon request to the public by an agency included in the Joint Enforcement Strike Force on the Underground Economy or to a law enforcement agency investigating a violation of law shall be marked or redacted to prevent disclosure of an individual's name, address, and social security number.

V. An employer shall not be liable for damages in a civil action for any reasonable act or omission taken in good faith in compliance with this subdivision.

VI. The contractor shall inform the body awarding the contract of the location of the records enumerated under subdivision (a), including the street address, city, and county, and shall, within five working days, provide a notice of a change of location and address.

VII. The contractor or subcontractor has 10 days in which to comply subsequent to receipt of a written notice requesting the records enumerated in subdivision (a). In the event that the contractor or subcontractor fails to comply within the 10-day period, he or she shall, as a penalty to the state or political subdivision on whose behalf the contract is made or awarded, forfeit one hundred dollars ($100) for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. Upon the request of the Division of Labor Standards Enforcement, these penalties shall be withheld from progress payments then due. A contractor is not subject to a penalty assessment pursuant to this section due to the failure of a subcontractor to comply with this section.

C. Reporting Format

I. The format for reporting of payroll records requested pursuant to Labor Code Section 1776 shall be on a form provided by the public entity. Copies of the forms may be procured at any office of the Division of Labor Standards Enforcement (DLSE) throughout the state and/or Office of Policy Research and Legislation (OPRL) P.O. Box 603 San Francisco, CA 94101, ATTENTION: Prevailing Wage Unit.

II. Acceptance of any other format shall be conditioned upon the requirement that the alternate format contain all of the information required pursuant to Labor Code Section 1776. If, however, the contractor does not comply with the provisions of Labor Code Section 1776, the Labor Commissioner may require the use of DIR's suggested format, "Public Works Payroll Reporting Form" (Form A-1-131).

III. Words of Certification. The form of certification shall be as follows: 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:_____

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

D. Cost of Preparation of Records Requested (CCR 16402)

Where records are requested by other than the Awarding Agency and its LCPR, the Division of Labor Standards Enforcement (DLSE), the Division of Apprenticeship Standards or the worker, 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.

E. Use of Electronic Reporting Forms (CCR 16404)

Certified payroll records required by Labor Code Section 1776 may be maintained and submitted electronically, subject to the following conditions:

I. Reports must contain all of the information required by Labor Code Section 1776;

II. Information must be organized in a manner that is similar or identical to the Department of Industrial Relations “Public Works Payroll Reporting Form” (Form A-1-131);
III. Reports shall be in a format and use software that is readily accessible and available to Contractors, Awarding Bodies, LCPs and the Department of Industrial Relations;
IV. Reports must be in the form of a non-modifiable image or record; and
V. Reports must bear an electronic signature or include a copy of an original certification made on paper or printed out and submitted on paper with an original signature.
VI. 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 generally not available to the public.

F. Submission of Certified Payroll Records (CCR 16421(a)(3))

Certified Payroll Records shall be kept by the contractor in accordance with Labor Code Section 1776 and furnished to the LCP at times designated in the contract, which shall be at least monthly, or within 10 days of any request by the Awarding Body. Use of the current version of DIR's “Public Works Payroll Reporting Form” (A-1-131) and Statement of Employer Payments (PW26) constitute presumptive compliance with the requirement for certified payroll records kept in accordance with Labor Code Section 1776, provided the forms are filled out accurately and completely. These suggested forms are available from the Department of Industrial Relations.

G. Full Accountability

I. The name, address and social security number of every individual, laborer or craftsperson working at the project site must appear on the payroll. The basic concept is that the employer who pays the trade’s worker must report that individual on its payroll. This includes individuals working as apprentices in an apprenticeable craft. Licensed Owner-operators under contract shall report their own wages as provided herein. Non-licensed Owner-Operators or those operating on a basis other than a formal contract shall be reported by the contractor employing them. Rental equipment operators are to be reported by the rental company paying the workers’ wages.
II. 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.
III. Contractors and subcontractors shall make the records required under this section available for inspection by the LCPR , an authorized representative of the Awarding Agency, or the DLSE and the Division of Apprenticeship Standards of the DIR and shall permit such representatives to interview trades workers during working hours on the project site.

H. Responsibility for Subcontractors

A contractor shall be responsible for ensuring adherence to labor standards provisions by its subcontractor(s) in accordance with Labor Code Sections 1725.5, 1771.4, 1774, 1775, 1776, 1777.5 and 1777.7.

I. Payment to Employees

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

J. Subcontractors

If an individual is called a subcontractor, when, in fact, he/she is merely a journey-level mechanic supplying only his/her labor, such an individual would not be deemed a bona fide subcontractor and must

be reported on the payroll of the prime contractor who contracted for his or her services as a trade worker. Moreover, any person who does not hold a valid contractor's license cannot be a subcontractor, and anyone hired by that person is the worker or employee of the general contractor who contracted for his or her services for purposes of prevailing wage requirements, certified payroll reporting and workers' compensation laws.

K. Required Wage Rates and Overtime

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

L. Apprentices

I. Apprentices shall be permitted to work as such only when they are registered, individually, under a bonafide Apprenticeship program registered with a State apprenticeship agency that is recognized by the State Division of Apprenticeship Standards (DAS).

II. Pursuant to Labor Code Section 1777.5 and Code of Regulations (CCR) Section 1, apprentices on public works must be employed according to the ratio set by the apprenticeship standards under which each Joint Apprenticeship Committee operates, the ratio of work performed by apprentices to journeymen employed in a particular craft or trade on the public work may be no higher than the ratio stipulated in the apprenticeship standards under which the apprenticeship program operates but in no case shall the ratio be less than one (1) apprentice hour to each five (5) journeyman hours.

III. Any worker listed on payroll records at an apprentice wage rate who is not a duly registered apprentice, works in excess of the stipulated ratios permitted under Labor Code section 1777.5(g), works outside of the scope of work for the craft/trade for which they are registered or perform work outside of the prescribed geographic area of the apprenticeship program is not qualified to receive the apprentice rate and shall be paid the journeyman level wage rate determined by the Department of Industrial Relations for the classification of and locality in which the work was actually performed.

IV. If requested by the LCPR, the contractor shall furnish written evidence of the Apprenticeship Agreement, Statement of Registration of its training program and apprentices, as well as the ratios allowed, and the wage rates required to be paid.

V. Pre-apprentice trainees, trainees in non-apprenticeable 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.

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

   a. Provide specified contract award information to an applicable apprenticeship program for each applicable apprenticeable craft (Labor Code Section 1777.5 (e);
   b. All contractors must request dispatch of an apprentice from an apprenticeship program (for each apprenticeable craft or trade) by giving the program actual notice of at least 72 hours (business days only) before the date on which apprentices are required. If the apprenticeship committee from which apprentice dispatch are requested does not dispatch apprentices as requested, the contractor must request apprentice dispatch from another committee providing training in the applicable craft or trade in the geographic area of the site of the public work, and must request apprentice dispatch from each such committee, either consecutively or simultaneously, until the contractor has requested apprentice dispatches from each such committee in the geographic area;
   c. Employ 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 to each five (5) journeyperson hours unless a Certificate of Exemption is provided to the LCPR for the Awarding Agency; and

d. 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, P. O. Box 511283, Los Angeles, California 90051-7838.

VII. It should be noted that a prior approval for a separate project does not confirm approval to train on any project. The contractor/subcontractor must check with the applicable Joint Apprenticeship Committee to verify status.

City of Long Beach

Labor Compliance Program

Section VI

ENFORCEMENT

A. Duty of the Awarding Agency and LCP

I. The City of Long Beach, pursuant to its approved LCP, has a duty to the Director of the Department of Industrial Relations to ensure compliance of contractors and enforce the Public Works Chapter of the Labor Code and Title 8 of the Code of Regulations in a manner consistent with the practice of the Labor Commissioner. The City will maintain records relating to activities and relevant facts that pertain to each project that demonstrates that reasonable and sufficient efforts have been made to enforce prevailing wage requirements.

II. Nothing in this section shall be construed as limiting the responsibility and authority of an Awarding Body to take cognizance of prevailing wage violations under Section 1726 of the Labor Code and take any appropriate action pursuant to and in accordance with that responsibility and authority. The LCPR 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. An LCP shall neither avoid use of its enforcement authority based on cost considerations nor shall it 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.

III. [CCR 16432(a)] The primary function of the LCP is to ensure that public works contractors comply with the prevailing wage requirements found in the Public Works Chapter of the Labor Code. This regulation is intended to establish minimum requirements which all LCP's shall meet or exceed in carrying out that function. Definitions found throughout this regulation are intended to provide LCP's and representatives of the Department of Industrial Relations and the Division of Labor Standards Enforcement with common terminology as they each perform their respective roles in prevailing wage enforcement in furtherance of the Labor Code provisions establishing LCP's. This regulation is also intended to confirm that the proactive investigation methods, as described in detail herein, only comprise the minimum obligations required of LCP's to satisfy their duty to the Director to operate an LCP as specified in CCR Sections 16428 and 16434.

IV. An LCP 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 Labor Commissioner 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 Labor Commissioner 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. (CCR 16434(a)).

V. The failure of an Awarding Body or LCP to comply with any requirement imposed by this subchapter shall not of itself constitute a defense to the failure to pay prevailing wages or to comply with any other obligation imposed by Chapter 1 (commencing with Section 1720), Part 7, Division 2 of the Labor Code.

B. Request for Certified Payroll Records

I. Requests may be made by any person for certified copies of payroll records. Requests shall be made to any of the following:

a. The body awarding the contract, or
b. Any office of the Division of Labor Standards Enforcement, or the Division of Apprenticeship Standards.

II. 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:
   a. The body awarding the contract;
   b. The contract number and/or description;
   c. The particular job location if more than one;
   d. The name of the contractor;
   e. The regular business address, if known.

III. Requests for records of more than one contractor or subcontractor must list the information regarding that contractor individually, even if all requests pertain to the same particular public works project. Blanket requests covering an entire public works project will not be accepted; unless contractor and subcontractor responsibilities regarding the project are not clearly defined.

IV. 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), to the person who requested said records.

V. 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:
   a. Specify the records to be provided and the form upon which the information is to be provided;
   b. Conspicuous notice of the following:
      i. 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
      ii. 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 one-hundred ($100.00) dollars per calendar day or portion thereof for each worker until strict compliance is effectuated;
      iii. Cost of preparation as provided in Section 16402; and
      iv. Provide for inspection.

VI. 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.

VII. In the conduct of investigations reasonably required to undertake its responsibilities as set forth in CCR Section 16421, the LCPR shall request such additional records as may reasonably be required for that purpose, to include but not limited to those enumerated within CCR Section 16000.

VIII. The request for copies of payroll records by the LCPR shall be in any form and/or method which will assure and evidence receipt thereof. The request shall include the following: (i) Specify the records to be provided and the form upon which the information is to be provided; (ii) Conspicuous notice 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; (iii) 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 one hundred ($100.00) dollars per calendar day or portion thereof for each worker until strict compliance is effectuated and; provide for inspection, where feasible.

C. Records Requested for Use by the Labor Compliance Program

Where records are requested from a contractor or subcontractor by the Awarding Agency's LCPR in the normal course of its duties, those records shall be provided to the LCPR un-redacted and without cost.

D. Privacy Considerations (CCR 16403)

I. 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 in subdivision (ii) below;

II. 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;

III. The public entity 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.

E. Withholding Contract Payments When Payroll Records are Delinquent or Inadequate (CCR 16435)

I. "*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.

II. "*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.

III. "*Delinquent payroll records*" means those not submitted on the date set in the contract.

IV. "*Inadequate payroll records*" are any one of the following:

a. A record lacking any of the information required by Labor Code Section 1776;

b. 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;

c. A record remaining uncorrected for one payroll period, after the LCP 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 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.

d. 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 LCP 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 LCP provides notice that the subcontractor has cured the delinquency or deficiency.

e. When contract payments are withheld under this section, the LCP 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 LCP has exceeded its authority under this section.
f. No contract payments shall be withheld solely on the basis of delinquent or inadequate payroll records after the required records have been produced.
g. 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 CCR Title 8 Section 1643.

F. On-Site Visits (CCR 16432(d))

I. The Awarding Agency's LCPR shall conduct in-person inspections at the site or sites at which the contract for public work is being performed ("On-Site Visits"). On-Site Visits may be undertaken randomly or as deemed necessary by the LCPR but shall be undertaken during each week that workers are present at sites at which the contract for public work is being performed. All On-Site Visits shall include visual inspection of:
   a. The copy of the determination(s) of the Director of Industrial Relations of the prevailing wage rate of per diem wages required to be posted at each job site in compliance with Labor Code Section 1773.2, and
   b. The Notice of LCP Approval required to be posted at the job site in accordance with Code of Regulations Section 16429, listing a telephone number to call for inquiries, questions, or assistance with regard to the LCP and/or;
   c. On each job site that is subject to compliance monitoring and enforcement by the Department of Industrial Relations, the Awarding Agency shall post or require the prime contractor to post a Notice containing the language in Code of Regulations Section 16451(d).

II. On-Site Visits may include other activities deemed necessary by the Awarding Agency's LCPR to independently corroborate prevailing wage payments reported on payroll records furnished by contractors and subcontractors.

G. Complaints

Upon receipt of a written complaint alleging that a contractor or subcontractor has failed to pay prevailing wages as required by the Labor Code, the LCPR shall do all of the following:

I. 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;
II. Within 15 days after receipt of the complaint, provide the affected contractor with the notice required under Labor Code section 1775(c) if the complaint is against a subcontractor;
III. Notify the complaining party in writing of the resolution of the complaint within ten days after the complaint has been resolved by the LCPR;
IV. 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 LCPR; and

V. Notify the complaining party in writing at least once every 90 days of the status of a complaint that has been resolved by the LCPR but remains under review or in litigation before another entity.

H. Review of Certified Payroll Records (CCR Sections 16432(b))

Payroll records furnished by contractors and subcontractors in accordance with section 16421(a)(3), and in a format prescribed at section 16401 of Title 8 of the California Code of Regulations, shall be reviewed by the LCP as promptly as practicable after receipt thereof, but in no event more than 30 days after such receipt. "Review" for this purpose shall be defined as inspection of the records furnished to determine if (1) all appropriate data elements identified in Labor Code Section 1776(a) have been reported; (2) certification forms have been completed and signed in compliance with Labor Code Section 1776(b); and (3) the correct prevailing wage rates have been reported as paid for each classification of labor listed thereon, with confirmation of payment in the manner and to the extent described in CCR 16432 subpart (c) below.

I. Confirmation of Certified Payroll Records (CCR 16432(c))

I. "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.

II. For each month in which a contractor or subcontractor reports having workers on the project, confirmation of furnished records will be undertaken randomly for at least one worker for at least one weekly period within that month. Confirmation will also be undertaken whenever the Awarding Agency's LCPR receives a complaint or other circumstances or information suggests that payroll records may be inaccurate.

J. Audit of Certified Payroll Records (CCR 16432(e))

I. Audits will be conducted by the Awarding Agency's LCPR when it is determined that a violation of the Public Works Chapter of the Labor Code has occurred. Audits shall also be conducted at the request of the Labor Commissioner.

II. An audit shall consist of a written summary reflecting prevailing wage deficiencies for each underpaid worker and include any penalties to be assessed under Labor Code Sections 1775 and 1813, as determined by the LCPR, after a comparison and consideration of the best information available as to the actual hours worked, amounts paid, and classifications of workers employed in connection with the project. Such available information may include, but is not limited to:
   a. Worker Interviews;
   b. Complaints from workers or other interested persons;
   c. All time cards, cancelled checks, cash receipts, trust fund forms;
   d. All books, documents, schedules, forms, reports, receipts or other evidences which reflect job assignments;
   e. Work schedules by days and hours; and
   f. 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 the public works project.

III. The audit record form as provided for in Code of Regulations § 16432 Appendix B, accompanied by a brief narrative identifying the Bid Advertisement Date of the public work contract, a summary of the nature of the violation and the basis upon which the determination was made, presumptively demonstrates the sufficient detail that will enable the Labor

Commissioner to determine the amount, if requested, of forfeiture under Code of Regulations Section 16437, draw reasonable conclusions as to the compliance with the requirements of the Public Works Chapter of the Labor Code and enable accurate computation of underpayments of wages and applicable penalties and forfeitures.

K. Notification and Informal Resolution (CCR 16432(f))

After the LCP 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 LCP 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 LCP 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 LCP. For each instance in which a wage deficiency is resolved in accordance with this regulation, the LCP 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 LCP by the affected contractor or subcontractor.

L. Withholding Contract Payments When, After Investigation, It Is Established That Underpayment or Other Violation Has Occurred (CCR 16435.5)

I. "Withhold" and "contracts" have the same meaning set forth in CCR Sections 16435(a) and 16435(b).

II. 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.

III. "Amount equal to the underpayment" is the total of the following determined by payroll review, audit, or admission of contractor or subcontractor:
   a. The difference between amounts paid workers and the correct General Prevailing Rate of Per Diem Wages, as defined in Labor Code Section 1773, and determined to be the prevailing rate due workers in such craft, classification or trade in which they were employed, and the amounts paid;
   b. The difference between amounts paid on behalf of workers and the correct amounts of Employer Payments, as defined in Labor Code Section 1773.1 and determined to be part of the prevailing rate costs of contractors due for employment of workers in such craft, classification or trade in which they were employed, and the amounts paid;
   c. Estimated amounts of "illegal taking of wages";
   d. Amounts of apprenticeship training contributions paid to neither the program sponsor's training trust nor the California Apprenticeship Council;
   e. Estimated penalties under Labor Code Sections 1775, 1776, and 1813.

IV. 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.

M. Provisions Relating to the Penalties Under Labor Code Sections 1775, 1776, 1777.7, 1813 and 1741

I. Pursuant to Labor Code Section 1775, the contractor and any subcontractor under the contractor shall, as a penalty to the state or political subdivision on whose behalf the contract is made or awarded; forfeit not more than two hundred dollars ($200) for each day, or portion thereof, for each worker paid less than the prevailing wages:
   a. The penalty may not be less than forty dollars ($40) for each calendar day, or portion thereof, for each worker paid less than the prevailing wage rate, unless the failure of the contractor or subcontractor to pay the correct rate of per diem wages was a good faith mistake and, if so, the error was promptly and voluntarily corrected when brought to the attention of the contractor or subcontractor.
   b. The penalty may not be less than eighty dollars ($80) for each calendar day, or portion thereof, for each worker paid less than the prevailing wage rate, if the contractor or subcontractor has been assessed penalties within the previous three years for failing to meet its prevailing wage obligations on a separate contract, unless those penalties were subsequently withdrawn or overturned.
   c. The penalty may not be less than one hundred twenty dollars ($120) for each calendar day, or portion thereof, for each worker paid less than the prevailing wage rate, if the Labor Commissioner determines that the violation was willful, as defined in Labor Code Section 1777.1.
   d. When the amount due under Labor Code Section 1775 is collected from the contractor or subcontractor, any outstanding wage claim under Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code against that contractor or subcontractor shall be satisfied before applying that amount to the penalty imposed on that contractor or subcontractor pursuant to Section 1775. The prime contractor of the project is not liable for any penalties under Labor Code 1775(a) unless the prime contractor had knowledge of that failure of the subcontractor to pay the specified prevailing rate of wages to those workers or unless the prime contractor fails to comply with the requirements of Labor Code 1775 (b) (1-4).

