

# Solar-Utilities Reporting, Guidance, & Education (SURGE)

AN INITIATIVE SUPPORTING AB 2143 / PUC §769.2

Wednesday, May 29, 2024 at 12:00 PM (Microsoft Teams Webinar)



**SURGE**  
Solar-Utilities Reporting  
Guidance & Education



California Public  
Utilities Commission



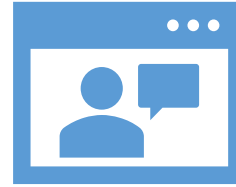
State of California  
Department of  
Industrial Relations

# Disclaimer

## California Labor Commissioner's Office

The following presentation is intended to summarize relevant portions of existing law in the Labor Code and California Code of Regulations, but those code sections, as interpreted by the courts, will govern actual enforcement. The information contained in this presentation is a general overview of existing law or regulation. Any opinions expressed are solely those of the author/speaker and are not necessarily the official position of the Department of Industrial Relations (DIR), its Director, or any related public entity. The information in this presentation is not intended as legal advice, and does not guarantee any outcome in specific enforcement or coverage proceedings within the jurisdiction of DIR.

# Webinar Ground Rules



Webinar is being recorded and will be available for review.

Microphones will be muted throughout the presentation.



Use Q&A feature for submitting your questions.

Be respectful of other participants and presenters. We are here to share and learn information together.





# Today's Agenda

- Overview AB 2143 / PUC 769.2
- Department of Industrial Relations (DIR)  
Labor Commissioner's Office
- California Public Utilities Commission  
(CPUC) & Solar-Utilities Reporting,  
Guidance, and Education (SURGE) Initiative



# Presenters

## California Public Utilities Commission (CPUC)

- **Amber Murakami-Fester**, Program Manager/Regulatory Analyst

## SURGE Team (GCAP Services, Inc.)

- **Sylvia Linn**, Project Manager
- **Ariana Fernandez**, Sr. Prevailing Wage Consultant & Trainer

## DIR Labor Commissioner's Office

- **Sara Brown**, Deputy Labor Commissioner
- **Eric Raktiprakorn**, Deputy Labor Commissioner

# What is AB 2143 & PUC §769.2?



- Assembly Bill 2143 (AB 2143) was passed in 2022 and went into effect on January 1, 2024
- AB 2143 established the Public Utilities Code §769.2 (PUC §769.2)
- PUC §769.2 requires prevailing wages for construction workers and apprentices working on large customer-sited renewable electrical generation (solar) facilities, and any associated battery storage, that enroll in tariffs designed for these projects (e.g., net energy metering or net billing tariffs)
- Resources for Legislative Background

[Prevailing Wage for  
Qualified Renewable  
Energy Facilities  
\(ca.gov\)](#)

[Bill Text - AB-2143  
Net energy metering:  
construction of  
renewable electrical  
generation facilities:  
prevailing wage](#)

# AB 2143 Excerpt

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 would apply those public works project requirements to the construction of any renewable electrical generation facility, and any associated 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. The bill would require a contractor who enters into a contract to perform work on the renewable electrical generation facility or associated battery storage to pay each construction worker employed in the execution of the work, at minimum, the general prevailing rate of per diem wages and each apprentice, at minimum, the applicable apprentice prevailing rate, as specified. The bill would authorize specified mechanisms to be used to enforce those wage requirements. The bill would provide that, if a willful violation of the bill's requirements has been enforced against a contractor for the construction of a renewable electrical generation facility using those mechanisms, the facility is not eligible to receive service pursuant to those standard contracts and tariffs.



# AB 2143 / PUC §769.2 Requirements

**All contractors (including Prime and lower-tier subcontractors) working on eligible renewable energy (solar) projects must meet AB 2143 / PUC §769.2 requirements.**



✓ Pay construction workers & apprentices prevailing wages



✓ Maintain and verify payroll records and make those records available for inspection and copying



✓ Submit digital copies of certified payroll records to CPUC biannually, on July 1 and December 31 of each year



# Applicable Projects



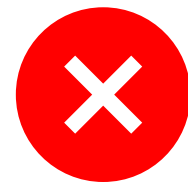
- Projects qualify as eligible if they involve a customer-sited renewable electrical generation facility, or any associated battery storage
- Projects will **NOT** apply to AB 2143 / PUC §769.2 if they fall under any of the following categories:



Residential facilities that will have a maximum generating capacity of 15 kilowatts or less of electricity, or that will be installed on a single-family home.



Projects that are already a public work under existing law.



