

# AB 2143 / PUC §769.2 Informational Webinar

Wednesday, April 16, 2025, 11:00 AM (Microsoft Teams Webinar)







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#### **CPUC SURGE**

The following presentation has been provided for informational purposes and may be subject to change based on legislation or regulatory requirements. Please refer to official sources from the CPUC or contact SURGE for the most up-to-date information.

#### 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.

#### Workshop 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
- CPUC SURGE: How to Stay Compliant with a Solar Project Subject to AB 2143 / PUC §769.2
- Department of Industrial Relations (DIR) Labor Commissioner's Office
- Q&A



#### **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



# Overview of AB 2143 / PUC \$769.2

# 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.

#### What is AB 2143 / PUC §769.2?

- **Purpose:** Ensure construction workers and apprentices involved in qualified customer-sited renewable electrical generation (largely solar and solar with storage) facilities are paid prevailing wages.
- Effective Date: Starting January 1, 2024
- Renewable Energy Facility Qualifications:
  - Renewable energy generation facility, and any associated battery storage, that seeks to use the contract or tariffs pursuant to PUC 2827.1 will constitute as public works. (PUC §769.2(a))
  - The PUC 2827.1 tariffs include the net energy metering and net billing tariffs.

Ensures that Contractors are paying workers prevailing wages on qualified solar projects.

# 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 (PUC 769.2(b)(1))



✓ Maintain and verify certified payroll records through the California Department of Industrial Relations. (PUC 769.2(b)(2))



✓ Submit digital copies of certified payroll records to the Commission twice a year on July 1 and December 31 of each year. (PUC 769.2(b)(3))

# Eligibility Exceptions PUC §769.2(f)(1-4)

The following projects **do not apply** to AB 2143 / PUC §769.2:

- Residential facilities with a maximum generating capacity of 15 kilowatts or less or installed on a single-family home.
- Projects already classified as a public work under existing law.
- ◆ Facilities serving only a modular home, a modular home community, or multiunit housing with 2 or fewer stories.



#### **CPUC SURGE:**

How to Stay Compliant with a Solar Project Subject to AB 2143 / PUC §769.2

**Step by Step** 

Contractor
Responsibilities
How to Stay
Compliant
with a Solar
Project

- 1. Complete Required Forms for Interconnection with IOUs
- 2. Follow DIR Regulations for Awarding Bodies and Public Works Contractor Responsibilities
- 3. Register as a Contractor with SURGE

4. Register Project with SURGE (Primes only)

5. Report Payrolls to DIR & SURGE



# 1. Complete Required Forms for Interconnection with IOUs

- Complete your Interconnection Application with the appropriate IOU
- IOUs include Pacific Gas & Electric (PG&E), Southern California Edison (SCE), or San Diego Gas & Electric (SDG&E)
  - What if the customer is part of a small investor-owned utility?
- Customers with projects subject to AB 2143 will need to review, complete, and sign the AB 2143 Disclosure Form
- If a different party is completing the Interconnection Application, they need to ensure that the Contractor installing the solar system is aware of these AB 2143 compliance requirements

# AB 2143 Disclosure Form included in Interconnection Applications (PG&E Example)





#### PREVAILING WAGE DISCLOSURE FORM

California's prevailing wage law (Public Utilities Code section 769.2) applies to the contractor(s) constructing this Renewable Generating Facility. This Disclosure Form provides PG&E's customer installing such a facility with information about the customer for the contractor's obligations and the consequences to the customer for the contractor's failure to comply with the prevailing wage law. If, for instance, the contractor does not pay prevailing wages to its workers during the construction of this facility, this facility will be ineligible for service on any Net Energy Metering and Net Billing Tariffs, also known as Solar Billing Plan (SBP), and this facility will be transferred to another tariff for the purpose of compensating the customer for exports from the facility.