II. In the event that the contractor or subcontractor fails to comply subsequent to receipt of a written notice requesting the records enumerated in Labor Code Section 1776 (a) within the 10-day period, he or she shall, as a penalty to the state or political subdivision on whose behalf the contract is made or awarded, forfeit one hundred dollars ($100) for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. Upon the request of the Division of Apprenticeship Standards or the Division of Labor Standards Enforcement, these penalties shall be withheld from progress payments then due. A contractor is not subject to a penalty assessment pursuant to Labor Code Section 1776 due to the failure of a subcontractor to comply with this section.

III. In the case of overtime violations, Labor Code Section 1813 establishes that the contractor or subcontractor shall, as a penalty to the state or political subdivision on whose behalf the contract is made or awarded, forfeit twenty-five dollars ($25) for each worker employed in the execution of the contract by the respective contractor or subcontractor for each calendar day during which such worker is required or permitted to work more than 8 hours in any one calendar day and 40 hours in any one calendar week, in violation of the provisions of Article 3, Chapter 1, Part 7 of Division 2 of the Labor Code. The Awarding Agency shall take cognizance of all violations of Article 3 (Labor Code Sections 1810-1815).

IV. Pursuant to Labor Code Section 1777.5, the contractor and subcontractor are required to employ registered apprentices on public works projects. Each contractor and subcontractor shall keep an accurate payroll record relative to apprentices per Section 1776 of the Labor Code. The contractor or subcontractor found in violation of Labor Code Section 1777.5 shall forfeit as a civil penalty an amount not to exceed one hundred dollars ($100) for each full calendar day of noncompliance. Any contractor or subcontractor who knowingly commits subsequent violations of Labor Code Section 1777.5 within a three-year period could face a civil penalty of not more than three hundred dollars ($300) for each full day of noncompliance

and the possibility of being denied the right to bid on, be awarded or perform work on any public works project for up to three years.

V. Pursuant to Labor Code Section 1741(b), interest shall accrue on all due and unpaid wages at the rate described in subdivision (b) of Section 3289 of the Civil Code. The interest shall accrue from the date that the wages were due and payable, as provided in Article 1, Chapter 1, Part 7 (commencing with Section 1720) of Division 2 of the Labor Code, until the wages are paid.

VI. Pursuant to Labor Code Section 1741(c), the Labor Commissioner shall maintain a public list of the names of each contractor and subcontractor who has been found to have committed a willful violation of Section 1775 or to whom a final order, which is no longer subject to judicial review, has been issued. The list shall include the date of each assessment, the amount of wages and penalties assessed, and the amount collected. The list shall be updated at least quarterly, and the contractor's or subcontractor's name shall remain on that list until the assessment is satisfied, or for a period of three years beginning from the date of the issuance of the assessment, whichever is later.

N. Forfeitures Requiring Approval by the Labor Commissioner (8 CCR Section 16436)

I. For purposes of 8 CCR Sections 16436 and 16437, “forfeitures” means the amount of wages, penalties, and forfeitures assessed by the LCP 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.

II. 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.

III. For all other forfeitures, approval by the Labor Commissioner shall be requested and obtained in accordance with section 16437 below.

O. Determination of Amount of Forfeiture by the Labor Commissioner (CCR Section 16437)

I. Where the LCP 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 (a) through (i) below. Appendix D of CCR § 16437 is a suggested format for a Request for Approval of Forfeiture under this section.

   a. 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;
   b. Any other deadline which if missed would impede collection;
   c. Evidence of violation, in narrative form;
   d. 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;
   e. 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 LCP of its position;

f. Where the LCP 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);
g. Where the LCP seeks only wages or a penalty less than $50 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 pre-construction meeting 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 (f), and recommended penalty amounts, pursuant to Labor Code Section 1775(a);
h. The previous record of the contractor and subcontractor in meeting their prevailing wage obligations; and
i. Whether the LCP 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.

II. 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.

III. 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 LCP 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.

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

V. The Labor Commissioner's determination of the forfeiture is effective on one of the two following dates:
a. 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 LCP, 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.
b. 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.

P. Withholding Procedures after Forfeiture Determination by the Labor Commissioner

I. The LCPR shall provide a 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 liquidated damages being withheld. Service of the notice shall be completed pursuant to Code of Civil Procedure Section 1013 by first-class and certified mail to the contractor and subcontractor, if applicable. The notice shall advise the contractor and subcontractor, if applicable, of the procedure for obtaining review of the withholding of contract payments.

II. The LCPR 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 a bond, if their identities are known to the Awarding Agency.

III. 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.

IV. 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.

V. The withholding of contract payments in accordance with Labor Code Section 1726 or 1771.5 shall be reviewable under Labor Code Sections 1771.6 (b) and 1742 and Code of Regulations sections 17201-17270 in the same manner as if the notice of the withholding was a civil penalty order of the Labor Commissioner. If review is requested, the LCPR may request the Labor Commissioner to intervene to represent it.

VI. Pending a final order, or the expiration of the time period for seeking review of the notice of the withholding, the Awarding Agency shall not disburse any contract payments withheld.

Q. Settlement Meeting

I. In accordance with Labor Code section 1742.1 (b), the LCPR shall, upon receipt of a request from the affected contractor or subcontractor within 30 days following the service of the Notice of Withholding of Contract Payments, afford the contractor or subcontractor the opportunity to meet with the LCPR to attempt to settle a dispute regarding the notice.
    a. The settlement meeting may be held in person or by telephone and shall take place before the expiration of the 60-day period seeking a hearing as set forth below under the heading Request for Review of Notice of Withholding of Contract Payments;
    b. 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;
    c. No writing prepared for the purpose, 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;
    d. This opportunity to timely request an informal settlement meeting is in addition to the right to obtain a formal hearing; and
    e. A settlement meeting may be requested even if a written Request for Review has already been made.

II. Requesting a settlement meeting does not extend the 60-day period during which a formal hearing may be requested.

R. Request for Review of Labor Compliance Enforcement Action (CCR 16439)

I. A contractor or subcontractor may request a settlement meeting pursuant to Labor Code Section 1742.1(b) and may request review of a Labor Compliance Program enforcement action in accordance with Labor Code Sections 1771.6(b) and 1742 and the regulations found at sections 17201-17270 of Title 8 of the California Code of Regulations. The Labor Compliance Program shall have the 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.

II. 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.

III. Except in cases where the Labor Commissioner has intervened pursuant to subpart (b) above, the Labor Compliance Program 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 a Labor Compliance Program 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 Labor Compliance Program shall document the reasons for the settlement or request for dismissal and shall make that documentation available to the Labor Commissioner upon request.

S. Review of Notice of Withholding of Contract Payments

I. Within ten days following the receipt of the request for a review hearing, the LCPR shall transmit to the Office of the Director-Legal Unit the request for review and copies of the Notice of Withholding of Contract Payments, any audit summary that accompanied the notice, and a proof of service or other documents showing the name and address of any bonding company or surety that secures the payment of the wages covered by the notice.

II. The LCPR shall be represented by an attorney in prevailing wage hearings conducted pursuant to Labor Code Section 1742(b) and Code of Regulations sections 17201 – 17270.

T. Determination and Ruling on the Review by the Department of Industrial Relations

I. 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, pursuant to Labor Code Section 1742 (b), to be utilized by the LCPR at the hearing within 20 days of the receipt by the LCPR of the written request for a hearing. Any evidence obtained by the LCPR 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 Notice of Withholding of Contract Payments is incorrect. The Notice of Withholding of Contract Payments shall be sufficiently detailed to provide fair notice to the contractor or subcontractor of the issues at the hearing. Within 45 days of the conclusion of the hearing, the director shall issue a written decision affirming, modifying, or dismissing the assessment. The decision of the director shall consist of a notice of findings, findings, and an order. This decision shall be served on all parties pursuant to Section 1013 of the Code of Civil Procedure by first-class mail at the last known address of the party on file with the LCP. Within 15 days of the issuance of the decision, the director may reconsider or modify the decision to correct an error, except that a clerical error may be corrected at any time. The director has adopted regulations setting forth procedures for hearings under this subdivision. These regulations are found in Code of Regulations sections 17201-17270.

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

III. 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.

IV. 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.

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

U. Settlement Authority

Except in cases where the Labor Commissioner has intervened pursuant to Code of Regulations Section 16439 (b), The LCPR 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 LCPR 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 LCPR shall document the reasons for the settlement or request for dismissal and shall make that documentation available to the Labor Commissioner upon request.

V. Deposits of Penalties and Forfeitures Withheld

I. 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 LCPR shall deposit penalties and forfeitures with the Awarding Agency.

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

III. All penalties recovered in administrative proceedings or court action brought by or against the Labor Commissioner, and to which the Awarding Agency is not a party, shall be deposited in the General Fund of the State of California.

IV. All wages and benefits which belong to a worker and are withheld or collected from a contractor or subcontractor, either by withholding or as a result of administrative hearings or any court action and which have not been paid to the worker or irrevocably committed on the worker's behalf to a benefits fund, shall be deposited with the Labor Commissioner, who will handle such wages and benefits in accordance with Labor Code Section 96.7.

W. Debarment Policy

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

X. Disposition of Forfeited Sums

I. The prevailing wage recovery process of this LCP is established pursuant to Labor Code Section 1775 which provides that out of any funds withheld, recovered, or both, there shall first be paid the amount due each worker notwithstanding the filing of any Stop Notice by any person pursuant to Civil Code Section 3179, et seq. Thus, all workers employed on the public works project who are paid less than the prevailing wage rate shall have PRIORITY over all Stop Notices filed against the prime contractor.

II. In the event that there are "insufficient funds" available in the prime contractor account to pay the total amount of prevailing wage violations and penalty amounts due, the unpaid prevailing wages shall have PRIORITY STATUS and must be paid first, pursuant to Labor Code Section 1775. Furthermore, if insufficient funds are withheld, recovered, or both, to pay each underpaid worker in full, the money shall be prorated among all workers affected. From the amount recovered by the Awarding Agency, the wage claim shall be satisfied prior to the amount being applied to penalties. If insufficient money is recovered to pay each worker in full, the money shall be prorated among all workers. Wages for workers who cannot be located shall be placed in the Industrial Relations Unpaid Wage Fund and held in trust for the workers pursuant to Section 96.7. Penalties shall be paid into a general fund or other fund of the Awarding Agency's choosing.

Y. Reporting of Willful Violations to The Labor Commissioner

I. If an investigation reveals that a willful violation of the Labor Code has occurred, the LCPR will make a written report to the Labor Commissioner which shall include:
   a. An audit consisting of a comparison of payroll records to the best available information as to the actual hours worked; and
   b. The classification of workers employed on the public works contract.

II. Six types of willful violations are reported as follows:
   a. *For Failure to Comply with Prevailing Wage Rate Requirements*. Failure to comply with prevailing wage rate requirements as set forth in the Labor Code and Code of Regulations is determined a willful violation whenever less than the stipulated basic hourly rate is paid to trades workers, or if overtime, holiday rates, fringe benefits, and/or employer payments are paid at a rate less than stipulated. The facts related to such willful violations may result in a determination that the contractor intended to defraud its employees of their wages.
   b. *For Falsification of Payroll Records, Misclassification of Work, and/or Failure to Accurately Report Hours of Work*. Falsification of payroll records and failure to accurately report hours of work is characterized by deliberate underreporting of hours of work; underreporting the headcount; stating that the proper prevailing wage rate was paid when, in fact, it was not; clearly misclassifying the work performed by the worker; and any other deliberate and/or willful act which results in the falsification or inaccurate reporting of payroll records. Such violations are deemed to be willful violations committed with the intent to defraud.
   c. *For Failure to Submit Certified Payroll Records*. Refusing to comply with a request for certified payroll reports or substantiating information and will be determined to be a willful violation of the Labor Code. Additionally, refusing to correct inaccuracies or omissions that have been discovered will also be determined to be willful violation of the Labor Code.
   d. For Failure to Pay Fringe Benefits. Fringe benefits are defined as the amounts stipulated for employer payments or trust fund contributions and are determined to be part of the required prevailing wage rate. Failure to pay or provide fringe benefits and/or make trust fund contributions in a timely manner is equivalent to payment of less than the stipulated wage rate and shall be reported to the Awarding Agency and Labor Commissioner as a willful violation, upon completion of an investigation and audit.

e. *For Failure to Pay the Correct Apprentice Rates and/or Misclassification of Workers as Apprentices*. Failure to pay the correct apprentice rate or classifying a worker as an apprentice when not properly registered is equivalent to payment of less than the stipulated wage rate and shall be reported to the Awarding Agency and Labor Commissioner as a willful violation, upon completion of an investigation and audit.
f. *For the Taking of Kickbacks.* Accepting or extracting kickbacks from employee wages under Labor Code Section 1778 constitutes a felony and may be prosecuted by the appropriate enforcement agency.

City of Long Beach

Labor Compliance Program

Section VII

APPRENTICESHIP

A. The duties of the LCPR with respect to apprenticeship standards are as follows:

I. Inform the contractors and subcontractors bidding public works about apprenticeship requirements
II. Send copies of awards to the Department of Industrial Relations as required under Section 1773.3 of the Labor Code, and
III. Refer complaints and promptly report suspected violations of apprenticeship requirements to the Division of Labor Standards Enforcement.

B. The LCPR shall be responsible for enforcing prevailing wage pay requirements for apprentices consistent with the practice of the Labor Commissioner, including the following:

I. That any contributions required pursuant to Labor Code Section 1777.5(m) are paid to the appropriate entity;
II. That apprentices are paid no less than the prevailing apprentice rate;
III. That workers listed and paid as apprentices on the certified payroll records are duly registered as apprentices with the Division of Apprenticeship Standards; and
IV. Requiring that the journeyman prevailing wage rate be paid to any worker who is not a duly registered apprentice and 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

Annex A

INITIAL REVIEW OF CERTIFIED PAYROLL RECORDS

Step1 - The City of Long Beach receives a majority Payroll Records via contractor and subcontractor upload to a third-party labor compliance monitoring and document storage software which tracks the date received. Any wet-signature payroll received by the LCPR will be time stamped as to the date received by the Awarding Agency.

Step 2 - Within 30 days of receipt, the LCPR will compare the payrolls received to the list of payrolls required for the period. For any payroll that is not included or is incomplete, a Notice of Temporary Withholding of Contract Payments is prepared by the Awarding Agency and sent to all affected Contractors and Subcontractors.

Step 3 - The LCPR will begin the initial review of Certified Payroll Records that have been received. Each Contractor or Subcontractor will have a comparison spreadsheet that has been prepared at the initiation of the contract which will have displayed all prevailing wage determination data, based on the Trades, Classifications, Fringe Benefits and Apprentice requirements identified as being utilized by the company.

Step 4 - The LCPR will compare the comparison spreadsheet against the Certified Payroll to determine if the gross prevailing wage for the Trade and Classification meets with the prevailing wage of that Trade and Classification. Check of certified payroll for hours worked by day/week to determine if Overtime, Holiday, Travel or Subsistence pay was to be paid. If so, check the payroll to ensure the correct prevailing wage was paid. Check for the proper utilization of Apprentices and that correct prevailing wages have been paid to Apprentices.

Step 5 - For each month in which a contractor or subcontractor reports having workers on the project, confirmation of furnished payroll records will be undertaken randomly for at least one worker for at least one weekly period within that month. The LCPR will compare confirmation/backup records to corroborate prevailing wage payments.

Step 6 - Upon completion of initial review, provided no initial violation has been detected, Certified Payroll Records are logged into the file system of the project.

Step 7 - If an initial violation or potential violation has been detected by the LCPR, they will proceed to a “Confirmation” of Certified Payroll Records.

Step 8 - The LCPR will complete a labor compliance review and enforcement summary that indicates the status of the initial review and confirmation for each company for the period, if any of the contractors or subcontractors Certified Payrolls have not been received, and the status of anyTemporary Notices of Witholding.

Step 9 - When the Awarding Agency or LCPR receives a complaint of suspected violation(s), an accusation or any alleged wrong doing; the LCPR will proceed to a “Confirmation” of Certified Payroll Records.

Step 10 - After review of the initial complaint the Initial Complaint Information form will be completed. The basic information required to initiate a complaint include:

- Name of the complainant, including address and phone number;
- Name of the alleged violating contractor;
- Name of the prime contractor (if different); and
- Nature of the complaint

Annex B

CONFIRMATION AND AUDIT OF CERTIFIED PAYROLL RECORDS

Step 1- By written request the LCPR will notify the affected contractor of any potential violation and request further payroll records for confirmation and corroboration of prevailing wage payments as correct. Confirmation of Certified Payroll Reports may be accomplished through:

- Examination of Paychecks or Paycheck stubs;
- Confirmation/Documentation of "Employer Payments" as made to third party recipients;
- Worker Interviews; and
- Whatever other reasonable methods, as needed, to corroborate the reported prevailing wage payments.

Step 2- If after review and corroboration of the payroll records it is determined that no violation has occurred, or documentation is received that reflects corrections and restitution payments have been made to the employees, all records will be filed into the file system of the project.

Step 3- If after review and corroboration of the payroll records it is determined that a violation has occurred, and no documentation has been received to reflect that the violation has been corrected the LCPR will initiate a comprehensive audit to ascertain the amount of wages due the worker(s) as well as the statutory penalties that are to be assessed.

Step 4- A comprehensive audit is based on the LCPR's review of all documents and issues pertaining to the complaint or violation and has arrived at a decision concerning issues that must be audited. The LCPR will prepare & request documents listed on the Referral Checklist for a full audit. Documents needed to process the audit may include but are not limited to the following:

- Certified Payroll Records
- Fringe Benefit Statement/Statement of Employer Payments
- Time Cards
- Copy of Checks
- Inspector Logs
- Prevailing Wage Rates Spreadsheet for Company Concerned.
- Special Wage Determination(s) for the trades and crafts on the Certified Payroll
- Listing of Holidays
- Travel and Subsistence Information
- List of Apprentices (by name and classification)
- Any Special Instructions.

Step-5- An Audit Spreadsheet is created containing the following information:

- Auditor will make notes when audit entries are different from what is contained in the Certified Payroll.
- Any instance that data was entered that seems to be in contradiction to any other record. Examples:
    - Premium pay not paid for work on Saturday, Sunday or Holiday.
    - Travel and subsistence not paid.
    - Apparent underpayments where the contractor appears to be paying less than the required prevailing wages.
    - Hours obtained from time cards or records other than the Certified Payroll.
    - Individuals shown on the Certified Payroll as "apprentices" that are not properly registered.

Results of the Audit upon completion will be transferred to the Awarding Agency's Labor Compliance Officer.