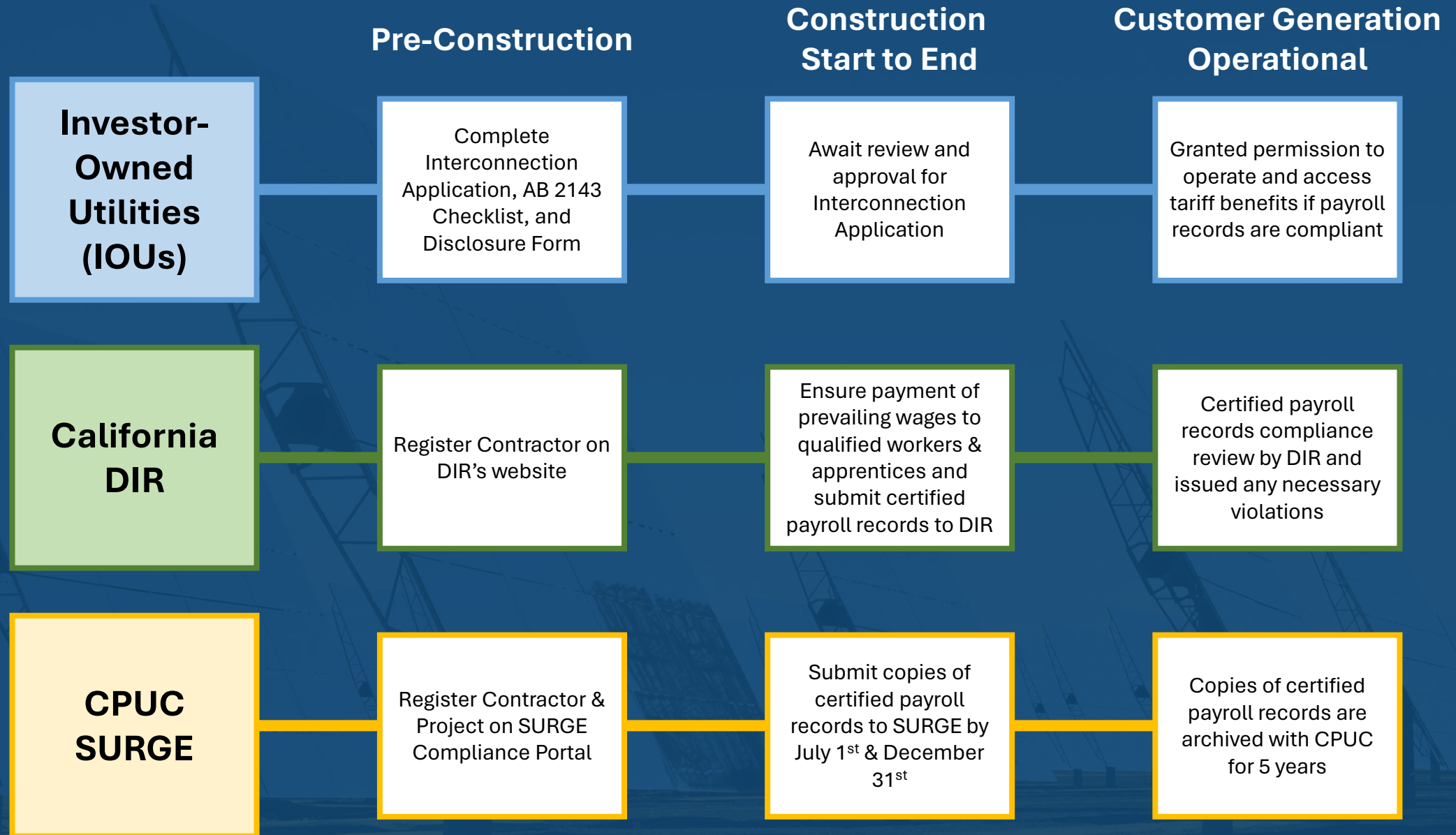
Facilities that serve only a modular home, a modular home community, or multiunit housing that has 2 or fewer stories.

# What are Certified Payroll Records?

- Labor Code Section 1776(b) requires that payroll records must be “certified,” meaning they must be accompanied by a signed Statement of Compliance.
- A Statement of Compliance 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>



# Contractor Responsibilities Overview



# Contractors are required to report certified payroll records to both DIR and CPUC SURGE.

- Per Public Utilities Code Section 769.2, contractors are required to submit digital copies of its certified payroll records to the commission [via SURGE Compliance Portal] 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.



# IOU Reporting

- The **first step** for Contractors to determine AB 2143 / PUC §769.2 applicability is through the Interconnection Application required by the Investor-Owned Utilities (IOUs).
- Contractors must complete the Interconnection Application from their respective IOUs.
- Then, IOUs use a checklist to provide assessment of the project's applicability to AB 2143 / PUC §769.2.
- After reviewing the checklist, the IOUs will confirm a project's applicability.
- Finally, the IOUs require eligible customers (Contractors) to complete a Prevailing Wage Disclosure Form to acknowledge receipt and understanding that contractors must comply with AB 2143 / PUC §769.2 statute requirements.

