

## New Public Works Requirements for Contractors and Public Agencies Pursuant to SB 854

On June 20, 2014, the California legislature adopted SB 854, a "budget bill" that was heavily negotiated and tied to the approval of the state budget. Included among a variety of unrelated provisions in the lengthy bill were a number of additions and changes to the California Labor Code which will revamp the monitoring of public works projects throughout California through the Department of Industrial Relations ("DIR").

SB 854 creates a new public works monitoring scheme for the DIR. While the DIR has been charged with establishing and enforcing prevailing wage requirements for number of years, the new scheme will place more responsibility on the DIR. This alert will summarize the new requirements for both public agencies and contractors.

### New Requirements for Public Agencies

All California public agencies (state, counties, general law cities and special districts) are subject to five new requirements applicable to all public works projects they award, as follows:

1. PWC 100 Form. Public agencies must file a PWC 100 form with the DIR within 5 days of the award of every public works contract. This requirement already went into effect on July 1, 2014, although there are no penalties for non-compliance and coordination with other requirements won't begin until next year. The PWC 100 form seeks mostly general information about each project, including awarding agency, date of award, type of work performed, amount of contract, funding sources, and contract information. PWC 100 forms can be submitted electronically to the DIR at: <https://www.dir.ca.gov/pwc100ext/>.
2. Notice Requirements. Public agencies must include notice of the following three new requirements applicable to public works contractors in both the agency's call for bids and in the contract documents: a) no contractor or subcontractor may be listed on a bid proposal for a public works project unless they are registered with the DIR; b) no contractor or subcontractor may be awarded a public works contract unless registered with the DIR; and c) work performed on the project is subject to compliance monitoring and enforcement by the DIR.



by David S. Gehrig & Catherine J. Groves



3. Rejection of Bids Submitted by Unregistered Contractors. Beginning on March 1, 2015, public agencies will not be able to accept a bid from a contractor that is not registered with the DIR (registration requirements described in more detail below). Agencies will be able to confirm whether a contractor is registered with the DIR by checking the DIR's webpage: <https://efiling.dir.ca.gov/PWCR/Search>.
4. Unregistered Subcontractors. Beginning on March 1, 2015, public agencies should also check to make sure that all subcontractors listed in a bid are registered with the DIR. Failure of a subcontractor to be registered is not grounds to find a bid non-responsive if it was due to "inadvertent error" and can be corrected pursuant to the requirements of Labor Code section 1725.5.
5. Job Site Notices. The awarding body must post job site notices in compliance with Title 8 California Code of Regulations Section 16451, or require the contractor to do so.

### **New Requirements for Contractors**

Contractors working on a public works project for any type of public agency in California (state, counties, general law cities and special districts) are subject to the following requirements:

1. Annual Registration. All contractors and subcontractors must register with the DIR annually, and pay a \$300 fee, to be eligible to work on any public works projects in California. While this requirement technically went in to effect on July 1, 2014, unregistered contractors and subcontractors may not be listed in a bid after of March 1, 2015, and may not work on a public works project after of April 1, 2015.
2. Electronic Submission of Certified Payroll Records. Contractors will be obligated to submit all certified payroll records from public works projects directly to the DIR in electronic format. This requirement goes into effect for all new contracts awarded after April 1, 2015, and for work performed on any public works project after January 1, 2016 regardless of the date of award. A new certified payroll record form will be introduced by the DIR in January of 2015. Both public agencies and contractors will have access to these online records once submitted.

### **Conclusion**

The new public works monitoring scheme established by SB 854 creates significant new responsibilities for the DIR to collect and monitor all certified payroll records from every public works project in California. Due to the enormity of the task, it is likely that it will take the DIR time to work out all details, and that there will be some glitches with the process. Regardless, for both public agencies and contractors, the best approach is to comply with all new requirements as soon as possible to avoid any potential problems with the DIR.

For more information, please contact:

**David S. Gehrig**, Partner  
415-995-5063  
dgehrig@hansonbridgett.com

**Catherine J. Groves**, Senior Counsel  
415-995-5171  
cgroves@hansonbridgett.com