Annex C

INVESTIGATIONS AND AUDITS

Step 1- 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 the CCR. 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. (CCR 16432(f))

Step 2- The initiation of comprehensive audit requirements is based on the Labor Compliance Officers review of all documents and issues pertaining to the complaint and has arrived at a decision concerning issues that must be audited. Should issues arise during the course of the audit, the auditor must resolve the issue in question and provide specific resolutions. Requests for audits will contain the documents needed to complete the audit. (Not all documents on this list may be available or needed in all audits):

- Case Log Summary to date
- All correspondence to try and address the violation
- Certified Payroll Records
- Fringe Benefit Statement
- Prime Contract
- Sub-Contract (if applicable)
- Scope of Work
- General Conditions
- Notice of Completion
- Amount of Held Funds
- Time Cards
- Copy of Checks
- Contractor and Inspector Logs
- Prevailing Wage Cheat Sheets
- Wage Determination(s) for the trades and crafts on the Certified Payroll
- Listing of Holidays
- Travel and Subsistence Information
- List of Indentured Apprentices (by name and classification)
- Any Special Instructions.

Case Logs are created on a “Word” document that will be titled with the case number assigned. (This document will be kept current during the progress of the audit). The LCPR will make notes on all activities done relative to the audit / investigation.

Step 3- Results of the Case Audit upon completion will be documented and reviewed by the Labor Compliance Officer to determine validity.

Step 4 – At the point the Labor Compliance Officer has determined that there is sufficient evidence to determine that a violation has occurred, a Notice of Intent to Request Forfeiture of Monies will be sent to the relative parties notifying them of the findings.

Step 5- At the completion of the contractor's appeal rights if no response to the Notice of Intent is received, from any affected party, the case file will be prepared and submitted to the Department of Industrial Relations (DIR) for forfeiture determination.

Step 6- Once the determination and approval of forfeiture is received by the Labor Compliance Officer a Notice of Withholding Contract Payments is produced and mailed first class and certified to the affected parties, to include the Awarding Agency, Construction Manager and Bonding Company.

Step 7 – A settlement meeting is held by the Awarding Agency upon timely request of the contractor or other parties.

Step 8 – A hearing is held by DIR upon timely request of the contractor or other parties.

Annex D

COMPLAINT & INVESTIGATION CASE PROCESSING

This LCP will operate in accordance with CCR 16434(b) which states:

Upon receipt of a written complaint alleging that a contractor or subcontractor has failed to pay prevailing wages as required by the Labor Code, the Labor Compliance Program shall do all of the following:

(1) Within 15 days after receipt of the complaint, send a written acknowledgment to the complaining party that the complaint has been received and 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 affected 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
(5) Notify the complaining party in writing at least once every 90 days of the status of a complaint that has been resolved by the Labor Compliance Program but remains under review or in litigation before another entity.

Step 1- Written complaints or investigation requests are received by the Labor Compliance Officer. After a review of the complaint or audit if a determination is made that an investigation is required, the Labor Compliance Officer will assign the LCPR to obtain the initial information to investigate the complaint.

Step 2 - The LCPR will prepare the Case Binder to include, but not limited to, the following:

- Contractor's name and case number
- Project Name
- Awarding Agency
- Prime Contractor (if different)
- Original complaint(s) and supporting documentation
- Copy of 1st bid advertisement
- Contract
- Sub Contract (if applicable)
- Second tier sub contract (if applicable)
- CSLB print outs on the contractors
- Entity information (Secretary of State print-outs, fictitious business statement, etc.)
- Prevailing Wage rates in effect and predetermined increases received from DLSR.
- Certified Payroll Records received from defendant contractor
- Certified Payrolls obtained from different sources (AB, prime contractor, etc. as required)
- Inspector Logs
- Audit and Audit notes
- Prior Violations
- Copies of executed Notice(s) to withhold and supporting documents
- Correspondence (filed in order mailed or received)

Additional information and documents will be inserted as needed consistent with the facts of the investigation. (Example would be if Certified Payroll(s) were not submitted timely and penalties pursuant to Labor Code 1776(h) were imposed, the Request for Certified Payroll, including the certified receipt and the green return receipt, become evidence, supporting the penalty assessment and should be tabbed).

Step 3- Processing the Investigation

This provides the general steps to be taken in processing an investigation. **As the facts of each investigation are different, not all steps need to be taken in every case or in the order presented**. An investigation of a public works case is a conscientious attempt to ascertain all pertinent facts relative to a suspected violation(s) based on a complaint, an accusation or any alleged wrong doing. The LCPR is required to exercise sound discretion in employing the investigative method or methods best suited to the type of violation involved.

- The LCPR will assign a case number and begin the Case Log.
- The LCPR will determine the Statutes of Limitations for action against the contractor and indicate the date on the Case Log. The statutes compel the LCP to complete the investigation, issue the proper notices to the parties, prepare and submit the case all within the time limits.
- The LCPR will research to see if any previous public work cases were filed against affected contractor. Specific attention is given to previous complaints filed against the same project. The results of the research are to be recorded on the Case Log and will be provided to the Department of Industrial Relations (DIR) if a Request for Forfeiture is needed.
- The LCPR will prepare the initial case notifications and requests. These notices and requests are the initial mailing package and consist of the:
    - Notification of Complaint Filed. Within 15 days after receipt of the complaint, provide the affected contractor with the notice required under Labor Code section 1775(c) if the complaint is against a subcontractor. The Notice of Complaint Filed is sent to complainant and all other relative parties. This form advises all parties (or potential parties) that the Awarding Agency's LCP has initiated a formal investigation.
    - An Employee Inquiry Form. Mailed to complainant and all other workers identified on certified payroll reports in possession of the Awarding Agency's LCP for the affected contractor.
    - A formal request for information/records is prepared and mailed to all affected parties, if not previously received as part of the LCPR's audit. Examples of items that may still be needed include the following:
        - Inspectors Logs
        - Contract(s)
        - Copies of the performance, Labor/Material and/or payment bonds
        - Copy of 1st bid advertisement
        - Page(s) (from the contract) listing the prevailing wage rate(s) on this contract.
        - Page(s) (from the contract advising the contractor of legal requirements to pay the prevailing wages.
        - Notice of Completion (if/when filed)
        - Date project began
        - Project completion (or estimated completion)
        - Amount of money being held by the Awarding Agency.
        - Location of the project.
        - Certified Payroll Records.
        - Fringe Benefit Statement/Statement of Employer Payments
        - Letter requesting supporting documentation (time cards and canceled checks, etc.)
- The LCPR will verbally contact all affected parties and the complainant to notify them that a complaint has been received and an investigation is commencing into the merits of the alleged violation of the Labor Code.
- The LCPR will attempt to identify and contact anyone who can verify the accuracy of the allegations and obtain permission for a written affidavit.
- The LCPR will keep the complainant informed timely throughout the entire investigative process but no less than:
    - Notify the complaining party in writing of the resolution of the complaint within ten days after the complaint has been resolved by the Investigations Team;

- 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 Investigations Team; and
- Notify the complaining party in writing at least once every 90 days of the status of a complaint that has been resolved by the Investigations Team but remains under review or in litigation before another entity.

- Upon receipt of all information and records the IA's audit will include the following steps:
  - The LCPR will take note of any data that does not seem to match.
  - The LCPR will compare the hours reported in the complaint and find out if they match.
  - The LCPR will review the Fringe Benefit Statement and compare this statement with the Certified Payroll(s) to ensure that the amounts claimed on the statement are reflected in the Certified Payroll(s).
  - Time Cards: Are the time cards original – written in different hands, at different times, or do they appear to be written by the same person at a later time?
  - Cancelled checks: Review checks submitted to be sure that the documents appear to have been cleared through a bank. Look at the check numbers and make sure that they correspond to the check numbers reported on the Certified Payroll(s).
  - Certified Payroll(s): Review the information reported on the Certified Payroll(s)
  - Determine if the information provided complies with the requirements of Labor Code 1776(c)
  - Review the Certified Payroll to identify any additional issues such as:
    - Correct utilization of reported apprentices
    - Obvious violations (failure to pay overtime over 8 hours per day or ratio Violations within certain crafts or failure to report wages for "owners" or "partners").
    - Hourly Rate of Pay: The rate that should be reflected in this column is the "total hourly wage" paid to (and on behalf of) the employee.
    - Check the certification statement for compliance with the Labor Code.
    - Review the Fringe Benefits Statement. If the contractor is claiming employer contributions, these contributions must be documented on the Fringe Benefit Statement. The contractor must provide proof of the payments in prevailing rate of per diem wages.
    - Provided the Certified Payrolls are accepted being accurate, and violations are substantiated, audit the certified payroll(s) to determine the amount of wages and penalties that are due.
    - If false Certified Payroll(s) are indicated, note this fact for possible filing of a felony complaint for violation of Labor Code 1778.
    - Indicate any failure to submit or faulty submission of Certified Payroll Reports. If the Certified Payrolls are not submitted, or if ALL the information is not provided, AND the time for submission has lapsed, initiate penalties pursuant to Labor Code 1776(h) to compel compliance.
- If the LCPR discovers potential violations of the Labor Code not pertaining to Public Works law, such as payment with insufficient fund checks, not providing paycheck stubs, apprenticeship issues, false Certified Payroll or kickbacks, the auditor shall submit these findings to the Labor Compliance Officer who shall submit these findings to the appropriate enforcing agency.
- At the point the LCPR has determined that there is sufficient evidence that a violation has occurred, a Notice of Intent to Request Forfeiture will be prepared by the Labor Compliance Officer and submitted to all affected parties notifying them of our findings and offering them an opportunity to meet. The purpose of the pre-withhold meeting is to review and discuss the initial audit results with the contractor(s), inform the contractor(s) of his/her due process rights, schedule a due date (10 days) for any mitigating evidence to be submitted by the contractor(s).
- After review and consideration of any mitigating evidence submitted by the contractor, the audit findings will be finalized. A letter is sent to the contractor with directions on how to make the payments along with the finalized audit. In the event that a settlement cannot be reached,

the case is then forwarded to the State Labor Commissioner for approval of the "Request for Approval of Forfeitures and Penalties".

- If the aggregate amount of forfeitures assessed to a contractor or subcontractor is less than $1,000.00, the forfeitures shall be deemed approved by the Labor Commissioner upon service and the Labor Commissioner's receipt of copies of the following:
    - The Notice of Withholding of Contract Payments authorized by Labor Code Section 1771.6(a);
    - An Audit as defined in section 16432(e) of the Regulations, and
    - 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.
- If the aggregate amount of forfeitures assessed to a contractor or subcontractor is $1,000.00 or more the Labor Compliance Officer must submit, in writing, a Request for Approval of Forfeiture to the State Labor Commissioner. 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.
    - The assessment shall be served not later than 18 months after the filing of a valid notice of completion in the office of the county recorder in each county in which the public work or some part thereof was performed, or not later than 18 months after acceptance of the public work, whichever occurs last.
    - A copy of the Request for Approval of Forfeiture and Penalties shall be served on the Contractor, Subcontractor, bonding company or surety and the Awarding Agency.
- The Labor Commissioner's determination of the forfeiture is effective on the date the Labor Commissioner serves by first class mail, on the LCP, on the Awarding Agency 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.
- Upon receipt of approval, the Labor Compliance Officer will prepare and issue a Notice of Withholding of Contract Payments against the affected contract(s). The Notice of Withholding of Contract Payments and the Notice of Right to Obtain Review procedures pursuant to Labor Code Section 1742 shall be served on the contractor(s) and bonding companies of the affected contractor(s) by certified mail and first-class mail.
- In accordance with Labor Code sections 1742 and 1771.6, an affected contractor or subcontractor may obtain review of the Notice of Withholding of Contract Payments by transmitting a written request to the office of the Awarding Agency's LCP that appears on the Notice within 60 days after service of the notice.
- In accordance with Labor Code section 1742.1 (c), the Awarding Agency's LCP 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 Awarding Agency'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 seeking a hearing as set forth below. 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, 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 Awarding Agency's designee to attempt to settle a dispute regarding this notice must be transmitted to the Awarding Agency.

- 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 Awarding Agency at the hearing within 20 days of receipt by the Awarding Agency of the written Request for Review.
- The Awarding Agency shall make evidence available for review 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 Awarding Agency's failure to make evidence available for review as required by Labor Code section 1742(b) and Rule 24 (CCR 17224) shall preclude the Awarding Agency from introducing such evidence in proceedings before the Hearing Officer or the Director.
- Within ten (10) days following the receipt of a Request for Review, the Awarding Agency shall transmit to the Office of the Director - Legal Unit, the Request for Review and copies of the Assessment or Notice of Withholding of Contract Payments, any Audit Summary that accompanied the Assessment or Notice, and a Proof of Service or other document showing the name and address of any bonding company or Surety.
- Within ten (10) days following the receipt of a Request for Review, the Awarding Agency shall also notify the Affected Contractor or Subcontractor of its opportunity and the procedures for reviewing evidence to be utilized by the Awarding Agency at the hearing on the Request for Review.
- Once the Request for Review is transmitted to DIR, DIR will contact all parties to begin Pre-Hearing Meetings, Settlement Meetings and a Hearing, if necessary.
- 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 had a place of business. The clerk, immediately upon filing, shall enter judgment for the State against the person assessed in the amount shown on the certified order.

Annex E

PREVAILING WAGE HEARING REGULATIONS

The following listing is provided to facilitate the identification of regulatory sections that may bear upon the duties and responsibilities of the LCP. The actual text of each section should be accessed on-line at http://www.dir.ca.gov/dlse/CCR.htm in order to ensure that the most current wording of each regulatory section is relied upon.

CALIFORNIA CODE OF REGULATIONS
TITLE 8, CHAPTER 8, SUBCHAPTER 6, SECTIONS 17201 through 17270

ARTICLE 1. GENERAL
17201. Scope and Application of Rules.
17202. Definitions.
17203. Computation of Time and Extensions of Time to Respond or Act.
17204. Appointment of Hearing Officers; Delegation of Appointment Authority to Chief Counsel.
17205. Authority of Hearing Officers..
17206. Access to Hearing Records.
17207. Ex Parte Communications.
17208. Intervention and Participation by Other Interested Persons.
17209. Representation.
17210. Proper Method of Service.
17211. Filing and Service of Documents by Facsimile or Other Electronic Means.
17212. Administrative Adjudication Bill of Rights.

ARTICLE 2. ASSESSMENT OR NOTICE AND REQUEST FOR REVIEW
17220. Service and Contents of Assessment or Notice of Withholding of Contract Payments.
17221. Opportunity for Early Settlement.
17222. Filing of Request for Review.
17223. Transmittal of Request for Review.
17224. Disclosure of Evidence.
17225. Withdrawal of Request for Review; Reinstatement.
17226. Dismissal or Amendment of Assessment or Notice of Withholding of Contract Payments.
17227. Early Disposition of Untimely Assessment, Withholding, or Request for Review.
17228. Finality of Assessment or of Withholding of Contract Payments When No Timely Request for Review is Filed; Authority of Awarding Body to Disburse Withheld Funds.
17229. Finality of Notice of Withholding of Contract Payments; Authority of Awarding Body to Recover Additional Funds.

ARTICLE 3. PREHEARING PROCEDURES
17230. Scheduling of Hearing Date; Continuances and Tolling.
17231. Prehearing Conference.
17232. Consolidation and Severance.
17233. Prehearing Motions; Cut-Off Date.
17234. Evidence by Affidavit or Declaration.
17235. Subpoena and Subpoena Duces Tecum.
17236. Written Notice to Party in Lieu of Subpoena.
17237. Depositions and Other Discovery.

ARTICLE 4. HEARINGS
17240. Notice of Appointment of Hearing Officer; Objections.
17241. Time and Place of Hearing.
17242. Open Hearing; Confidential Evidence and Proceedings; and Exclusion of Witnesses.
17243. Conduct of Hearing.
17244. Evidence Rules; Hearsay.

17245. Official Notice.
17246. Failure to Appear; Relief from Default.
17247. Contempt and Sanctions.
17248. Interpreters.
17249. Hearing Record; Recording of Testimony and Other Proceedings.
17250. Burdens of Proof on Wages and Penalties.
17251. Liquidated Damages.
17252. Oral Argument and Briefs.
17253. Conclusion of Hearing; Time for Decision.

ARTICLE 6. DECISION OF THE DIRECTOR
17260. Decision.
17261. Reconsideration.
17262. Final Decision; Time for Seeking Review.
17263. Preparation of Record for Review.
17264. Request for Participation by Director in Judicial Review Proceeding.

ARTICLE 7. TRANSITIONAL RULE
17270…Applicability of these Rules to Notices Issued Between April 1, 2001 and June 30, 2001.

Annex F

SITE VISIT MINIMUM STANDARDS

These protocols have been developed to provide the Field Representative (FR) with minimum standards to be followed while in the process of conducting interviews on construction project sites. In all instances, the Awarding Agency's FR will conduct themselves in a professional and authoritative manner. The Awarding Agency's FR's will be familiar with applicable provisions of the Labor Code in order to converse with administrators or construction personnel of any level.

- **On-Site Visitations**

Per CCR 16432(d), representatives of the Labor Compliance Program shall conduct in-person inspections at the site or sites at which the contract for public work is being performed ("On-Site Visits"). On-Site Visits may be undertaken randomly or as deemed necessary by the Labor Compliance Program, but shall be undertaken during each week that workers are present at sites at which the contract for public work is being performed. All On-Site Visits shall include visual inspection of (1) the copy of the determination(s) of the Director of Industrial Relations of the prevailing wage rate of per diem wages required to be posted at each job site in compliance with Labor Code Section 1773.2, and (2) the Notice of Labor Compliance Program Approval required to be posted at the job site in accordance with section 16429 above, listing a telephone number to call for inquiries, questions, or assistance with regard to the Labor Compliance Program. On-Site Visits may include other activities deemed necessary by the Labor Compliance Program to independently corroborate prevailing wage payments reported on payroll records furnished by contractors and subcontractors.

Each construction project is unique, and all of the listed protocols will not necessarily be utilized, precisely as stated, during the course of each site visit. However, in most cases the Awarding Agency FR's will employ the basic concepts expressed in each protocol to accomplish the purpose of their site visit in an efficient manner.

- All FR's visiting any construction site are required to wear a visible picture ID (badge), and to properly identify themselves as such. Additionally, all FR personnel are required to wear hard hats, safety vests and safety shoes.
- Safety is the paramount factor for any site visit to any construction project. FR's will not enter any area that appears unsafe. Areas of concern include, but are not limited to, grading operations, trenching and work within a trench, hazardous materials abatement, concrete placement, demolition or the removal roofing materials. FR's are expected to exercise reasonable caution at all times.
- Should FR's witness what they consider to be a potentially unsafe condition, they will contact the site inspector or job superintendent of their findings immediately and make note on the site visitation interview form of what they observed. Upon return to the office, the FR will report their findings to the Awarding Agency's Labor Compliance Officer.
- When inspections are conducted on Owner-occupied sites, the FR shall, upon arrival:
  - Check in at the Administrative office;
  - Identify themselves and state the purpose of the visit; and
  - Sign in if required to do so

If the opportunity presents itself and, dependent on the nature of any questions, the FR will take a few minutes to answer any questions and discuss activities or the services provided by the Awarding Agency's LCP with administrative level personnel but will not seek personnel out.