# Department of Industrial Relations (DIR) Reporting

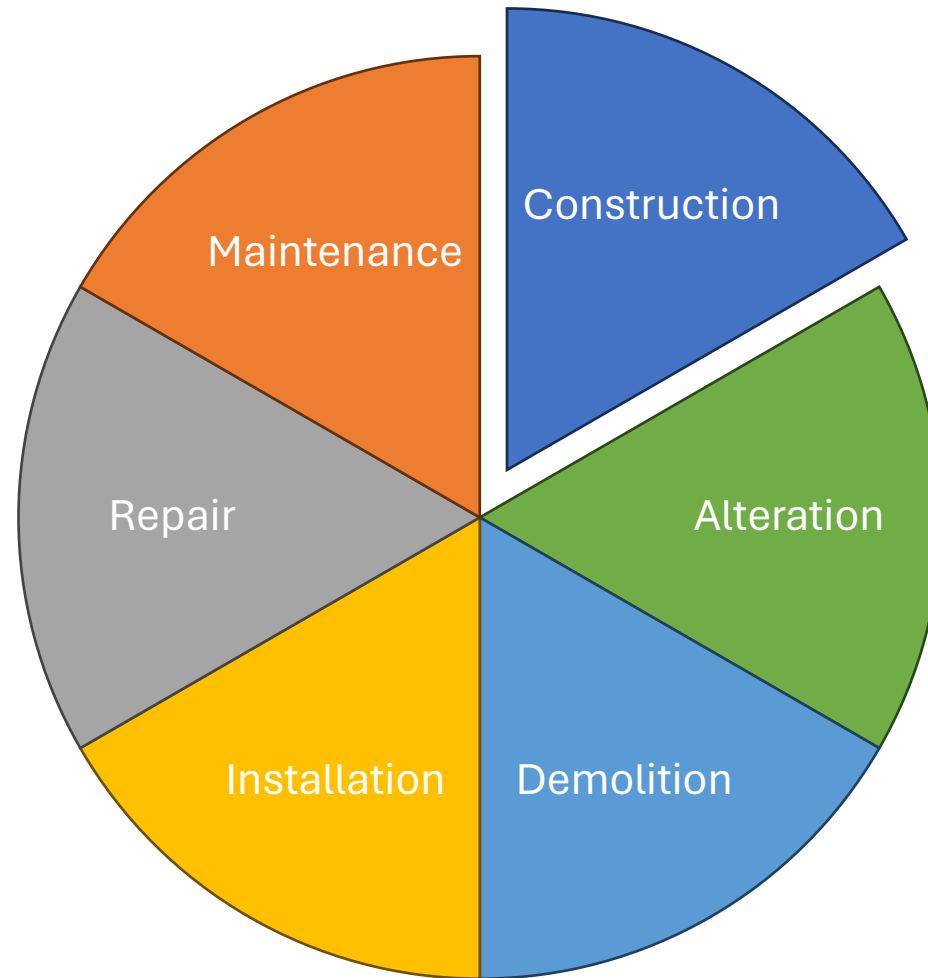
- Once Contractors have determined that a project is subject to AB 2143 / PUC §769.2, they must follow DIR reporting requirements.
- DIR Reporting Requirements
  - ✓ [Register Project with DIR](#)
  - ✓ [Register as a Public Works Contractor with the DIR](#)
  - ✓ [Pay Prevailing Wages](#)
  - ✓ [Follow Apprenticeship Requirements](#)
  - ✓ [Maintain and Submit Certified Payroll Records](#)



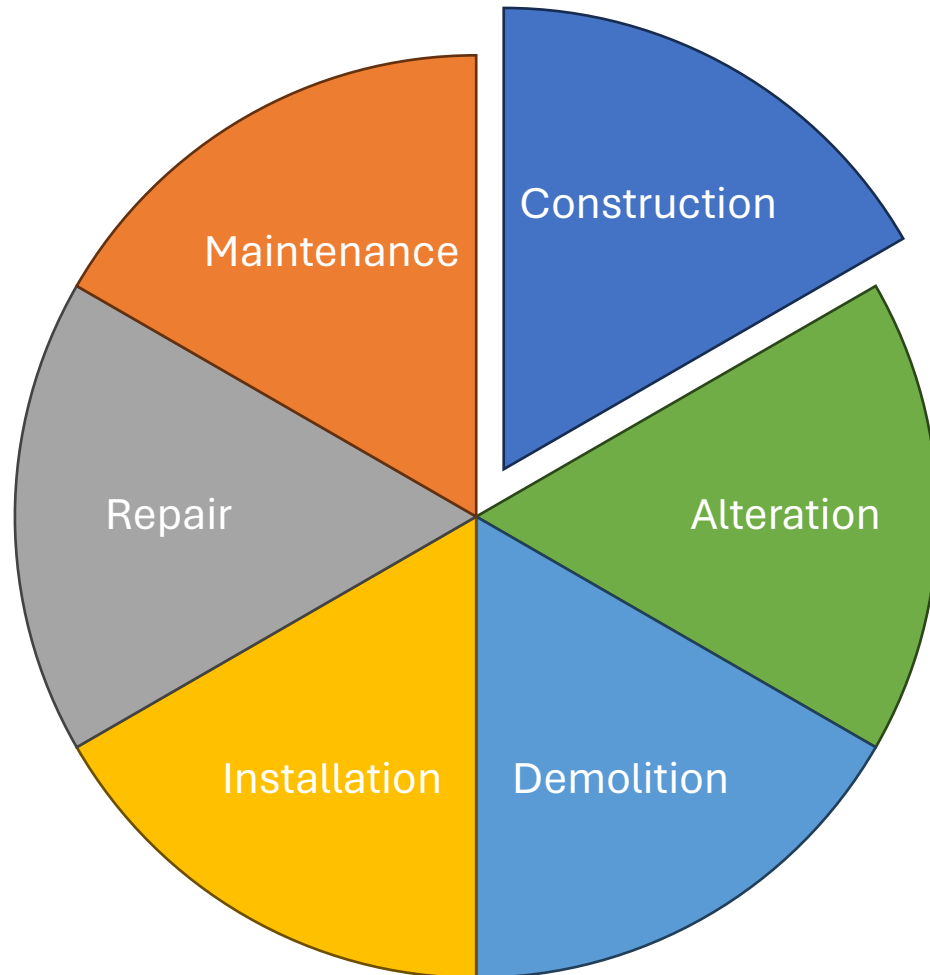
**For more information, please  
visit the DIR's Public Works  
resource page:**

