

- (c) The duties of a Labor Compliance Program with respect to apprenticeship standards are as follows:
- (1) Either the Awarding Body or the Labor Compliance Program acting on its behalf shall
    - (A) inform contractors and subcontractors bidding public works about apprenticeship requirements,
    - (B) send copies of awards and notices of discrepancies to the Division of Apprenticeship Standards as required under Section 1773.3 of the Labor Code, and (C) refer complaints and promptly report suspected violations of apprenticeship requirements to the Division of Apprenticeship Standards.
  - (2) The Labor Compliance Program shall be responsible for enforcing prevailing wage pay requirements for apprentices consistent with the practice of the Labor Commissioner, including:
    - (A) that any contributions required pursuant to Labor Code Section 1777.5(m) are paid to the appropriate entity,(B) that apprentices are paid no less than the prevailing apprentice rate, (C) that workers listed and paid as apprentices on the certified payroll records are duly registered as apprentices with the Division of Apprenticeship Standards, and (D) requiring that the regular prevailing wage rate be paid (i) to any worker who is not a duly registered apprentice and (ii) for all hours in excess of the maximum ratio permitted under Labor Code Section 1777.5(g), as determined at the conclusion of the employing contractor or subcontractor's work on the public works contract.
- (d) For each public work project subject to a Labor Compliance Program's enforcement of prevailing wage requirements, a separate, written summary of labor compliance activities and relevant facts pertaining to that particular project shall be maintained. That summary shall demonstrate that reasonable and sufficient efforts have been made to enforce prevailing wage requirements consistent with the practice of the Labor Commissioner. Appendix C following this section provides a suggested format for tracking and monitoring enforcement activities. Compliance records for a project shall be retained until the later of (1) at least one year after the acceptance of the public work or five years after the cessation of all labor on a public work that has not been accepted, or (2) one year after a final decision or judgment in any litigation under Labor Code Section 1742. For purposes of this section, a written summary or report includes information maintained electronically, provided that the summary or report can be printed out in hard copy form or is in an electronic format that (1) can be transmitted by e-mail or compact disk and (2) would be acceptable for the filing of documents in a federal or state court of record within this state.
- (e) 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 above, (3) enforcement responsibilities under this section and sections 16435-16439 below, 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.

***B. Withholding Contract Payments When Payroll Records are Delinquent or Inadequate***

1. "Withhold" means to cease payments by the Awarding Body, or others who pay on its behalf, or agents, to the contractor. Where the violation is by a subcontractor, the contractor shall be notified of the nature of the violation and reference made to its rights under Labor Code § 1729. A release bond under Civil Code § 3196 may not be posted for the release of the funds being withheld for the violation of the prevailing wage law.

2. "Contracts" except as otherwise provided by agreement, means only contracts under a single master contract, including a design build contract or contracts entered into as stages of a single project, which may be the subject of withholding pursuant to Labor Code Sections 1720, 1720.2, 1720.3, 1720.4, 1771 and 1771.5;
  - a. "Delinquent payroll records" means those not submitted on the basis set forth in the Awarding Body's contract and or the LCP;
  - b. "Inadequate payroll records" is any one of the following:
    1. A record lacking the information required by Labor Code § 1776;
    2. A record which contains all of the required information but which 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 a notice has been given to the contractor or subcontractor of inaccuracies detected by audit or record review; provided, 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 § 1776 and § 16401 of Title 8 of the California Code of Regulations.
  - c. The withholding of contract payments when payroll records are delinquent or inadequate is required by Labor Code §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.
  - d. 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.
  - e. No contract payments shall be withheld solely on the basis of delinquent or inadequate payroll records after the required records have been produced.
  - f. In addition to withholding contract payments based on delinquent or inadequate payroll records, penalties shall be assessed under Labor Code Section 1776(h) for failure to timely comply with a written request for certified payroll records. The assessment of penalties under Labor Code Section 1776(h) does require the prior approval of the Labor Commissioner under section 16436 of the California Code of Regulations.

C. *Withholding Contract Payments When, After Investigation, It Is Established That Underpayment or Other Violation Has Occurred*

1. "Withhold" and "contracts" have the same meaning set forth in sections 16435(a) and 16435(b) of these regulations.
2. 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.
3. "Amount equal to the underpayment" is the total of the following determined by payroll review, audit, or admission of the contractor or subcontractor:
  - a. The difference between the amounts paid to workers and the correct General Prevailing Wage Rate of Per Diem Wages as defined in Labor Code §1773 and determined to be the prevailing rate due workers in such crafts, classifications or trade in which they were employed.
  - b. The difference between the amounts paid to workers and the correct amounts of employer payments, as defined in Labor Code §1773 .1 and determined to be part of the prevailing wage costs of contractors due for employment of workers in such craft, classification, or trade in which they were employed.
  - c. Estimated amounts of "illegal taking of wages"; and
  - d. Amounts of apprenticeship training contributions paid to neither the program sponsor's training trust nor the California Apprenticeship Council.

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 the California Code of Regulations.

