

SURGE Informational Webinar – Q&A Document

The following document contains questions asked during the **SURGE Informational Webinar on 4/30/24**.

To access the webinar PPT slides, click here: [SURGE Informational Webinar PPT](#)

To access the webinar video, click here: [SURGE Informational Webinar Video](#)

Upcoming SURGE and DIR Events:

- 1. May 29th SURGE & DIR Informational Webinar Registration:** [Register Now](#)
 - DIR will be in attendance for May 29th Webinar.
- 2. Upcoming DIR Training: [Prevailing Wage/Labor Compliance Webinar](#)**

Speakers from the following agencies:

 - The Labor & Workforce Development Agency - Department of Industrial Relations (OD-Legal and the California Labor Commissioner’s Office)
 - US Department of Labor

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Have Questions?

Contact us at 1-800-549-2143 or email us at info@cpucsurge.org.

For additional information, please visit our website at www.cpucsurge.org.

Eligibility-Related Questions

Q: Is there a kW size limit on commercial projects where these requirements wouldn't apply? Or are all commercial projects subject to this bill regardless of size? I know for residential it's anything over 15kW or over two stories, but I couldn't find a size limit for commercial projects.

A: AB 2143 does not contain kW size limit (or maximum), and under PUC 769.2 applies to all "large customer-sited renewable electrical generation facilities, and any associated battery storage, that enrolls in tariffs designed for these projects."

Q: If a project is subject to Davis Bacon Fed. P.W.s, then is it considered a "public works" project, such that the exception to AB 2143 can be applied, resulting in the project not being subjected to State P.W.s?

A: Only projects that received federal funding would be subject to the Federal Davis-Bacon act. AB 2143 project and not funded with federal or state money (they are privately funded by the property owner). These solar projects are defined as "public works" not because of the funding, but due to the NEM tariff and AB 2143. Projects governed by AB 2143 are only subject to California DIR Prevailing Wage regulations, and not Federal Davis-Bacon.

Q: Is AB 2143 only applicable to Investor Owned Utilities (IOUs)?

A: Yes. If a customer is part of a municipal utility, they will not be able to access the tariffs under PUC 2827 and 2827.1, so AB 2143 will not apply to their projects.

Q: Will projects under the new Community Renewable Energy Facility "CREP" meet the eligibility requirement?

A: This question has been sent to the CPUC for input and is pending response.

Q: According to CALSSA, a solar project is NOT subject to AB 2143 if <1MW size and the utility application was submitted prior to Dec 31st 2023? Over 1MW is PW under IRA. Can you confirm?

A: AB 2143 and PUC 769.2 what applies and what is exempt is as follows:

The construction of any renewable electrical generation facility or any battery storage, after December 31, 2023*, that receives service pursuant to the 2nd standard contract or tariff, except: (1) a residential facility that will have a maximum generating capacity of 15 kilowatts or less of electricity or that will be installed on a single family home, (2) a project that is already a public work under existing law**, or (3) a facility that serves only a modular home, a modular home community, or multiunit housing that has 2 or fewer stories.

SURGE Clarification *The date that triggers applicability is the IOU Interconnectivity Application date. **Federal and/or state funded construction project.

Q: Are non-IOU projects subject to AB 2143?

A: No. If a customer is part of a municipal utility, they will not be able to access the tariffs under PUC 2827 and 2827.1, so AB 2143 will not apply to their projects.

Q: Does this just apply to the installers, or does it also affect admin/support staff?

A: Public Works requirements only apply to covered work being performed onsite. You may refer to Section 2.3 of the Public Works Manual for additional information.

<https://www.dir.ca.gov/dlse/pwmanualcombined.pdf>

Q: So, AB 2143 only applies if the installation will be performed in an IOU territory? It would not apply in say SMUD service area.

A: Correct. If a customer is part of a municipal utility, they will not be able to access the tariffs under PUC 2827 and 2827.1, so AB 2143 will not apply to their projects. It only applies to IOU territory projects.

Q: When registering with the DIR, it is difficult to segregate the entire project vs. the solar work. Assumption is solar work only is subject to PW.

A: The portion of the work/project that is eligible to receive the NEM tariff is subject to AB 2143 requirements.

Q: I thought multifamily housing, 2 stories or less, are not subject to AB 2143? Yes? No?

A: Per AB2143: "Existing law imposes various requirements on public works projects, as defined, including a requirement that, at minimum, all workers employed on a public works project be paid the general prevailing rate of per diem wages for work of a similar character in the locality in which a public work is performed, as specified. This bill applies those existing public works requirements to the construction of any renewable electrical generation facility, and any associated battery storage, after December 31st, 2023, that receive service pursuant to the 2nd standard contract or tariff, **except (1) a residential facility that will have a maximum generating capacity of 15 kilowatts or less, a modular home community, or a multiunit housing that has 2 or fewer stories.**"

Q: If you are doing installs with utilities outside of PG&E, SDGE, SCE, like SMUD or Roseville Electric, we do not have to adhere to AB 2143, correct?

A: Only IOU territory projects are eligible for the NEM tariff. Municipal utilities are not eligible and therefore not subject to AB 2143 requirements.

Q: If a project was installed pre AB2143 but the utility required a paperwork correction and new application post Jan 1, 2024, is the contractor obligated to back pay prevailing wage simply due to resubmitting a new application after it went into effect?

