

**CALCIMA "CHECKLIST" FOR COMPLIANCE WITH AB 219**

*By Jon Welner*

√	Action Item	When to Complete
<input type="checkbox"/>	<p><b>Register as a prevailing wage "subcontractor."</b></p> <p>Go to: <a href="https://efiling.dir.ca.gov/PWCR">https://efiling.dir.ca.gov/PWCR</a>. Complete the registration form and pay the registration fee (\$300). In the field for "License Type," select "NONE REQUIRED."</p> <p>Registration is required. It will not cause you to be treated as a subcontractor for any purpose other than application of prevailing wage requirements. The penalty for noncompliance is \$2,000 and disqualification from work on prevailing wage jobs.</p> <p>In order to avoid being charged twice, ready-mix companies should wait until July 1, 2016, before registering for the first time.</p>	<p>Before supplying concrete to any COVERED JOB. Must be renewed in May or June of each year.</p>
<input type="checkbox"/>	<p><b>Determine if the delivery is to a COVERED JOB subject to prevailing wage requirements.</b></p> <p>Under AB 219, ready-mix concrete suppliers must follow prevailing wage requirements for all deliveries that "carry out a public works contract, with respect to contracts involving any state agency...or political subdivision of the state." This includes counties, cities, school districts, and special districts such as utility districts, water districts, sewer districts, etc.</p> <p>If you are bidding on a project, the Request for Proposal should specify if the project is a COVERED JOB.</p> <p>If an order comes in that does not require a bid, you should always ask the party ordering the concrete if the job is for a public works contract. (The party that orders the concrete is supposed to notify you if a job is COVERED. However, this might not always happen.) If they say the job is NOT COVERED, get it in writing. Consider adding the following text to your purchase orders/agreements: "Customer states that this order is NOT for the purpose of carrying out a public works contract, and the work is NOT subject to prevailing wage requirements."</p> <p>If the job is for a government entity or on government property (e.g., a public school), you should assume it is COVERED.</p> <p>You can check online to see if the project is registered as a public work: <a href="https://www.dir.ca.gov/pwc100ext/ExternalLookup.aspx">https://www.dir.ca.gov/pwc100ext/ExternalLookup.aspx</a>. However, not every project is registered; and even if a project is registered, it might not be easy to find.</p> <p>Deliveries for public works contracts that were <i>awarded</i> prior to July 1, 2016, are NOT COVERED. If proposed cleanup legislation is passed, then public works contracts <i>advertised</i> prior to July 1, 2016, will also be NOT COVERED.</p>	<p>Before submitting a bid or dispatching a driver to a job.</p>

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<input type="checkbox"/>	<p><b>If the job requires a bid, determine the award date and, if necessary, submit alternative bids.</b></p> <p>As noted above, the Request for Proposal should specify if the project is a COVERED JOB.</p> <p>If it is uncertain whether a government contract will be awarded before July 1, it might be prudent to submit two alternative bids: (1) a non-prevailing wage bid for use if the contract is awarded prior to July 1; and (2) a prevailing wage bid for use if the contract is awarded on or after July 1.</p>	Before submitting a bid.
<input type="checkbox"/>	<p><b>Enter into a "written subcontract agreement" with the party ordering contract.</b></p> <p>The "written subcontract agreement" can be a typical purchase order/agreement, so long as: (1) it is either signed by both parties or is otherwise confirmed in writing by both parties; and (2) it contains the following language: "This agreement requires compliance with the requirements of the Public Works Chapter of the Labor Code."</p> <p>You cannot accept phone orders for COVERED JOBS without a written agreement confirmed by both parties.</p> <p>Some contractors or subcontractors might propose using more formal written agreements. These agreements could contain prevailing wage requirements beyond those required by statute. You should consult with an attorney before entering into any such agreement.</p>	Before dispatching a driver to a job.
<input type="checkbox"/>	<p><b>Obtain contact information for both the general contractor and the party ordering the concrete.</b></p> <p>You will need this information to submit your Certified Payroll Record and Driver-Certified Time Record.</p>	Before dispatching a driver to a job.
<input type="checkbox"/>	<p><b>Obtain contact information for the AWARDING BODY.</b></p> <p>This is not required, but is a helpful practice. The AWARDING BODY is the government agency that is paying for the project.</p> <p>Asking the party ordering the concrete to identify the AWARDING BODY will help confirm that the job is, in fact, a COVERED JOB. Also, in certain situations, you may need to contact the AWARDING BODY directly.</p>	Before dispatching a driver to a job.
<input type="checkbox"/>	<p><b>Record the time spent by the driver on the COVERED JOB.</b></p> <p>For each delivery to a COVERED JOB, you must create a Time Record that shows the time spent by the driver from: (a) the time the concrete begins to be loaded on the truck; until (b) the truck returns to any batch plant following the delivery. The Time Record should be in a format that the driver can review and certify. (More on that below.)</p>	On the date of delivery.