4. Provisions relating to the penalties under Labor Code Sections 1775, 1776, 1777.7, and 1813:
  - a. Pursuant to Labor Code §1775, the contractor shall, as a penalty to the Awarding Body, forfeit not more than two hundred dollars (\$200.00) for each calendar day, or portion thereof, for each worker paid less than the prevailing wages.
  - b. Pursuant to Labor Code § 1776(h), the contractor shall, as a penalty to the Awarding Body, forfeit one hundred dollars (\$100) for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. The assessment of penalties under this section does require the prior approval of the Labor Commissioner under §16436 of Title 8 of the California Code of Regulations.
  - c. Pursuant to Labor Code § 1777.5, contractors and subcontractors are required to employ registered apprentices on public works projects. Each contractor and subcontractor shall keep an accurate payroll record relative to apprentices per §1776 of the Labor Code.
  - d. In situations involving overtime, the contractor shall, as an additional penalty to the Awarding Body forfeit twenty-five dollars (\$25) for each worker employed in the execution of the contract by the

contractor or by any 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 §1813 of the Labor Code.

*D. Forfeitures Requiring Approval by the Labor Commissioner*

1. For the purposes of this section and §16437 below, "forfeitures" means the amount of wages, penalties and forfeitures assessed by the Labor Commissioner and proposed to be withheld pursuant to Labor Code §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; and (2) penalties assessed under Labor Code §1775, 1776 and 1813.
2. If the aggregate amount of forfeitures assessed as to a contractor or subcontractor is less than \$1,000.00, the forfeiture 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 §1771.6(a); (2) an audit as defined in §16432(e) of the California Code of 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 §1775.
3. For all other forfeitures, approval by the Labor Commissioner shall be requested and obtained in accordance with §16437 of the California Code of Regulations.

*E. Determination of Amount of Forfeiture by the Labor Commissioner (Title 8 CCR §16437)*

1. Where the Labor Compliance Program requests a determination of the amount of forfeiture, the request (included as an appendix to this manual) shall include a file or report to the Labor Commissioner which contains at least the information: specified in subparts (a) through (i) below.
  - 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 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 §16432 of the California Code of Regulations and a copy of the audit prepared in accordance with §16432(e) setting forth the amount of unpaid wages and applicable penalties;
  - e. Evidence that before the forfeiture was sent to the Labor Commissioner (1) 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 contractors or subcontractors attention, and (2) 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 contractors or subcontractors attention, a statement should accompany the proposal for a forfeiture with a recommended penalty amount, pursuant to Labor Code § 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 violation was a good faith mistake that was promptly corrected when brought to the contractor or subcontractors attention, the file should include the evidence as to the contractor or subcontractors knowledge of his or her obligation, including the programs communication to the contractor or subcontractor of the obligation in the bid invitation, at the Pre-Job Conference agenda and records, and any other notice given as part of the contracting process. Included with the file should be a statement similar to that described in subsection (f) above and recommended penalty amounts, pursuant to Labor Code § 1775(a);
  - h. The previous record of the contractor and subcontractor in meeting prevailing wage obligations; and
  - i. Whether the Labor Compliance Program has been granted approval on only an interim or temporary basis under §16425 or 16426 of the California Code of Regulations or whether it has been granted extended approval under §16427 of the California Code of Regulations.
2. 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 or, but in no event not less than 30 days before the expiration of the limitations period set forth in Labor Code §1742.
3. 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 during an audit, investigation, or meeting if those documents are clearly referenced in the file or report.
4. The Labor Commissioner shall affirm, reject, or modify the forfeiture in whole or in part as to the wages and penalties due.
5. 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 §16427 of the California Code of Regulations, on the date the Labor Commissioner serves by first class mail, on the Awarding Body's LCP, 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 the forfeiture approved. Service on the contractor and subcontractor is effective if made on the last address supplied by the contractor or subcontractor in the record.
  - b. For programs with extended authority under §16427 of the California Code of regulations, approval is effective 20 days after the requested forfeitures are served on the Labor Commissioner, unless the Labor Commissioner services a notice on 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 the notice of further review.

#### *F. Notice of Withholding*

1. As a matter of enforcing this chapter in accordance with Section 1726 or 1771.5, The Awarding Body shall provide Notice of the Withholding of Contract Payments (included as an appendix to this manual) to the contractor and subcontractor, if applicable. The notice shall be in writing and shall describe the nature of the violation and the amount of wages, penalties, and forfeitures withheld. Service of the Notice shall be completed pursuant to Section 1013 of the Code of Civil Procedure by first-class and certified mail to the contractor and subcontractor, if applicable. The Notice shall advise the contractor and subcontractor, if applicable, of the procedure for obtaining review of the withholding of contract payments. The Awarding Body 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 Body.
2. The withholding of contract payments in accordance with Section 1726 or 1771.5 shall be reviewable under Section 1742 in the same manner as if the Notice of the Withholding was a civil penalty order of the Labor Commissioner under this chapter. If review is requested, the Labor Commissioner may intervene to represent the awarding body.
3. Pending a final order, or the expiration of the time period for seeking review of the Notice of Withholding, the Awarding Body shall not disburse any contract payments withheld.
4. From the amount recovered, the wage claim shall be satisfied prior to the amount being applied to penalties. If insufficient money is recovered to pay each worker in full, the money shall be prorated among all workers.
5. 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 the General Fund of the Awarding Body that has enforced this chapter pursuant to Section 1771.5.

