

## Frequently Asked Questions Prevailing Wage Determination

Also check DIR Website for FAQs regarding:

- Public Works  
<http://www.dir.ca.gov/Public-Works/PublicWorksSB854FAQ.html>
- Prevailing Wage Determinations  
[https://www.dir.ca.gov/OPRL/FAQ\\_PrevailingWage.html](https://www.dir.ca.gov/OPRL/FAQ_PrevailingWage.html)
- Prevailing Wage for Off-Site Hauling  
[https://www.dir.ca.gov/OPRL/FAQ\\_Hauling.html](https://www.dir.ca.gov/OPRL/FAQ_Hauling.html)

Other web resources:

- Public Works Coverage Determinations  
<http://www.dir.ca.gov/OPRL/pwdecision.asp>
- Prevailing Wage Rates  
<https://www.dir.ca.gov/oprl/pwd/>

DIR Emails:

- For general questions, contractor registration, electronic certified payroll reporting system & public agencies/awarding bodies questions  
Email [PublicWorks@dir.ca.gov](mailto:PublicWorks@dir.ca.gov)
- To obtain a professional number to submit PWC-100 form  
Email [prevailingwage@dir.gov](mailto:prevailingwage@dir.gov)

System-wide, campus-wide and department-wide blanket purchase orders are issued for a cumulative total amount (i.e. \$250,000, etc.) and separate smaller purchase orders (A releases) (i.e. \$10,000, etc.) are issued by various departments against that blanket PO in different amounts for various transactions (up to the cumulative total amount of the blanket PO) as the departments engage the supplier. Please note that the Campus Purchasing Department is generally not involved in the A releases.

**Q:** How should the PWC 100 Form be handled for purchase orders such as the individual transactions do not go through the purchasing department once the system-wide, campus-wide and/or department-wide purchase orders have been issued?

**A:** One PWC-100 Form for the aggregate amount of work against the campus-wide blanket purchase order

**Q:** How do you recommend that individual campuses train/advise the campus departments regarding Prevailing Wage as campus departments are able to issue purchase orders for transactions that are \$5,000 or less (with some exceptions) without the Campus Purchasing Department's involvement at some campuses?

**A:** Request training from UCOP, consultants, and local campus resources.

**Q:** For the category of equipment repair, is this intended for onsite repair only? Meaning, that PW wouldn't apply if we sent the equipment offsite to the vendor's location?

**A:** Onsite labor for maintenance should be considered for Prevailing Wage. There may be some circumstances which off-site equipment repairs could be deemed to fall under PW in certain scenarios (e.g. the site is dedicated solely to our work).

**Q:** Our T&C's states this: "The penalty might be deducted from the agreement." How does the UC get informed when a Supplier isn't compliant? Will the DIR instruct the campus to withhold funds from the Agreement?

**A:** DIR does not actively monitor whether or not a supplier is compliant against a specific contract. If they run across a non-compliant supplier, they will notify the awarding agency. Also, if UC suspects a violation of PW (because a worker informed us or we discovered it), then we must "promptly report" it to the Labor Commissioner for action. Contact Counsel for further direction re: holding of monies due.

**Q:** We have multiyear agreements in place that fall under prevailing wage requirements. What determines the appropriate prevailing wage: the day the RFX is issued or the day the PO is issued?

**A:** Systemwide commodity manager will manage the PWC-100 Form and provide the project number to the supplier. The date for the PW determinations is the date of the initial call for bids.

**Q:** Define what maintenance would fall under Prevailing Wage and what other categories are "excluded" such as Janitors & Security Guards.

**A:** All maintenance over \$1,000 falls under PW except for custodial and security services. We suggest deleting the sheltered workshop unless you've run into it.

**Q:** How is 50% of "the system" defined/translated? This could be very subjective. For example, is painting less than 50% of a particular building exempt from the prevailing wage requirement or is painting less than 50% of all buildings exempt (even if more than 50% of a single building is being painted)?