A: If the Interconnection application was approved/dated after 1/1/24, AB 2143 is applicable.

Q: Please confirm that Rule 21 Applications for Non-Export Solar systems (not NEM nor Net Billing tariffs) are Exempt from AB 2143 in IOUs.

A: Projects that do not receive the NEM Tariff are not subject to AB 2143 requirements.

Q: For the # of stories provision, is that habitable stories? What counts as a story?

A: "Stories" applies to residential facilities with more than 2 stories that generate more than 15 kilowatts.

Prevailing Wage-Related Questions

Q: Is driving time considered prevailing wage time or is it just work onsite?

A: Travel and subsistence payments vary by craft. To locate the travel and subsistence provisions, please use this link: <https://www.dir.ca.gov/opr/DPreWageDetermination.htm>
You may also reference Section 4.1.1 and 4.1.5 of the Public Works Manual for additional information on travel and subsistence payments and compensable travel time.

<https://www.dir.ca.gov/dlse/pwmanualcombined.pdf>

Q: Where there is not a solar installer classification in DIR published wages, is there a specific classification that will apply to all workers? Or will it be dependent on what they are doing? i.e., Laborer, roofer, electrician, etc.

A: Prevailing wage rates depend on the scope of work, location of the project, and bid advertised date of the project and can be found here:

<https://www.dir.ca.gov/opr/DPreWageDetermination.htm>

Per the Public Works Manual Section 3.2.4, if an awarding body does not advertise the public works project for bid, other benchmark events, including the first written memorialization of the agreement concerning the public works elements of project or the contract governing the award of public funds will be utilized instead.

Additionally, workers can perform work during the same workday that fall under two different classifications and must be paid accordingly. Please reference Section 3.2.7.1 of the Public Works Manual for additional information.

<https://www.dir.ca.gov/dlse/pwmanualcombined.pdf>

You may also visit the DIR's FAQ Page for more information on determining the prevailing wage rates.

https://www.dir.ca.gov/opr/FAQ_PrevailingWage.html

Q: How do I know what wage determination to use for these projects? Is it based on the advertised bid date like other prevailing wage projects?

A: Prevailing wage rates depend on the scope of work, location of the project, and bid advertised date of the project and can be found here:

<https://www.dir.ca.gov/opr/DPreWageDetermination.htm>

Per the Public Works Manual Section 3.2.4, if an awarding body does not advertise the public works project for bid, other benchmark events, including the first written memorialization of the agreement concerning the public works elements of project or the contract governing the award of public funds will be utilized instead.

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You may also visit the DIR's FAQ Page for more information on determining the prevailing wage rates.

https://www.dir.ca.gov/opr/FAQ_PrevailingWage.html

Q: Are prevailing wages required to construct a commercial solar system if not exporting to the grid? For example, self-consumption with storage and no NEM agreement in place.

A: AB 2143 does not apply to projects that are not subject to the NEM tariff. Prevailing wage (pursuant to AB 2143) is only required if the property owner has a project eligible for the NEM credit and receives the credit.

Q: Is it required to pay Prevailing Wages to remove and reinstall a commercial solar system to facilitate roof replacement? Interconnected before 1/1/2024? Interconnected after 1/1/2024?

A: Any work considered to be an upgrade (including reinstallation), where the Interconnection Application was approved after 1/1/24 is subject to AB 2143. Regarding the removal of equipment, it is unlikely, since removal does not result in the property owner/project being eligible for the NEM tariff.

Q: With the DIR's wage schedule, Solar isn't an option. What would you advise us setting our wages at?

A: Prevailing wage rates depend on the scope of work, location of the project, and bid advertised date of the project and can be found here:

<https://www.dir.ca.gov/opr/DPreWageDetermination.htm>

Per the Public Works Manual Section 3.2.4, if an awarding body does not advertise the public works project for bid, other benchmark events, including the first written memorialization of the agreement concerning the public works elements of project or the contract governing the award of public funds will be utilized instead.

Additionally, workers can perform work during the same workday that fall under two different classifications and must be paid accordingly. Please reference Section 3.2.7.1 of the Public Works Manual for additional information.

<https://www.dir.ca.gov/dlse/pwmanualcombined.pdf>

You may also visit the DIR's FAQ Page for more information on determining the prevailing wage rates.

https://www.dir.ca.gov/opr/FAQ_PrevailingWage.html

Q: What prevailing wage classifications are acceptable for solar and battery energy storage?

A: Prevailing wage rates depend on the scope of work, location of the project, and bid advertised date of the project and can be found here:

<https://www.dir.ca.gov/opr/DPreWageDetermination.htm>

Per the Public Works Manual Section 3.2.4, if an awarding body does not advertise the public works project for bid, other benchmark events, including the first written memorialization of the agreement concerning the public works elements of project or the contract governing the award of public funds will be utilized instead.

Additionally, workers can perform work during the same workday that falls under two different classifications and must be paid accordingly. Please reference Section 3.2.7.1 of the Public Works Manual for additional information.