Contractor Company Name:	
Contact Name:	CSLB # (required)
Project Name:	
Project ID	PG&E Service Account #
Generating Facility (Service Account) Address:	
Estimated Work Start Date:	
Estimated Work Completion Date:	

#### Compliance with Prevailing Wage Law

#### . Requirements:

- a. Contractors seeking to interconnect new or modified renewable generating facilities with or without paired energy storage systems¹ on or after January 1, 2024, must:
- i. Pay each of its workers a prevailing wage as defined by Public Utilities Code § 769.2;
- ii. Maintain and bi-annually supply payroll records to the CPUC on July 1 and December 31;
- iii. Maintain and supply payroll records to the Department of Industrial Relations in accordance with the Labor Code § 1771.4
- b. Customers installing and interconnecting such facilities must, as part of the interconnection application, execute and submit this Prevailing Wage Disclosure Form before PG&E will interconnect the facility.
- I understand that if the contractor of record on this interconnection request has previously failed to submit required payroll records to the CPUC in connection with its work on my or other customers' facilities, permission to operate the proposed Generating Facility will be delayed until that deficiency is corrected. More information can be found at: <a href="https://cpucsurge.org">https://cpucsurge.org</a>
- Penalties: Violations of the above will result in PG&E imposing the following penalties on the customer:
- a. If after PG&E has issued permission to operate (PTO) and interconnected the customer's facility the Department of Industrial Relations determines that in connection with the construction of the customer's facility the contractor willfully failed to pay its workers a prevailing wage, PG&E will:
- i. Discontinue serving that facility on a Net Energy Metering or Net Billing Tariff;
- ii. Transfer the customer's generating facility identified in the willful wage violation to a new tariff, which will compensate the customer for exports from the facility under that tariff. The generating facility shall be subject to Departing Load and Standby tariffs.
- iii. PG&E shall provide notification to the Customer in accordance with the following:
  - a. 30 calendar days prior to removing the customer account from service on the Net Energy Metering or Net Billing Tariff if the facility is metered by a single meter;

Please complete this agreement in its entirety
† Information collected on this form is used in accordance with PG&E's Privacy Policy.

The Privacy Policy is available at pge.com/privacy.

Automated Document, Preliminary Statement, Part A.

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#### PREVAILING WAGE DISCLOSURE FORM

 60 calendar days prior to removing the customer account from service on the Net Energy Metering or Net Billing Tariff if the facility is metered by multiple meters (i.e., Virtual or Aggregation customers).
 iv. Perform an account true-up after the time periods referenced in 2.a.iii have expired.

b. Removal of Penalties: If the Department of Industrial Relations or California courts have conclusively reversed the willful wage violation against the customer's contractor, PG&E, shall restore the facility's service on the applicable Net Energy Metering or Net Billing Tariff the first billing cycle after PG&E learns of the reversal. The legacy period will be based on the original permission to operate per the applicable NEM or NBT Schedule.

By signing this disclosure, I acknowledge that I have read and understand the requirements, and risk of being subject to the penalties, set forth herein.

(Print Customer Name as it appears on the PG&E Bill)
(First Sustainer Hame as it appears on the Foar Bill)
(Customer Signature)
(Print name and title of signee, applicable if customer is a Company)
(e.g. John Doe, Manager)
(e.g. John Doe, Manager)
(Date)

# READ THE REQUIREMENTS & PENALTIES

Please complete this agreement in its entirety

Automated Document, Preliminary Statement, Part A.

Page 2 of 2 Form 79-1224 Advice 7329-E-B

<sup>&</sup>lt;sup>1</sup> These requirements do not apply to certain public works projects, residential customers with systems sized 15 kilowatts or less, residential seeking customers to interconnect such facilities that the customer has installed on a single-family home, a Modular Home (for definitions please refer to the apolicable Net Reprov Meterina and Net Billino Tariffs). a Modular Home Community, or multiput housing that has two or fewer stories.

# 2. Follow DIR Regulations for Awarding Bodies and Public Works Contractor Responsibilities

#### **Awarding Bodies**

- Awarding Body = Project
   Owner
- Set up account with the DIR
- Register the eligible project
- Provide DIR Project
   Registration Number to
   Contractor

#### **Public Works Contractors**

- Register as a public works contractor
- Pay <u>prevailing wages</u>
- Follow <u>apprenticeship</u> <u>requirements</u>
- Maintain and submit certified payroll records

## 3. Register as a Contractor with SURGE

- Navigate to the SURGE Compliance Portal.
  - If you haven't done so, create a free Submittable account.
  - SURGE Compliance Portal is hosted on Submittable.
- All Primes and Subcontractors must register as a contractor.
  - You only have to do this once.
- Fill out and complete the Contractor Registration form.
  - Once approved, you will receive a Contractor Identification Number (CIN).
  - Keep this CIN as you will need it to register for projects and submit copies of certified payrolls.