- Prior to any interviewing, the FR shall:
  - Check in at the site superintendent's trailer;

        - Take a few minutes to talk with the Superintendent;
        - Develop a working relationship;
        - Gain information pertaining to the project such as:
            - Duration or phasing;
            - What contractors are on-site that day;
            - Work activities in process or anticipated, etc.
    - In the event there is not a construction trailer or job superintendent, the FR will locate each contractor's foreman.
    - If for some reason the FR is denied access to the site, or informed that they may not interview the workmen:
        - FR will promptly and politely remove themselves;
        - FR will immediately contact the Awarding Agency's LCO, by phone, to report the incident.
        - Make a note of this occurrence on the site visitation interview form along with all available details such as:
            - Time of day;
            - Name of party denying access;
            - Stated reason for denying access, etc.

    FR will include this note in their report to the Awarding Agency's LCO.

    - There will be times when the site superintendent is somewhere on the site and/or there is no contractor present in the trailer. The FR will check in at the Inspector of Record (IOR) trailer. If all trailers are empty or locked, FR will try to locate the site superintendent or IOR, on the site prior to commencing interviewing. If the FR is unable to locate the superintendent or IOR they will proceed with interviews after speaking with each contractor's foremen.
    - FR will check to see that the following are displayed in the contractor's trailer or the Administrative Office.
        - Equal Opportunity Employment Posters
        - Required jobsite posting NOTICE that the project is a prevailing wage public work
        - Prevailing wage sheets available for review by the tradesmen
        - Sign-in Log
        - e. Listing of subcontractors on site

    If any of these items are not readily visible, the FR will remind the CM, GM, PM that these postings are part of the contractual and legal requirements. On subsequent visits, the FR will make sure that these items are posted or readily available upon request. If these items are not posted or readily available, the FR will advise the Awarding Agency LCPR, CM, GM, PM of the non-compliance with the law and the contract requirements.

    - The Field Representative shall visit all sites on an unannounced random weekly basis. During inclement weather contact will be made with the Prime/General Contractor or Construction Manager in an attempt to determine if there will be any activity at the site that day.

- **Interviewing**
    - Once the FR has checked in and obtains access to the site:
        - FR will locate the Foreman for each contractor on the project prior to conducting the interviews.
        - Identify themselves as the Awarding Agency LCPR acting on behalf of the Awarding Agency; and, if necessary

        - Explain that the FR activity is a legal requirement placed on the Awarding Agency as a result of the ongoing construction work.
    - The FR shall conduct all interviews on a non-interference basis. The contractor's foreman may want to accompany the FR during the interview process, such action is not to be considered as interference, however interference does result when a foreman restricts questioning or the specific tradesmen that may be interviewed.
    - A minimum amount of the workers' time will be taken for interview purposes. When making the decision regarding whom to interview, the FR will look for tradespersons working in clusters. For instance, several painters, electricians, roofers, etc. working in one area.
        - Workers will be approached individually, in a non-threatening, professional manner;
        - The FR will identify themselves;
        - Inform workers why they are there and that they need only a few minutes of their time to ask some very generic questions to ensure that they are receiving the proper rate of pay for the type of work they are doing.
        - The FR will not endanger themselves or any tradesperson's safety in conducting these interviews.
        - The FR will not insist that someone on a scaffold 40 feet in the air come down for an interview or attempt to interview tradesmen actively involved in activities such as a concrete pour, crane operation, etc.
        - The FR will not ask anyone to stand by until they can get to them; they will be allowed to continue working until the FR can get to them individually.
    - These interviews are random; two or three tradespersons for each contractor/subcontractor is more than sufficient for one visit. Any persons missed are usually picked up on the next visit. If only one tradesperson is at the site, then that person will be interviewed, if possible. Thirty minutes of interviewing per site is typically sufficient, depending upon the site size and/or number of subcontractor's present.
    - Interviews will not be conducted during the Tradesmen's breaks or lunch periods.

- **Site Visitation Interview Form**
    - The FR will use the Site Visitation Interview form and ask each person the following:
        - Name;
        - Last four digits of their social security number;
        - Employer;
        - Title (trade);
        - Rate of pay; and
        - Task being performed at the time of interview
    - Should someone decline to speak with the FR, those wishes will be respected. If someone asks if this is union-related, the FR will advise them that they work as the Awarding Agency's LCPR on the project.
    - If someone refuses to disclose his/her social security number, those wishes will be respected. The FR will assure that person that all information given is kept strictly confidential and make the attempt to get his/her complete name.
    - If someone does not know their rate of pay, FR will ask for an approximate amount. If the response is, "Whatever prevailing wage is", that is what will be indicated on the form.
    - If a worker states that he/she does not know what contractor they are working for, the FR will track down the site superintendent and ask his assistance in determining the responsible contractor. (Workers who don't know their employing contractor are often an indication of an "underground" crew being employed by the contractor.
    - If someone indicates that he/she is an apprentice, they will be asked their current apprentice level. If he/she is not sure, they will be asked how many years he/she has

been apprenticed in the specific trade or to approximate, and this will be indicated on the interview form.
    - If someone is interviewed that does not speak English and the FR cannot communicate in the appropriate language, the FR will try to locate a coworker who can interpret. If an entire crew is unable to speak English and there is no interpreter, this will be included on the report.
    - The FR is there to collect information only, tradesmen will not be told how to do their jobs or that the amount of hourly wage they are reporting is below the determined wage. The FR will not solicit or invite the tradesmen to initiate a complaint through them or give them the impression that it is within the FR duties. The FR will explain that for reasons of confidentiality, they should contact the Awarding Agency's LCP office and speak with the LCPR and a business card will be left with them.
    - Within the Site Observations portion of the interview form the FR will give as much information as they can that pertains to the work in progress. The FR will approximate the total number of tradesmen on the site and ask each foreman how many employees he has on the project that day.
    - All tradesmen will be thanked for their time.

- **Site Superintendents Daily Reports**
    - A copy of the site superintendent's daily reports for the previous week will be obtained and submitted to the LCPR no later than the end of each workweek.

- **Reporting**
    - All original interview forms and daily reports shall be submitted to the LCPR no later than the end of each workweek.

Annex G

FORMS

Apprentice Ratio Request
Apprentice Requirements Letter – Initial
CAC-2 (with Sample & Instructions)
Checklist of Labor Law Requirements to Review at Pre-job Conference with Contractor's
Contractor Close-out Report
Public Works Investigation Worksheet
Public Works Audit Worksheet
Prevailing Wage Determination Summary (Appendix B)
Single Project Labor Compliance Review and Enforcement Report Form (Appendix C - CCR16434)
Notice of Temporary Withholding of Contract Payment Due to Delinquent or Inadequate Payroll Records
Request for Approval of Forfeiture Amount (Appendix D – CCR 16437)
Notice of Withholding Contract Payments (Labor Code Section 1771.6)
Notice of Opportunity to Review Evidence (Labor Code Section 1742b and CCR 17223)
Notice of Transmittal of Request for Review to DIR Lead Hearing Officer (CCR17223)
Employee Inquiry Form
Exhibit List
Fringe Benefits Statement (Form PW 26) with Instructions
Listing of Helpful Websites
Initial Complaint Information Form
Introduction
Notice & Request to Review Evidence
Notice of Complaint Closed
Notice of Complaint Filed
Notice of Intent to Request Forfeiture of Monies
Notice of Investigation
Notice of Request for Approval of Forfeiture
Notice of Withholding – Transmittal
Notification of Gross Wage Distribution – Tax Liability
Notification to DAS After Investigation of Training Funds Owed Them.
Notification to Worker of Monies Owed Them
Notification of Restitution Check
Payroll Certification
Public Works Payroll Reporting Form
Pre-bid Conference and Job Walk
Preconstruction Notice
Project Closeout Report
Project Data Checklist
Records Request – Extension Letter
Request a Modification to Forfeiture
Request for Information – Complainant
Settlement Meeting Scheduled
Site Visitation Interview
Statement of Non-Performance
Unpaid Wage Fund
Verification of Apprentice-Journeyman Ratios

Annual Report Form LCP-AR 1 (CCR 16431)
Form DAS-142 Request for Dispatch of an Apprentice
Form DAS-140 Public Works Contract Award

EXAMPLE REQUEST FOR APPRENTICESHIP-JOURNEYMAN RATIO

(City of Long Beach Letterhead)

(Date)
(Apprenticeship Committee Name)
(Apprenticeship Committee Address or Fax)

REQUEST FOR MOST RECENT APPRENTICESHIP-TO-JOURNEYMAN RATIO

In our ongoing efforts to maintain our high standards of professionalism and willingness to work cooperatively with the DAS and your Apprenticeship Committee to provide guidance and leadership, we request a copy of the most recent ratios for the following:

Program/Committee:

County:

Classification

Thank you in advance for your assistance. If you should have any questions, please call the City of Long Beach's Labor Compliance Office at (562) 570-6037 or email laborcompliance@longbeach.gov.

Thank you,

Name
Labor Compliance Officer

Apprentices on Public Work projects
Summary of requirements

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

1. Submit contract award information.
Contractors who are not already approved to train by an apprenticeship program sponsor shall provide contract award information to all of the applicable apprenticeship committees whose geographic area of operation includes the area of the public works project. **Submit contract award information** to the apprenticeship committee for each apprenticeable craft or trade in the area of the site of the public works project that has approved the contractors, who are participants in an approved apprenticeship program, to train apprentices. (Title 8, California Code of Regulations, Section 230). The contract award information shall be in writing and may be on a Public Works Contract Award Information form (DAS 140). The information shall be provided to the applicable apprenticeship committee within ten (10) days of the date of the execution of the prime contract or subcontract, but in no event later than the first day in which the contractor has workers employed upon the public work. (Title 8, California Code of Regulations, Section 230). **The filing of a DAS 140 is not a request for dispatch of registered apprentices.**

2. Employ registered apprentices on the Public Works project in a ratio of no less than one (1) hour of apprentice work for every five (5) hours performed by a journeyman.

A. Contractors who are not already employing sufficient registered apprentices to comply with the one-to-five ratio must request the dispatch of required apprentices from the apprenticeship committees providing training in each applicable craft or trade and whose geographic area of operation includes the site of the public work by giving the committee written notice of at least 72 hours (excluding Saturdays, Sundays and holidays) before the date on which apprentices are required.
B. If the apprenticeship committee from which apprentice dispatch is requested does not dispatch apprentices as requested, the contractor must request apprentice dispatch from another committee providing training in the applicable craft or trade in the geographic area of the site of the public work, and must request dispatch from each such committee, either consecutively or simultaneously, until the contractor has requested apprentice dispatch from each such committee in the geographic area.
C. If a non-signatory contractor is dispatched fewer apprentices than requested from an apprenticeship program the contractor must request dispatch from all other committees that provide training in the applicable craft or trade whose geographic area of operation includes the site of the public work. (Title 8, California Code of Regulations, Section 230.1).

3. Make training fund contributions in the amount established in the Prevailing Wage Rate publication for journeymen and apprentices. Contractors who contribute to an apprenticeship program are entitled to a full credit in the amount of those contributions. Contractors who do not contribute to an apprenticeship program must submit their contributions to the California Apprenticeship Council.

Funds are due & payable by the 15th of the month for work performed during the preceding month. The contribution should be paid by check and be accompanied by a copy of the completed CAC - Training Fund Contributions online form found at: https://www.dir.ca.gov/DAS/tf/cac2.asp, and mailed to:

Department of Industrial Relations
California Apprenticeship Council
P.O. Box 511283
Los Angeles, CA 90051-7838

See www.dir.ca.gov for the complete regulations and Labor Code provisions.

State of California
Department of Industrial Relations
California Apprenticeship Council
P.O. Box 511283
Los Angeles, CA 90051-7838
https://www.dir.ca.gov/DAS/tf/cac2.asp

TRAINING FUND CONTRIBUTIONS

CALIFORNIA APPRENTICESHIP COUNCIL

Online form found at: https://www.dir.ca.gov/DAS/tf/cac2.asp
Please complete, print and send to the address above.
One check payable to the California Apprenticeship Council, may be submitted for all jobsites and/or occupations.
Training fund contributions are **not accepted** by the California Apprenticeship Council for federal public works projects, unless the project is administered by a public agency or for non – apprenticeable occupations such as utility technicians, lead abatement worker, etc.

Name and Address of Contractor/Subcontractor making Contribution	Contractor's License Number		
	Contract or Project Number		
Name and Address of Public Agency Awarding Contract	Jobsite Location (including County)		
	Period Covered by Contribution From: To:		
Classification(s) of Workers (Carpenter, Plumber, Electrician, Etc...)	Hours	Contribution Rate per hour	Amount
IF APPRENTICES WERE EMPLOYED, PLEASE LIST THE APPRENTICESHIP PROGRAM AND NUMBER OF APPRENTICE HOURS WORKED BELOW			
TYPE OR PRINT YOUR NAME AND TITLE	Date		
E-mail	Area Code & Telephone Number		

State of California
Department of Industrial Relations
California Apprenticeship Council
P.O. Box 511283
Los Angeles, CA 90051-7838
https://www.dir.ca.gov/DAS/tf/cac2.asp

TRAINING FUND CONTRIBUTIONS

CALIFORNIA APPRENTICESHIP COUNCIL

Online form found at: https://www.dir.ca.gov/DAS/tf/cac2.asp
Please complete, print and send to the address above.
One check payable to the California Apprenticeship Council, may be submitted for all jobsites and/or occupations.
Training fund contributions are not accepted by the California Apprenticeship Council for federal public works projects, unless the project is administered by a public agency or for non – apprenticeable occupations such as utility technicians, lead abatement worker, etc.

SAMPLE

Name and Address of Contractor/Subcontractor making Contribution	Contractors License Number
ATLAS CONSTRUCTION COMPANY **12345 MAIN STREET** **ANYWHERE, CA 99999**	**123456**
	Contract or Project Number **XX-XXX-XX**
Name and Address of Public Agency Awarding Contract **OUR UNIFIED SCHOOL DISTRICT** **987 BROAD STREET** **EVERYWHERE, CA 99999**	Jobsite Location (including County) **HAPPY DAZE E.S.** **789 WIDE STREET** **ANYWHERE, CA 99999**
	Period Covered by Contribution From: **00/00/0000** To: **00/00/0000**

Classification(s) of Workers (Carpenter, Plumber, Electrician, Etc...)	Hours	Contribution Rate per hour	Amount
CARPENTERS	**40**	**$0.65**	**$26.00**
LABORER-GROUP #2	**40**	**$0.37**	**$14.80**

IF APPRENTICES WERE EMPLOYED, PLEASE LIST THE APPRENTICESHIP PROGRAM AND NUMBER OF APPRENTICE HOURS WORKED BELOW

Signature	Date
JOHN ATLAS	**00/00/0000**
Title **PRESIDENT**	Area Code & Telephone Number **555-555-5555**

CAC-2 FORM- APPRENTICE TRAINING CONTIBUTION REQUIREMENTS

(CALIFORNIA CODE OF REGULATIONS: TITLE 8; ARTICLE 4, 16200(G))

A contractor or subcontractor on a public works contract, who, in performing any of the work under the contract, employs journeymen or apprentices in any apprenticeable craft or trade must pay training fund contributions or apprenticeship contributions in the same amount that the director determines is the prevailing amount of apprenticeship training contributions in the area of the public works site in one of the following manners:

1. *Into the appropriate craft apprenticeship program in the area of the site of the public work; or*
2. *If the trust fund is unable to accept such contributions an equivalent amount shall be paid to the California Apprenticeship Council (CAC) administered by DAS; or*
3. *If neither of the above will accept the funds, cash payment as provided for in California Code of Regulations section 16200(a)(3)(I) shall apply.*

NOTE: CASH PAYMENTS TO THE EMPLOYEE CAN ONLY OCCUR WHEN THEIR CRAFT OR TRADE IS DESIGNATED AS NON-APPRENTICEABLE BY THE DEPARTMENT OF INDUSTRIAL RELATIONS.

CONTRACTORS EMPLOYING OWNER-OPERATORS, SOLE PROPRIETORS, AND PARTNERS WHO ARE PERFORMING LABOR ON THE PUBLIC WORKS PROJECT MUST CONTRIBUTE TRAINING FUNDS FOR EACH HOUR WORKED.

A contractor may take as a credit for payments to the council any amounts paid by the contractor to an approved apprenticeship program that can supply apprentices to the site of the public works project. Training Contributions must be paid for every hour worked by every journeyman and apprentice working in an apprenticeable craft (including overtime). Training Funds cannot be paid to the workers unless it is a non-apprenticeable craft.

Payment of Apprenticeship Training Contributions to the Council

Contractors who are neither required nor wish to make apprenticeship training contributions to the applicable local training trust fund shall make their training contributions to the California Apprenticeship Council. Contractors can call the Director's office of Policy, Research and Legislation (OPRL) at (415) 703-4774 or visit their website to obtain the applicable prevailing wage determination that reflects the Training Fund Contribution rates owed for each hour of work performed by journeymen and apprentices in each apprenticeable occupation.

Funds are due & payable by the 15th of the month for work performed during the preceding month. The contribution should be paid by check and be accompanied by a copy of the completed CAC - Training Fund Contributions online form found at https://www.dir.ca.gov/DAS/tf/cac2.asp, and mailed to:

Department of Industrial Relations
California Apprenticeship Council
P.O. Box 511283
Los Angeles, CA 90051-7838

Monthly Documentation of Training Fund Contributions

A copy of the CAC online form or CAC-2 form which has been submitted to the CAC accompanied with a copy of the applicable check, copies of the reporting forms utilized along with check copies to reflect payment or a letter from the appropriate Joint Apprenticeship Training Committee, Union or Trust stating that your contributions are paid current shall be submitted to **The City of Long Beach** for each month, or portion thereof, that employees are dispatched to the Public Works project.

LABOR LAW CHECKLIST

Suggested Checklist of Labor Law Requirements to Review at Prejob Conference, Section 16421, with suggested Certification by subcontractor.

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

1) The contractor's duty to pay prevailing wages under Labor Code Section 1770 et seq., should the project exceed the exemption amounts;
2) The contractor's duty to employ registered apprentices on the public works project under Labor Code Section 1777.5;
3) The penalties for failure to pay prevailing wages (for non-exempt projects) and employ apprentices including forfeitures and debarment under Labor Code Sections 1775 and 1777.7;
4) The requirement to keep and submit copies upon request of certified payroll records under Labor Code Section 1776, and penalties for failure to do so under Labor Code Section 1776(g);
5) The prohibition against employment discrimination under Labor Code Section 1777.6; the Government Code, and Title VII of the Civil Rights Act of 1964;
6) The prohibition against accepting or extracting kickback from employee wages under Labor Code Section 1778;
7) The prohibition against accepting fees for registering any person for public work under Labor Code Section 1779; or for filling work orders on public works under Labor Code Section 1780;
8) The requirement to list all subcontractors under Public Contracts Code Section 4104;
9) The requirement to be properly licensed and to require all subcontractors to be properly licensed and the penalty for employing workers while unlicensed under Labor Code Section 1021 and under the California Contractors License Law, found at Business and Professions Code Section 7000 et seq;
10) The prohibition against unfair competition under Business and Professions Code Sections 17200-17208;
11) The requirement that the contractor be properly insured for Workers Compensation under Labor Code Section 1861;
12) The requirement that the contractor abide by the Occupational, Safety and Health laws and regulations that apply to the particular construction project;
13) The federal prohibition against hiring undocumented workers, and the requirement to secure proof of eligibility/citizenship from all workers.
14) The requirement to provide itemized wage statements to employees under Labor Code Section 226.