<https://www.dir.ca.gov/dlse/pwmanualcombined.pdf>

You may also visit the DIR's FAQ Page for more information on determining the prevailing wage rates.

https://www.dir.ca.gov/opr/FAQ_PrevailingWage.html

Q: When installing solar panels can we use the roofing prevailing wages? what are the restrictions on prevailing wages? I know it's a tricky question since Solar Panel installation is claimed by multiple trades just not one the work is claimed by Laborers, Roofers, Iron Workers, Glaziers and the Electricians and a few others I believe.

A: Prevailing wage rates depend on the scope of work, location of the project, and bid advertised date of the project and can be found here:

<https://www.dir.ca.gov/opr/DPreWageDetermination.htm>

Per the Public Works Manual Section 3.2.4, if an awarding body does not advertise the public works project for bid, other benchmark events, including the first written memorialization of the agreement concerning the public works elements of project or the contract governing the award of public funds will be utilized instead.

Additionally, workers can perform work during the same workday that fall under two different classifications and must be paid accordingly. Please reference Section 3.2.7.1 of the Public Works Manual for additional information.

<https://www.dir.ca.gov/dlse/pwmanualcombined.pdf>

You may also visit the DIR's FAQ Page for more information on determining the prevailing wage rates.

https://www.dir.ca.gov/opr/FAQ_PrevailingWage.html

Q: If AB 2143 is to pay prevailing wage, and not public works, where is the funding coming from to pay prevailing wage rates?

A: To confirm, the public works designation for these projects is not a result of funding (these are privately funded projects). The Public Works designation (and related requirements) is pursuant to AB 2143, which defines these NEM Tariff projects as public works, subject to prevailing wage and related public works requirements.

Q: Can a licensed contractor use pros under prevailing wage plus some volunteers who are unpaid?

A: Per Labor Code Section 1720.4, "a 'volunteer' is described as an individual who performs work for civic, charitable, or humanitarian reasons for a public agency or corporation qualified under Section 501(c)(3) of the Internal Revenue Code as a tax-exempt organization, without promise, expectation, or receipt of any compensation for work performed." The exclusion does not apply to work performed by anyone other than those persons specifically falling within the definition.

If your workers do not fall under that criteria and they perform work on a public works project, they must be paid the applicable prevailing wages. You may also reference Section 2.8.1 of the Public Works Manual for additional information on volunteers.

<https://www.dir.ca.gov/dlse/pwmanualcombined.pdf>

Q: Please clarify if only the solar portion of the work on the project is subject to DIR prevailing wage rules and doesn't affect the entire project as a whole.

A: All construction related work that is part of the overall solar project (subject to the NEM tariff), is subject to AB 2143 requirements.

Q: To confirm, the prevailing wage we have to pay is just the base rate or the full burdened rate as cash in lieu of fringe benefits?

A: **This question has been submitted to the DIR and is pending their response;** however, on Public Works projects, the prevailing wage rate includes the base hourly rate, employer payments (health and welfare, pension, training, vacation/holiday, other), applicable Pre-Determined Increases, and applicable Travel and Subsistence pay.

Prevailing wage rates depend on the scope of work, location of the project, and bid advertised date of the project and can be found here: <https://www.dir.ca.gov/oprl/DPreWageDetermination.htm>

Per the Public Works Manual Section 3.2.4, if an awarding body does not advertise the public works project for bid, other benchmark events, including the first written memorialization of the agreement concerning the public works elements of project or the contract governing the award of public funds will be utilized instead.

You may also reference Section 4.2.1 of the Public Works Manual for additional information regarding Per Diem Wages.

<https://www.dir.ca.gov/dlse/pwmanualcombined.pdf>

You may also reference Labor Code Section 1773.1 for more information on Per Diem wages.

Q: Where do we find current prevailing wage rates and worker classifications for solar and battery workers?

A: Prevailing wage rates depend on the scope of work, location of the project, and bid advertised date of the project and can be found here:

<https://www.dir.ca.gov/oprl/DPreWageDetermination.htm>

Per the Public Works Manual Section 3.2.4, if an awarding body does not advertise the public works project for bid, other benchmark events, including the first written memorialization of the agreement concerning the public works elements of project or the contract governing the award of public funds will be utilized instead.

Additionally, workers can perform work during the same workday that fall under two different classifications and must be paid accordingly. Please reference Section 3.2.7.1 of the Public Works Manual for additional information.

<https://www.dir.ca.gov/dlse/pwmanualcombined.pdf>

You may also visit the DIR's FAQ Page for more information on determining the prevailing wage rates.

https://www.dir.ca.gov/oprl/FAQ_PrevailingWage.html

Q: If we already provide benefits like health and retirement, do we need to pay the full wage or can we just pay the base rate?

A: Employer payments such as Health and Welfare or Pension are a credit against the obligation to pay the general prevailing wage rate of per diem wages.

Please reference Section 4.2.1 of the Public Works Manual for additional information regarding Per Diem Wages.

<https://www.dir.ca.gov/dlse/pwmanualcombined.pdf>

You may also reference Labor Code Section 1773.1 for more information on Per Diem wages.

Q: We have projects that were both interconnected in 2023, or even are interconnected and awarded NEM 2.0. Even though we are doing the installs in 2024, we do not need to worry about prevailing wage, correct?

A: Projects interconnected in 2023 but installed in 2024 **are not** subject to AB 2143. Interconnection date triggers AB 2143 applicability

Q: So, if 1 employee of my subcontractor does not receive the proper prevailing wage, then the project owner is punished?