#### *G. Deposits of Penalties and Forfeitures Withheld*

1. 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 Awarding Body shall deposit penalties and forfeitures into its general fund or fund of its choice.
2. Where collection of fines, penalties, or forfeitures results from Administrative proceedings or court action to which the Labor Commissioner and the Awarding Body are both parties, the fines, penalties, or forfeitures shall be divided between the General Funds of the State and the Awarding Body, as the court so deems.
3. All penalties recovered in administrative proceedings or court action brought by or against the Labor Commissioner and to which the Awarding Body's Labor Compliance Program is not a party, shall be deposited in the general fund of the State.

4. All wages and benefits which belong to an employee and are withheld or collected from a contractor or subcontractor, either by withholding or as a result of court action pursuant to Labor Code § 1775, 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 deal with such wages and benefits in accordance with Labor Code §96.7.

#### *H. Debarment Policy*

It is the policy of the LCP 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 present at the hearing conducted by the Labor Commissioner for such purpose.

### **SECTION 7: REQUEST FOR REVIEW OF A LABOR COMPLIANCE PROGRAM ENFORCEMENT ACTION / SETTLEMENT AUTHORITY**

1. After 60 days following the service of a civil wage and penalty assessment under Section 1741 or a notice of withholding under subdivision (a) of Section 1771.6, the affected contractor, subcontractor, and surety on a bond or bonds issued to secure the payment of wages covered by the assessment or notice shall be liable for liquidated damages in an amount equal to the wages, or portion thereof, that still remain unpaid. If the assessment or 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. Additionally, if the contractor or subcontractor demonstrates to the satisfaction of the director that he or she had substantial grounds for appealing the assessment or notice with respect to a portion of the unpaid wages covered by the assessment or notice, the director may exercise his or her discretion to waive payment of the liquidated damages with respect to that portion of the unpaid wages. Any liquidated damages shall be distributed to the employee along with the unpaid wages. Section 203.5 shall not apply to claims for prevailing wages under this chapter. (b) Notwithstanding subdivision (a), there shall be no liability for liquidated damages if the full amount of the assessment or notice, including penalties, has been deposited with the Department of Industrial Relations, within 60 days following service of the assessment or 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.
2. A contractor or subcontractor may request a settlement meeting pursuant to Labor Code §1742.1(b) and may request review of a LCP enforcement action in accordance with Labor Code §1771.6(b) and 1742 and the regulations found at §17201-17270 of Title 8 of the California Code of Regulations. The LCP shall have the rights and responsibilities of the enforcing agency (as defined in § 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 officer, and provide an opportunity to review evidence in a timely manner, to participate through counsel in all hearing

procedures, and to meet the burden of establishing prima facie support for the Notice of Withholding of Contract Payments.

3. If a contractor or a subcontractor seeks review of a LCP enforcement action, the Labor Commissioner may intervene to represent the Awarding Body, or to enforce relevant provisions of the Labor Code consistent with the practices of the Labor Commissioner, or both.
4. Except in cases where the Labor Commissioner has intervened pursuant to section (B) above, the LCP shall have the authority to prosecute, settle, or seek the dismissal of any Notice of Withholding of Contract Payment issued pursuant to Labor Code §1771.6 and any review proceeding under Labor Code §1742, without any further need for approval by the Labor Commissioner. Whenever a LCP 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 §1742, the LCP shall document the reasons for the settlement or request for dismissal and shall make that document available to the Labor Commissioner upon request.
5. For each public work project subject to a 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 this section provides a suggested format for tracking and monitoring enforcement activities. Compliance records for a project shall be retained until the later of (1) at least one year after the acceptance of the public work or five years after the cessation of all labor on a public work that has not been accepted, or (2) one year after a final decision or judgment in any litigation under Labor Code Section 1742. For purposes of this section, a written summary or report includes information maintained electronically, provided that the summary or report can be printed out in hard copy form or is in an electronic format that (1) can be transmitted by e-mail or compact disk and (2) would be acceptable for the filing of documents in a federal or state court of record within this state.
6. 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 above, (3) enforcement responsibilities under this section and sections 16435-16439 below, 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.

**SECTION 8: PRIORITY DISTRIBUTION OF FORFEITED SUMS**

*A. Withholding of Forfeited Sums*

1. Before making payments to the contractor of money due under a contract for public work, the Awarding Body shall withhold and retain there from all amounts required to satisfy any civil wage and penalty assessment issued by the Labor Commissioner. The amounts required to satisfy a civil wage and penalty assessment shall not be disbursed by the Awarding Body until receipt of a final order that is no longer subject to judicial review.



## *B. Disposition of Forfeited Sums*

1. The prevailing wage recovery process of this LCP is in accordance with Labor Code § 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 § 3179, et seq. Therefore, all workers employed on a public works project who are paid less than the prevailing wage rate shall have priority over all Stop Notices filed against the contractor.
2. In the event that there are insufficient funds available in the contractor's account to pay the total amounts due, the unpaid prevailing wages shall have priority and must, therefore, be paid first, in accordance with Labor Code § 1775. Furthermore, if insufficient funds are withheld, recovered, or both, to pay each underpaid worker in full, the money shall be prorated among all said underpaid workers; and all penalties shall be deposited in the General Fund of the Awarding Body.

