

CHAPTER 5

AUDIT & CASE PROCESS

Pre-bid and Job Start Meetings

The Owner Authorized Representatives (OARs) schedule Pre-Bid and Job Start meetings to inform contractors/subcontractors of the project, contractual, and labor law requirements. Contracts may originate from various departments within LAUSD. OARs will send to the Labor Compliance Department (LCD) the Pre-Bid and Job Start Meeting Notices. The LCD will send an email notifying contractors/subcontractors of their requirement to view the LCD's Online Pre-Job Conference Video at <http://www.laschools/new-site/labor-compliance/pre-job-conference-video> and electronically sign and submit the Pre-Job Conference Checklist through the Online Certified Payroll Reporting System.

Pre-Bid Meeting

Pre-Bid meetings may be scheduled by the OAR assigned to the project. After attending the Pre-Bid meeting, contractors/subcontractors are advised to view the LCD's Online Pre-Job Conference Video for the requirements set forth in the Labor Compliance Program.

Job Start Meeting

Job Start meetings are scheduled by the OAR assigned to the project. Contractors, as well as all subcontractors, are required to view the Online Pre-Job Conference Video and electronically sign and submit the Pre-Job Conference Checklist **BEFORE** the scheduled meeting. Should contractor and/or subcontractor have any questions, contractor/subcontractor can contact the Labor Compliance Department at (213) 241-4647.

- If contractors/subcontractors are unable to electronically sign the checklist online, contractors/subcontractors are to download and sign a hardcopy of the Pre-Job Conference Checklist and submit it to the LCD via email at lcp@lausd.net. The Pre-Job Conference Checklists are available for download at the Labor Compliance Department website at <http://www.laschools.org/new-site/labor-compliance/>. The contractor shall be responsible for ensuring that its subcontractors sign and submit the Pre-Job Conference Checklist.
- All contractors will download copies of the Prevailing Wage Determination from the Department of Industrial Relations' website at www.dir.ca.gov. The

contractors will post one copy at the job site visible to all workers and may keep the other copies for its office reference (Labor Code Section 1773.2).