A: The project owner may lose access to the NEM Tariff/Credit for any subcontractor that performed work on the eligible project, who did not comply with the requirements of AB 2143.

Q: What about service work on a previous prevailing wage project?

A: Any work considered to be an upgrade (including reinstallation), where the Interconnection Application was approved after 1/1/24 is subject to AB 2143.

Q: If a contract for commercial solar work is made before 1/1/24, but the NEM application isn't submitted until after 1/1/24, how do we know which wage determination to use to find the correct wages? Would we go off the bid advertisement date like other prevailing wage jobs? Or would we use the 1/1/24 date? Or a different date all together?

A: Since there is likely no public solicitation involved with these privately funded projects, there would not be a Bid Advertisement Date on which to base the Wage Determination version. In this case it is recommended that contactors use either the contract execution date, or the Interconnectivity date, whichever is closest in time to the start of the project.

Q: Will the "Interconnection date" be the date that triggers the ability to pull the correct wage determination? If not, what is the trigger date?

A: Since there is likely no public solicitation involved with these privately funded projects, there would not be a Bid Advertisement Date on which to base the Wage Determination version. In this case it is recommended that contactors use either the contract execution date, or the Interconnectivity date, whichever of the is closest in time to the start of the project.

Q: What DIR classifications should a contractor use for determining prevailing wage requirements? Typically, we have Electricians and laborers.

A: Prevailing wage rates depend on the scope of work, location of the project, and bid advertised date of the project and can be found here:

<https://www.dir.ca.gov/oprl/DPreWageDetermination.htm>

Per the Public Works Manual Section 3.2.4, if an awarding body does not advertise the public works project for bid, other benchmark events, including the first written memorialization of the agreement concerning the public works elements of project or the contract governing the award of public funds will be utilized instead.

Additionally, workers can perform work during the same workday that fall under two different classifications and must be paid accordingly. Please reference Section 3.2.7.1 of the Public Works Manual for additional information.

<https://www.dir.ca.gov/dlse/pwmanualcombined.pdf>

You may also visit the DIR's FAQ Page for more information on determining the prevailing wage rates.

https://www.dir.ca.gov/oprl/FAQ_PrevailingWage.html

Q: Do you know if a battery only install project on a residential home falls under prevailing wage?

A: Single-family homes are exempt from AB 2143.

Residential facilities with more than 2 stories that generate more than 15 kilowatts are subject to AB 2143 (including battery installation).

Q: What is the definition of Facility when it relates to paying of prevailing wages? Are carports with Solar Panels considered to be part of PW requirements?

A: “Facility” is the project location, or the site where the solar equipment is installed. This would depend on the entity that owns the carport. If the carport is part of a residential facility over 2 stories that generates more than 15 kilowatts, it would be subject to AB 2143.

Q: The CPUC stated that if a project is subject to federal prevailing wages, then it is considered a “public works” project and the exception applies to AB 2143.

If the federal wages are less than that required by AB 2143, do the workers only need to be paid the lower federal wages?

Can you provide some more context for our solar contractor to ensure they pay and report the proper wages?

A: Only projects that received federal funding would be subject to the Federal Davis-Bacon act. AB 2143 project and not funded with federal or state money (they are privately funded by the property owner). These solar projects are defined as "public works" not because of the funding, but due to the NEM tariff and AB 2143. Projects governed by AB 2143 are only subject to California DIR Prevailing Wage regulations, and not Federal Davis-Bacon.

A solar project with federal funding would fall outside the scope of AB 2143, as it is already a Public Works, based on the public (federal) funding. As such, it would be subject to prevailing wage and public works requirements independent of AB 2143.

Payroll Reporting-Related Questions

Q: What is the definition of a Certified Payroll Report?

A: Labor Code Section 1776(b) requires that payroll records must be "certified", meaning they must be accompanied by a signed Statement of Compliance, which is a written declaration made under penalty of perjury that the information contained in the records is true and correct. You may also reference Section 3.1.1 of the Public Works Manual for additional information.

<https://www.dir.ca.gov/dlse/pwmanualcombined.pdf>

Q: Could you please confirm if SURGE will provide its own online payroll submission form or portal similar to the one we use for the DIR on Commercial Prevailing Wage projects?

A: Contractors may use the DIR A-1-131 Payroll reporting form or house payroll reporting form as long as it contains all of the required information (name, address, social security number, work classification, straight time/overtime hours worked, hourly rate of pay, etc.). Please note that in order for the payroll to be considered "certified", it must be accompanied by a signed Statement of Compliance.

The completed form must be uploaded to the [SURGE Compliance Portal](#) as a pdf. Please reference Section 3.1 and 3.1.1 of the Public Works Manual and Labor Code Section 1776 for more information on payroll reporting requirements.

<https://www.dir.ca.gov/dlse/pwmanualcombined.pdf>

Q: Can you please clarify why TWO state agencies require certified reports for solar projects?

A: The DIR and SURGE are two separate entities, each of which have statutory requirements that need to be complied with.

Q: How often do you have to upload certified payroll reports through eCPR to the DIR... still 2x per year?