**A:** Prevailing Wage applies to all construction and maintenance. The 50% example was part of a decision tree to determine the procurement department for your acquisition. Painting is considered construction regardless if it's over \$25K.\*

**Q:** How does SB854/prevailing wage affect the usage of the express cards?

**A:** The payment method does not affect the applications of Prevailing Wage to maintenance.

**Q:** In the event of Emergency Contracted Repairs that are needed on Campus, how can we get the work done if The Contractor is not registered with the “DIR”? Is there an alternative for emergency services?

**A:** It is recommended that you have a list of DIR registered suppliers for Emergency Services Note: Oddly, the DIR has exempted emergency services unrelated to a public work from payment of prevailing wage, arguably because it is not routine maintenance.

**Q:** Does The Contractor “DIR” Registration Requirement apply to High Cost Information Technology Work?

**A:** If work requires the contractor license or if it has a Prevailing Wage category, then it will apply.

**Q:** What is the Compliance Date for Contractor “DIR” Registration?

**A:** July 1- June 30

**Q:** Does The Contractor “DIR” Registration Requirement apply to Vendors that sell and deliver Construction and Maintenance Materials and Supplies?

**A:** No

**Q:** Who or what UC Dept. Representatives are responsible for notifying The Contractors of the “DIR” Registration Requirement for Public Works and initiating the process for them? Or is it the responsibility of the Contractor?

**A:** Requisitioner or Department Buyer

**Q:** If we have a vendor creating a finished good for us at their facility and they deliver the product without installing it. Would this still be subject to prevailing wage requirements?

**A:** No

**Q:** Do contractors like Johnson Controls fall under the Public Works requirements for a contract in which they only do controls programming for us? They often do install hardware, and in those cases would have to follow the Public Works guidelines of mechanical contractors (I would assume), but what about those instances when they are only doing programming?

**A:** We will submit this question to DIR and get back to everyone with a response. The CX determination looks at more than just programming. We are not seeing a scenario where the JCI person just taps on a computer, but it could be possible.

#### **Added on 9/8/15**

**Q:** UCSC has a carpet installer who has done work with the UC since April. We had them start to register with the DIR however there is a fine for doing PW work after April and not being registered with the DIR. Is the supplier stuck paying the fine or do you know if there is any exception that can be made?

**A:** This is a tricky question because if our contracts (or POs) did not mandate payment of PW (and we believe this did happen for some time period), then this contractor can demand that UC pay for his actual losses, per statute. It is the public agency's responsibility to notify a contractor that the work is subject to the payment of prevailing wage.

### **Questions since Deep Dive 8/27/15**

**Q:** If we have a PO over \$1000 containing a commodity that is subject to prevailing wage, and the Buyer took all the necessary steps before releasing the PO, what occurs if there is a change order that reduces the amount of the PO below the \$1000 threshold? Does the Buyer need to undo the PW steps they took on the original PO?

**A:** Recommendation would be to cancel the PO and re-issue it at the threshold under \$1000 and tell the Supplier it wouldn't apply.

**Q:** Are temporary construction activities for research covered by prevailing wage (e.g. a concrete structure is built for seismic demotion testing)?

**A:** PW is specifically for the worker and doesn't address the end goal of the construction activity. PW generally will apply unless it's out of state.

**Q:** Does PW apply in the case of high end instrumentation repairs which are under a maintenance contract?

**A:** Yes

**Q:** We have some instances where POs are above \$1000 but labor portion is low, would PW apply?

**A:** Yes, you have to look at the whole cost, not just the labor portion.

**Q:** Change orders- If a requisition is approved for \$500 for inspection and troubleshooting of a pipe and after inspection, it is determined that the repair will cost \$8,000, a Change Order requisition is submitted in CruzBuy. How do we process it?

**A:** When a PO is over \$1000, fill out the PWC form and get project # so vendor can submit certification of payroll. If the PO initially did not require prevailing wage, it must be revised to include PW.

**Q:** If there is an exception from having a contractor's license such as agriculture, does that mean PW doesn't apply?

**A:** It depends on the trade. Look at what is being done. Is the trade specified for that PW requirement? If not clear, then contact DIR. The lack of a need for a contractor's license does not equate to an exemption from PW.