Certification:

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 subcontractor].

_____ _____

Date Name of person signing and company

LABOR COMPLIANCE CONTRACTOR CLOSE OUT SUMMARY

Awarding Body: _____

Project:_____

Contractor:_____

Sub-contractor to:_____

LABOR COMPLIANCE DOCUMENTS

DOCUMENT	OK	DATE OR NOT PROVIDED
BID ADVERTISEMENT		DATE ADVERTISED:
DAS-140		
LCP ACKNOWLEGEMENT		
VIOLATION(S) PRINT OUT		
NOTICE OF COMPLETION		RECORDED DATE:

PAYROLL RECORDS

ITEM DESIGNATION	OK	NC	REASON (Explain - Non-Compliance)
Payroll / Non-Performance			
Payroll Certifications			
Trade Classifications			
Training Payments (MONTHLY)			
Fringe Benefit Payments			
Apprentice: Utilization/Request/Denial			

REQUEST LETTERS

REQUEST TYPE	DATE SENT	DATE DOCS REC'D	REC'D ALL DOCS	PENALTY AMOUNT FOR OVER 10 DAYS

FINES/PENALTIES

FORFITURE TYPE	RESPOND DATE	# OF DAYS	# OF	TOTAL AMOUNT
Document Request				
Wage Underpayment				

COMMENTS and RELEVANT NOTES REGARDING RECOMMENDATION BELOW :

_____

_____

_____

_____

LABOR COMPLIANCE OFFICER RECOMMENDS:	Close		Keep Open		Fines/Penalties		Investigation	
	Notice of Withhold				Full Payroll Audit		DAS Complaint	
Name:	**Signature**							

DEPT. OF INDUSTRIAL RELATIONS - DIVISION OF LABOR STANDARDS ENFORCEMENT

PUBLIC WORKS INVESTIGATION WORKSHEET

Classification Code	EMPLOYEE'S NAME	SOCIAL SECURITY NUMBER								DEPUTY		OFFICE			DATE	Employer					Case Number	
	PERIOD ENDING / YEAR / wk end	HOURS OF WORK -Thu DATE	-Wed DATE	-Tue DATE	-Mon DATE	-Sun DATE	-Sat DATE	Fri DATE	TOTAL DAYS WORKED	TOTAL HOURS WORKED ST,OT,DT	ACTUAL RATE ST / OT / DT	OTHER COMPEN-SATION	TOTAL WAGES PAID	Required Wage Rates St,Ot,Dt	OTHER COMPEN-SATION	TOTAL WAGES REQUIRED	AMOUNT DUE AND OWING	No. of Violations	PENAL-TIES 1775___	No. of Violations	PENAL-TIES 1813___	TOTAL TRAINING FUND	Amount Due and Owing
		ST																				Rate	
		OT																					
		DT																					
		ST																				Rate	
		OT																					
		DT																					
		ST																				Rate	
		OT																					
		DT																					
		ST																				Rate	
		OT																					
		DT																					
		ST																				Rate	
		OT																					
		DT																					
		ST																				Rate	
		OT																					
		DT																					
		ST																				Rate	
		OT																					
		DT																					
		ST																				Rate	
		OT																					
		DT																					
		ST																				Rate	
		OT																					
		DT																					
		ST																				Rate	
		OT																					
		DT																					
		ST																				Rate	
		OT																					
		DT																					
		ST																				Rate	
		OT																					
		DT																					
		ST																				Rate	
		OT																					
		DT																					
		ST																				Rate	
		OT																					
		DT																					

ST hours worked

OT hours worked

DT hours worked

TOTALS

Page No. ___

PUBLIC WORKS AUDIT WORKSHEET

EMPLOYER / FIRM	DEPUTY	OFFICE
ADDRESS / CITY	TRANSCRIBER	
PROJECT / AWARDING BODY / PRIME	AUDIT NUMBER/CASE NUMBER	

TOTAL AMOUNT DUE/OWING	
WAGES DUE AND OWING	
PENALTIES DUE AND OWING	
TRAINING FUND DUE/OWING	

EMPLOYEE	CLASSIFICATION	PERIOD WORKED	HOURS WORKED ST.	OT.	D.T.	OTHER WAGES PAID	TOTAL WAGES PAID	PREVAILING WAGE REQUIREMENTS *OTHER	TOTAL WAGES	AMOUNT OWING AND UNPAID	PENALTIES NO.1	PENALTIES NO. 2	TRNG. FUND	TOTAL AMOUNT DUE

The following entries represent the amounts relied upon for calculating Labor Code 1775 and 1813 penalties.

1775 ________ Per Day
1813 ________ Per Day

Summary

PREVAILING WAGE DETERMINATION SUMMARY

CODE NO.	CLASSIFICATION	Effective Date	HOURLY RATE	Contributions	TRAINING	TIME 1/2	HOLIDAY / SUNDAY	TRAVEL & SUBSISTENCE	Other hourly Requirements
1									
2									
3									
4									
5									
6									
7									
8									
9									
10									
11									
12									

WAGE DETERMINATION INFORMATION

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

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:

Contractor/Subcontractor	For weeks ending("w/e") through w/ e
_____	_____
_____	_____
_____	_____
_____	_____

b. Classifications identified in CPRs and applicable Prevailing Wage Determinations

Classification	Determination No.

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

Contractor/Subcontractor	Worker Interviews (Yes/No)	Reconciled CPRs with Pay-checks or Stubs (Yes/No)

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

Contractor/Subcontractor	Recipients of Employer Payments	Written confirmation Obtained (Yes/No)

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

Contractor/Subcontractor	Recipients of Contributions	Written confirmation Obtained (Yes/No)

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

Contractor/Subcontractor	Additional amounts Paid to Workers	Additional Training Fund	Explanation
			*
			*
			*
			*

* Use separate page(s) for explanation

6. Complaints Received Alleging Noncompliance with Prevailing Wage Requirements.

Name of Complainant	Date Received	Resolution or Current Status
		*
		*
		*
		*

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

7. Requests for Approval of Forfeiture to Labor Commissioner

Contractor/Subcontractor	Date of Request	Approved/Modified/Denied

8. Litigation Pending Under Labor Code Section 1742

Contractor/Subcontractor	DIR Case Number

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

_____
Authorized Representative for Labor Compliance Program

[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 <u>both</u> the Labor Compliance Program and to the Lead Hearing Officer for the Director of the Department of Industrial Relations, as follows:**

[Name of Labor Compliance
Officer, address, and fax number]

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.

- -

Enclosure – text of 8 CCR §16435

§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 Oceangate 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.

Labor Compliance Program _____ _____ _____ _____ Phone: Fax:	(SEAL)
Date:	In Reply Refer to Case No.:

Notice of Withholding of Contract Payments

Awarding Body	[3]Work Performed in County of
Project Name	[3]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_____ (Awarding Body) has determined that violations of the California Labor Code have been committed by the contractor and/or subcontractor identified above. In accordance with Labor Code sections 1771.5 and 1771.6, the Labor Compliance Program hereby issues this Notice of Withholding of Contract Payments.

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

_____

_____

_____

_____

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

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

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

LABOR COMPLIANCE PROGRAM

_____

By:_____

Notice of Right to Obtain Review – Formal Hearing

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

Labor Compliance Program
_____
Review Office – Notice of Withholding of Contract Payments
_____
_____

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

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

In accordance with Labor Code 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.

(continued on next page)

Opportunity for Settlement Meeting

In accordance with Labor Code Section 1742.1 (c), 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 this Notice**. The settlement meeting may be held in person or by telephone and shall take place before the expiration of the 60-day period for seeking a hearing as set forth above under the heading Notice of Right to Obtain Review. No evidence of anything said or any admission made for the purpose of, in the course of, or pursuant to, the settlement meeting is admissible or subject to discovery in any administrative or civil proceeding. No writing prepared for the purpose of, in the course of, or pursuant to, the settlement meeting, other than a final settlement agreement, is admissible or subject to discovery in any administrative or civil proceeding. This opportunity to timely request an informal settlement meeting is **in addition** to the right to obtain a formal hearing, and a settlement meeting may be requested even if a written **Request for Review** has already been made. Requesting a settlement meeting, however, does not extend the 60-day period during which a formal hearing may be requested.

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

_____
_____
_____

Liquidated Damages

In accordance with Labor Code section 1742.1 (a), 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 this 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 this Notice to be an error, the Director shall waive payment of the liquidated damages.

Notwithstanding the above, in accordance with Labor Code 1742.1 (b), there shall be no liability for liquidated damages if the full amount found due in this Notice, including penalties, has been deposited with the Department of Industrial Relations, within 60 days following service of this Notice, for the Department to hold in escrow pending administrative and judicial review. The Department shall release such funds, plus any interest earned, at the conclusion of all administrative and judicial review to the persons and entities who are found to be entitled to such funds.

In lieu of a cash deposit, the contractor may post an undertaking with the Department in full amount of the Notice of Withholding of Contract Payments. The undertaking shall be on the condition that, if any decision is issued by the Director upholding this Notice in any respect, the contractor shall pay the amount owed pursuant to a decision that is final under Labor Code Section 1742, unless the parties have executed a settlement agreement for the payment of some other amount, in which case the contractor shall pay the amount that the contractor is obligated to pay under the terms of the settlement agreement. The undertaking must provide that if the contractor fails to pay the amount owed within 10 days of the date the decision is final or the execution of the settlement agreement, a portion of the undertaking equal to the amount owed, or the entire undertaking if the amount exceeds the undertaking is forfeited to the Labor Commissioner for the State of California for the purpose of satisfying the amounts owed under this Notice. A payment bond obtained by a contractor for the public works project which is the subject to this Notice shall not be accepted as an undertaking unless the following two conditions are completely satisfied: (1) the payment bond provides the payment of the full amount of this Notice, including but not limited to, all wages, training, trust contributions, and penalties, and (2) the conditions of payment set forth above are expressly agreed to by the affected contractor(s) and the surety which issued the payment bond. The undertaking should be forwarded to the Department as directed below. The Department’s Accounting Office will hold the undertaking until

the administrative and judicial review is completed. The disbursement of the bond funds will follow the same process as described above for a cash deposit.

Deposits must be made by check or money order payable to the Department of Industrial Relations with a letter and a copy of the Notice of Withhold Contract Payments and mailed to:

Department of Industrial Relations
Attention Cashiering Unit
P.O. Box 420603
San Francisco, CA 94142

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

Distribution:
Prime Contractor
Subcontractor
Surety(s) on Bond

Attach:
Audit Summary
Proof of Service

EXAMPLE REQUEST TO REVIEW EVIDENCE

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.:_____

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

Notice of Transmittal

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

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

Also enclosed please find the following:

____ Copy of Notice of Withholding of Contract Payments
____ Copy of Audit Summary

LABOR COMPLIANCE PROGRAM

_____

By: _____

cc: Prime Contractor
Subcontractor
Bonding Company

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

EXAMPLE EMPLOYEE INQUIRY FORM

(City of Long Beach Letterhead)

Date:_____ Refer to Case No:_____

Project Name & Number:_____

Employee Inquiry Form

The Labor Compliance Program is conducting an investigation to determine whether you were paid all the prevailing wages due to you for the work you performed on the above listed project. Please answer the following questions and return this form with any documentation to the Awarding Agency at the address above.

Employee Name:_____ **Telephone:**_____
Address:_____
City, State, Zipcode:_____
Awarding Body:_____ **Contract No.:**_____
Prime Contractor:_____
Subcontractio:_____

Did you work for _____ on this project? Yes____ No_____

If so, when? From:_____ To:_____

What was your job title? _____

Describe the work performed on the project: _____
_____
_____
(Attach Additional Sheets If Necessary)

List the tools or equipment you used to perform your work: _____
_____

How much time did you spend doing each duty?
_____
_____

Did you keep a record of days and hours you worked on this project? Yes_____ No_____ (if yes, provide a copy)

Did you work more than eight hours in a day? Yes_____ No_____ If so, when? _____

Were you asked to provide a portion of your wages to work on this project?_____

How much of your wages were you asked to provide? $_____ Daily_____ Weekly_____ One Time_____

What was your straight time or regular pay rate? _____

What was your rate of pay for work in excess of eight hours? _____

Did you work on Saturday, Sunday, or holidays? Yes_____ No_____

If so, when?_____

If so, what was your rate of pay? _____

Did you receive a payroll check, cash , or both?_____

Were you paid for all hours worked? Yes_____ No_____
(If not, be specific as to what days you were not paid. Also, please provide a copy of all check stubs for this period)

Were there hours not paid because you were told this was roll up or roll out time? Yes_____ No_____
(If so, specify who told you this and what days and hours)

Did you receive any of the following benefits?

Medical Insurance: Yes_____ No_____ Pension: Yes _____ No _____

401K: Yes_____ No_____ Vacation: Yes_____ No _____

Travel: Yes_____ No _____ Other: Yes_____ No_____

Can your name be used in this investigation? Yes_____ No_____

Comments:
_____
_____
_____
_____
_____

Your Signature:_____

Address:_____

Social Security Number:_____

Telephone Number:_____

(If you have any other information you feel is important, please attach to this letter or call me at the above telephone number. Attach additional sheets if necessary)

_____

Name
Labor Compliance Officer

Exhibit List

Exhibit Number	Exhibit Description	Date of Exhibit

Statement of Employer Payments

Date:		In Reply, Refer to Case No:	
Prime:			
Subcontractor:			
PROJECT NAME:			
PROJECT CONTRACT NO.:		County/location:	

HEALTH AND WELFARE

NAME OF PLAN _____ Address, City and Zip _____

ADMINISTRATOR _____ Address, City and Zip _____

CLASSIFICATION(S) USED | CONTRIBUTION PER CLASSIFICATION PER HOUR

CONTRIBUTIONS: WEEKLY____ MONTHLY____ QUARTERLY____ ANNUALLY____

PENSION

NAME OF PLAN _____ Address, City and Zip _____

ADMINISTRATOR _____ Address, City and Zip _____

CLASSIFICATION(S) USED | CONTRIBUTION PER CLASSIFICATION PER HOUR

CONTRIBUTIONS: WEEKLY____ MONTHLY____ QUARTERLY____ ANNUALLY____

VACATION/HOLIDAY

NAME OF PLAN _____ Address, City and Zip _____

ADMINISTRATOR _____ Address, City and Zip _____

CLASSIFICATION(S) USED | CONTRIBUTION PER CLASSIFICATION PER HOUR

CONTRIBUTIONS: WEEKLY____ MONTHLY____ QUARTERLY____ ANNUALLY____

TRAINING

NAME OF PLAN _____ Address, City and Zip _____

ADMINISTRATOR _____ Address, City and Zip _____

CLASSIFICATION(S) USED | CONTRIBUTION PER CLASSIFICATION PER HOUR

CONTRIBUTIONS: WEEKLY____ MONTHLY____ QUARTERLY____ ANNUALLY____

IF YOU USE OTHER PLANS NOT LISTED ABOVE, YOU MAY USE THE BACK OF THIS FORM TO PROVIDE THIS ADDITIONAL INFORMATION

PW 26

FRINGE BENEFITS STATEMENT

The Awarding Body Labor Compliance Program is the recipient of the Fringe Benefit Statement (Wet Signature Required). **Please submit monthly documentation that all Employer Fringe Benefit Payments are current.**

CLASSIFICATION: The Fringe Benefit Statement must include all Trades/Classifications of employees that YOUR COMPANY will dispatch to the Public Works Project, including Apprentices.

- Do not list each employee by name that you will dispatch within the Trade/Classification.

EFFECTIVE DATE: Is the date of the DIR Prevailing Wage Determination governing the duration of the Public Works Project.

SUBSISTENCE OR TRAVEL: If your company will be required to pay this fringe benefit insert the per diem amount within this section.

EMPLOYER PAID FRINGE BENEFITS: Next to each listed Fringe Benefit indicate the hourly rates for fringe benefits payments made for employees by the employer on the various classes of work. Do not include amounts that are paid directly by the employee.

PAID TO: Insert the name and address of the Plan, Fund or Program where the benefit will be sent, or if the benefit amount is to be paid directly to the Employee, indicate same by inserting "Employee".

- Do not list each employee by name.

All fringe benefits must be irrevocably paid to an authorized fund or to the employee. No unpaid amounts are allowed.

A Common Misunderstanding of the Status of "Owner-Operators" Under the State Labor Code.

There is a common misconception among many owner-operators that there is something like an "exemption" from prevailing wage requirements for owner-operators that perform work on public works projects. This is simply not the case, under the Labor Code; an owner-operator who performs work in the field is a "journeyman", regardless of his or her status as an owner. The Fringe Benefit Statement must reflect this fact. The only owners who are exempt from prevailing wage requirements are those that perform only supervisory or management functions, without working with the tools or operating equipment.

Credits, For Fringe Benefit Payments

CALIFORNIA CODE OF REGULATIONS: TITLE 8, GROUP3, ARTICLE 4, 16200(i) Credit Available for Actual Payment of Fringe Benefit Costs up to the Prevailing Amount. The contractor obligated to pay the full prevailing rate of per diem wages may take credit for amounts up to the total of all fringe benefit amounts listed as prevailing in the appropriate wage determination. This credit may be taken only as to amounts which are actual payments under Employer Payments Section 16000(1)-(3). In the event the total of Employer Payments by a contractor for the fringe benefits listed as prevailing is less than the aggregate amount set out as prevailing in the wage determination, the contractor must pay the difference
directly to the employee. No amount of credit for payments over the aggregate amount of employer payments shall be taken nor shall any credit decrease the amount of direct payment of hourly wages of those amounts found to be prevailing for straight time or overtime wages.

Memo from the Division of Industrial Relations dated 11-15-90.

THE RULE:

The contractor can pay amounts for individual benefits different than the state shows in the wage reports so long as it is not less than the total amount permitted for all benefits. Any contractor paid amount less than the total benefit requirements listed in the state wage reports must be paid to the employee.