A: The DIR requires that certified payroll be uploaded monthly through the [DIR eCPR website](#). SURGE (AB 2143) requires that certified payroll be submitted biannually (by July 1 and December 31) through the [SURGE Compliance Portal](#). However, contractors may upload to SURGE more frequently.

Q: DIR reporting is typically done monthly. Are they more lenient to be able to file bi-annually on these projects, or should companies file monthly?

A: The DIR requires that certified payroll be uploaded monthly through the [DIR eCPR website](#). AB2143 requirements do not affect that requirement and contractors should still submit their payrolls monthly to the DIR.

Q: Will you be going over on how we are to upload CPR, if not will this be covered/shown in the "Education" section?

A: DIR certified payroll is entered through the DIR eCPR website: <https://www.dir.ca.gov/Public-Works/Certified-Payroll-Reporting.html>

SURGE certified payroll is performed by uploading the payroll reports as a PDF to the [SURGE Compliance Portal](#).

Q: Our understanding of prior projects was that certified payroll is submitted to the DIR, not to SURGE. Is this another intermediate step? and send to DIR after?

A: Projects eligible for NEM tariff with an Interconnectivity date after January 1, 2024, are subject AB 2143 Public Works requirements. This includes uploading Certified Payroll to the DIR's eCPR system (monthly) and uploading copies certified payroll reports to the SURGE Compliance Portal by July 1 and December 31.

Q: For clarification we DO or WE DO NOT report to DIR & SURGE? If there is no DIR # how would we report to the DIR?

A: Projects eligible for NEM tariff with an Interconnectivity date after January 1, 2024, are subject AB 2143 Public Works requirements. This includes uploading Certified Payroll to the DIR's eCPR system (monthly) and uploading copies of certified payroll reports to the SURGE portal by July 1 and December 31.

Projects must also be registered with the DIR. **The entity responsible for DIR Project Registration is pending confirmation by the DIR.**

Q: What format does SURGE require for payroll uploads? Same as eCPR format?

A: Contractors will upload a PDF to SURGE and may use the DIR A-1-131 payroll reporting form or house payroll reporting form as long as it contains all of the required information (name, address, social security number, work classification, straight time/overtime hours worked, hourly rate of pay, etc.). Please note that in order for the payroll to be considered "certified", it must be accompanied by a signed Statement of Compliance. Please reference Section 3.1 and 3.1.1 of the Public Works Manual and Labor Code Section 1776 for more information on payroll reporting requirements.

<https://www.dir.ca.gov/dlse/pwmanualcombined.pdf>

Q: What are the penalties for not providing our certified payroll submission?

A: SURGE Non-Compliance Penalties: Property owners

DIR Penalties: Requirement to upload to DIR and related penalties are defined in Senate Bill 854. Please reference <https://www.dir.ca.gov/Public-Works/ecprfaq.html>.

Q: Can a prime contractor submit the CPRs for all their subs? Will the CPRs from LCPtracker be compatible for the payroll submittal?

A: Contractors should submit their own certified payroll reports. However, in event of emergency, a prime contractor could submit payrolls on behalf of their subcontractor if an owner or officer of the subcontracting company grants them authorization via an Authorized Signatory form. The form must be signed by an owner or officer of the subcontracting company as well as the approved authorized signatory person from the prime contractor.

CPRs from LCPtracker can be submitted to the DIR via the DIR XML feature; however, through SURGE, contractors will upload a PDF copy of their certified payroll reports.

Q: The DIR provides a Masked Certified Payroll securing SSN of employees - is that acceptable? I am assuming the confirmation reports would be acceptable.

A: Certified payroll reports submitted to SURGE must include the last 4 digits of the worker's social security number.

If by "confirmation reports" you are referring to the receipt/report obtained from the DIR eCPR upload, this is not sufficient to satisfy the SURGE payroll requirements. Please complete the standard Certified Payroll Report form with Statement of Compliance and upload as a pdf to the SURGE Compliance Portal.

Q: Can you upload a file (certified payroll report) or do you have to manually enter?

A: Through SURGE, contractors can upload a PDF of their Certified Payroll Report. There is little manual entry.

Through the DIR, contractors must manually enter the payroll records. If you use LCPtracker, there is a feature that allows for XML Uploads to the DIR.

Q: Can payroll be submitted on the same timelines for DIR?

A: Yes, contractors can upload payrolls to SURGE monthly even though Public Utilities Code Section 769.2 requires that contractors submit digital copies of its certified payroll records biannually (July 1 and December 31 of each year).

Q: What is SURGE doing with the certified payroll reports? Are you reviewing them for accuracy / auditing them? Why not get the reports directly from DIR?

A: The SURGE team will be reviewing the payroll reports for completion (I.E., ensuring all required fields are filled out, payrolls are accompanied by the Statement of Compliance, etc.). SURGE is not responsible for auditing and/or enforcing wage violations.

The DIR and SURGE are two separate entities, each of which has statutory requirements that need to be complied with.

Q: Do we only need to report to SURGE the projects that fall under AB 2143 that are NOT Prevailing Wage? Or on those projects, do we have to report to both places?

A: The only projects reported to SURGE are those verified as "eligible" by the IOUs (assigned an Interconnectivity ID), and that receive the NEM Tariff/credit. These projects fall under AB 2143 and will be deemed Public Works and subject to Prevailing Wage.