## **SECTION 9: ANNUAL REPORTS**

Per section 16431 of the California Code of Regulations, the LCP shall submit to the Director of the DIR an annual report on the operation of its LCP no later than August 31 of each year. The reporting period will cover a 12 month period from July 1 of the preceding calendar year and will end on June 30 of the year that the annual report is due. The Awarding Body's annual report shall be made on form LCP-AR1, which is included herein under Attachment G.

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.

Pursuant to California Code of Regulations §16430, the Awarding Body shall file a Statement of Economic Interest (FPPC Form 700) along with its Annual Report; specifically:

16430(a) An Awarding Body that operates either its own labor compliance program or that contracts with a third party to operate all or part of its labor compliance program shall determine and designate those employees and consultants of the program who participate in making governmental decisions for the Awarding Body within the meaning of Title 2, California Code of Regulations, sections 18700 - 18702.4. Those designated employees and consultants shall be required to file Statements of Economic Interest (FPPC Form 700) and to comply with other applicable requirements of the Political Reform Act (commencing with Section 87100 of the Government Code) in connection with work performed on behalf of the Awarding Body. 16430(b): Designated employees and consultants who operate or are employed by a third party labor compliance program shall file their Statements of Economic Interest (FPPC Form 700) with the filing officer of each Awarding Body with which the third party program contracts, unless the Department of Industrial Relations or the Fair Political Practices Commission specifies a different or alternative filing location.

## **SECTION 10: OUTREACH ACTIVITIES**

To ensure the successful implementation of this Labor Compliance Program, there shall be several outreach activities initiated and maintained. The LCP Administrator shall be responsible for communication and outreach activities relative to public information on the Labor Compliance Program:

1. Regular presentations to contractors at all job walk meetings (pre-bid conferences) and job start meetings (pre-job conferences);
2. Ongoing communication via correspondence and with workers at job sites when review of the CPR's reveals the possibility of prevailing wage violations.
3. Periodic meetings with contractor and labor organizations, prime contractors and subcontractors or work preservation volunteers interested in public works contracting.

### **ATTACHMENTS**

The following section contains the attachments applicable to the Awarding Body's Labor Compliance Program

**ATTACHMENT A**  
**CHECKLIST OF LABOR LAW REQUIREMENTS**

## **ATTACHMENT A - CHECKLIST OF LABOR LAW REQUIREMENTS FOR REVIEW AT PER-JOB CONFERENCE**

(In accordance with CCR § 16421)

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

### 1. Payment of Prevailing Wage Rates

The award of a public works contract requires that all workers employed on the project be paid not less than the specified general prevailing wage rates by the contractor and its subcontractors, unless subject to exemption per Labor Code § 1771.5. Should a contract exceed exemption amounts, the contractor and its subcontractors are required to pay not less than the specified general prevailing wage rates.

The contractor is responsible for obtaining and complying with all applicable general prevailing wage rates for trades workers and any rate changes, which may occur during the term of the contract. Prevailing wage rates and rate changes are to be posted at the job site for workers to view.

### 2. Apprentices

It is the duty of the contractor and subcontractor to employ registered apprentices on public works projects per Labor Code § 1777.5.

### 3. Penalties

Penalties, included forfeitures, and debarment, shall be imposed for contractor/subcontractor failure to pay prevailing wages (for nonexempt projects), failure to maintain and submit accurate certified payroll records upon request, failure to employ apprentices, and for failure to pay employees for all hours worked at the correct prevailing wage rate, in accordance with Labor Code §§ 1775, 1776, 1777.7, and 1813.

### 4. Certified Payroll Records

Per Labor Code § 1776, contractors and subcontractors are required to keep accurate payroll records which reflect the name, address, social security number, and work classification of each employee; the straight time and overtime hours worked each day and each week; the fringe benefits; and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee hired in connection with a public works project. Employee payroll records shall be certified and shall be made available for inspection at all reasonable hours at the principal office of the contractor/subcontractor, or shall be furnished to any employee, or to his or her authorized representative on request.

Contractors and subcontractors shall maintain their certified payrolls on a weekly basis and shall submit said payrolls to the Labor Compliance office on a weekly basis. In the event that there has been no work performed during a given week, the Certified Payroll Record shall be annotated "No Work" for that week and the final payroll for each contractor and subcontractor shall be identified in bold markings as "Final Project Payroll". Pursuant to SB854, all contractors and subcontractors on most public works projects are required to submit certified payroll records (CPRs) to the Labor Commissioner using DIR's electronic certified payroll reporting system unless exempted under limited categories.

### 5. Nondiscrimination in Employment

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

#### a. Equal Employment Poster

The equal employment poster shall be posted at the job site in a conspicuous place visible to employees and employment applicants for the duration of the project.

b. The contractor and each subcontractor shall maintain accurate records of employment information as required by the Monthly Employment Utilization Report. This report shall specify the ethnicity and gender for each employee in a craft, trade, or classification.

c. Further, efforts should be made to employ apprentices on public works contracts per Labor Code § 1777.5 efforts to employ apprentices should also be documented.