**[www.dir.ca.gov/Public-Works](http://www.dir.ca.gov/Public-Works)**

# Public Works, Defined



# Public Works, Defined



## Preconstruction

- Design
- Site Assessment
- Feasibility Study
- Inspection
- Land Surveying

## Postconstruction

- Clean up



# Project Registration: Awarding Body

- An awarding body is the entity that awards a contract for public works and is sometimes known as the **project owner**.
- It is the awarding body's responsibility to register the project.



# Project Registration

Provide electronic notice to DIR of all public works contracts within 30 days of the award, but in no event later than the first day in which a contractor has workers employed upon the public work. (LC §1773.3) \*

\* Does not apply to projects of \$25,000 or less when the project is for construction, alteration, demolition, installation, or repair work or for projects of \$15,000 or less when the project is for maintenance work

# Project Registration



## Public Works

Public works in general means:

- Construction, alteration, demolition, installation, or repair work done under contract and paid in whole or in part out of public funds.
- It can include preconstruction and post-construction activities related to a public works project.
- For a full definition of public works refer to [Labor Code section 1720](#).

Anyone working on a public works project must be paid prevailing wages as determined by DIR. Projects of \$30,000 or more must meet DIR's apprenticeship requirements. Failure to comply with public works requirements can result in civil penalties, criminal prosecution, or both.

Contractors,  
and others who work on public  
works projects

Awarding Bodies,  
public agencies or project  
owners

Public Works Prevailing Wage Training for Contractors and Awarding Bodies

What's **New**

[en Español](#)

- [Public Works Contractors: Renew Registration by June 30](#)

## Resources

- [Public Works Pre-Qualification of Contractors](#)
- [Apprenticeship Requirements](#)
- [Certified Payroll Reporting](#)
- [Enforcement of Public Works Law](#)
- [File a Public Works Complaint](#)
- [Labor Compliance Programs](#)
- [Prevailing Wage Requirements](#)
- [More Resources](#)

## Search

[Find Public Works Projects](#)

[Find Public Works Contractors](#)

[Find Project Records](#)

## Registration

[Contractor Registration](#)

[Project Registration](#)

# Finding a Public Works Project



## Public Works

Public works in general means:

- Construction, alteration, demolition, installation, or repair work done under contract and paid in whole or in part out of public funds.
- It can include preconstruction and post-construction activities related to a public works project.
- For a full definition of public works refer to [Labor Code section 1720](#).

Anyone working on a public works project must be paid prevailing wages as determined by DIR. Projects of \$30,000 or more must meet DIR's apprenticeship requirements. Failure to comply with public works requirements can result in civil penalties, criminal prosecution, or both.

Contractors,  
and others who work on public  
works projects

Awarding Bodies,  
public agencies or project  
owners

Public Works Prevailing Wage Training for Contractors and Awarding Bodies

What's **New**

[en Español](#)

- [Public Works Contractors: Renew Registration by June 30](#)

## Resources

- [Public Works Pre-Qualification of Contractors](#)
- [Apprenticeship Requirements](#)
- [Certified Payroll Reporting](#)
- [Enforcement of Public Works Law](#)
- [File a Public Works Complaint](#)
- [Labor Compliance Programs](#)
- [Prevailing Wage Requirements](#)
- [More Resources](#)

### Search

[Find Public Works Projects](#)

[Find Public Works Contractors](#)

[Find Payroll Records](#)

### Registration

[Contractor Registration](#)

[Project Registration](#)



# Contractor Registration

- Anyone who bids on or enters into a contract to perform work that requires the payment of prevailing wages is a **public works contractor**.
- This includes:
  - subcontractors who have entered into a contract with another contractor to perform a portion of the work on a public works project.
  - sole proprietors and brokers who are responsible for performing work on a public works project, even if they do not have employees or will not use their own employees to perform the work.
- Anyone who fits within the definition of public works contractor is required to **register** with the DIR.



# Contractor Registration

- Costs \$400 per **fiscal year** (July 1-June 30)
  - You can register for up to three fiscal years at a time
- Registrations are valid per **legal entity**
  - A transition to different legal entity type will require a new registration
- Contractors are liable for **penalties** for working on public works projects without an active registration.

# Contractor Registration



## Public Works

Public works in general means:

- Construction, alteration, demolition, installation, or repair work done under contract and paid in whole or in part out of public funds.
- It can include preconstruction and post-construction activities related to a public works project.
- For a full definition of public works refer to [Labor Code section 1720](#).

Anyone working on a public works project must be paid prevailing wages as determined by DIR. Projects of \$30,000 or more must meet DIR's apprenticeship requirements. Failure to comply with public works requirements can result in civil penalties, criminal prosecution, or both.