Because they are Public Works projects, they need to be reported to the DIR (eCPR system), as well as to SURGE.

Q: If we have a project that has a Power Purchase Agreement for a public entity and is therefore reporting to the DIR, do we also need to report to SURGE since the owner is a private entity?

A: If a project is a Public Works project due to state and/or federal funding (or some other requirement), it would already be subject to prevailing wage and public works related requirements under the labor code and is therefore exempt from AB 2143.

Q: By law we need to submit to DIR and SURGE?

A: Per Public Utilities Code Section 769.2, contractors are required to submit digital copies of its certified payroll records to the commission biannually on July 1 and December 31 of each year. Per Labor Code Section 1771.4 (3) (A) (i) (ii), contractors must furnish the records specified in Section 1776 directly to the labor commissioner at least monthly, or more frequently if specified in the contract with the awarding body.

Q: Do we use the same certified payroll sheet that is provided by the DIR for the solar prevailing wage? Or is there a different form provided?

A: Contractors may use the DIR A-1-131 payroll reporting form or house payroll reporting form as long as it contains all of the required information (name, address, social security number, work classification, straight time/overtime hours worked, hourly rate of pay, etc.). Please note that in order for the payroll to be considered "certified", it must be accompanied by a signed Statement of Compliance. Please reference Section 3.1 and 3.1.1 of the Public Works Manual and California Code of Regulations Section 8 16000 for more information on payroll reporting requirements.

<https://www.dir.ca.gov/dlse/pwmanualcombined.pdf>

Contractor-Related Questions

Q: Would the responsibility to confirm if the project is subject to AB 2143 be on the Customer/Awarding Agency or the prime?

A: Since these projects are not subject to public funding (state and/or federal), there is no "Awarding Agency." Project eligibility and AB 2143 applicability is determined by a contractor working with the IOU for their Interconnectivity Application. The IOU asks a series of questions to identify if the project is eligible for the NEM Tariff and subject to AB 2143.

Q: Some projects are only Prevailing Wage (solar portion only) due to AB 2143. Is the Prime Contractor still required to register projects?

A: The Prime contractor is responsible for registering projects with SURGE. Regarding DIR project registration, it will most likely be performed by the property owner. We are awaiting DIR guidance on this question.

Q: Do the contractors or the customers have to register a project through DIR and SURGE?

A: Awarding Bodies or project owners are required to register the project with the DIR.* Prime contractors are required to register the project with SURGE.

***Question of DIR Project Registration, and the proper party responsible for the registration, has been presented to the DIR and is pending further guidance.**

Q: If a contractor is determined to be non-compliant, what is the window of time before enforcement/how long do they have to fix it?

A: This will be handled on a case-by-case basis between the contractor and SURGE support. If the contractor works with and cooperates with SURGE to bring themselves into compliance with AB 2143, additional time will be provided beyond the July 1st and December 31st deadlines to submit copies of certified payroll reports to SURGE.

Subcontractor-Related Questions

Q: What should be requested of Subcontractors to make sure they are following regulations? Can we request certified payroll reports? Are general contractors held liable for subcontractors not paying prevailing wages?

A: Per Labor Code Section 1775 (b) (2), Prime contractors must monitor the payment of the specified general prevailing wage rate of per diem wages by the subcontractor to the employees, by periodic review of the certified payroll records of the subcontractor. Yes, general contractors can be held liable for subcontractors not paying prevailing wages; however, there are steps that can be taken to ensure safe harbor. Please refer to Labor Codes Section 1775 (b) (1), (2), (3), (4) and Section 4.3.1.1 of the Public Works Manual: Limited Prime Contractor Safe Harbor for more information.

To visit the Public Works Manual: Limited Prime Contractor Safe Harbor, click here:
<https://www.dir.ca.gov/dlse/pwmanualcombined.pdf>

Q: Will we need to let any subcontractors know that the project is prevailing wage and obtain their certified payroll as well? I know that this is typical for public works, but wanted to see if it is different for AB 2143.

A: If you are an Awarding Body (defined by the DIR as the entity that awards a contract for public works and is sometimes known as the project owner), you have a responsibility to (1) register the public works project with the DIR, (2) obtain prevailing wage rates from DIR, (3) notify potential contractors that they must register with the DIR and that the project is subject to enforcement by DIR, (4) require proof of public works contractor registration before accepting a bid or awarding a contract, (5) post or require contractors to post jobsite notices on public works requirements, (6) ensure that public works contractors pay prevailing wages and are in compliance with public works laws, and (7) report any suspected public works violations to the Labor Commissioner.

For more information on Awarding Bodies, you can visit this link: <https://www.dir.ca.gov/Public-Works/Awarding-Bodies.html>

If you are a Prime contractor, Per Labor Code Section 1775 (b) (2), Prime contractors must monitor the payment of the specified general prevailing wage rate of per diem wages by the subcontractor to the employees, by periodic review of the certified payroll records of the subcontractor. General contractors can be held liable for subcontractors not paying prevailing wages; however, there are steps that can be taken to ensure safe harbor. Please refer to Labor Codes Section 1775 (b) (1), (2), (3), (4) and Section 4.3.1.1 of the Public Works Manual: Limited Prime Contractor Safe Harbor for more information.