### 6. Kickback Prohibited

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

### 7. Acceptance of Fees Prohibited

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

8. Listing of Subcontractors

Contractors are required to list all subcontractors hired to perform work on a public works project when that work is equivalent to more than one-half of one percent of the total effort (Government Code § 4100, et seq.);

9. Proper Licensing

No contractor or subcontractor may work on a public works project unless registered with DIR. Contractors and subcontractors are required to be properly licensed. Penalties will be imposed for employing workers while unlicensed (Labor Code § 1021 and Business and Professions Code § 7000, et seq. under California Contractors License Law);

10. Unfair Competition Prohibited

Contractors and subcontractors are prohibited from engaging in unfair competition (Business and Professions Code §§ 17200-17208);

11. Workers' Compensation Insurance

All contractors and subcontractors are required to be insured against liability for workers' compensation, or to undertake self-insurance in accordance with the provisions of Labor Code § 3700 (Labor Code § 1861);

12. OSHA

Contractors and subcontractors are required to comply with the Occupational, Safety and Health laws and regulations applicable to the particular public works project; and

13. Undocumented Workers

The Federal prohibition against hiring undocumented workers, and the requirement to secure proof of eligibility/citizenship from all workers.

14. Itemized Wage Statements

Every employer shall, semimonthly or at the time of each payment of wages, furnish each of his or her employees, either as a detachable part of the check, draft or voucher paying the employee's wages, or separately when wages are paid by personal check or cash, an accurate itemized statement as per §226 of the state labor code.

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 contractor named below:

**For the Contractor:**

**For the Awarding Body's Labor Compliance Administrator (LCA)**

\_\_\_\_\_  
Name of Contractor

\_\_\_\_\_  
Name of Awarding Body's LCA

\_\_\_\_\_  
Name of Contractor's Representative

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature // Date

\_\_\_\_\_  
Date

**ATTACHMENT B**  
**COMPLIANCE MONITORING & AUDIT RECORD**  
**WORKSHEETS**

## **ATTACHMENT B – COMPLIANCE MONITORING & AUDIT RECORD WORKSHEETS**

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

- *Public Works Investigation Worksheet*
- *Public Works Audit Worksheet*
- *Prevailing Wage Determination Summary*
- *Suggested Single Project Labor Compliance Review and Enforcement Report Form [Appendix C following 8 CCR §16434]*







**WAGE DETERMINATION INFORMATION**

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

**PREVAILING WAGE DETERMINATION SUMMARY**

CODE NO.	CLASSIFICATION	Effective Date	HOURLY RATE	Contributions	TRAINING	TIME 1/2 SUNDAY	HOLIDAY / TRAVEL & SUBSISTENCE	Other hourly Requirements
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

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

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

a. Independent Confirmation of CPR Data

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

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

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

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

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

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

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

\* Use separate page(s) for explanation

6. Complaints Received Alleging Noncompliance with Prevailing Wage Requirements.

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

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

7. Requests for Approval of Forfeiture to Labor Commissioner

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

8. Litigation Pending Under Labor Code Section 1742

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


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

\_\_\_\_\_  
Authorized Representative for Labor Compliance Program

**ATTACHMENT C**  
**REQUEST FOR APPROVAL OF FORFEITURE**

**ATTACHMENT C - REQUEST FOR APPROVAL OF FORFEITURE**

**1. AWARDING BODY / THIRD PARTY LCP:**

<p>Name and Contact Information for Awarding Body:</p>  <p>Riverside County Flood Control and Water Conservation District  c/o Claudio Padres, Design/Construction Div. Chief  1995 Market Street  Riverside, CA 92501</p>	<p><b>Date of Request:</b></p>  <p>LCP Approval Status (specify if either interim or temporary or if LCP has extended authority):</p>
-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------------------------------------------------------

**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:**

<b>Total Amount of Request for Notice of Withholding of Contract Payments:</b>			
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. 1<sup>st</sup> Bid Advertisement Publication
- 3. Notice of Completion
- 4. Scope of Work
- 5. Complaint form(s) and Declarations, if any

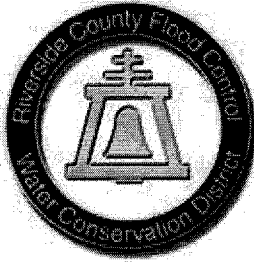
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Send the Request and all Attachments to:

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.**



<p><b>LABOR COMPLIANCE PROGRAM</b>  Riverside County Flood Control and Water Conservation District  Review Office - Notice of Withholding of Contract Payments  c/o Claudio Padres, Design &amp; Construction Division Chief  1995 Market Street  Riverside, CA 92501  Phone: (951) 955-8170  Fax: (951) 955-4532</p>	
<p>Date:</p>	<p>In Reply Refer to Case No.:</p>

**Notice of Opportunity to Review Evidence Pursuant to Labor Code Section 1742(b)**

To: Prime Contractor

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Subcontractor

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Please be advised that this office has received your **Request for Review**, dated \_\_\_\_\_, and pertaining to the Notice of Withholding of Contract Payments issued by the Labor Compliance Program in Case No. \_\_\_\_\_.

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

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

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

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

(c) The evidence required to be provided under this Rule shall include the identity of witnesses whose testimony the Enforcing Agency intends to present, either in person at the hearing or by declaration or affidavit. This provision shall not be construed as requiring the Enforcing Agency to prepare or provide any separate listing of witnesses whose identities are disclosed within the written materials made available under subpart (a).