HELPFUL WEB SITES

Questions about classifications and scope of work, prevailing wage determinations or special determinations for a specific project:

• **Division of Labor Statistics and Research**:
http://www.dir.ca.gov/DLSR/statistics_research.html

• **California Apprenticeship Council:** www.dir.ca.gov/CAC/cac.html

• **Department of Industrial Relations:** www.dir.ca.gov

• **Division of Labor Standards Enforcement:** www.dir.ca.gov/DLSE/dlse.html

• **Division of Apprenticeship Standards:** www.dir.ca.gov/DAS/das.html

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

• **California Code of Regulations:** http://ccr.oal.ca.gov/

• **California Labor Code:** http://leginfo.legislature.ca.gov/

Forms
• **Public Works Contract Award Form DAS 140:**
http://www.dir.ca.gov/DAS/DASForm140.pdf

• **Certified Payroll Reporting Form A-1-131:**
http://www.dir.ca.gov/dlse/publicWorksPayrollInstructions.htm

• **Statement of Employer Payments of PW 26:** https://www.dir.ca.gov/dlse/Forms/PW/DLSEFormA-1-131.pdf

• **California Apprenticeship Council Training Fund Contributions:**
http://www.dir.ca.gov/DAS/DASCAC2.pdf

Labor Compliance Program Questions
• **City of Long Beach Labor Compliance Division:**
http://www.longbeach.gov/finance/business-info/compliance/labor-compliance/

EXAMPLE INITIAL COMPLAINT INFORMATION FORM

Date: _____

Name:_____

Address:_____

City:_____ State: _____ Zip:_____

Phone Number:_____ Alt. Phone:_____

Email: _____

Project Name: _____

Contractor Name: _____

If a subcontractor, who are they subcontracted to?: _____

Reason for Complaint:

_____

_____

_____

_____

_____

_____

Who took information: _____

(Insert City Logo)

EXAMPLE LABOR COMPLIANCE INTRODUCTION LETTER

(Labor Compliance Consultants Letterhead)
[date]

[contractor name]
[address]
[city, state, zip]

RE: LABOR COMPLIANCE FORMS AND PAYROLL REPORTING
PROJECT: [Project name]

The purpose of this letter is to introduce The City of Long Beach's Labor Compliance Program (LCP). I will be the Labor Compliance Representative that is servicing your company's submittal of certified payroll and other Labor Compliance Program related documents.

If you are a subcontractor we encourage you to contact your Prime or General Contractor to ascertain their procedures and requirements for the collection and submittal of records. The Prime or General Contractor has obligations under the California Labor Code regarding review and acceptance of these required documents. It is not the City's intention to interfere or alter the Contractor's established procedures.

At the pre-construction meeting a labor compliance package containing documents, forms and instructions was distributed. The City LCP, the California Labor Law and the contract provisions requires the completion and submittal of the documents. If you were unable to attend the meeting or have not received a package from your General or Prime Contractor you should contact them and request a package, however if they are unable to provide the forms package please contact me and I will be happy to provide you with the complete package or individual forms as needed.

The documents provided in the handout consist of:

- Certified payroll data (Blank Payroll Reporting Form, Statement of Non-Performance and Payroll Certification Form)
- Contractors Acknowledgement of LCP
- Fringe Benefit Statement
- DAS-140 form-Public Works Contract Award Information
- CAC/2 form, for the reporting of payment to the California Apprenticeship Committee
- DAS-142 form-Documentation of Dispatch/Request for Apprentices

Payroll Certifications, Fringe Benefits Statements and Contractor's Acknowledgement of LCP shall have WET SIGNATURES and be received in our offices as original documents.

Only forms published by the California Department of Industrial Relations or The City of Long Beach Labor Compliance Program shall be submitted. The use of Federal forms or certifications and State forms other than those from the Department of Industrial Relations will not be accepted.

Initial Documentation required by Contract or Labor Code

It is recommended that you complete and return the following initial documents as soon as possible, irrespective of your projected start date on the project. This will enable The City of Long Beach to review the documents and eliminate any delays to approving contractor payment applications.

A. A completed and signed "Contractor's Acknowledgement of LCP"**(wet signature required)**
B. A completed and signed "Fringe Benefit Statement" covering all labor classifications anticipated to be employed on the project, including apprentices **(wet signature required)**.
C. A reproduced copy of each DAS-140 form filed with each Apprenticeship Committee applicable to any labor classification anticipated to be employed on the project. Failing to submit copies of filed DAS-140's to The City of Long Beach will not be a cause to deny approval of contract payments, however, failing to file such notices is a violation of the Labor Code and will expose the contractor or subcontractor to liability for penalties.

Ongoing Monthly Documentation Throughout the Course of the Project

A. With the primary objective being to eliminate any need for the withholding of Contractor Payments every contractor or subcontractor of any tier that provided on-site labor of any kind shall submit an unbroken chain of weekly Certified Payroll Reports or Non- Performance Reports covering the entire period from the first day services were performed on the project through their "Final Payroll" on at least a monthly basis. Upon receipt of a payment application The City of Long Beach will verify that payroll records have been received from the last day of labor reported on prior Certified Payroll Reports through at least the 15th of the current month for which payment is requested. (The required format for payroll information and certification is set forth-on DIR form A-1-131 public work payroll reporting form. The person certifying these copies must be the contractor or an authorized agent to act on behalf of the contractor).
B. For every contractor or subcontractor of any tier that provided on-site labor of any kind a completed CAC-2 or other appropriate document confirming payment of training funds to appropriate Apprenticeship Committees or the California Apprenticeship Council by not later than the 15th of the month for which payment application is being made.
C. Certified Payroll Records as well as other required documents shall be submitted as outlined in the contract documents and through the channels established by the Project Manager, the Construction Manager, the General or Prime Contractor whichever is applicable.

Documentation to be Provided by the end of the Project

Documentation showing compliance with CLC § 1777.5 and CCR § 230.1 regarding the employment and request of dispatch of apprentices. (Documentation of your request may be in the form of a letter from an approved Apprenticeship Training Program or Union stating "No Apprentices Available" or a copy of the faxed request (showing transmittal success) or a copy of the signed certified/registered mail receipt).

NOTE: Please do not reproduce and re-submit any forms that your company has previously submitted for this specific project.

If I can be of assistance feel free to contact me Monday-Friday, between 8:00 am and 5:00 pm, at [Phone Number].

Thank you,

Name
Firm
Labor Compliance Representative

EXAMPLE NOTICE OF OPPORTUNITY TO REVIEW EVIDENCE

(City of Long Beach Letterhead)

Date:_____ In Reply to Case Number:_____

To: **Prime Contractor**

_____
_____
_____

Subcontractor

_____
_____
_____

Subject: **Review Office – Notice of Withholding Contract Payments –**
Notice of Opportunity to Review Evidence Pursuant to Labor Code Section 1742(b)

To Whom it May Concern,

Please be advised that the City of Long Beach has received your **Request for Review,** dated _____ and pertaining to the Notice of Withholding of Contract Payment issued by the City's Labor Compliance Program (LCP) in Case No._____.

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

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

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

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

C. The evidence required to be provided under this Rule shall include the identity of witnesses whose testimony the Enforcing Agency intends to present, either in person at the hearing or by declaration of 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 of 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 (5) calendar days of the date of this notice, please transmit the attached Request to Review Evidence to the following address:

Labor Compliance Officer
City of Long Beach
411 W. Ocean BLVD, 6th Floor
Long Beach, CA, 90802

_____

Name
Labor Compliance Officer

CC: Prime Contractor
Labor Compliance Consultant
Director of Financial Management
City Attorney

EXAMPLE REQUEST TO REVIEW EVIDENCE

To: Labor Compliance Officer
City of Long Beach
411 W. Ocean Blvd, 6th Floor
Long Beach, CA 90802

From: _____
_____
_____
_____

Regarding Notice of Withholding of Contract Payments dated _____

Case No. _____

To Whom It May Concern,

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.

Signed: _____

Printed Name: _____

Title: _____

Phone No. _____

Fax No. _____

EXAMPLE NOTICE OF COMPLAINT CLOSED

(City of Long Beach Letterhead)

Date:_____ In Reply Refer to Case Number: _____

To: _____
_____
_____

Subject: **NOTICE OF COMPLAINT CLOSED**

Awarding Body:_____
Project Name:_____
Project Number: _____
Prime Contractor: _____
Subcontractor:_____

To Whom It May Concern:

The complaint against the above-named contractor(s) is being closed for the following reasons:

_____ Subject firm has satisfactorily paid all prevailing wages and/or penalties found due.

_____ The statute of limitations for the Labor Commissioner to prosecute California Public Work Law (Labor Code section 1720 – 1861) had expired. (Information for Claimant) Please note that there are other legal claims which you may still pursue even though the statute of limitations has expired for the Labor Commissioner to enforce the public work provisions of the Labor Code. You may want to review the California Court of Appeals decision in the case of Tippet c Terich (1995), 37 Cal.App.4th 1517. 44 Cal.Rptd.2d 862 and/or consult with an attorney to determine if you may pursue any of the legal actions discussed in the Tippett v Terich decisions.

_____ There is insufficient evidence to confirm California Public Works Law was violated.

_____ Subject firm was not within the jurisdiction of California Public Work Law on this project.

_____ Other: _____
_____

Sincerely,

_____

Name
Labor Compliance Officer

CC: Prime Contractor
Labor Compliance Consultant
Director of Financial Management
City Attorney

EXAMPLE NOTICE OF COMPLAINT FILED

(City of Long Beach Letterhead)

Date:_____ In Reply Refer to Case Number: _____

To: _____
_____
_____

Subject: **NOTICE OF COMPLAINT FILED**

Project Name:_____ Project No. _____
Awarding Body: _____ Contract No. _____
Prime Contractor: _____
Subcontractor:_____

To Whom It May Concern,

A complaint alleging violation of the Public Work Law (California Labor Code, Division 2, Part 7) has been filed in the City of Long Beach's Labor Compliance Office against the contractor(s) listed above. You are hereby advised an investigation is commencing of the above-named project to ensure compliance with the provisions of the Labor Code. After an Investigation, if it is determined that wages and/or penalties are due, a Notice of Withholding Contract Payments by the Director of the Department of Industrial Relations (DIR) will be requested pursuant to Labor Code Section 1741.

Sincerely,

_____
Name
Labor Compliance Officer

CC: Prime Contractor
Labor Compliance Consultant
Director of Financial Management
City Attorney

EXAMPLE OF INTENT TO REQUEST FORFEITURE

(City of Long Beach Letterhead)

Date:_____ In Reply Refer to Case No._____

Subject: **NOTICE OF INTENT TO REQUEST FORFEITURE OF MONIES**

Awarding Body: _____Work Performed in County:_____
Project Name: _____Project Number:_____
Prime Contractor:_____
Subcontractor: _____

To Whom It May Concern:

After an investigation concerning the payment of wages and/ or requested payroll records in the execution of the contract for the above named public works project, the Labor Compliance Program the City of Long Beach has determined that violations of the California Labor Code have been committed by the contractor and/or subcontractor identified above. The Labor Compliance Program hereby issues this Notice of Intent to Request Forfeiture of Monies you would otherwise be paid.

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

_____
_____
_____
_____
_____
_____

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

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

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

Opportunity for Meeting

The prime contractor and subcontractor have the opportunity to meet with the Labor Compliance Program to discuss the alleged violation(s), to explain why there was no violation and/or that any violation was caused by a good faith mistake and promptly corrected when brought to the prime contractor or subcontractor's attention and to provide mitigating evidence to the Labor Compliance Program. A written request to meet must be transmitted within 30 days following the service of this notice to "[Enter LC Officer]" at the following address:

City of Long Beach
Attn: Labor Compliance Officer
411 W. Ocean Blvd, 6th Floor
Long Beach, CA 90802

If a written request to meet is not received within 30 days, the Labor Compliance Program will transmit to the Labor Commissioner a request to forfeit the amount of back wages and penalties identified above.

City of Long Beach Labor Compliance Program:

_____
Name
Labor Compliance Officer

CC: Prime Contractor
Labor Compliance Consultant
Director of Financial Management
City Attorney

EXAMPLE NOTICE OF INVESTIGATION

(City of Long Beach Letterhead)

Date:_____ In Reply Refer to Case No.:_____

Awarding Body: _____Work Performed in County:_____

Project Name: _____Project Number:_____

Prime Contractor:_____

Subcontractor: _____

To Whom It May Concern,

An investigation concerning the payment of wages to workers employed in the execution of the contract for the above named public works project has been initiated by the City of Long Beach Labor Compliance Program to determine if violations of the California Labor Code have been committed by the contractor and/or subcontractor identified above.

The nature of the investigation of the Labor Code violations is as follows:

1. (state nature of violation)
2. (state nature of violation)

Upon completion of the investigation:

1. The Labor Compliance Program will determine the total amount of wages due, if any.

2. The Labor Compliance Program will determine the total amount of penalties to be assessed under Labor Code Sections 1775 and 1813, if applicable.

3. The Labor Compliance Program will determine the total amount of penalties to be assessed under Labor Code Section 1776, if applicable.

4. The Labor Compliance Program will issue a Notice of Withholding of Contract Payments for any underpayment of wages and penalties as may be applicable.

Sincerely,

_____
Name
Labor Compliance Officer

CC: Prime Contractor
Labor Compliance Consultant
Director of Financial Management
City Attorney

EXAMPLE NOTICE OF REQUEST FOR APPROVAL OF FORFEITURE

(City of Long Beach Letterhead)

[Name]
[Primary Defendant Company]
[address]
[city, state, zip]

Re: **NOTICE OF REQUEST FOR APPROVAL OF FORFEITURE AMOUNT**

Project: [PROJECT NAME]

Dear [Enter name of primary contact]:

A Request for Approval of Forfeiture Amount has been submitted to the Labor Commissioner for alleged and unresolved Labor Code violations in regard to the above named public works project (copy attached). This request is based upon the best evidence available to us at this time and reflects the fact that you have not provided us with explanatory or rebuttal evidence to support a position that the alleged violations have not taken place.

If you have not been paid the full contract price for the above-named project, the Request for Approval of Forfeiture Amount requests that the Labor Commissioner approve a forfeiture of money that you would otherwise be paid. If you have received full payment under your contract for this project, approval by the Labor Commissioner of the Request for Approval of Forfeiture Amount could result in a judgment against your company.

Pursuant to California Code of Regulations Section 16437(e) (1), the Labor Commissioner must approve, modify or disapprove the Request for Approval of Forfeiture Amount within 30 days of his receipt of that request. Time is very much of the essence with respect to this matter. The City of Long Beach is fully prepared to receive and consider any evidence that you may provide to explain why the violations alleged did not take place. We are also fully prepared to receive and consider evidence that the violation was caused by good faith mistake and that you have promptly corrected such violation. If such evidence is convincing, we are prepared to modify or withdraw the Request for Approval of Forfeiture Amount accordingly. Failure to provide such evidence may result in the Labor Commissioner's approval of the request without modification.

If you change address or elect to retain an attorney in this matter, it is your responsibility to advise both The City of Long Beach and the Labor Commissioner of such by certified mail. Otherwise, notices will be served at your last address on file and deadlines might pass before you receive such notice.

Respectfully,

Name
Labor Compliance Officer

Cc: [Enter name] , [Enter title] Labor Commissioner
Prime Contractor
Subcontractor
Bonding Company
Director of Financial Management
City Attorney

EXAMPLE NOTICE OF WITHHOLDING OF CONTRACT PAYMENTS

(City of Long Beach Letterhead)

Date: In Reply Refer to Case No.:_____

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

Subject: **REVIEW OFFICE – Notice of Withholding of Contract Payments – Notice of Transmittal**

To Whom It May Concern,

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

Also enclosed, please find the following:

_____ Copy of Notice of Withholding of Contract Payments

_____ Copy of Audit Summary and Evidence

_____
Name
Labor Compliance Officer
City of Long Beach Labor Compliance Program

Cc: Prime Contractor
Subcontractor
Bonding Company

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

EXAMPLE NOTICE OF WAGE DISTRIBUTION

(City of Long Beach Letterhead)

[Date]
[Enter Contractor Name]
[Enter Street Address]
[Enter City, State, Zip]

RE: **NOTICE OF GROSS WAGE DISTRIBUTION ON THE [ENTER PROJECT NAME]**

To Whom It May Concern,

Pursuant to an investigation and recovery of prevailing wages on the above referenced public works project, the City of Long Beach (City) Labor Compliance Program hereby gives you notice of a gross wage distribution.

Upon receipt of your check #[Enter Check #] for gross wages owed to worker(s) employed by [Enter Affected Contractor] on the [Enter Project Name], the City has distributed those recovered wages as <outlined below or in the enclosed spreadsheet> which indicates what gross wages have been distributed and to whom. For workers we are unable to locate the funds will be transferred to the State of California Unpaid Wage Fund pursuant to Labor Code 1743 (c).

[Enter who funds were distributed to (IE: Name, SSN, Address & Amount)]

The City is providing you this information for the purpose of notifying the contractor of the gross wage distribution for tax purposes. You will receive a notification of distribution upon each occurrence until exhausted.

If you should have any questions do not hesitate to contact me.

Respectfully,

_____
Name
Labor Compliance Officer

Enclosure

Cc: Prime Contractor
Labor Compliance Consultant
Director of Financial Management
City Attorney

EXAMPLE NOTICE TO DAS OF TRAINING FUNDS OWED

(City of Long Beach Letterhead)

[DATE]

State of California
Department of Industrial Relations
P.O. Box 420603
San Francisco, CA 94142

Project Name: [Project name]
Prime Contractor: [Prime Contractor name]
Sub-Contractor: [Subcontractor name]"

To Whom It May Concern:

After an investigation concerning payment of prevailing wages on the [Project name] project it was found that training fund contributions by [Affected Contractor name] were not made in accordance with California Code of Regulations, Title 8, Section 230.2(c).

The City of Long Beach Labor Compliance Program collected the required training fund contributions from the affected contractor and hereby enclose a check in the amount of $[Enter Amount" . The enclosed check represents [Number of Hours] labor hours for workers in the [Craft] classification.

If you have any questions do not hesitate to contact me between 8:00am to 5:00pm Monday through Friday at "[Enter #]" .

Respectfully,

Name
Labor Compliance Officer

Enclosure

Cc: Prime Contractor name
Affected Contractor Name
Labor Compliance Consultant
Director of Financial Management
City Attorney

EXAMPLE NOTIFICATION TO WORKER OF MONIES OWED TO THEM

(City of Long Beach Letterhead)

[Date]
[Affected Worker Name]
[Address]
[Enter City, State, Zip]

Awarding Body: City of Long Beach
Project Name: [Project Name]
Prime Contractor: [Prime Contractor]
Sub-Contractor: [Sub-Contractor]

Dear [Affected Worker Name] ,

After an investigation concerning payment of prevailing wages on the [Project Name] project it was found that you were underpaid.

We are in receipt of the monies owed you and would like to provide you with the unpaid wages in one of two ways:

1. Sign the enclosed release, return the signed original to The City of Long Beach Labor Compliance Program with a copy of your photo identification and upon receipt of the two documents we will mail the unpaid wages in form of a check to you by certified mail;

OR

2. Contact us to set up an appointment for you to come into the offices of The City of Long Beach Labor Compliance Program to sign the release, provide photo identification and receive your unpaid wages in the form of a check.

If we do not hear from you regarding this matter by [Date] the funds will be transferred to the State of California, Division of Labor Standards Enforcement to be held in an Unpaid Wage Trust.