To visit the Public Works Manual: Limited Prime Contractor Safe Harbor, click here:
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Q: So, regulation states that subcontractors are not required to submit their CPR to a contractor, however, how is a contractor supposed to "monitor" that their sub is submitting accurate information if we can't have the full details?

A: The regulation states "notwithstanding Labor Code Section 1776 of the Labor Code, the contractor shall not be required to provide copies of certified payrolls to any entity other than the Department of Industrial Relations and the commission". For additional information, please review Labor Code Section 1776.

Additionally, per Labor Code Section 1775 (b) (2), Prime contractors must monitor the payment of the specified general prevailing wage rate of per diem wages by the subcontractor to the employees, by periodic review of the certified payroll records of the subcontractor. General contractors can be held liable for subcontractors not paying prevailing wages; however, there are steps that can be taken to ensure safe harbor. Please refer to Labor Codes Section 1775 (b) (1), (2), (3), (4) and Section 4.3.1.1 of the Public Works Manual: Limited Prime Contractor Safe Harbor for more information.

To visit the Public Works Manual: Limited Prime Contractor Safe Harbor, click here:
<https://www.dir.ca.gov/dlse/pwmanualcombined.pdf>

Q: How are they (prime contractors) supposed to monitor subcontractors and ensure they are paying prevailing wages?

A: The regulation states "notwithstanding Labor Code Section 1776 of the Labor Code, the contractor shall not be required to provide copies of certified payrolls to any entity other than the Department of Industrial Relations and the commission". For additional information, please review Labor Code Section 1776.

Additionally, per Labor Code Section 1775 (b) (2), Prime contractors must monitor the payment of the specified general prevailing wage rate of per diem wages by the subcontractor to the employees, by periodic review of the certified payroll records of the subcontractor. General contractors can be held liable for subcontractors not paying prevailing wages; however, there are steps that can be taken to ensure safe harbor. Please refer to Labor Codes Section 1775 (b) (1), (2), (3), (4) and Section 4.3.1.1 of the Public Works Manual: Limited Prime Contractor Safe Harbor for more information.

To visit the Public Works Manual: Limited Prime Contractor Safe Harbor, click here:
<https://www.dir.ca.gov/dlse/pwmanualcombined.pdf>

Project Registration-Related Questions

Q: Will the project need to be registered with the DIR?

A: Yes, Public Works projects must be registered with the DIR.

Q: Does the SURGE Compliance Portal apply only for solar project construction? or does it also apply for repairs that may occur later in a project's life?

A: If there is a new Interconnection application for the upgrade (post AB 2143), the contractor needs to go through the SURGE Contractor Registration and Project Registration process.

Q: So, in addition to registering with the DIR, qualifying projects must also register with SURGE and submit copies of certified payrolls to SURGE?

A: Yes, that is correct.

Q: So, we have to register the project to DIR and SURGE, if it is the solar portion only, even though it is prevailing wage only?

A: Yes, projects governed by AB 2143 are considered "public works" and must be registered with the DIR, as well as with the SURGE.

Q: What do you mean by electrical generation facility?

A: The Public Utilities Code Section 2827 defines an Electrical General Facility as: "Renewable electrical generation facility" means a facility that generates electricity from a renewable source listed in paragraph (1) of subdivision (a) of Section 25741 of the Public Resources Code. A small hydroelectric generation facility is not an eligible renewable electrical generation facility if it will cause an adverse impact on instream beneficial uses or cause a change in the volume or timing of streamflow.

Apprenticeship-Related Questions

Q: Will minimum apprentice ratios be required?

Questions regarding AB 2143 and apprenticeship requirements have been submitted to the DIR and are pending response.

Q: I was told it was a grey area for the state apprentice portion of the AB2143 prevailing wage. Will there be a need for them?

Questions regarding AB 2143 and apprenticeship requirements have been submitted to the DIR and are pending response.

Q: Will AB 2143 have apprenticeship requirements and/or local hire rules?

Questions regarding AB 2143 and apprenticeship requirements have been submitted to the DIR and are pending response.

Note: Not every public works project is subject to local hiring rules. If there is a Project Labor Agreement, Community Workforce Agreement, or something similar that applies to your project, there may be a local hiring requirement. The Awarding Body or project owner should be able to provide you with that information.

Q: Will this include the requirement to hire apprentices and send das140/ das142 forms?

Questions regarding AB 2143 and apprenticeship requirements have been submitted to the DIR and are pending response.

Q: The apprenticeship requirements and DIR filings are not listed / mentioned anywhere in the bill. Why is that now a requirement and was never communicated prior?

Questions regarding AB 2143 and apprenticeship requirements have been submitted to the DIR and are pending response.

Note: AB 2143 identifies projects that receive the NEM tariff as Public Works. Public Works projects are subject to Labor Code Section 1777.5 that identifies the obligation of contractors to employ apprentices on public works projects. Similarly, SB 854 specifies the requirement that contractors working on Public Works projects are required to upload certified payroll to the DIR on a monthly basis.

Q: Do all field employees have to be Journeyman or apprentices? Can employees be general labor to install the systems that are NOT Journeyman or apprentices?

A: On Public Works projects, if the worker is not employed in a Division of Apprenticeship (DAS) approved apprenticeship program, they are considered a journeyman and must be paid journeyman wages. Please reference Section 3.3.2.1 of the Public Works Manual for additional information.