(d) The Enforcing Agency shall make evidence available for review as specified in subparts (a) through (c) within 20 days of its receipt of the Request for Review; *provided that*, this deadline may be extended by written request or agreement of the affected contractor or subcontractor. The Enforcing Agency's failure to make evidence available for review as required by Labor Code section 1742(b) and this Rule, shall preclude the enforcing agency from introducing such evidence in proceedings before the Hearing officer or the Director.

(e) This Rule shall not preclude the Enforcing Agency from relying upon or presenting any evidence first obtained after the initial disclosure of evidence under subparts (a) through (d), *provided that*, such evidence is promptly disclosed to the affected contractor or subcontractor. This Rule also shall not preclude the Enforcing Agency from presenting previously undisclosed evidence to rebut new or collateral claims raised by another party in the proceeding.

In accordance with the above Rule, please be advised that the Labor Compliance Program's procedure for you to exercise your opportunity to review evidence is as follows:

**Within five calendar days of the date of this notice, please transmit the attached Request to Review Evidence to the following address:**

Riverside County Flood Control and Water Conservation District  
c/o Claudio Padres, Design & Construction Division Chief  
1995 Market Street  
Riverside, CA 92501  
Phone: (951) 955-8170  
Fax: (951) 955-4532

**Request to Review Evidence**

To: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

From:

Riverside County Flood Control and Water Conservation District  
c/o Claudio Padres, Design & Construction Division Chief  
1995 Market Street  
Riverside, CA 92501  
Phone: (951) 955-8170  
Fax: (951) 955-4532


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.: \_\_\_\_\_

**ATTACHMENT D**  
**NOTICE OF WITHHOLDING OF CONTRACT PAYMENTS**

<b>Labor Compliance Program</b> Riverside County Flood Control and Water Conservation District c/o Claudio Padres, Design & Construction Division Chief 1995 Market Street Riverside, CA 92501 Phone: (951) 955-8170	
Date:	In Reply Refer to Case No.:

**ATTACHMENT D - Notice of Withholding of Contract Payments**

Awarding Body	Work Performed in County of
Project Name	Project No.
Prime Contractor	
Subcontractor	

After an investigation concerning the payment of wages to workers employed in the execution of the contract for the above-named public works project, the Labor Compliance Program for \_\_\_\_\_ (Labor Compliance Program) 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:

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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 Contract Payments by transmitting a written request to the office of the Labor Compliance Program that appears below within 60 days after service of the notice. **To obtain a hearing, a written Request for Review must be transmitted to the following address:**

Labor Compliance Program  
Riverside County Flood Control and Water Conservation District  
Review Office-Notice of Withholding of Contract Payments  
c/o Claudio Padres, Design & Construction Division Chief  
1995 Market Street  
Riverside, CA 92501

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 (b), the Labor Compliance Program shall, upon receipt of a request from the affected contractor or subcontractor within 30 days following the service of this Notice of Withholding of Contract Payments, afford the contractor or subcontractor the opportunity to meet with the Labor Compliance Program's designee **to attempt to settle a dispute regarding the notice**. The settlement meeting may be held in person or by telephone and shall take place before the expiration of the 60-day period for seeking a hearing as set forth above under the heading Notice of Right to Obtain Review. No evidence of anything said or any admission made for the purpose of, in the course of, or pursuant to, the settlement meeting is admissible or subject to discovery in any administrative or civil proceeding. No writing prepared for the purpose of, in the course of, or pursuant to, the settlement meeting, other than a final settlement agreement, is admissible or subject to discovery in any administrative or civil proceeding. This opportunity to timely request an informal settlement meeting is **in addition** to the right to obtain a formal hearing, and a settlement meeting may be requested even if a written **Request for Review** has already been made. Requesting a settlement meeting, however, does not extend the 60-day period during which a formal hearing may be requested.

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

Riverside County Flood Control and Water Conservation District  
c/o Claudio Padres, Design & Construction Division Chief  
1995 Market Street  
Riverside, CA 92501

### Liquidated Damages

In accordance with Labor Code section 1742.1, after 60 days following the service of this Notice of Withholding of Contract Payments, the affected contractor, subcontractor, and surety on a bond or bonds issued to secure the payment of wages covered by the notice shall be liable for liquidated damages in an amount equal to the wages, or portion thereof that still remain unpaid. If the notice subsequently is overturned or modified after administrative or judicial review, liquidated damages shall be payable only on the wages found to be due and unpaid. If the contractor or subcontractor demonstrates to the satisfaction of the Director of the Department of Industrial Relations that he or she had substantial grounds for believing the assessment or notice to be an error, the Director shall waive payment of the liquidated damages.

**The Amount of Liquidated Damages Available Under this Notice is \$\_\_\_\_\_.**

Distribution:

Prime Contractor  
Subcontractor  
Surety(s) on Bond

Attach:

Audit Summary  
Proof of Service

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



Riverside County Flood Control and Water Conservation District  
c/o Claudio Padres, Design & Construction Division Chief  
1995 Market Street  
Riverside, CA 92501  
Phone: (951) 955-8170  
Fax: (951) 955-4532



Date:

Case or Contract No.:

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

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

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

Contractor or subcontractor whose payroll records are delinquent or inadequate:

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

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

\_\_\_\_\_

**See page 2 for additional information, including appeal rights.**

\_\_\_\_\_  
Labor Compliance Officer

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

### **Notice of Right to Obtain Review – Expedited Hearing**

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

Riverside County Flood Control and Water Conservation District  
c/o Claudio Padres, Design & Construction Division Chief  
1995 Market Street  
Riverside, CA 92501  
Phone: (951) 955-8170  
Fax: (951) 955-4532

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.