Labor Compliance Pre-Job Conference Checklist

<p>LOS ANGELES UNIFIED SCHOOL DISTRICT FACILITIES SERVICES DIVISION Facilities Contracts Services</p> <p><u>LABOR COMPLIANCE DEPARTMENT</u></p> <p>CHECKLIST OF LABOR LAW REQUIREMENTS TO REVIEW AT JOB START MEETING</p> <p>(Pursuant to Title 8, Section 16421 of the California Code of Regulations)</p> <p>NAME (print) _____</p> <p>COMPANY _____</p> <p>ADDRESS _____</p> <p style="text-align: right;">_____ School _____</p> <p>SUPERINTENDENT _____ Contract _____</p> <p>The federal and state labor law requirements applicable to the contract, to the following:</p> <ol style="list-style-type: none"> 1. Payment of Prevailing Wage Rates The contractor to whom the contract is awarded and its subcontractors are required to pay not less than the specified general prevailing rate for similar work (as determined by the prevailing wage survey, under Labor Code Section 1770 et seq. 2. Apprentices It is the duty of the contractor and its subcontractors, of every tier, to comply with the public works project under Labor Code Section 1777.5; Contractor and its subcontractors, of every tier, shall submit copies of Apprenticeship Standards Form (DAS 140); the information shall be submitted to the apprenticeship committee within ten (10) days of the date of the contract, but in no event later than the first day in which the contractor or subcontractor, and all its subcontractors, of every tier, shall submit a copy of the Labor Compliance Department office. Contractor who violates Labor Code 1777.5(a-e) shall forfeit as a penalty not more than the sum of one hundred dollars (\$100) for each worker, for each calendar day of noncompliance, pursuant to Labor Code Section 1777.7(a)(1). Contractor shall be responsible for the compliance of Labor Code 1777.5(a-e) for every tier. Failure to comply by all subcontractors, of every tier, shall be a penalty not more than the sum of one hundred dollars (\$100) for each worker, for each calendar day of noncompliance, pursuant to Labor Code Section 1777.7(a)(1). above requirements shall apply to all work under the contract, and the contractor shall be responsible to ensure each and every subcontractor complies with the above requirements. In accordance with federal and state laws and regulations, the contractor hereby certifies that it and its subcontractors, of every tier, are in compliance with referenced labor law requirements, and that the contractor shall be responsible to ensure each and every subcontractor complies with the above requirements. Furthermore, Contractor agrees to and ensures compliance with LAUSD's Internet Site (http://www.laschools.org) latest Prevailing Wage Determination and agrees to post a copy of the same (and other mandated material) at job-site for all workers. 	<ol style="list-style-type: none"> 3. Penalties There are penalties required for contractor's/subcontractor's failure to pay prevailing wages and for failure to employ apprentices, including forfeitures and debarment under Labor Code Sections 1775; 1776; 1777.1; 1777.7 and 1813; Contractor shall forfeit as a penalty to LAUSD not more than fifty dollars (\$50) per day or portion thereof, for each worker paid less than the stipulated prevailing wage rate for such work or craft in which such worker is employed for any work performed under contract by contractor or its subcontractors. 4. Certified Payroll Reports Under Labor Code Section 1776, contractors and subcontractors are required to keep accurate payroll records showing the name, address, social security number and work classification of each employee and owner performing work; also the straight time and overtime hours worked each day and each week, the fringe benefits, and, the actual per diem wage paid to each owner, journey person, apprentice worker or other employee hired in connection with the public works project. Employee payroll records shall be certified and shall be made available for inspection at all reasonable hours at the principal office of the contractor/subcontractor, or shall be furnished to any employee, or his/her authorized representative on request, pursuant to Labor Code Section 1776; Each contractor and subcontractor shall submit to the LAUSD electronic certified payroll reports via the LAUSD's On-Line CPR System on a weekly basis. In the event that there has been no work performed during a given week, the electronic Certified Payroll Report shall be annotated: "No Work" for that week. Upon completion of the project, Contractor/subcontractor shall annotate its electronic Certified Payroll Report with "FINAL" on its last Certified Payroll Report. Under Labor Code Section 1776(g) and the District's contract requirements, there are penalties required for contractor's/subcontractor's failure to maintain and submit copies of electronic certified payroll records on request. Contractor shall be responsible for the submission of electronic certified payroll records for all its subcontractors, of every tier. Failure to comply by all subcontractors shall cause the Contractor to forfeit as a penalty to LAUSD twenty-five dollars (\$25.00) per day for each calendar day of noncompliance for each worker, until strict compliance with LAUSD's contract requirements is effectuated. 5. Nondiscrimination in Employment There exist prohibitions against employment discrimination under Labor Code Sections 1735 and 1777.6, the Government Code, the Public Contracts Code, and Title VII of Civil Rights Act of 1964; 6. Kickbacks Prohibited Contractors and subcontractors are prohibited from recapturing wages illegally or extracting "kickbacks" from employee wages under Labor Code Section 1778; 7. Acceptance of Fees Prohibited There exists a prohibition against contractor/subcontractor acceptance of fees for registering any person for public work under Labor Code Section 1779; or for filling work orders on public works contracts pursuant to Labor Code Section 1780; 8. Listing of Subcontractors All prime contractors are required to list properly all subcontractors hired to perform work on the public works projects covering more than one-half of one percent, pursuant to Public Contracts Code Section 4104.
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For the Contractor:

(Signature)

Print Name

(Date)

Prime Contractor Name

Field Interviews and Observations

The contractor must permit the LAUSD and the Department of Industrial Relations' authorized representative(s) to interview trade workers during working hours on the project site (not during lunch or break times).

The following are the onsite visit protocol that every Labor Compliance Investigator must follow:

- 1) The investigator will check the site trailer or office for the Prevailing Wage Determination and the Equal Employment Opportunity Posters. The Prevailing Wage Determination must be in a place that is accessible to the workers for their viewing.
- 2) The investigator will make every effort to interview workers from each classification on the project. All employee interviews will be memorialized on the LAUSD Labor Compliance Interview Form. The LAUSD's Observation Form will also be completed.

The Labor Compliance Interview Form and Observation Form will be checked against the contractor's Certified Payroll Records.