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<input type="checkbox"/>	<p><b>Determine the prevailing wage rate.</b></p> <p>The prevailing wage rate for mixer truck drivers is based on the location of the plant where the concrete is loaded. The wage rates are divided into 16 regions within California. Each region has its own "wage determination," which specifies the wage rate. The wage determinations can be looked up at: <a href="http://www.dir.ca.gov/OPRL/PWD/C-2K-List.htm">http://www.dir.ca.gov/OPRL/PWD/C-2K-List.htm</a>. (A sample wage determination is attached.)</p> <p>The AWARDING BODY is also required to provide you with the prevailing wage rate, upon request.</p>	<p>Before issuing payroll.</p>
<input type="checkbox"/>	<p><b>Pay the correct wages and benefits to each worker.</b></p> <p>Wage determinations are complex and confusing. If you have questions, be sure to consult with an experienced attorney or contact the Labor Commissioner's Office. The telephone number is: (510) 285-2118.</p> <p>A few principles to keep in mind:</p> <ul style="list-style-type: none"> <li>- You must pay the Basic Hourly Rate plus the amount listed for each specified benefit. For Mixer Truck Drivers, the specified benefits are Health and Welfare (H&amp;W), Pension, and Vacation &amp; Holiday (Vacation).</li> <li>- Instead of providing the specified benefits, you can pay the cash amount directly to the employee. But you cannot do the opposite, i.e., you cannot reduce the hourly wage by providing excess benefits (unless pursuant to a collective bargaining agreement).</li> <li>- You can shift benefit payments from one type of benefit to another. For example, if you pay more than required for H&amp;W, you can reduce the Pension payment by the same amount.</li> <li>- In general, benefit payments must be actually paid to the employee or to a third party, and the payment must be "irrevocable." For example, you cannot estimate the value of a health insurance policy. You must actually pay the specified amount to the employee or to the insurance company.</li> <li>- Wage determinations are generally updated on February 22 and August 22 of each year. You must use the wage determination that was in effect on the date the public works contract was first advertised for bids or—if the contract was not advertised for bids—on the date the public works contract was awarded.</li> </ul>	<p>Before issuing payroll</p>

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<input type="checkbox"/>	<p><b>Prepare Certified Payrolls (CPRs) and Certified Time Records (CTRs) and submit to the general contractor and subcontractor.</b></p> <p>Within three working days after employees are paid, you must submit: (1) certified payroll records (CPRs); and (2) driver-certified time records (CTRs) to both the general contractor and the subcontractor that ordered the concrete.</p> <p>If proposed cleanup legislation is passed, the time period will be extended from three working days to five working days.</p> <p>DIR has stated informally that the term "submit" can mean depositing the documents in the U.S. mail.</p> <p>Employees can be paid weekly, bi-weekly (every 2 weeks), or bi-monthly (twice per month).</p> <p>You should use the DIR CPR form or an equivalent form that provides all of the same information. (A sample form is attached.)</p> <p>There is no template for driver-certified time records (CTRs). However, a CTR must show, for each COVERED JOB, the amount of time spent by the driver from: (a) the time the concrete begins to be loaded on the truck; until (b) the truck returns to any batch plant following the delivery. The CTR must be certified as accurate by the driver, either with a signature or an electronic confirmation.</p> <p>DIR has stated that this requirement does not "fall within the Labor Commissioner's enforcement responsibilities."</p>	<p>Within three working days of issuing payroll.</p>
<input type="checkbox"/>	<p><b>Submit CPRs to DIR electronically.</b></p> <p>You must submit CPRs (but not CTRs) for each COVERED JOB to DIR electronically on a monthly basis, or more frequently if required by the project contract. Data can be entered manually or in XML format. The link is: <a href="http://www.dir.ca.gov/Public-Works/Certified-Payroll-Reporting.html">www.dir.ca.gov/Public-Works/Certified-Payroll-Reporting.html</a>.</p> <p>This requirement is temporarily "on hold" while the software is upgraded. But we recommend that you begin submitting electronic CPR data now, so you will be prepared when the requirement is restored.</p> <p>The following types of projects are exempt from this requirement: (1) projects supervised by Caltrans, City of Los Angeles, Los Angeles Unified School District, or County of Sacramento; and (2) projects with Project Labor Agreements (PLAs) that have been exempted by the Labor Commissioner.</p>	<p>Monthly or more frequently if required by contract.</p>

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<input type="checkbox"/>	<p><b>Provide a signed affidavit and/or declaration to subcontractor, if requested.</b></p> <p>If requested by subcontractor, provide an affidavit that you have paid prevailing wage rates and/or a declaration that you have employed the required number of apprentices. (Currently, ready mix companies are not required to hire apprentices for public works contracts.)</p>	<p>Upon request.</p>
<input type="checkbox"/>	<p><b>Keep CPRs for at least 18 months after the public works project is completed, and provide copies upon request.</b></p> <p>CPRs (but not CTRs) may be requested by the AWARDING BODY or DIR. (Individual employees may also request copies of their own CPRs.) Upon receiving a written request, you have 10 days to provide copies of the CPRs. The penalty for delay is up to \$100 per worker per day.</p> <p>DIR can bring an enforcement action for up to 18 months after a project is "complete." You should keep copies of CPRs during this time period.</p>	<p>18 months after a public works project is complete.</p>