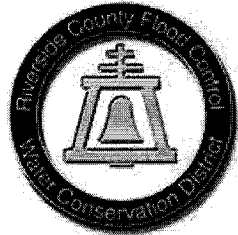
**Important Additional Information:** This is a Notice of Temporary Withholding of Contract Payments for Delinquent or Inadequate Payroll Records *only*. This is *not* a determination of liability for wages or penalties under Labor Code §§1775 and 1776 or any other statute. *Contract payments cannot 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.

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**§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(h) for failure to timely comply with a written request for certified payroll records. The assessment of penalties under Labor Code Section 1776(h) does require the prior approval of the Labor Commissioner under section 16436 of these regulations.

<p><b>LABOR COMPLIANCE PROGRAM</b>  Riverside County Flood Control and Water Conservation District  Review Office - Notice of Withholding of Contract Payments  c/o Claudio Padres, Design &amp; Construction Division Chief  1995 Market Street  Riverside, CA 92501</p> <p>Phone: (951) 955-8170  Fax: (951) 955-4532</p>	
<p>Date:</p>	<p>In Reply Refer to Case No.:</p>

**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**  
**Riverside County Flood Control and Water Conservation District**


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.

**ATTACHMENT F**  
**CERTIFIED PAYROLL RECORD (CPR) TEMPLATE**

# ATTACHMENT F – CERTIFID PAYROLL RECORD (CPR) TEMPLATE



## PUBLIC WORKS PAYROLL REPORTING FORM

Page \_\_\_\_\_ of \_\_\_\_\_

NAME OF CONTRACTOR OR SUB CONTRACTOR		CONTRACTOR'S LICENSE NO.:		ADDRESS:				
PAYROLL NO.:		SPECIALTY LICENSE NO.:	SELF-INSURED CERTIFICATE NO.:	PROJECT OR CONTRACT NO.:	PROJECT AND LOCATION:			
(1) NAME, ADDRESS AND SOCIAL SECURITY NUMBER OF EMPLOYEE	(2) NO. OF WITHHOLDING EMPLOYERS	(3) WORK CLASSIFICATION	FOR WEEK ENDING:			(8) DEDUCTIONS, CONTRIBUTIONS AND PAYMENTS	(9) NET WGS PAID FOR WEEK	CHECK NO.
			(4)	(5)	(6)			
		DAY		HOURLY RATE OF PAY				
		DATE		TOTAL HOURS				
		M T W T F S S		HOURS WORKED EACH DAY				
			S			FED. TAX	STATE TAX	PERSON
			O			TRAINING	DUES	TOTAL DEDUC. THRS.
			S			FED. TAX	STATE TAX	PERSON
			O			TRAINING	DUES	TOTAL DEDUC. THRS.
			S			FED. TAX	STATE TAX	PERSON
			O			TRAINING	DUES	TOTAL DEDUC. THRS.
			S			FED. TAX	STATE TAX	PERSON
			O			TRAINING	DUES	TOTAL DEDUC. THRS.

FORM 441-131 (Rev. 2-89)

5 = STRAIGHT TIME  
 O = OVERTIME  
 SH = STATE UNEMPLOYMENT 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)

## STATEMENT OF COMPLIANCE

I, \_\_\_\_\_, the undersigned, am the \_\_\_\_\_  
Print Name Position in Business

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

certify under the penalty of perjury that the records commencing on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_ and ending on \_\_\_\_ day of \_\_\_\_\_, 20\_\_ submitted herein and consisting of \_\_\_\_ pages are the originals or true, full and correct copies of the originals which  
# of Pages

depict the payroll record(s) of the 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, as described below:

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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

(a) WHERE FRINGE BENEFITS ARE PAID TO APPROVED PLANS, FUNDS OR PROGRAMS

In addition to the basic hourly wage rate paid to each laborer or mechanic listed in the above referenced payroll, payment 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 below.

(b) WHERE FRINGE BENEFITS ARE PAID IN CASH

Each laborer or mechanic listed in the above reference 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 determination of the craft, except as noted below:

(c) EXCEPTIONS

EXCEPTION (CRAFT)	EXPLANATION

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

\_\_\_\_\_  
Date Signature Project Payroll #

**ATTACHMENT G**  
**ANNUAL REPORT LCP-AR1 TEMPLATE FORM**



# ATTACHMENT G – ANNUAL REPORT LCP-AR1 TEMPLATE FORM

## LCP-ARI

### LABOR COMPLIANCE PROGRAM ANNUAL REPORT

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

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

1. Name of Labor Compliance Program (LCP) :	
2. LCP I.D. Number (assigned by DIR):	3. Date of Initial Approval:
4. Contact person (include name, title, address, telephone, fax, and e-mail, if available):	
5. Did LCP perform any LC § 1771.5 enforcement activities during the 12 months in the reporting period? Please check one: <input type="checkbox"/> Yes    If Yes, proceed to item 6 on the next page <input type="checkbox"/> No    If No, complete the information below, sign the form and submit to DIR, Office of the Director, Attn: LCP Special Assistant, 455 Golden Gate Avenue, 10th Floor, San Francisco CA 94102	
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)	
<b>SUBMITTED BY:</b>	
Signature _____	Name and Title _____
	Date _____