Please contact me as soon as possible between 8:00am to 5:00pm Monday through Friday at "[Enter #]".

Respectfully,

Name
Labor Compliance Officer

Enclosure
Cc: Affected Contractor
Labor Compliance Consultant
Director of Financial Management
City Attorney

EXAMPLE RESTITUTION CHECK TO WORKER

(City of Long Beach Letterhead)

[Date]
[Affected Worker Name]
[Address]
[Enter City, State, Zip]

Awarding Body: City of Long Beach
Project Name: [Project Name]
Prime Contractor: [Prime Contractor]
Sub-Contractor: [Sub-Contractor]

RE: DISTRIBUTION OF GROSS WAGES FOR THE [PROJECT NAME]

[Worker name]:

Pursuant to an investigation and recovery of prevailing wages on the above referenced public works Project, The City of Long Beach Labor Compliance Program recovered underpayments on your behalf.

The enclosed check represents gross wages owed to you while employed by [Affected Contractor] on the [Project Name] during the time period of [Month(s)] & [Enter Year(s)] .

If you should have any questions do not hesitate to contact me. Respectfully,

[Name]
Labor Compliance Officer

Enclosure

Cc: Affected Contractor
Labor Compliance Consultant
Director of Financial Management
City Attorney

EXAMPLE PAYROLL CERTIFICATION STATEMENT

(City of Long Beach Letterhead)

Payroll Certification

I _____, the undersigned, am the _____
Name Position in Business

with the authority to act for and on behalf of _____
Name of Business/Contractor

certify under penalty of perjury that the records commencing on ____/____/____ and ending on ____/____/____ submitted herein and consisting of _____ pages are the originals, full and correct documents, which depict the payroll record(s) of actual disbursements by way of cash, check or whatever form to the individual or individuals named.

(1) That this employer has complied with the requirements of the California Labor Code Sections 1771, 1811, and 1815 for all work performed on this public works project, and that the classifications set forth therein for each trade rate conform with the work performed.

(2) That any apprentices employed in the above period are duly registered in a bona fide apprenticeship program registered with the State of California's Division of Apprenticeship Standards

PAYROLL/ OTHER DEDUCTIONS

1. I herein certify the full and complete Prevailing Wages were paid as currently published and posted by the DIRECTOR of INDUSTRIAL RELATIONS, State of California and only deductions as authorized under the Laws of the State of California or the laws of United States of America have been made from these sums

2. All other deductions are clearly listed for each employee on an attachment as required by the Director of Industrial Relation, State of California.

OPTIONAL BENEFIT PLANS

I herein certify that all employee deductions for optional benefit plans are authorized and the employee(s) are signed up for the plan(s) and are receiving the benefit(s) of the plan(s) listed

☐ **WHERE FRINGE BENEFITS ARE PAID TO APPROVED PLANS, FUNDS OR PROGRAMS**

In addition to the basic hourly wage rates paid to each laborer or mechanic listed in the above payroll, payment of fringe benefits as listed in the contract have or will be made to the appropriate programs for the benefit of such employees, except as noted below.

☐ **WHERE FRINGE BENEFITS ARE PAID IN CASH**

Each laborer or mechanic listed in the above payroll has been paid as indicated on the payroll, an amount not less than the sum of the applicable basic hourly rate plus the amount of the required fringe benefits as listed in the determination for the craft, except as noted below. Exception(s)

Craft	Explanation
Craft	Explanation

I herein certify under penalty of perjury that all of the above is true and correct as submitted.

Date Signature (Wet Signature Required) Project Payroll#

PAYROLL CERTIFICATION (STATEMENT OF COMPLIANCE) Form

(CLC 1776.(a) (1) & (2) or CCR §16401)

Each payroll shall have an attached certification. **The certification must contain specific language as established by the Director of Industrial Relations**, the certification shall have an affirmation of a person with the authority to affirm the certification, under the penalty of perjury that the records are originals or are full, true and correct copies of the original.

CERTIFYING PERSON: A person with the authority to affirm under penalty of perjury that the records provided, depict truly, fully and correctly the type of work performed, the hours worked, days worked, and amounts paid.

CALIFORNIA CODE OF REGULATIONS, TITLE 8, GROUP 3, ARTICLE 1, 16000 DEFINITIONS.

PAYROLL PERIOD: The Payroll period may start and end on any day of the week. Insert the beginning and ending dates of the payroll period. Each payroll report shall not include more than seven consecutive days.

NUMBER OF PAGES: Insert the number of pages submitted.

OTHER DEDUCTIONS: These may include, but are not limited to, court ordered payment and wage garnishments

OPTIONAL BENEFIT PLANS: Deductions for company sponsored programs such as 401k, medical or any other qualifying program which has been acknowledged, in writing, by the employee shall be listed and fully described on the Payroll Certification or an attachment sheet. Provide documentation of the employees' authorization for deductions and/or any court ordered payments or wage garnishments.

METHOD OF DISTRIBUTING FRINGE BENEFITS: Check the appropriate box which indicates how the fringe benefits have been disbursed, to Plans or in Cash to the employee and list below any exceptions that are applicable.

NOTE: Training Fund Contributions must be paid to an approved Joint Apprenticeship Training Committee or the California Apprenticeship Committee. The only instance where the employee may receive the money as a direct payment is if the Trade or Craft has been determined to be a non-apprenticeable trade.

Sign and Date the certification include the Project name and your payroll #.

This certification must be received by the City of Long Beach Labor Compliance Program as a wet signature, original document.

California
Department of
Industrial Relations

PUBLIC WORKS PAYROLL REPORTING FORM

NAME OF CONTRACTOR:
OR SUBCONTRACTOR:

CONTRACTOR'S LICENSE NO.:
SPECIALITY LICENSE NO.:

ADDRESS:

PAYROLL NO.:

FOR WEEK ENDING:

SELF-INSURED CERTIFICATE NO.:
WORKERS' COMPENSATION POLICY NO.:

PROJECT OR CONTRACT NO.:
PROJECT AND LOCATION:

(1) NAME, ADDRESS AND SOCIAL SECURITY NUMBER OF EMPLOYEE	(2) NO. OF WITH-HOLDING EXEMPTIONS	(3) WORK CLASSIFICATION	(4) DAY	M	T	W	TH	F	S	S	(5) TOTAL HOURS	(6) HOURLY RATE OF PAY	(7) GROSS AMOUNT EARNED		(8) DEDUCTIONS, CONTRIBUTIONS AND PAYMENTS							(9) NET WGS PAID FOR WEEK	(9) CHECK NO.
				DATE																			
				HOURS WORKED EACH DAY																			
			S										THIS PROJECT	ALL PROJECTS	FED. TAX	FICA (SOC. SEC.)	STATE TAX	SDI	VAC/ HOLIDAY	HEALTH & WELF.	PENSION		
			O												TRAING.	FUND ADMIN	DUES	TRAV/ SUBS.	SAVINGS	OTHER*	TOTAL DEDUC-TIONS		
			S										THIS PROJECT	ALL PROJECTS	FED. TAX	FICA (SOC. SEC.)	STATE TAX	SDI	VAC/ HOLIDAY	HEALTH & WELF.	PENSION		
			O												TRAING.	FUND ADMIN	DUES	TRAV/ SUBS.	SAVINGS	OTHER*	TOTAL DEDUC-TIONS		
			S										THIS PROJECT	ALL PROJECTS	FED. TAX	FICA (SOC. SEC.)	STATE TAX	SDI	VAC/ HOLIDAY	HEALTH & WELF.	PENSION		
			O												TRAING.	FUND ADMIN	DUES	TRAV/ SUBS.	SAVINGS	OTHER*	TOTAL DEDUC-TIONS		
			S										THIS PROJECT	ALL PROJECTS	FED. TAX	FICA (SOC. SEC.)	STATE TAX	SDI	VAC/ HOLIDAY	HEALTH & WELF.	PENSION		
			O												TRAING.	FUND ADMIN	DUES	TRAV/ SUBS.	SAVINGS	OTHER*	TOTAL DEDUC-TIONS		

Form A-1-131 (New 2-80)

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.

PAYROLL REPORT DATA: DLSE (Form A-I-l3l)

CERTIFIED PAYROLL RECORDS: All payrolls are to be submitted to The City of Long Beach Labor Compliance Program for review during the course of the contract in conformance with the schedule for submitting payroll as stated within the General Requirements of the contract documents.

1. All payroll reports must be on forms provided by the DLSE (Form A-I-l3l) or the City of Long Beach or in another format which shall contain the following information:

- The name, address, and social security number of each worker are legible and not blacked out.
- His or her full work classification with description, if necessary, including group #'s and steps/levels of apprentices.
- The rate of pay per hour, including rates of contributions for/or costs assumed to provide fringe benefits. If the basic hourly rate is indicated, then the fringes on the fringe benefit statement need to add up with the total prevailing rate for that classification,
- Regular, overtime and holiday hours indicated daily, and the total weekly number of hours worked,
- Deductions made, and actual wages paid,
- Net Wages and Check #
- The contractors full name and address,
- The project name and location,
- The dates the payroll covers.
- All days for a project MUST be accounted for, including Saturdays, Sundays, & Holidays.

2. Each individual, laborer, or craftsperson working on the Project must appear on the CPRs. Each Contractor who pays a worker must report that individual on its CPRs, including each individual working as an apprentice in an apprenticeable trade.

- This applies as well to Contractors employing owner-operators, sole proprietors, and partners. Owner-operators, sole proprietors, and partners performing labor also must report their wages.
- Similarly, rental companies paying rental equipment operator's wages must report those wages.

3. The contractor must complete a Non-Performance Report Form for all periods of inactivity.

- This form is filled out when no work is performed on the project for a period of time.
- On the form the contractor will state that there was no payroll for that period.
- It does not matter what day the weekly payroll period begins and ends.

4. The final payroll form must be marked "final" by the contractor. When the final payroll is received from each contractor; the log will then be closed out and marked complete.

CHANGES TO PREVAILING RATE AFTER AWARD:

(California Labor Code §1773.6)

No effect once the contract notice to bidders is published. If during any quarterly period the Director of Industrial Relations shall determine that there has been a change in any prevailing rate of per diem wages in any locality he shall make such change available to the awarding body and his determination shall be final. Such determination by the Director of Industrial Relations shall not be effective as to any contract for which the notice to bidders has been published.

PERSONS REQUIRED TO RECEIVE PREVAILING WAGES:

(California Labor Code §1771 and 1774)

The contractor to whom the contract is awarded, and any subcontractor under him, shall pay not less than the specified prevailing rates of wages to all workmen employed in the execution of the contract.

The Awarding Body's General Conditions require all workers not in a prevailing wage classification to be paid the wage most closely related to the craft or trade they are involved with.

GENERAL PREVAILING RATE OF PER DIEM WAGES INCLUDES:

(1) The prevailing basic straight-time hourly rate of pay; and
(2) The prevailing rate for holiday and overtime work; and
(3) The prevailing rate of employer payments for any or all programs or benefits.

GENERAL CONTRACTOR RESPONSIBILITIES FOR SUBCONTRACTORS:

(California Labor Code § 1775.)

Each prime contractor(s) is responsible for ensuring that all its subcontractors of any tier comply with the prevailing wage requirements. The prime contractor must monitor the subcontractors' payment of the specified general prevailing wages to their employees by periodically reviewing the subcontractors' CPRs. Upon becoming aware that a subcontractor has failed to apply the specified prevailing rate of wages, the prime contractor must 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.

Prior to making a final payment to the subcontractor for work performed on the public works project, the prime contractor should 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 hour's violations.

EXAMPLE NOTICE OF PRE-BID MEETING

(City of Long Beach Letterhead)

City of Long Beach
PRE-BID CONFERENCE AND JOB WALK
[Date]

NOTICE TO ALL BIDDERS

The California Labor Code authorizes Awarding Bodies to adopt and enforce a Labor Compliance Program (LCP) on any public works project under their direction or control for the purpose of enforcing prevailing wage and apprenticeship requirements. In addition, various California statutes require Labor Compliance Program enforcement on projects that receive funding from certain source funds or that utilize certain delivery methods.

This project is a public work, subject to the payment of prevailing wages and the employment and training of apprentices. In addition, the City of Long Beach (City) has adopted and is enforcing an LCP for all aspects of the project. The City's LCP is administering that program. Wage Determinations and a copy of LCP are on file with the City and its third-party consultant, Parsons Constructors, Inc., and are available for viewing by any party.

Wage Determinations in effect for this Project are those listed on the Dept. of Industrial Relations website (http://www.dir.ca.gov/DLSR/DPreWageDetermination.htm) as:

General prevailing wage determinations menu (journeyman)
and
General prevailing wage apprentice schedules

Should you have any questions, during the bid process or throughout the project, please don't hesitate to call us and to enlist our help. We are here to answer questions, provide clarifications and resolve issues.

For questions or more information, call:

Name, phone, email
Labor Compliance Officer

Please see the reverse for Helpful Websites

HELPFUL WEB SITES

Questions about classifications and scope of work, prevailing wage determinations or special determinations for a specific project:

- **Division of Labor Statistics and Research**: http://www.dir.ca.gov/DLSR/statistics_research.html

- **California Apprenticeship Council:** www.dir.ca.gov/CAC/cac.html

- **Department of Industrial Relations:** www.dir.ca.gov

- **Division of Labor Standards Enforcement:** www.dir.ca.gov/DLSE/dlse.html

- **Division of Apprenticeship Standards:** www.dir.ca.gov/DAS/das.html

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

- **California Code of Regulations:** http://ccr.oal.ca.gov/

- **California Labor Code:** www.leginfo.ca.gov

Forms
- **Public Works Contract Award Form DAS 140:** http://www.dir.ca.gov/DAS/DASForm140.pdf

- **Certified Payroll Reporting Form A-1-131:**
https://www.dir.ca.gov/dlse/Forms/PW/DLSEFormA-1-131.pdf

- **Statement of Employer Payments of PW 26:** http://www.dir.ca.gov/dlse/DLSEForm-PW26.pdf

- **California Apprenticeship Council Training Fund Contributions:**
http://www.dir.ca.gov/DAS/DASCAC2.pdf

Labor Compliance Program Questions
- **City of Long Beach Labor Compliance:**
http://www.longbeach.gov/finance/business-info/compliance/labor-compliance/

EXAMPLE NOTICE OF PRE-CONSTRUCTION MEETING

(City of Long Beach Letterhead)

[Date]

[Contractor]
[Street Address]
[City, State, Zip]

Re: CITY OF LONG BEACH LABOR COMPLIANCE PROGRAM PRECONSTRUCTION MEETING

The City of Long Beach Labor Compliance Program will be conducting a mandatory Preconstruction Meeting. Each trade contractor is required to attend this meeting and requested to arrive at [Time] to take part in a discussion of labor code and labor compliance topics specific to Prime Contractors. Additionally, each trade contractor must require the attendance of its listed subcontractor(s).

The general meeting will address the requirements of the Department of Industrial Relations approved City of Long Beach Labor Compliance Program (LCP) and is pertinent to all contractors performing work on the project. It is vital for those who attend to be the hands-on personnel responsible for the review and submittal of certified payroll records and other documentation required by California Labor Codes and the LCP. A representative from each company will be required to sign forms titled “Contractors Acknowledgement” and “Checklist of Labor Law Requirements” at the close of the meeting.

The meeting will be held on [Date] at [Time]a.m. –[Time] am, at [Address of Preconstruction Meeting]

All questions or comments related to this meeting are to be directed to [Name] at [Phone #], Monday through Friday between 8:00 a.m. and 5:00 p.m.

Thank you,

[Name]
Labor Compliance Officer

City of Long Beach
Labor Compliance Program
PROJECT CLOSE OUT REPORT

Awarding Body: _____

Project: _____

	DATE	ANNUAL	FINAL
REPORT TYPE			

PROJECT DOCUMENTS

DOCUMENT	RECEIVED	DATE
BID ADVERTISEMENT		DATE ADVERTISED:
CONTRACT(S)		
PRE-CON SIGN IN SHEET		
JOB POSTINGS		WHERE:
NOTICE OF COMPLETION		RECORDED DATE:

COMMENTS:_____

LABOR COMPLIANCE SPECIALIST RECOMMENDS:	Close		Keep Open		Fines/Penalties		Investigation	
	Notice of Withhold				Full Audit		DAS Complaint	
Name:		**Signature**						

PROJECT DATA AND KEY ACTIVITY CHECKLIST

[Name of Project]
[Name of Awarding Body]
[Awarding Body Mailing Address]
[City, State, Zip Code]
[Phone #] [Fax #]

PRIOR TO SERVICE AUTHORIZATION

1. **Full Project Name:** _____
2. **Physical Location:**
   Project Name: _____
   Street Address: _____
   City, State, Zip: _____
3. **Brief Description of the Work:** _____
   _____
   _____
4. **DSA/OPSC Application #:** _____ (i.e. 50-XXXX-00-XXX)
5. **Total Project Value:_ :** _____
6. **Budgeted Construction Value:** $_____ (Estimated cost of all hard construction costs plus any special inspection, survey or material testing costs not included in the hard construction costs. Do not include "soft costs" such as architectural fees, site acquisition, CM fees, FF&E or Project Inspection fees.)

NOT LATER THAN 1 MONTH PRIOR TO 1ST ADVERTISEMENT FOR BIDS

7. **Name of primary Awarding Body contact:** _____
8. **Name of authorized Awarding Body signatory:** _____
9. **Name and contact data for Project Architect:**
   Firm: _____
   Name: _____
   Street: _____
   City, State, Zip: _____
   Phone: _____ Fax: _____
10. **Name and contact data for Construction Manager (if any):**
    Firm: _____
    Name: _____
    Street: _____
    City, State, Zip: _____
    Phone: _____ Fax: _____

NOT LATER THAN 2 WEEKS PRIOR TO 1ST ADVERTISEMENT FOR BIDS

11. **Is a modular manufacturer/provider involved in any aspect of this project?** _____ Yes _____ No
    If "Yes", provide name, address and contact information for the modular provider:

    Provider: _____

    Name: _____

    Street:_____

    City, State, Zip:_____

    Phone: _____

12. **Confirm that proper language for Bid Advertisement, Notice to Bidders and Supplemental Conditions have been integrated into the bid documents.**

	Confirmed By :	Date:
Advertisement language:	_____	_____
Notice to Bidders:	_____	_____
Supplementary Conditions:	_____	_____

13. **Obtain Copy(s) of Proof of Publication of Bids** (Need one for each separate bid process. If more than three bid processes, enter on separate sheet)

Scope	P.O.P. Obtained & on File	Date of 1st Advertisement
_____	_____	_____
_____	_____	_____
_____	_____	_____

14. **Provide a copy of the Project Manual:** Received: _____ Initials _____ Date

15. **Confirm that Project Inspector's agreement with the Awarding Body includes duty to provide semi-monthly reports that include narrative description of work accomplished and** (if inspector is willing) **firms on-site and worker "head-counts" on a daily basis. If inspector will not be on-site on a daily basis, firm counts and worker counts may not be possible.** _____ Initials

16. **Confirm that Awarding Body's form of contract with the General Contractor** (or CM for Multi-prime CM) **contains requirement to produce a Daily Superintendent's Report that contains, at a minimum, what trade contractors are on site, daily, and "head-count" of personnel on-site, by contractor. Ensure that contract requires GC or CM to provide copies of this report to Awarding Body on a weekly basis.** _____ Initials

NOT LATER THAN 1 WEEK FOLLOWING AWARD OF CONTRACT(S)

17. **Name and contact data for successful prime contractor(s)** (Use separate sheet for multi-prime)

Prime Contractor #1

Name: _____

Street: _____

City, State, Zip: _____

Phone: _____Fax: _____

Prime Contractor #2

Name: _____

Street: _____

City, State, Zip: _____

Phone_____Fax: _____

Prime Contractor #3

Name: _____

Street: _____

City, State, Zip: _____

Phone: _____ Fax: _____

18. **Provide a copy of the successful bid(s), to include listing of subcontractors:**

Received: _____ _____
Initials Date

19. **Provide a copy of the bid bond(s) for the successful prime bid(s):**

Received: _____ _____
Initials Date

NOT LATER THAN 1 WEEK FOLLOWING AWARD OF CONTRACT(S)

20. **Provide a copy of the prime contract form.** (For Multi-Prime CM, provide a single copy of the form of agreement and attachments that will be used for the prime contracts.)