#### 4. Register Project with SURGE

- Only the Prime Contractor needs to complete the SURGE Project Registration.
- Each eligible project should be registered separately.
- Answer the questionnaire to ensure projects are subject to AB 2143 requirements.
- Once approved, you will receive a Project Identification Number (PIN).
- Prime Contractors will need to share this PIN with Subcontractors as they will need it to submit copies of certified payrolls.

## 5. Report Payrolls to DIR and SURGE

#### DIR

- Monthly submissions
- Submit electronic certified payroll records (eCPRs)\*
- Link to DIR's Certified Payroll
   Reporting

\*Please note that the requirement to submit eCPRs is separate and distinct from the obligation to maintain certified payroll reports under Labor Code Section 1776.

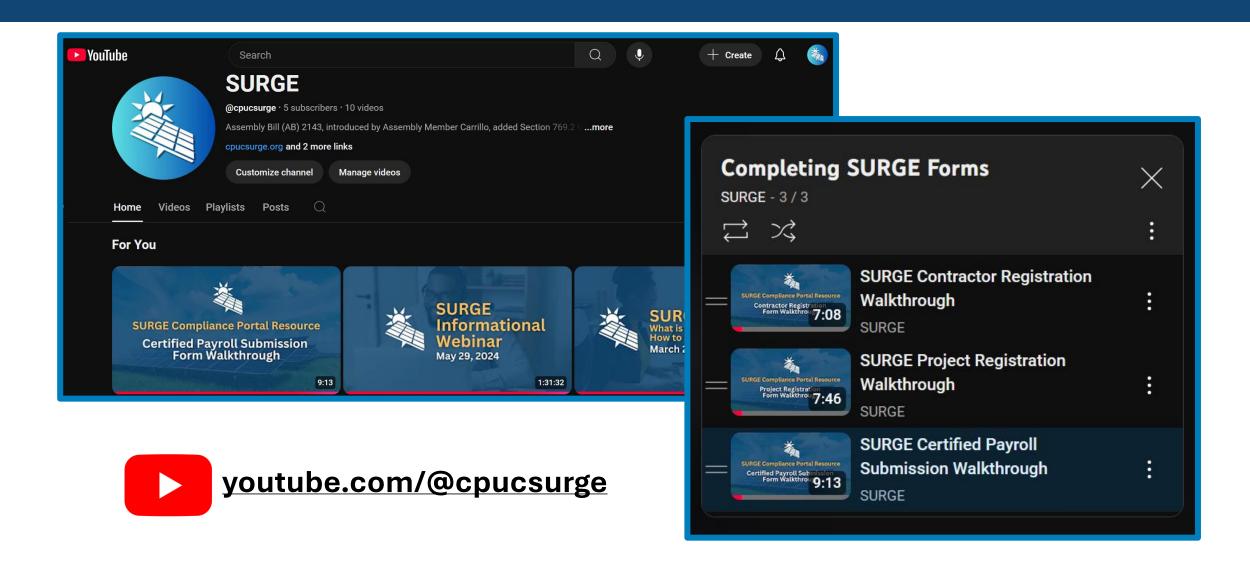
#### **SURGE**

- Bi-annual deadline submissions (July 1<sup>st</sup> and December 31<sup>st</sup>)
- Submit copies of certified payroll records
- Link to SURGE Certified
   Payroll Submission

