



POLICY AND PROCEDURE

Subject: Public Works Contracts – State Requirements for Contractor Registration and Agency Notification	Index: Public Works & Utilities Number: 801-3
Effective Date: February 2, 2015	Prepared By: Public Works Dept.
Supersedes: N/A	Approved By: <i>[Signature]</i>

1.0 PURPOSE:

It is the purpose of this policy to specify procedures the City will implement to comply with Senate Bill (SB) 854, a State law passed in mid-2014 which significantly changed some of the obligations of public agencies and contractors on public works projects.

2.0 ORGANIZATION AFFECTED:

All City Departments that engage in construction of public works projects.

3.0 REFERENCES:

3.1 California Labor Code Sections 1720, 1725.5, 1771.1, 1771.4, and 1773.3.

4.0 POLICY:

Passage of SB 854 modified various sections of the State Labor Code to add the following requirements: 1) contractors and subcontractors must be registered with the Department of Industrial Relations ("DIR") in order to participate in public works projects; 2) public agencies must notify the DIR upon the award of a public works contract; and 3) contractors must furnish certified payroll records to the State Labor Commissioner. To comply with the requirements of SB 854 as codified in the State Labor Code, the City shall implement the actions listed in Section 5 below.

5.0 PROCEDURE:

- 5.1 Effective immediately, any agreement prepared for construction of public works shall be prepared using the City's updated standard template agreement which is available in the Public Works template folder within Microsoft Word. The updated template has been reviewed and approved by the City Attorney to comply with SB 854.
- 5.2 Effective immediately, all bid notification/invitation and contract documents must include the following text:

"Pursuant to Labor Code Section 1771.1, no contractor or subcontractor may be listed on a bid proposal for a public works project submitted on or after March 1, 2015 unless registered with the Department of Industrial Relations. Furthermore, all bidders and contractors are hereby notified that no contractor or subcontractor may be awarded, on or after April 1, 2015, a contract for public work on a public works project unless registered with the Department of Industrial Relations.

Pursuant to Labor Code Section 1771.4, all bidders are hereby notified that this project is subject to compliance monitoring and enforcement by the Department of Industrial Relations."

- 5.3 Effective immediately, the City will notify the DIR of any public works contract for which prevailing wages are required as follows:
- 5.3.1 The City Clerk's office will continue to process all contracts for approval by either Departments Heads, the City Manager, or the City Council.
- a. Departments will submit contracts to the City Clerk's office using the City Clerk's contract submittal form.
 - b. Departments must indicate, where provided on the form, whether or not the contract is a public works contract (as defined in this policy) which will require DIR notification upon award.
- 5.3.2 The City Clerk will promptly notify the originating Department once the contract has been awarded.
- a. For contracts which require City Council approval, the award date shall be the date of the City Council meeting at which the public works contract was approved/awarded.
 - b. For contracts which do not require City Council approval, the award date shall be the date the contract is fully executed via signature of the City Manager or Department Head.
- 5.3.3 Within five (5) calendar days of the award, the originating Department must provide notification using the online PWC-100

form reporting tool available on the DIR website. The online form requires a free user registration.

- 5.4 Effective March 1, 2015, the City will not accept a bid without proof that all contractors and subcontractors listed in the bid are currently registered with the DIR. If a subcontractor who is not registered is inadvertently listed in a bid proposal, the bid is not considered nonresponsive if:
- 5.4.1 The subcontractor is registered prior to the bid opening;
 - 5.4.2 Within twenty-four (24) hours of the bid opening, the subcontractor is registered and pays the penalty registration fee as prescribed by the DIR; or
 - 5.4.3 The subcontractor is replaced by another registered subcontractor.
- 5.5 Effective April 1, 2015, the City will not enter into a contract for public work with an unregistered contractor or subcontractor. If the City inadvertently fails to identify the project as a public work in either the bid specification or the contract document, and the project is subsequently determined to be a public work by either the DIR Director or a court, then within twenty (20) days following service of notice of such a determination, all contractors and subcontractors not properly registered must either register with the DIR or be replaced by a contractor or subcontractor who is properly registered.

6.0 DEFINITIONS:

- 6.1 **Public Work:** Shall have the meaning as more fully defined in Labor Code Section 1720. Includes but is not necessarily limited to:
- 6.1.1 Construction, alteration, demolition, installation, or repair work done under contract and paid for in whole or in part out of public funds, except work done directly by any public utility company pursuant to order of the Public Utilities Commission or other public authority. "Construction" includes work performed during the design and preconstruction phases of construction, including, but not limited to, inspection and land surveying work, and work performed during the post-construction phases of construction, including, but not limited to, all cleanup work at the jobsite. "Installation" includes, but is not limited to, the assembly and disassembly of freestanding and affixed modular office systems.
 - 6.1.2 Work done for irrigation, utility, reclamation, and improvement districts, and other districts of this type. Does not include the operation of the irrigation or drainage system of any irrigation or reclamation district, except as used in Labor Code Section 1778 relating to retaining wages.
 - 6.1.3 Street, sewer, or other improvement work done under the direction and supervision or by the authority of any officer or public body of the state, or of any political subdivision or district thereof, whether

the political subdivision or district operates under a freeholder's charter or not.

- 6.1.4 The laying of carpet done under a building lease-maintenance contract and paid for out of public funds.
- 6.1.5 The laying of carpet in a public building done under contract and paid for in whole or in part out of public funds.
- 6.1.6 Public transportation demonstration projects authorized pursuant to Section 143 of the Streets and Highways Code.
- 6.1.7 Infrastructure project grants from the California Advanced Services Fund pursuant to Section 281 of the Public Utilities Code.