Contractors,  
and others who work on public  
works projects

Awarding Bodies,  
public agencies or project  
owners

Public Works Prevailing Wage Training for Contractors and Awarding Bodies

What's **New**

[en Español](#)

- [Public Works Contractors: Renew Registration by June 30](#)

## Resources

- [Public Works Pre-Qualification of Contractors](#)
- [Apprenticeship Requirements](#)
- [Certified Payroll Reporting](#)
- [Enforcement of Public Works Law](#)
- [File a Public Works Complaint](#)
- [Labor Compliance Programs](#)
- [Prevailing Wage Requirements](#)
- [More Resources](#)

## Search

[Find Public Works Projects](#)

[Find Public Works Contractors](#)

[Find Project Records](#)

## Registration

[Contractor Registration](#)

[Project Registration](#)

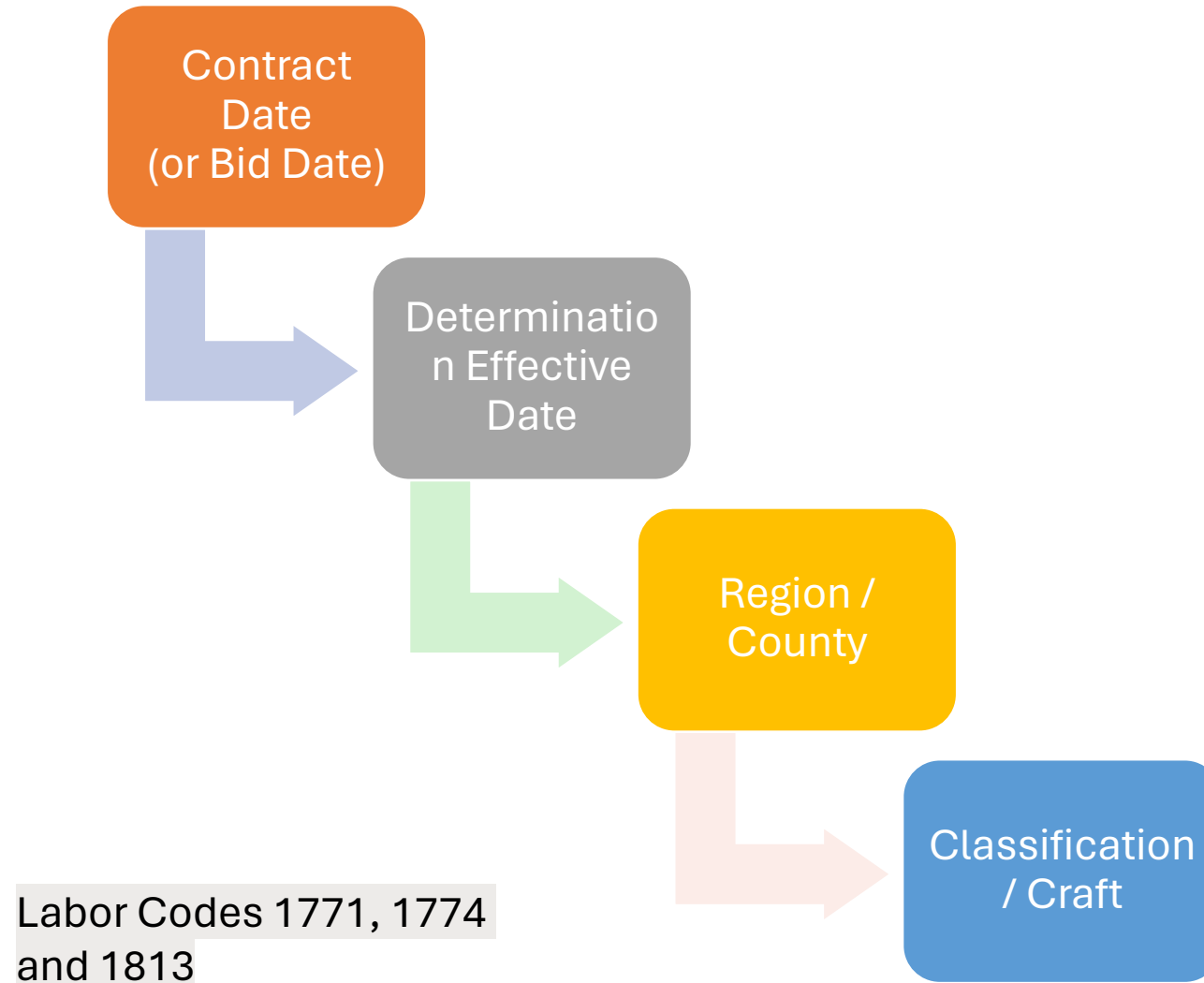
# Prevailing Wages

Contractors working on projects subject to AB 2143 / PUC §769.2 requirements must **pay construction workers & apprentices prevailing wages:**

- California prevailing wage is the minimum wage rate that must be paid to workers on public works projects.
- Prevailing wage rate is determined by the Director of the DIR.
- Prevailing wages are based on the type of work (craft/classification) and location of project.
- Prevailing wages are usually based on collective bargaining agreements.