# 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.

#### **SURGE Video Resources for Contractors**



# **Certified Payroll Records**

#### What are Certified Payroll Records?

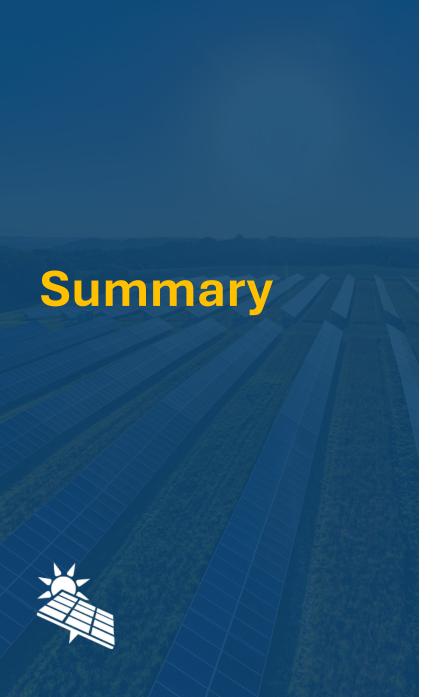
- Labor Code Section 1776(b)
   requires that payroll records must
   be "certified" which means it must
   be accompanied by a signed
   Statement of Compliance
- You may also reference Section
   3.1.1 of the Public Works Manual for additional information:
   https://www.dir.ca.gov/dlse/pwmanualcombined.pdf

# What format does SURGE require for certified payroll uploads?

- PDF document
- May use the DIR A-1-131 payroll reporting form or house payroll reporting form
- Must contain all required information (name, address, social security number, work classification, straight time/overtime hours worked, hourly rate of pay, etc.)
- Must include a *signed* Statement of Compliance

## Non-Performing Weeks

- What is a non-performing week?
  - Refers to a week where no work was performed on a project
- Do we have to report for non-performing weeks?
  - Yes, for non-performing weeks, please upload a Statement of Non-Performance form
  - Contractors can also use the A-1-131 form and write "No Work Performed" on it