Received: _____ _____
Initials Date

21. **Provide the award date for the contract(s).** In most cases, this will be the Board Approval date. (For Multi-Prime CM; indicate the award date for each prime contract awarded on a separate sheet. If only a portion of the bid packages were awarded, indicate those that were and notify us of additional awards later, when they occur).

Prime Contract #1: Award Date:

Prime Contract #2: Award Date:

Prime Contract #3: Award Date:

22. **Provide Contract Number for any prime contracts awarded:** (Insert additional sheet if required)

Prime Contract #1:

Prime Contract #2:

Prime Contract #3:

23. **Provide the construction Notice to Proceed Date(s):**

1. _____ 2. _____

3. _____

24. **Provide the contractual completion date(s), based on the Notice to Proceed date(s):**

1. _____ 2. _____

3. _____

25. **Provide the names, addresses and contact information for all special inspectors, soils inspectors, surveyors or material testing firms that are retained by the Awarding Body that will be working on the project during the construction phase.** (Insert additional sheet if required).

_____

_____

_____

_____

_____

EXAMPLE RECORDS REQUEST – EXTENSION LETTER

(City of Long Beach Letterhead)

[date]

[Requesting Agency name]
[Requesting Agency street address]
[Requesting Agency city, state, zip]

RE: Records Request for [Contractor name]
PROJECT: "[Click here and type Project name]"

[Contact name] ,

A request for records pertaining to the above indicated public works project, initiated by your organization, dated [date] addressed [name] was received on [date] . As administer of the labor compliance program, payroll records and related documents are kept in our office. Please address all future correspondence or questions regarding this request to our Labor Compliance Division, Attention: [contact name], to ensure that your request is processed in a timely manner.

The information requested, as stated in your letter (copy enclosed), is as follows:

1. "[Enter the requests straight from their request letter]"
2. "[Enter the requests straight from their request letter]"

All the records you have requested are not available. Please be advised that due to the fact that it will be necessary to obtain these documents from the contractor to fulfill your request, pursuant to Government Code § 6253 (c) we hereby give notice to you that the time required to complete your request will exceed the Ten (10) days prescribed by statute. The estimated date that these records will be available for review will be [enter date 14 days out]" .

If I can be of any further assistance in this matter please feel free to contact me Monday through Friday, 8:00 am – 5:00 pm, at "[Enter #]" .

Respectfully,

Name
Labor Compliance Office

EXAMPLE REQUEST MODIFICATION TO FORFEITURE

(City of Long Beach Letterhead)

[Date] (# pages total)

[Contact]
Dept. of Industrial Relations
Division of Labor Standards Enforcement
320 West 4th Street, Room 450
Los Angeles, CA 90013

Awarding Body:
Project Name:
Affected Contractor:

RE: CASE NUMBER _____

[Contact Name]

After review of additional evidence provided by [Affected Contractor] we request that the forfeiture amount be modified as follows:

Wages from $[Enter Amount] to $"[Enter Amount]"
Training from $[Enter Amount] to $"[Enter Amount]"
1775 Penalties from $[Enter Amount] to $"[Enter Amount]"
1776 Penalties from $[Enter Amount] to $"[Enter Amount]"

Total Notice of Withholding from $"[Enter Amount]" to $"[Enter Amount]"

Updated underpayment and penalty spreadsheets are enclosed.

The original of this document will be sent by first class mail on [Date]. If you have any questions do not hesitate to contact me at [#] between the hours of 8:00am to 5:00pm.

Sincerely,

[Name]
[Title]"

Cc: Affected Contractor
Prime Contractor
Labor Compliance Consultant
Director of Financial Management
City Attorney

Enclosure
[attach latest spreadsheet]

EXAMPLE REQUEST FOR INFORMATION - COMPLAINANT

(City of Long Beach Letterhead)

Date: In Reply Refer to Case Number:_____

To: _____
_____
_____
_____

Awarding Body:
Project Name:
Project Number
Prime Contractor:
Subcontractor:

Subject: Request for Information – Complaint

To Whom It May Concern,

We are in receipt of your complaint against the above-named contractor. However, the information furnished by you is insufficient to make an adequate determination as to whether or not a formal investigation is warranted.

Please complete the enclosed document(s) and return them to our office immediately. Upon receipt of the requested information, we will process your complaint.

Sincerely,

_____
Name
City of Long Beach
Labor Compliance Officer

EXAMPLE SETTLEMENT MEETING SCHEDULED NOTICE

(City of Long Beach Letterhead)

By Certified Mail and Email

[Date]

[Affected Contractor]
[Street Address]
[City, State, Zip]
ATTN: [Primary Contact]

Awarding Body:
Project Name:
Prime Contractor:

RE: SETTLEMENT MEETING FOR CASE NUMBER [Case #]

To Whom It May Concern,

This letter is in response to your letter of [Date] requesting a settlement meeting. This is to notify you that a **mandatory** settlement conference is scheduled for [Time & Date] at the offices of The City of Long Beach Labor Compliance Program, [address].

The purpose of this conference is to discuss the penalties assessed due to documents requested not received and underpayment of prevailing wage. An individual having authority to bind and act on behalf of [Affected Contractor] must be present.

The original of this document will be sent by first class mail on [Enter Date].

If you have any questions do not hesitate to contact me at [#].

Sincerely,

[Name}
Labor Compliance Officer

Cc: Prime Contractor
Labor Compliance Consultant
Director of Financial Management
City Attorney

City of Long Beach Logo Labor Compliance Program Site Visit Form

Site Visit Form Date:_____/_____/_____

PROJECT DATA
Awarding Agency: _____
Project Name: _____
Site Address: _____

PROJECT MANAGEMENT DATA
Construction Management: _____Telephone:_____
Prime Contractor: _____ Telephone:_____
Project Superintendent: _____ Telephone:_____

REQUIRED POSTINGS AND PREVAILING WAGE DETERMINATIONS PRESENT:
NOTICE TO WORKERS AND CONTRACTORS OF LCP: Yes _____ No_____
PREVAILING WAGE DETERMINATIONS AVAILABLE TO VIEW: Yes _____No_____

Visitors Notes:

_____

_____

_____

_____

_____

_____

_____

_____

Confirmed By: _____Date: _____
Printed Name

Signature:_____

City of Long Beach Labor Compliance Program

Site Visit Interview Form Date_____/_____/_____

PROJECT DATA

Awarding Agency:_____

Project Name:_____

Site Address: _____

PROJECT MANAGEMENT DATA

Construction Management:_____ Phone:_____

Prime Contractor:_____ Phone:_____

REQUIRED POSTINGS AND PREVAILING WAGE DETERMINATIONS PRESENT:

NOTICE TO WORKERS AND CONTRACTORS OF LCP: Yes _____No_____

PREVAILING WAGE DETERMINATIONS AVAILABLE TO VIEW: Yes _____No_____

SITE OBSERVATIONS: Appx number of tradesmen observed during visit:_____

Description of work in progress:

_____

_____

_____

_____

_____

_____

_____

_____

EMPLOYEE INTERVIEW DATA:

Company Name:_____

Employee Name: _____ SS#:_____

Classifications/Positions/Duties:_____Hourly Wage$_____

Task being performed at time of interview? _____

Did superintendent/foreman accompany during interview? Yes_____ No_____

Additional information discussed by employee:_____

_____

_____

_____

_____

PROJECT DATA: PAGE_____ OF _____ **DATE:_____**

Awarding Agency:_____

Project Name:_____

Site Address:_____

EMPLOYEE INTERVIEW DATA

Company Name:_____

Employee Name: _____ SS#:_____

Classifications/Positions/Duties:_____Hourly Wage$_____

Task being performed at time of interview? _____

Did superintendent/foreman accompany during interview? Yes_____ No_____

Additional information discussed by employee:_____

_____

_____

_____

EMPLOYEE INTERVIEW DATA

Company Name:_____

Employee Name: _____ SS#:_____

Classifications/Positions/Duties:_____Hourly Wage$_____

Task being performed at time of interview? _____

Did superintendent/foreman accompany during interview? Yes_____ No_____

Additional information discussed by employee:_____

_____

_____

_____

EMPLOYEE INTERVIEW DATA

Company Name:_____

Employee Name: _____ SS#:_____

Classifications/Positions/Duties:_____Hourly Wage$_____

Task being performed at time of interview? _____

Did superintendent/foreman accompany during interview? Yes_____ No_____

Additional information discussed by employee:_____

_____

_____

_____

PROJECT DATA: PAGE_____ OF _____ **DATE:_____**

Awarding Agency:_____

Project Name:_____

Site Address:_____

INTERVIEWERS NOTES

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

Interview Conducted by:_____ Date:_____

For week ending on: _____ ***Payroll Number***: _____

Date/Time:_____

Project:_____

Contractor:
Name – License #
Contact Name
DIR registration #
Address

CERTIFICATION FOR NON-PERFORMING WEEK

I, [NAME AND POSITION], DO HEREBY STATE:

(1) That I pay or supervise the payment of the persons employed by [COMPANY] on the [PROJECT NAME]; that during the payroll period commencing ON [DATE and ending on [DATE] all persons employed on said project have been paid the full weekly wages earned, that no rebates have been or will be made either directly or indirectly to or on behalf of said [COMPANY] from the full weekly wages earned by any person and that no deductions have been made either directly or indirectly from the full wages earned by any person, other than permissible deductions as defined in Regulations, Part 3 (29 C.F.R. Subtitle A), issued by the Secretary of Labor under the Copeland Act, as amended (48 Stat. 948, 63 Stat. 108, 72 Stat. 967; 76 Stat. 357; 40 U.S.C. 167; 3145), and described below:
All comments are in the notes on the submitted Certified Payroll Report.

(2) That any payrolls otherwise under this contract required to be submitted for the above period are correct and complete; that the wage rates for laborers or mechanics contained therein are not less than the applicable wage rates contained in any wage determination incorporated into the contract; that the classifications set forth therein for each laborer or mechanic conform with the work he performed.

(3) That any apprentices employed in the above period are duly registered in a bona fide apprenticeship program registered with a State apprenticeship agency recognized by the Bureau of Apprenticeship and Training, United States Department of Labor, or if no such recognized agency exists in a State, are registered with the Bureau of Apprenticeship and Training, United States Department of Labor.

(4)That:
(a) WHERE FRINGE BENEFITS ARE PAID TO APPROVED PLANS, FUNDS OR PROGRAMS
X - in addition to the basic hourly wage rates paid to each laborer or mechanic listed in the above referenced payroll, ;payments of fringe benefits as listed in the contract have been or will be made to appropriate programs for the benefit of such employees, except as noted in section 4(c) below.
(b) WHERE FRINGE BENEFITS ARE PAID IN CASH
X - Each laborer or mechanic listed in the above referenced payroll has been paid, as indicated on the payroll, an amount not less than the sum of the applicable basic hourly wage rate plus the amount of the required fringe benefits as listed in the contract, except as noted in Section 4(c) below.
(c) EXCEPTIONS:
Any exceptions to the above are reported in the certified payroll in the notes section for the specific individual.

REMARKS:
NAME:
TITLE:
Electronic Signature Code:

THE WILLFUL FALSIFICATION OF ANY OF THE ABOVE STATEMENTS MAY SUBJECT THE CONTRACTOR OR SUBCONTRACTOR TO CIVIL OR CRIMINAL PROSECUTION. SEE SECTION 1001 OF TITLE 18 AND SECTION 231 OF TITLE 31 OF THE UNITED STATES CODE.

EXAMPLE UNPAID WAGE FUND NOTIFICATION

(City of Long Beach Letterhead)

[Date]

State of California
Department of Industrial Relations
Division of Labor Standards Enforcement
300 Oceangate, Suite 302
Long Beach, CA 90802
Attn: Public Works Unit

RE: WAGES FOR WORKERS WHO CANNOT BE LOCATED

To Whom It May Concern:

Pursuant to Labor Code 1743 (c) enclosed find check number_____in the amount of $_____ for wages owed to the below named worker(s) who cannot be contacted after a diligent effort to locate:

PROJECT NAME:
PROJECT NO.:
AFFECTED CONTRACTOR:
AFFECTED WORKER(S):
SOCIAL SECURITY NO.(S):
LAST KNOWN ADDRESS:
WAGE AMOUNT DUE:

If you have any questions do not hesitate to contact me at "[Enter #]" Monday through Friday between the hours of 8:00am and 5:00pm.

Sincerely,

Name
Labor Compliance Officer

Cc: Prime Contractor
Labor Compliance Consultant
Director of Financial Management
City Attorney

Verification of Apprenticeship and Journeyman Hours

(CLC 1777.5 (e) Within 60 days after concluding work on the contract, each contractor and subcontractor shall submit to the awarding body, if requested, AND to the apprenticeship program a verified statement of the journeyman and apprentice hours performed on the contract. The information under this subdivision shall be public. The apprenticeship committee shall retain this information for 12 months).

I_____ declare under penalty of perjury that:

I am the _____ of_____ responsible for the
(owner, officer, partner, etc.) (company)
payment of persons employed by _____ who performed work on the
(company)
_____, in the classification _____

_____. The labor performed by these workers

can be described as:_____.

During the payroll period(s) commencing on _____ and ending on_____ all persons employed by my company on this project have been paid the specified general prevailing wage rate of per diem wages for the specified craft or classification pursuant to Labor Code 1771.*

☐ No Apprentices were dispatched in response to my submission(s) of DAS 142 or "Public Works Contract Award Information" and therefore all workers were classified as journeyman.

- OR –

☐ Apprentice(s) worked a total of _____ hours and _____ Journeyman worked a total of _____ hours establishing an apprenticeship/journeyman ration in hours of _____to_____.

Executed this_____day of _____ 20__, at _____, California.

_____
Signature

* Except for public works projects of one thousand dollars ($1,000) or less, not less than the general prevailing rate of per diem wages for work of a similar character in the locality in which the public work is performed, and not less than the general prevailing wage of per diem wages for holiday and overtime work fixed as provided in this chapter, shall be paid to all workers employed on public works. This section is applicable only to work performed under contract and is not applicable to work carried out by a public agency with its own forces. This section is applicable to contracts let for maintenance work.

LCP-AR1

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: ☐ Yes If Yes, proceed to item 6 on the next page

☐ No If No, complete the information below, sign the form and submit to DIR, Office of the Director, Attn: LCP Special Assistant, 1515 Clay Street, 17th Floor, Oakland CA 94612

What suggestions do you have for the Department of Industrial Relations to better assist you with your program in the coming year? (attach additional sheets if necessary)

SUBMITTED BY:

_____ _____ _____
Signature Name and Title Date

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	Contract Amount
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?	Description of Violation
				☐ Yes ☐ No	
				☐ Yes ☐ No	
				☐ Yes ☐ No	
				☐ Yes ☐ No	
				☐ Yes ☐ No	
				☐ Yes ☐ No	
				☐ Yes ☐ No	
				☐ Yes ☐ No	
Total					

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 the following:

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

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

Project Name	Contractor	Nature of Violation	ODL Case #	Current Status

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: _____

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	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 AWARDING 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

DAS 140 (REV. 1/04)

Explanation to box 1 - 3 on form DAS 140

- Box 1 is for contractors who are already approved to train by an apprenticeship program (signatory/member).

- Box 2 indicates that a contractor is willing to comply with a program's Standards for the current project only. This generally means that the fringe benefits and the training funds will be paid to that Committee's Trust Fund. It also allows a contractor to take advantage of a more generous maximum ratio than the CAC Standards, but does not affect the minimum ratio of 1 apprentice hour for every 5 journeyman hours.

- Box 3 means that a contractor will be governed by the regulations of the California Apprenticeship Council. Generally this means that the minimum and maximum ratio for apprentices is the same – 1 apprentice hour for every 5 journeyman hours per each craft, totaled at the end of the project. It also means the Training Fund Contribution is usually paid to the California Apprenticeship Council.

REQUEST FOR DISPATCH OF AN APPRENTICE – DAS 142 FORM

Department of Industrial Relations
STATE OF CALIFORNIA

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/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.**

List one occupation/craft per form

Date:

To Applicable Apprenticeship Committee:

Name: _____

Address: _____

_____

Tel. No. _____ **Fax No.** _____

Contractor Requesting Dispatch:

Name: _____

Address: _____

_____

License 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)

State of California
Department of Industrial Relations
California Apprenticeship Council
P.O. Box 420603
San Francisco, CA 94142

TRAINING FUND CONTRIBUTIONS

Please use a separate ***form*** for each jobsite, listing the occupations for the jobsite. One ***check*** payable to the California Apprenticeship Council may be submitted for all jobsites and/or occupations. Training fund contributions are ***not accepted*** by the California Apprenticeship Council for federal public works projects, or for non-apprenticeable occupations such as utility technicians, teamsters, etc

California Apprenticeship Council

NAME AND ADDRESS OF CONTRACTOR/SUB CONTRACTOR MAKING CONTRIBUTION	CONTRACTOR'S LICENSE NUMBER
	CONTRACT OR PROJECT NUMBER
NAME AND ADDRESS OF PUBLIC AGENCY AWARDING CONTRACT	JOBSITE LOCATION (INCLUDE COUNTY) IF APPLICABLE - GIVE NAME OF SCHOOL, HOSPITAL, BUILDING, etc.
	PERIOD COVERED BY CONTRIBUTION (FROM - TO)

CLASSIFICATIONS OF WORKERS (CARPENTER, PLUMBER, ELECTRICIAN, ETC).	COUNTY WORK PERFORMED IN	HOURS	CONTRIBUTION RATE PER HOUR	AMOUNT
				0.00
				0.00
				0.00
				0.00
				0.00
				0.00
				0.00
			Total	$0.00

SIGNATURE PLEASE TYPE OR PRINT YOUR NAME	DATE
TITLE	AREA CODE & TELEPHONE NUMBER