

CLIENT NEWS BRIEF

New Legislation Revises Monitoring and Enforcement of the Prevailing Wage Law for All Public Works Projects in California

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When the California Legislature completed final action on the annual state budget in June, it passed the main budget bill, Senate Bill (SB) 852, and sixteen budget trailer bills, including SB 854 which makes changes to monitoring and enforcement of the state's prevailing wage law by the Department of Industrial Relations (DIR). SB 854 took effect immediately but the changes affecting awarding bodies, contractors, and subcontractors are phased in gradually. Effective immediately, all awarding bodies are required to provide notice to the DIR of any public works contract within five days of the award and must post – or require the prime contractor to post – job site notices.

Background

Labor Code sections 1770 *et seq.* require the payment of prevailing wages to all workers employed on public works projects. The Director of the DIR is generally tasked with monitoring and enforcing compliance with the state's prevailing wage law for any public works project paid for in whole or in part out of public funds.

In recent years, awarding bodies have been required to directly pay the DIR's Compliance Monitoring Unit (CMU) for the costs of monitoring and enforcing compliance with the prevailing wage law as a cost of construction. Implementation of this statutory and regulatory scheme was problematic, however, and SB 854 attempts to address the failings of the outgoing monitoring and enforcement mechanism.

Contractors and Subcontractors

SB 854's new requirements apply to all public works projects, not just those supported by state funds. SB 854 will require all contractors and subcontractors intending to bid or perform work on public works projects to annually register and pay a fee to the DIR for purposes of monitoring and enforcing compliance with the state's prevailing wage law. Consequently, the Department will no longer directly charge awarding bodies for prevailing wage monitoring and enforcement by the CMU.

The registration program began July 1, 2014, and all contractors and subcontractors submitting bids on public works projects must be registered by March 1, 2015. However, the requirement for awarding bodies to use only registered contractors and subcontractors on public works projects does not take effect until April 1, 2015.

Through registration, the DIR will collect fees from contractors and subcontractors to fund the DIR's duties, including oversight of the state's prevailing wage law, compliance monitoring and enforcement, determinations of prevailing wage and public works coverage, and enforcement appeals hearings. The current fee is \$300, though the Director of the DIR has the authority to annually adjust the fee. Contractors and subcontractors are also required to meet minimum qualifications to register, allowing them to bid and work on



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public works projects. The DIR will post a list of registered contractors and subcontractors on its web site.

Awarding Bodies

All awarding bodies should be aware of the following dates for compliance with the new prevailing wage law requirements of SB 854:

1. Effective immediately, awarding bodies must submit a contract award notice to the DIR within five days of the award on form "PWC 100";
2. Effective immediately, awarding bodies must post – or require the prime contractor to post – job site notices;
3. Beginning January 1, 2015, awarding bodies must specify in the call for bids and contract documents that the public works project is subject to compliance monitoring and enforcement by the DIR;
4. Beginning March 1, 2015, awarding bodies must ensure that contractors and subcontractors submitting bids on public works contracts are registered with the DIR; and
5. Beginning April 1, 2015, awarding bodies must ensure that public works contracts are awarded only to contractors and subcontractors registered with the DIR.

For further information regarding the DIR's new role and how it affects the administration of public works projects, please contact one of our [eight offices](#) located statewide. You can also visit our [website](#), follow us on [Facebook](#) or [Twitter](#), or download our [Client News Brief App](#).