**Labor Compliance
Observation Form**

Los Angeles Unified School District
Facilities Services Division
Facilities Contracts Services/Labor Compliance Department

OBSERVATION FORM

DATE: _____ ARRIVAL TIME: _____
INVESTIGATOR: _____ DEPARTURE TIME: _____
PROJECT NAME: _____
PRIME: _____
SUBCONTRACTOR: _____
CONTRACT NO.: _____
HEAD COUNT: _____
(Indicate by Contractor if possible)
TYPE OF PROJECT: _____

Prevailing Wage Determination

OBSERVATION:

**LOS ANGELES UNIFIED SCHOOL DISTRICT
FACILITIES SERVICES DIVISION
Facilities Contract Services
Facilities Contract Services/Labor Compliance Department**

LABOR COMPLIANCE INTERVIEW FORM

School/Project Name:			
Contract Number:	Project Number:	Prime Contractor Name:	Subcontractor Name:
1. Name of Employee:			
2. Home Address & Zip Code:			
3. Area Code/Phone Number:		Social Security Number (Optional):	
4. Last date and number of hours you worked on this project before today?		Employee Initial (Optional):	
	SU	M	T W TH F SA
Last Wk			
This Wk			
5. Your Hourly Pay Rate: \$		6. Your Job Classification: Apprentice: Yes <input type="checkbox"/> No <input type="checkbox"/>	
7. What are your duties most of the time? Other duties?			
8. Tools or Equipment Used?			
9. Paid at least time and one-half for all hours worked in excess of 40 in a week? Yes <input type="checkbox"/> No <input type="checkbox"/> (If overtime premium pay is not required, enter "inapplicable")			
10. Have you had any problems with receiving your pay? (i.e. Bounced checks, unauthorized deductions, intimidation) Yes <input type="checkbox"/> No <input type="checkbox"/>			
11. Duties Observed by interviewer? Conform to Classification: Yes <input type="checkbox"/> No <input type="checkbox"/>			
12. Remarks (Continue on reverse side if necessary):			
13. Gender: Male <input type="checkbox"/> Female <input type="checkbox"/>		Ethnicity: Asian <input type="checkbox"/> Hispanic <input type="checkbox"/> Black <input type="checkbox"/> Middle Eastern <input type="checkbox"/> White <input type="checkbox"/> Other <input type="checkbox"/>	
14. Please print Interviewer name:		Interviewer contact phone number:	
15. Signature of Interviewer:		Date of Interview:	
<u>PAYROLL EXAMINATION</u>			
16. Remarks (Continue on reverse side if necessary):			
17. Signature of Payroll Examiner:		Date:	

PLEASE FAX AND MAIL THIS FORM TO:

Los Angeles Unified School
Labor Compliance Department
333 South Beaudry Avenue, 21st Floor
Los Angeles, CA 90017
Fax #: (213) 241-8356

**Labor Compliance
Interview Form**

Audit Process

The Los Angeles Unified School District, Labor Compliance Department (LCD), has a duty to the Director of the Department of Industrial Relations to enforce Labor Code Sections 1720 through 1861 in a manner consistent with the practice of the Division of Labor Standards Enforcement. As an enforcement agency of the State of California, the Los Angeles Unified School District's Labor Compliance Department continually educates contractors and subcontractors regarding their State and contractual obligations. If a contractor is found in violation, the Labor Compliance Department puts forth every effort to resolve the situation with the contractor.

Notification to Contractor of Audit

When a prevailing wage audit of a contractor or subcontractor has been initiated, the contractor and subcontractor will be notified via certified mail that an audit case has been initiated.

In audit cases of possible violations by the prime contractor, all correspondence will be between the Labor Compliance Department and prime contractor only.

In audit cases of possible violations by a subcontractor, all correspondence will be sent to the prime contractor and copies sent to the subcontractor.

Contractor's Obligation to Submit Documentation

The affected contractor(s) will be notified, via certified mail, of the basic records, such as check stubs, cancelled checks, time cards, proof of fringe benefit contributions, etc., that they are required to submit for the audit.

Requested documents are due within ten (10) days of receipt of the request in accordance with Labor Code Section 1776 and District contractual requirements.

Pre-Withhold Meeting with Contractor

After the initial audit has been completed, if the LCD has evidence of potential Labor Compliance violations, the affected contractor(s) is notified via certified mail of the date that a pre-withhold meeting will be conducted. The purpose of the pre-withhold meeting is to:

- Review and discuss the initial audit results with the contractor(s).
- Schedule a due date (10 days) for any mitigating evidence to be submitted by the contractor(s).
- Inform the contractor(s) of his/her right to administratively appeal an assessment.