<https://www.dir.ca.gov/dlse/pwmanualcombined.pdf>

You may also visit the DIR's Apprenticeship FAQ page for additional information.

<https://www.dir.ca.gov/das/publicworksfaq.html>

Q: What are the apprenticeship requirements? Are they different for smaller companies?

A: Questions regarding apprenticeship have been submitted to the DIR and are pending their response; however, Public Works projects valued at \$30,000 or more carry an obligation to hire apprentices (unless the craft or trade does not require the use of apprentices - indicated by the "#" on the wage determination). This duty applies to all contractors and subcontractors on a project, even if their part is less than \$30,000. For the specific apprenticeship requirements, please visit this link:

<https://www.dir.ca.gov/das/publicworks.html>

You may also visit the DIR's Apprenticeship FAQ page for additional information.

<https://www.dir.ca.gov/das/publicworksfaq.html>

Q: DIR projects have a Skilled & Trained Workforce "STW" Requirements which is hard for union shops to meet (Labor Shortage) and non-union impossible as our journeyman do not graduate from an "approved" apprenticeship" programs. How is STW being tracked. Required on DIR projects monthly.

Questions regarding AB 2143 and apprenticeship requirements have been submitted to the DIR and are pending response

Q: There aren't enough journeymen/ apprentices to do this work. Is a good faith effort to employ good enough, or do we just quit building solar?

A: Per the DIR's Apprenticeship Requirements page: "Contractors who do not employ enough apprentices to meet the ratio requirements must request dispatch of an apprentice from an apprenticeship program for each apprenticeable craft or trade on the project. Contractors who do not receive a sufficient number of apprentices from their initial request must request the dispatch of an apprentices from all other apprenticeship committees in the area of the Public Works Project. If a program does not want to dispatch apprentices unconditionally, and you have contacted all the appropriate programs in the geographic area then you have met your obligation under the law."

https://www.dir.ca.gov/DAS/More_Information_on_Public_Works_Apprenticeship_Requirements.html

You may also reference California Code of Regulations Title 8 Section 230.1:
https://www.dir.ca.gov/t8/230_1.html

For additional information on how to establish an affirmative defense to minimum ratio violations, please reference Section 3.3.1.4 of the Public Works Manual.

<https://www.dir.ca.gov/dlse/pwmanualcombined.pdf>

Q: Qualified apprentices who know anything about solar are virtually non-existent. How are we supposed to meet apprenticeship requirements? Apprentices were allowed for, but not mandated in the law.

A: Per the DIR's Apprenticeship Requirements page: "Contractors who do not employ enough apprentices to meet the ratio requirements must request dispatch of an apprentice from an apprenticeship program for each apprenticeable craft or trade on the project. Contractors who do not receive a sufficient number of apprentices from their initial request must request the dispatch of an apprentices from all other apprenticeship committees in the area of the Public Works Project. If a program does not want to dispatch apprentices unconditionally, and you have contacted all the appropriate programs in the geographic area then you have met your obligation under the law"
https://www.dir.ca.gov/DAS/More_Information_on_Public_Works_Apprenticeship_Requirements.html

You may also reference California Code of Regulations Title 8 Section 230.1:
https://www.dir.ca.gov/t8/230_1.html

For additional information on how to establish an affirmative defense to minimum ratio violations, please reference Section 3.3.1.4 of the Public Works Manual.

<https://www.dir.ca.gov/dlse/pwmanualcombined.pdf>

Q: Apprenticeship requirements aren't mentioned in the bill, so where does that mention in the presentation come from?

Questions regarding AB 2143 and apprenticeship requirements have been submitted to the DIR and are pending response.

Q: Are the apprenticeship requirements that are always applicable now? It is nearly impossible to find installers, how are we supposed to find all these people... it is already so hard now to stay afloat since NEM 3.0, this seems like it just gets harder and harder to do Solar...

A: Questions regarding AB 2143 apprenticeship have been submitted to the DIR and are pending response; however, per the DIR's Apprenticeship Requirements page: "Contractors who do not employ enough apprentices to meet the ratio requirements must request dispatch of an apprentice from an apprenticeship program for each apprenticeable craft or trade on the project.

Contractors who do not receive a sufficient number of apprentices from their initial request must request the dispatch of an apprentices from all other apprenticeship committees in the area of the Public Works Project. If a program does not want to dispatch apprentices unconditionally, and you have contacted all the appropriate programs in the geographic area then you have met your obligation under the law"

Please reference the links below for more information:

<https://www.dir.ca.gov/Public-Works/Apprentices.html>

<https://www.dir.ca.gov/das/publicworksfaq.html>

https://www.dir.ca.gov/DAS/More_Information_on_Public_Works_Apprenticeship_Requirements.html

You may also reference California Code of Regulations Title 8 Section 230.1:

https://www.dir.ca.gov/t8/230_1.html

For additional information on how to establish an affirmative defense to minimum ratio violations, please reference Section 3.3.1.4 of the Public Works Manual.

<https://www.dir.ca.gov/dlse/pwmanualcombined.pdf>

Q: Will we have to pay training contributions?

Questions regarding AB 2143 and apprenticeship requirements have been submitted to the DIR and are pending response.