



NOTICE REGARDING APPLICATIONS FOR APPROVAL OF LABOR COMPLIANCE PROGRAMS TO OPERATE AFTER JANUARY 1, 2012 STARTUP OF DIR/DLSE'S NEW COMPLIANCE MONITORING UNIT

On September 30, 2011, Governor Brown signed into law Assembly Bill 436 (AB 436), which amends SBX2-9 and changes the way prevailing wage requirements are monitored and enforced. On January 1, 2012, this new law will require awarding bodies undertaking certain public works projects (see below for a specific description of these projects) to undergo direct prevailing-wage compliance monitoring by the new Compliance Monitoring Unit of the Division of Labor Standards Enforcement (DLSE) in the Department of Industrial Relations (DIR).

There are two exceptions for projects otherwise subject to this requirement. The first exception allows, in lieu of Compliance Monitoring Unit oversight, a collective bargaining agreement commonly referred to as a Project Labor Agreement (PLA) that:

- (1) binds all of the contractors performing work on the project, and
- (2) includes a mechanism for resolving disputes about the payment of wages.

This is called the PLA exception.

The second exception allows an awarding body having a Labor Compliance Program (LCP) to use its LCP to monitor and enforce prevailing wage requirements on the project, in lieu of Compliance Monitoring Unit oversight, if all of the following are true:

- (1) The awarding body will use its LCP on *all* projects that would be subject to Compliance Monitoring Unit oversight and are not covered by the PLA exception.
- (2) The awarding body will use its own employees to operate its LCP (i.e., will not contract with third parties to operate all or part of its program, except as authorized by Title 8, California Code of Regulations, section 16455(c)).
- (3) The awarding body has or receives official approval from DIR to operate an LCP, and receives approval from DIR to use LCP oversight in lieu of being subject to Compliance Monitoring Unit oversight.

This is called the LCP exception.

How to Qualify for the LCP Exception

Awarding Bodies that already have an approved LCP: Applications to qualify for the LCP exception were previously transmitted to all Awarding Bodies with approved LCPs on November 1, 2011. The application form is also available for downloading at www.dir.ca.gov/lcp/LCPApplicationUpdates.htm.

If an approved LCP needs to change its staffing to qualify for the exception (i.e., change from use of third party-provided services to use of in-house employees), the awarding body must set forth fully the experience and training of the in house employees who will be operating the LCP.

For approved LCPs that must alter their staffing in this manner in order to qualify for the LCP exception, the application to qualify for the LCP exception with revisions must be submitted to the DIR by December 30, 2011.

Awarding Bodies that do not yet have an approved LCP: Awarding bodies that *do not currently have* an approved LCP must, in addition to applying for the LCP exception, submit a complete application for approval to operate an LCP in accordance with the requirements of Title 8, California Code of Regulations, sections 16424 and 16425. This application must be part of the application package for the LCP exception, and must also be submitted and be complete by close of business of December 30, 2011, or the applicant will lose the ability to qualify for the LCP exception. The application form also is available at www.dir.ca.gov/lcp/LCPApplicationUpdates.htm.

All applicants are encouraged to transmit an electronic copy of the completed application, including the program manual, to Victor Osorio at Vosorio@dir.ca.gov.

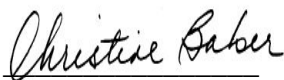
Projects covered by the Compliance Monitoring Unit

The following projects are subject to Compliance Monitoring Unit oversight if the prime contract is awarded on or after January 1, 2012:

- Projects funded by any state-issued bond, **except for** projects that receive any funds through Proposition 84 (2006 Water project bond initiative).
- Design-build projects conducted by school and community college districts, counties, cities, and transit operators.
- Projects coming under any of 12 design-build or 2 other statutes that require CMU or an authorized exception as a condition for project authorization. (See, for a complete list of these statutes: <http://www.dir.ca.gov/lcp/StatutesRequiringLCPs.pdf>)

In addition, an awarding body that is otherwise not subject to CMU may elect to have projects monitored by the Compliance Monitoring Unit.

If you have any questions regarding this notice, please direct them to Victor Osorio at Vosorio@dir.ca.gov or 510-286-1192. Additional information and resources for LCPs are available on our web site at <http://www.dir.ca.gov/lcp.asp>.



Christine Baker
Director



Julie A. Su
Labor Commissioner