**LCP-ARI**

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
				<input type="checkbox"/> Yes <input type="checkbox"/> No	
				<input type="checkbox"/> Yes <input type="checkbox"/> No	
				<input type="checkbox"/> Yes <input type="checkbox"/> No	
				<input type="checkbox"/> Yes <input type="checkbox"/> No	
				<input type="checkbox"/> Yes <input type="checkbox"/> No	
				<input type="checkbox"/> Yes <input type="checkbox"/> No	
				<input type="checkbox"/> Yes <input type="checkbox"/> No	
				<input type="checkbox"/> Yes <input type="checkbox"/> No	
				<input type="checkbox"/> Yes <input type="checkbox"/> No	
Total					

**LCP-ARI**

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

Project Name	Amount Assessed	Amount Recovered	Explanation
Total			

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

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

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

Project Name	Contractor	Nature of Violation	ODL Case #	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: \_\_\_\_\_

**Riverside County Flood Control  
and Water Conservation District**



**Mission Statement:** "The mission of the Riverside County Flood Control and Water Conservation District is to protect people, property and watersheds from damage or destruction from flood and storm waters and to conserve, reclaim and save such waters for beneficial use."



1995 Market Street, Riverside, CA 92501

**LABOR COMPLIANCE PROGRAM APPLICATION TO DIR**

**Appendix 2**  
**"Council Resolution Approving LCP"**

**Riverside County Flood Control and Water Conservation District**

**Claudio Padres, Design & Construction Division Chief**

**1995 Market Street**

**Riverside, CA 92501**

**Phone: (951) 955-8170**

**Fax: (951) 955-4532**

**Email: [cmpadres@rivco.org](mailto:cmpadres@rivco.org)**

2  
3 RESOLUTION NO. F2018-13

4 A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE  
5 RIVERSIDE COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT  
6 ADOPTING, ESTABLISHING AND IMPLEMENTING A LABOR COMPLIANCE PROGRAM FOR  
7 PUBLIC WORKS PROJECTS FUNDED IN ANY PART BY PROPOSITION 84 FUNDING PURSUANT  
8 TO PUBLIC RESOURCES CODE SECTION 75075

9 **WHEREAS, WHEREAS,** Public Resources Code 75075 requires an awarding body that awards  
10 any contract for a public works project financed in any part from funds made available pursuant to  
11 Proposition 84 (“Prop 84”) to adopt and enforce, or contract with a third party to enforce, a Labor  
12 Compliance Program (“LCP”) pursuant to subdivision (b) of Labor Code Section 1771.5 for application to  
13 that public works project; and

14 **WHEREAS,** the Riverside County Flood Control and Water Conservation District (“DISTRICT”)  
15 desires to establish an in-house Labor Compliance Program to enforce and comply with the labor  
16 regulations for public works projects that are Prop 84 funded; and

17 **WHEREAS,** upon adoption of the LCP, the DISTRICT must submit its application to the  
18 Department of Industrial Relations (“DIR”) to obtain approval of the DISTRICT’s LCP by the DIR; and

19 **WHEREAS,** the DISTRICT may operate the LCP by its own employees or may utilize the services  
20 of a labor compliance program consulting firm to execute and operate the DISTRICT'S Labor Compliance  
21 Program should it be approved by the Department of Industrial Relations;

22 **NOW THEREFORE, BE IT RESOLVED, DETERMINED AND ORDERED** by the Board Of  
23 Supervisors of the Riverside County Flood Control and Water Conservation District (“Board”), in regular  
24 session assembled on July 31, 2018, at 9:00 am or soon thereafter, in the meeting room of the Board of  
25 Supervisors of the District located on the 1<sup>st</sup> floor of the County Administrative Center, 4080 Lemon Street,  
26 Riverside, California, that this Board hereby adopts and establishes a Labor Compliance Program for the  
27 purpose of monitoring and enforcing contractors' compliance with California labor and apprenticeship laws  
28 for its public works construction projects financed in any part by Proposition 84.

**BE IT FURTHER RESOLVED, DETERMINED AND ORDERED** by this Board that the  
DISTRICT staff are authorized to submit an application to the DIR to proceed with the approval process in

1 seeking approval of this LCP.

2 **BE IT FURTHER RESOLVED, DETERMINED AND ORDERED** by this Board that, should  
3 the DIR approve the LCP, the General Manager-Chief Engineer, or his designee, is hereby authorized as  
4 the LCP administrator to implement and operate the DISTRICT's Labor Compliance Program for such  
5 public works projects pursuant to Public Resources Code Section 75075 and Title 8, California Code of  
6 Regulations, sections 16421-16439, to maintain DIR-approved status of its Labor Compliance Program.

7 **BE IT FURTHER RESOLVED, DETERMINED AND ORDERED** by this Board that the Labor  
8 Compliance Program shall be effective upon the date of approval of this Resolution.