Contractor Accepts/Rejects Final Audit Findings

After review and consideration of any mitigating evidence submitted by the contractor, the audit findings will be finalized.

- A letter is sent to the contractor with directions on how to make the payments along with the finalized audit.
- In the event that a resolution cannot be reached between Los Angeles Unified School District and the contractor(s), the case is then forwarded to the State Labor Commissioner for approval of the “Request for Approval of Forfeitures and Penalties”.

Submitting a Case to the State (Labor Code Section 1741 (a))

The LCD must submit, in writing, a Request for Approval of Forfeitures and Penalties and issue a Notice of Withholding of Contract Payments no later than 18 months after the filing of a valid Notice of Completion in the Office of the County Recorder or acceptance of the public work, whichever occurs last.

A copy of the Request for Approval of Forfeiture and Penalties shall be served on the contractor(s) and bonding companies of the affected contractor(s) by certified mail (CCR Section 16437).

Notice of Withholding of Contract Payments

The determination of the forfeiture by the State Labor Commissioner is effective on the date the State Labor Commissioner serves by first class mail on the LCD and on the contractor or subcontractor a signed copy of the forfeiture; or effective twenty (20) days after the forfeiture is served on the State Labor Commissioner, if the State Labor Commissioner does not respond. Upon receipt of approval, the LCD will place a Notice of Withholding of Contract Payments against the affected contract(s). A copy of the Notice of Withholding of Contract Payments and the review procedures pursuant to Labor Code Section 1742 shall be served on the contractor(s) and bonding companies of the affected contractor(s) by certified mail.

Contractor’s Right to Settlement Meeting (Labor Code Section 1742.1(b))

The affected contractor(s) is given thirty (30) days from being served with the Notice of Withholding of Contract Payments to request a Settlement Meeting with the Labor Compliance Department. This is done in an attempt to settle the dispute without the need for formal proceedings.

Contractor’s Request for a Formal Hearing (Labor Code Section 1742 (a))

The affected contractor(s) has sixty (60) days from being served with the Notice of Withholding of Contract Payments to request a hearing. A hearing can be requested by

submitting a written Request for Review – Formal Hearing to the Compliance Manager, Labor Compliance Department.

The affected contractor(s) has the **burden** of proving that the basis for the Notice of Withholding of Contract Payments is incorrect.

If no hearing is requested within sixty (60) days after service of the Notice of Withholding of Contract Payments, the Notice of Withholding of Contract Payments will become final.

Liquidated Damages (Labor Code Section 1742.1)

After sixty (60) days following the service of the Notice of Withholding of Contract Payments, the affected contractor(s) and the bonding company shall be liable for liquidated damages equal to the amount of back wages still owed.

However, there shall be no liability for liquidated damages if the full amount of the assessment or notice, including penalties has been deposited with the Department of Industrial Relations within 60 days following service of the assessment or notice, for the department to hold in escrow pending administrative and judicial review. The DIR shall release funds, plus any interest earned, at the conclusion of all administrative and judicial review to the persons and entities who are found to be entitled to such funds.

Contractor's Right to Hearing and to Review Evidence (Labor Code Section 1742 (b))

Upon receipt of a timely request, the LCD will transmit the request to the Department of Industrial Relations, Office of the Director. The Director's Office will appoint an impartial hearing officer and shall commence a hearing within 90 days.

The affected contractor(s) has the right to review the evidence to be utilized by the LCD at the hearing.

The LCD shall make the evidence available for review within twenty (20) days of the receipt of the request for hearing.

Announcement of the State's Decision (Labor Code Section 1742 (b))

The State's decision will be announced within forty-five (45) days of the conclusion of the hearing.

Within fifteen (15) days of the decision, the Director may reconsider or modify the decision. A clerical error may be corrected at any time.

Contractor's Right to Appeal (Labor Code Section 1742 (c))

An affected contractor(s) may appeal the decision of the Director by filing a petition for a writ of mandate to the appropriate Superior Court within forty-five (45) days after the decision.

If no petition for writ of mandate is filed within forty-five (45) days after service of the decision, the decision becomes final.