**Perform Work** 



**Report CPRs to DIR & SURGE** 

**Pay Prevailing** Wages





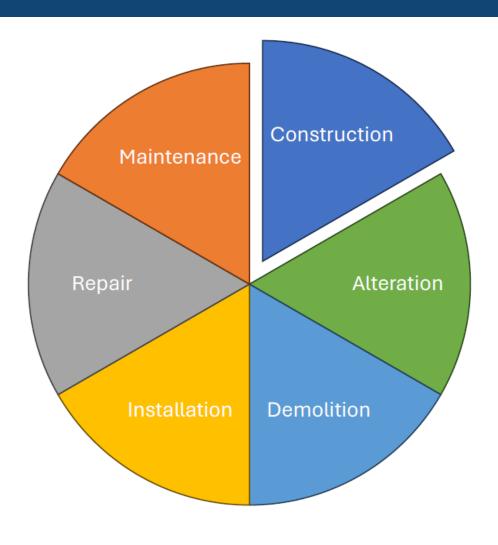
**Maintain** 



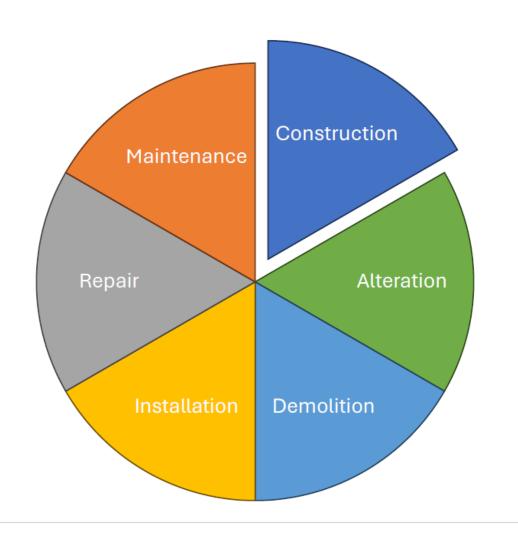


# **DIR Labor Commissioner's Office**

# Public Works, Defined



# Public Works, Defined



#### Preconstruction

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

#### Postconstruction

Clean up

# Registering Projects: Who is the 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.

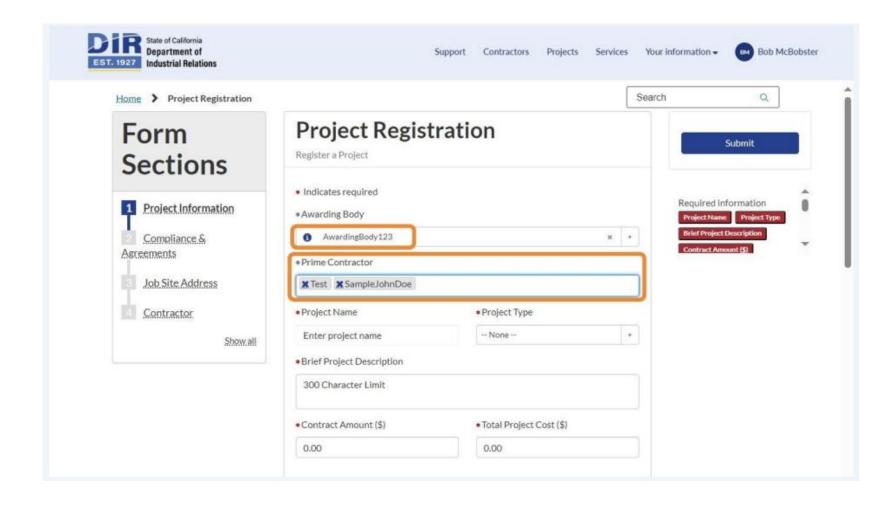


# **Project Registration**

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**



Visit the Support Center for step-by-step guides to creating your user account, linking to your agency, and registering a project.

# Finding a Public Works Project

Report an issue or request a service



#### **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 a public works contractor is required to register with the DIR.

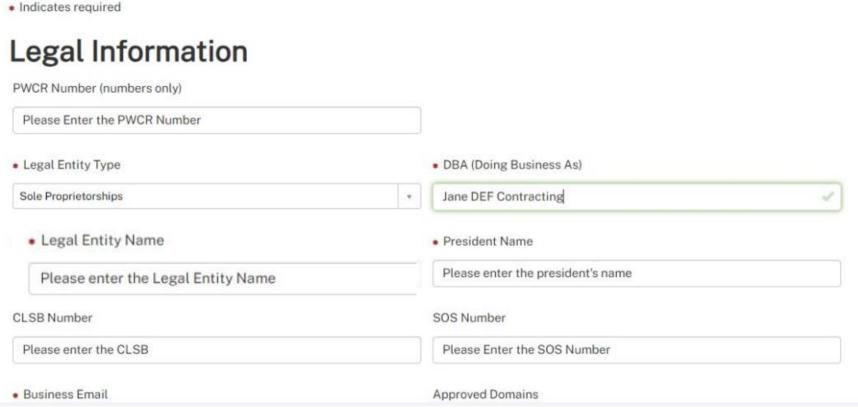


#### **Contractor Registration**

- 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 a 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**

#### Register a new Contractor



Visit the Support
Center for step-bystep guides to
creating your user
account and
registering as a
contractor.

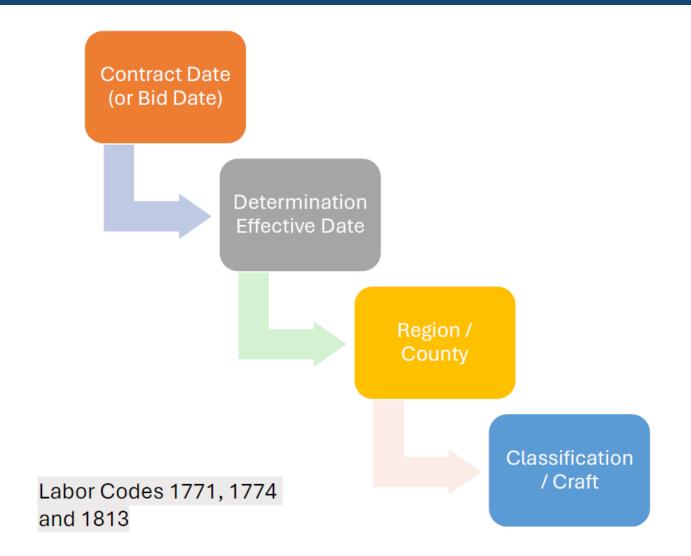
## **Prevailing Wages**

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 the 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