Because AB 2143 designates these projects as public works projects, apprenticeship requirements apply.

# Prevailing Wages





# What Classification?

- As previously stated, prevailing wage rates are set by the Office of the Director.
- The Office of the Director-Research Unit creates the prevailing wage determinations (including scope of work), so they can answer questions as to what the correct scope of work is for a given project.

## Prevailing Wage Unit

The Prevailing Wage Unit issues prevailing wage determinations for public works projects. The prevailing wage determinations are for general construction (commercial, heavy and highway), residential, special and apprentice categories.

**Prevailing Wage Telephone:** (415) 703-4774

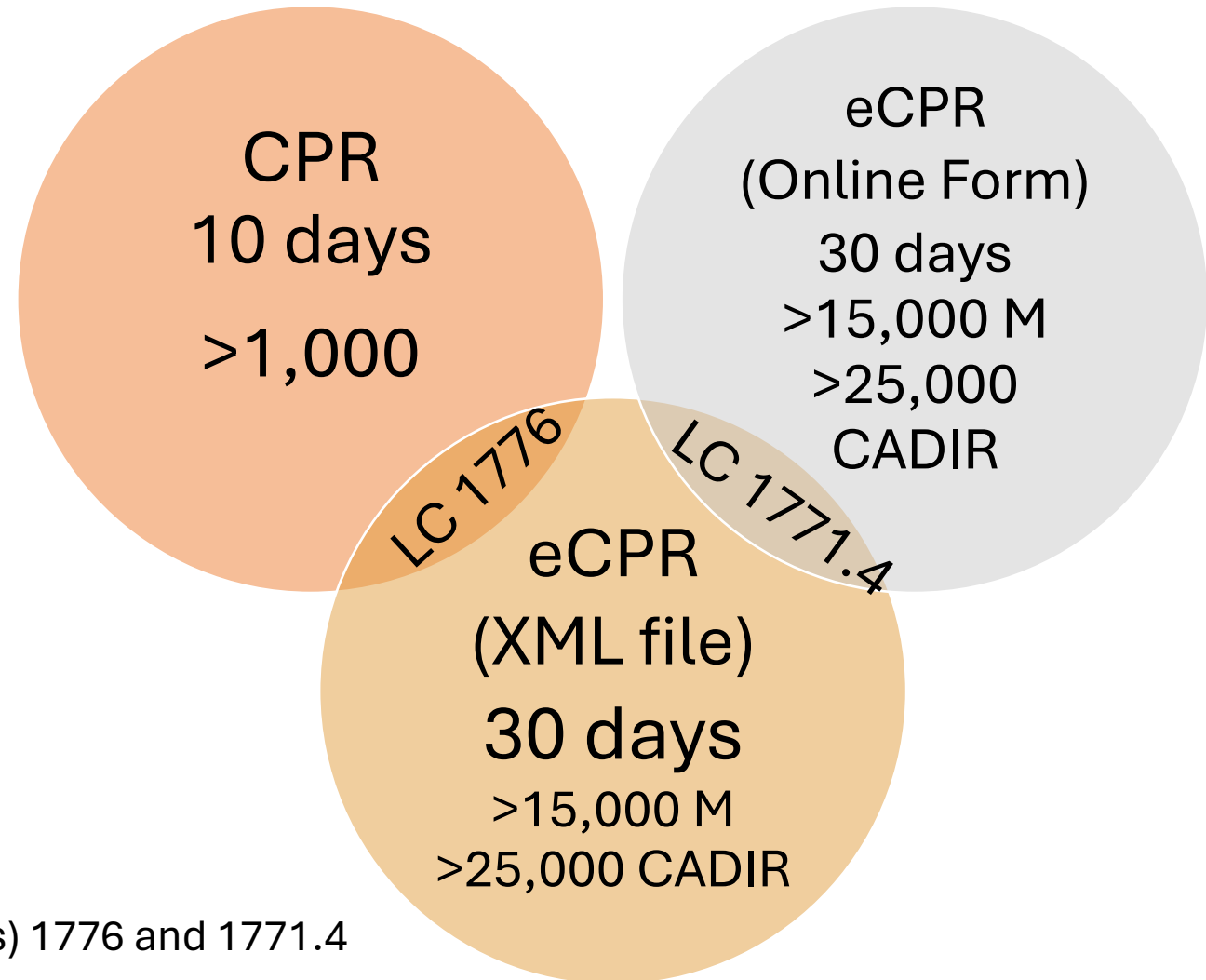
**Email:** [Statistics@dir.ca.gov](mailto:Statistics@dir.ca.gov)

Please provide the following information with your inquiry:

- Your name
- Company or agency name
- Email and mailing address
- Phone number
- A summary of your question(s)
- Bid Advertisement Date
- Craft(s)/Classification(s)
- County Location of the Project

