

CLIENT NEWS BRIEF

Public Agencies No Longer Required to Contract with DIR Registered Contractors for Small Projects

Senate Bill (SB) 96, passed this June as part of the California state budget, contains provisions designed to encourage more contractors to participate on small public works projects.

Public works projects under \$25,000 and maintenance projects under \$15,000 are now exempt from the requirements of the Department of Industrial Relations (DIR) registration program. The new law also permits contractors to register for up to three years in advance and imposes new penalties on contractors found to be in violation of the registration requirements. The deadline for public agencies to provide notice to DIR of new public works projects has also been extended from five to 30 days from the date the contract was awarded.

Prior Law

Since April 1, 2015, all contractors have been required to register with the DIR and to pay an annual registration fee of \$300 in order to bid on or be awarded a public works project, regardless of whether the project was competitively bid. Some public agencies have experienced difficulty in identifying contractors willing to comply with the registration requirements, especially where the contemplated project is relatively small. In order to assist DIR in monitoring prevailing wage compliance, public agencies were required to provide notice to DIR within five days of the award of any public works contract. ([See 2014 Client News Brief No. 43.](#))

Changes Made by SB 96

SB 96 amended Labor Code § 1725.5 to exempt public works projects, including construction, alteration, demolition, installation or repair work, of \$25,000 or less and maintenance projects of \$15,000 or less from the DIR registration and electronic certified payroll reporting requirements, effective July 1, 2017. This change is intended to encourage more contractors to participate on small public works projects. The law also increases the registration fee from \$300 to \$400 but will allow contractors to register or renew their registration for up to three years at a time beginning June 1, 2019.

Labor Code § 1773.3 has also been amended to provide more flexibility to local governments in providing DIR with notice of a new public works project. Public agencies now have 30 days from the date a public works contract was awarded to file the required notice with DIR.

Beginning January 1, 2018, new penalties will apply to any contractor or subcontractor found to be in violation of the registration requirements. Labor Code § 1771.1 now provides that contractors and subcontractors found to have engaged in work on a public works project without being registered may be assessed a \$100 penalty for each day of work performed in violation of the registration requirements, up to a maximum of \$8,000. Contractors or subcontractors found to have entered into a subcontract with an unregistered

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Anne L. Collins
Partner and Co-Chair
Facilities and Business Practice Group
Sacramento Office
acollins@lozanosmith.com



Nicholas J. Clair
Associate
Sacramento Office
nclair@lozanosmith.com



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lower tier subcontractor could be assessed similar penalties.

Additionally, DIR is required to issue a stop order prohibiting the use of the unregistered contractor or subcontractor on all public works until that contractor or subcontractor complies with the registration requirement. A contractor or subcontractor's violation of such a stop order is a misdemeanor punishable by imprisonment of up to 60 days in jail and a \$10,000 fine.

If you have questions regarding these changes to the DIR registration program or other public works obligations, please contact the authors of this Client News Brief or an attorney at one of our [nine offices](#) located statewide. You can also visit our [website](#), follow us on [Facebook](#) or [Twitter](#) or download our [Client News Brief App](#).

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