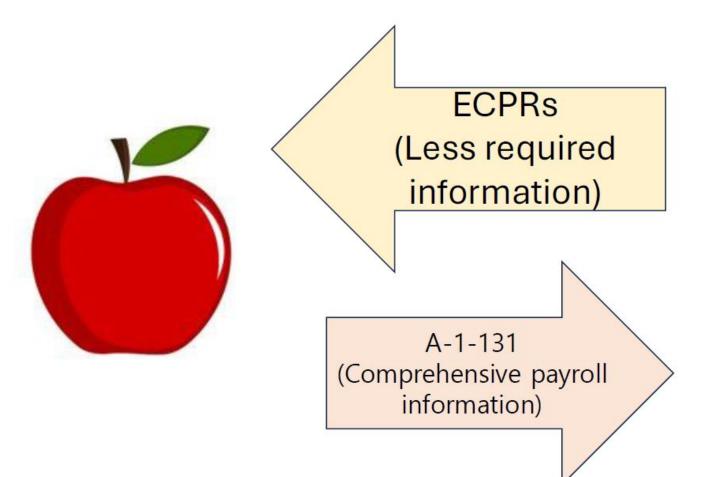
Please provide the following information with your inquiry:

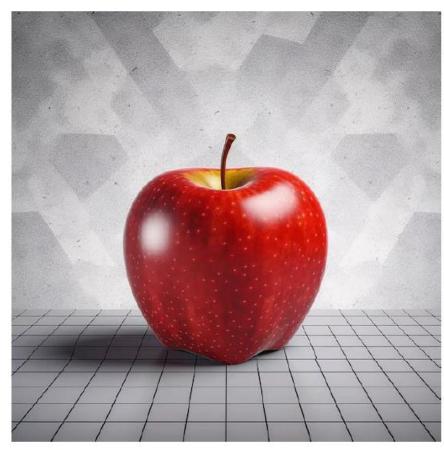
- Your name
- · Company or agency name
- · Email and mailing address
- Phone number
- A summary of your question(s)
- Bid Advertisement Date
- Craft(s)/Classification(s)
- · County Location of the Project

## **Certified Payroll Records**

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

# **Certified Payroll Records**





# Certified Payroll Records - Form A-1-131

	! ! !	California Department Industrial Re			nt of	PUBLIC WORKS PAYROLL REPORTING FORM								Page_	Page of					
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# Certified Payroll Records – Form A-1-131

#### NOTICE TO PUBLIC ENTITY

#### For Privacy Considerations

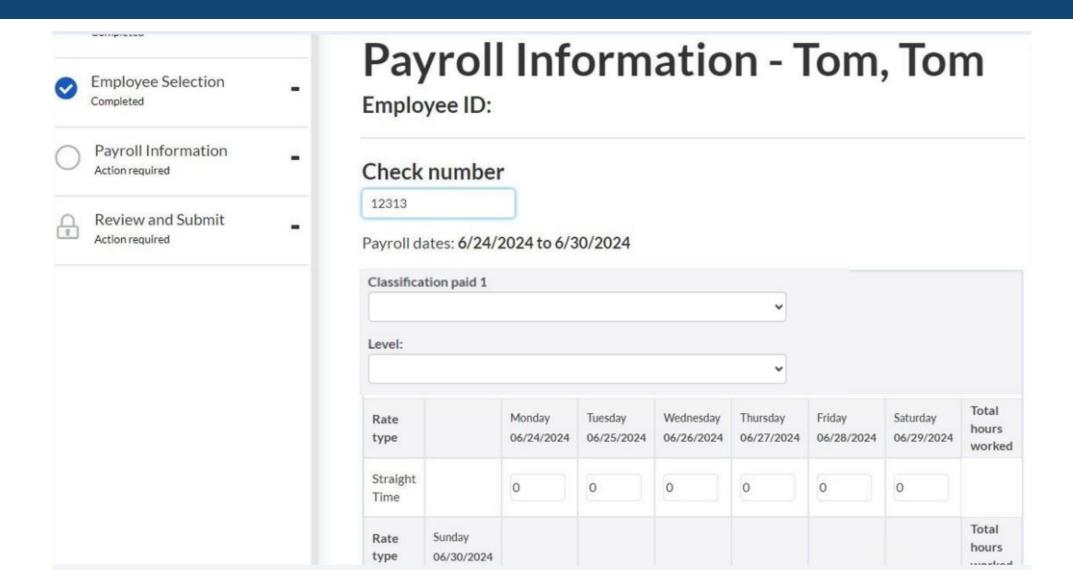
Fold back along dotted line prior to copying for release to general public (private persons).