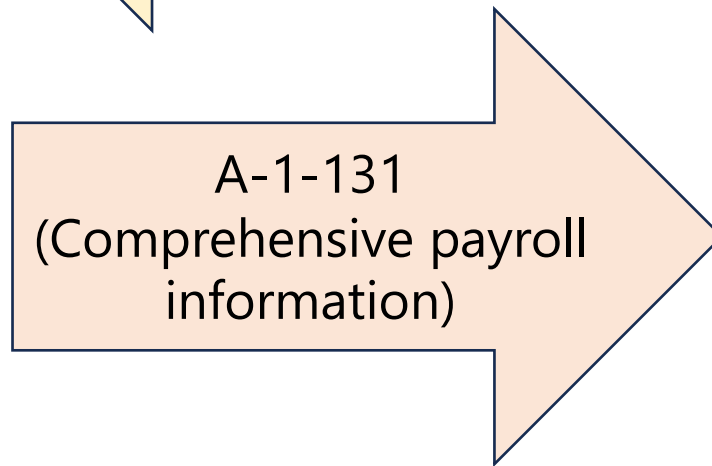
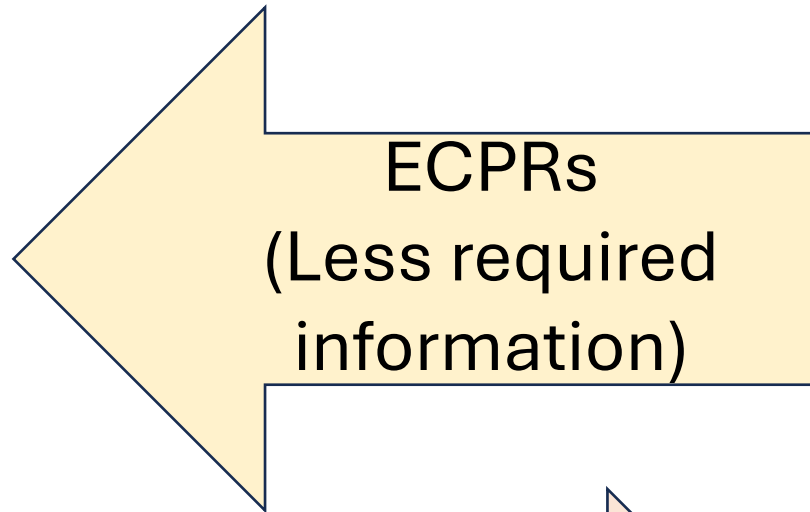
# Certified Payroll Records

- Contractors on public works projects are obligated to maintain and furnish certified payroll records.
  - This includes both electronically (eCPRs) and on Form A-1-131
  - Maintaining and submitting eCPRs on a monthly basis is a separate administrative duty



Labor Code(s) 1776 and 1771.4

# Certified Payroll Records





# Certified Payroll Records- Form A-1-131

## NOTICE TO PUBLIC ENTITY

### For Privacy Considerations

**Fold back along dotted line prior to copying for release to general public (private persons).**

(Paper Size then 8-1/2 x 11 inches)

-----

I, \_\_\_\_\_, the undersigned, am the  
(Name – print)

\_\_\_\_\_ with the authority to act for and on behalf of  
(Position in business)

\_\_\_\_\_, certify under penalty of perjury  
(Name of business and/or contractor)

that the records or copies thereof submitted and consisting of \_\_\_\_\_  
(Description, number of pages)

are the originals or true, full, and correct copies of the originals which depict the payroll record(s)  
of the actual disbursements by way of cash, check, or whatever form to the individual or  
individuals named.

Date: \_\_\_\_\_

Signature: \_\_\_\_\_



# Certified Payroll Records - eCPR

## Public Works Certified Payroll Reporting Form

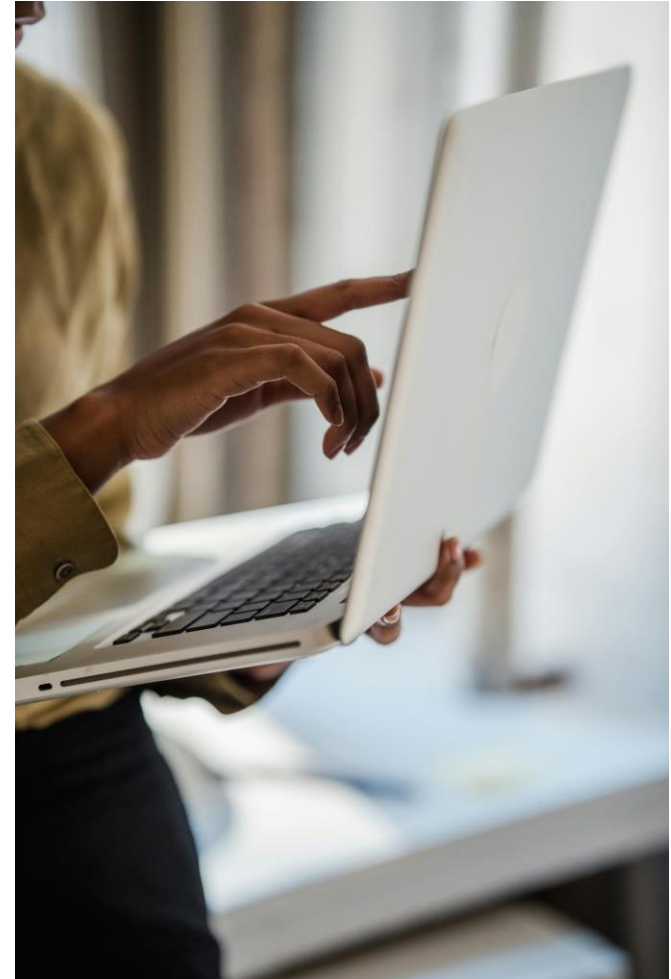
**Certification under penalty of perjury:**

"I, [REDACTED], the undersigned, am the [REDACTED] (position in business) with the authority to act for and on behalf of [REDACTED] (name of business and/or contractor), certify under penalty of perjury that the records or copies thereof submitted and consisting of certified payroll records for the week ending [REDACTED] are the originals or true, full, and correct copies of the originals which depict the payroll record(s) of the actual disbursements by way of cash, check, or whatever form to the individual or individuals named. I certify this on [REDACTED]."

Contractor Name: [REDACTED]		Contractor PWCR: [REDACTED]		License Type: [REDACTED]		License Number [REDACTED]											
Address: [REDACTED]		FEIN: [REDACTED]		Contractor Email: [REDACTED]													
Insurance Number: [REDACTED]																	
Awarding Body: [REDACTED]		DIR Project ID: [REDACTED]		Project Name: [REDACTED]													
Contract With: [REDACTED]		County: [REDACTED]		Address: [REDACTED]													
Payroll #: [REDACTED]	Ctr Payroll #: [REDACTED]	Week Ending: [REDACTED]		<input type="checkbox"/> Statement of Non-Performance?		<input type="checkbox"/> Final payroll for this project?											
Employee: [REDACTED]																	
SSN: [REDACTED]		Mon	Tue	Wed	Thu	Fri	Sat	Sun	Total Hours	Base Hourly	Total Fringe	Vac/ Holiday	Health & Welf.	Pension	Other	Training	Total Hourly Rate
S [REDACTED]		[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
NOTE:												Travel & Subsistence [REDACTED]		Total Deductions [REDACTED]		[REDACTED]	

# Upcoming DIR Prevailing Wages Training

- **Who:** Public Agencies and Contractors
- **What:** Prevailing Wage Seminars
- **When:**
  - Thursday, June 6, 2024, 8 a.m. – 3:30 p.m.
  - Tuesday, July 9, 2024, 8 a.m. – 3:30 p.m.
- **Where:**
  - Online
- **More Information:**  
[https://www.dir.ca.gov/Public-Works/Training\\_and\\_Tutorials.html](https://www.dir.ca.gov/Public-Works/Training_and_Tutorials.html)



# CPUC SURGE



- SURGE is an initiative directed by the California Public Utilities Commission (CPUC).
- SURGE is here to help contractors navigate compliance requirements for AB 2143 / PUC 769.2.
- The SURGE website has resources and information for contractors subject to AB 2143 / PUC 769.2.
- Dedicated email address ([info@cpucsurge.org](mailto:info@cpucsurge.org)) and phone number (**1-800-549-2143**) to help answer contractor questions.
- SURGE has its own system, **SURGE Compliance Portal**, where contractors must submit digital copies of certified payroll records to the CPUC.



# **SURGE Compliance Portal**

## **STEPS FOR CONTRACTORS**

### **1. Contractor Registration**

- Must create a Submittable account first
- All Contractors & Subcontractors (all tiers)
- Only need to do this once
- Keep the Contractor Identification Number (CIN)

### **2. Project Registration**

- Only Primes need to register projects
- Primes must register each qualifying project
- Keep Project Identification Number (PIN)
- Share PIN and Interconnection Application ID Number with Subcontractors (all tiers)

### **3. Payroll Submission**

- All Contractors & Subcontractors (all tiers)
- Need the CIN & PIN to report
- Must submit copies of payrolls with prevailing wages for the duration of each qualifying project
- Payrolls are due biannually on July 1<sup>st</sup> and December 31<sup>st</sup> and may be submitted more frequently (i.e., monthly)



# Non-Compliance Information

*What if a contractor **does not** pay prevailing wages?*



- Per California state law, if a contractor does not submit copies of certified payrolls by the biannual due dates, enforcement action can proceed as follows:
  - Labor Commissioner of the DIR can enforce through issuance of civil wage and penalty assessment
  - Through an underpaid construction worker or apprentice through an administrative complaint or civil action
  - Through a joint labor-management committee via a civil action

⚠ When any of the mentioned parties enforce requirements against a contractor of an eligible and interconnected project, then the Generation Facility will lose service to the standard contract or tariff offered pursuant to Public Utilities Code §2827 or §2827.1.

⚠ Beginning January 1, 2025, contractors who have willful wage violation determination of the prevailing wage requirement in Public Utilities Code Section 769.2, will no longer be able to build facilities seeking to utilize tariffs pursuant to Public Utilities Code Sections 2827 and 2827.1.



# Contact Us



**Visit the SURGE Website**

[www.cpuccsurge.org](http://www.cpuccsurge.org)



**Email Us**

[info@cpuccsurge.org](mailto:info@cpuccsurge.org)



**Call Us**

1-800-549-2143



**Follow Us on LinkedIn**

[www.linkedin.com/in/surgeoutreach](http://www.linkedin.com/in/surgeoutreach)



**Questions?**  
**USE Q&A FEATURE**