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

I,(Name – print)	the undersigned, am the
(Position in business)	with the authority to act for and on behalf of
	, certify under penalty of perjury
(Name of business and/or contractor)	
that the records or copies thereof submitted and	d consisting of(Description, number of pages)
are the originals or true, full, and correct copie	s of the originals which depict the payroll record(s)
of the actual disbursements by way of cash, ch	eck, or whatever form to the individual or
individuals named.	
Date:	Signature:

A public entity may require a stricter and/or more extensive form of certification.

# Certified Payroll Records – eCPR



#### **Enforcement Pause**

#### A

#### NOTIFICATION PAUSING ENFORCEMENT OF PW SYSTEM REQUIREMENTS - 1771.4(a)(3)

This is to notify interested parties that enforcement of contractor registration requirements as well as the requirement to submit electronic certified payroll records (eCPRs) to the Labor Commissioner using DIR's online eCPR system is temporarily paused for the period of 12 months, which runs from 6/22/2024 through 6/22/2025.

Awarding Agencies will not be penalized for hiring unregistered contractors nor need to withhold funds due to a contractor's inability to register nor provide eCPRs due to system issues. Additionally, Awarding Bodies and Prime Contractors should not prevent contractors from bidding or working on a Public Works jobs as a result of their inability to register or submit certified payroll due to system issues.

Once the stay of enforcement is lifted, contractors will not be required to retroactively submit eCPRs nor will they be required to retroactively register.

It is important to note that the requirement to submit eCPRs is separate and distinct from the obligation in Labor Code section 1776 which is unaffected by this notice.

The Labor Commissioner recommends that awarding bodies and general contractors consider this announcement in the administration of their public works projects. Specifically, where eCPRs may be unavailable during this time, awarding bodies and general contractors **should** rely on certified payroll records (on forms such as the DIR Form A-1-131) maintained as required by Labor Code section 1776 to ensure continued compliance with all other public works requirements.

# **Support Center**

#### www.dir.ca.gov/Public-Works/SupportCenter.html

#### **How-To Guides**

Subject	Audience	Steps
eCPR User PDF Guide (Printable)	Contractors	Guide
eCPR User Video Guide	Contractors	Video Link ♂
Search for a Project	Awarding Bodies, Contractors	Guide
Search for a Contractor	Awarding Bodies, Contractors	Guide
Search for an eCPR	Awarding Bodies, Contractors	Guide
Create a User Account	Awarding Bodies, Contractors	Guide
Reset-Your-Password	Awarding Bodies, Contractors	Guide
Create an Account for an Awarding Body or Development Proponent	Awarding Bodies	Guide

#### Upcoming Trainings (TBD)

The Labor Commissioner's Office offers educational seminars across the state to provide an overview of prevailing wage and apprenticeship standards compliance and public works enforcement. Discussions will include awarding body responsibilities, coverage determinations, and prequalification of contractors, contractor registration and Project Registration (formerly known as PWC-100). Some seminars are focused on requirements for specific groups such as contractors or public agencies.

Subject	Date and Time	Location	Audience	Registration
FFC Seminar	March 13	Online Webinar	Contractors and Awarding Bodies	Register &
CCC Labor Compliance Seminar	May 13	San Diego, CA	Contractors and Awarding Bodies	Register &
LMCC Seminar	May 27-28, 2025	Anaheim, CA	Contractors and Awarding Bodies	Register &
FFC Seminar	June 4-5	Napa, CA	Contractors and Awarding Bodies	Register &
FFC Seminar	July 16	Online Webinar	Contractors and Awarding Bodies	Register &
FFC Seminar	September11	Online Webinar	Contractors and Awarding Bodies	Register &
FFC Seminar	October 9	San Francisco, CA	Contractors and Awarding Bodies	Register &

#### **Contact Us**



Email Us info@cpucsurge.org



**Call Us** 1-800-549-2143



#### Resources



Visit the SURGE Website www.cpucsurge.org



Mailing List (Email only) Sign Up <a href="https://cpucsurge.org/signup/">https://cpucsurge.org/signup/</a>



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