**Q:** Does PW apply to out-of-state vendors?

**A:** Yes, if they are doing work in California. They will need to be licensed in California and be registered with the DIR.

**Q:** If an owner/ sole proprietor is providing the labor/services >\$1000, does PW apply? This Supplier has received exemptions in the past.

**A:** An individual who performs skilled or unskilled labor on a public works project is entitled to be paid the applicable prevailing wage rate for the time the work is performed, regardless of whether the individual holds a particular status such as partner, owner, owner-operator, independent contractor or sole proprietor, or holds a particular title with the employer such as a president, vice-president, superintendent or foreman. See 2014 Public Works Manual, DIR, Page 3.

**Q:** Our campus has 2 DIR Awarding Body registrations because different departments are reporting (Procurement/ Construction). Should we be listing projects under 1 Awarding Body for our campus?

**A:** This is a campus decision. Suggest that Procurement do one for maintenance, and Construction do one for themselves.

**Q:** For existing multi-year agreements, are we required to submit at renewal or retroactively? If retroactive, how far back?

**A:** Will find out from DIR. (We suggest submitting at renewal to avoid confusion).

**Q:** Who is responsible for subcontractors?

**A:** You should check all subcontractors. Legally, Supplier is responsible for them being registered.

**Q:** How should locations go about posting Prevailing Wage rates in their offices? It would be difficult to print out all copies as rates change and they could get out of date quickly.

**A:**

- Rates change twice per year. Each Contract/PO has a set determination applicable to it for the duration of the contract (the determination effective on the date of the call for bids). The campus must track each PO and the effective date in order to call up the appropriate wage determination for the worker.
- Post the DIR link to the rates and state that the local office can print or make a computer available (with staff assistance) to print out the specific PW rates they are looking for
- Revise the T&C's that points Supplier's directly to the DIR URL
- Statute requires that the PW rates be posted at the jobsite and that the public agency make them available (not one or the other). Revise the T&Cs to mandate the contractor make the rates available at the jobsite, or, if impossible, direct the employee (verbally and in writing with a map) to the local office and preferably also to a hotline.
- The goal is to make the applicable wage determination easily accessible to the worker where it is impossible or impractical to post a jobsite with the full wage determination applicable to the work. A minimum dollar cut-off or proof of impossibility/impracticality is recommended and should not be abused.

**Q:** How do we process a “confirming” prevailing wage project? In this case, the service has taken place, and the vendor has a contractor’s license but is not registered with the DIR. Do we require they register before we issue a purchase order for payment purposes only? If we do require they register, would we then submit the project to the DIR on a PWC 100 report?

**A:** If it’s after-the-fact, require them to register, issue the PO and fill out the PWC100

**Q:** What is the process on emergency orders? What happens if you have an after-the-fact (where the work is already complete and you have an invoice), or the need for an emergency order/repair?

**A:** Emergencies are unique. If not considered a construction project or related repair, then PW may not apply if the work is neither routine, recurring or usual. If you have a standing PO for emergency work, however, then it is at least expected and probably recurring, so PW may apply. The conservative approach is to always apply PW. Fill out the PWC 100 form as soon as you receive the order or invoice.

**Q:** Do one time clean-ups such as water damage from a broken pipe fall under prevailing wage?

**A:** PW will not apply if the damage is not related to a construction project and if it is a one-time event.

**Q:** We were told that Swimming pool maintenance doesn’t fall under Prevailing Wage but what if chemicals are being added or there is pump work?

**A:** I’m not aware of an exclusion from PW for swimming pool maintenance unless it is considered janitorial. Once you add chemicals and perform pump work, PW will definitely apply.

**Q:** Does programming of eLocks on site fall under prevailing wage (no install – they are already in place)?

**A:** This could be seen as re-keying, but there may be an argument that the worker is simply reprogramming if the worker does no other actual work.

**Q:** We were told that carpet cleaning doesn’t fall under prevailing wage but floor cleaning does. Does the type of floor determine if Prevailing Wage applies? If yes, what floor types fall in the Prevailing Wage category?

**A:** If the cleaning can be construed as janitorial or custodial work, then PW will not apply.

**Q:** What is the difference between the Commodity list on the UCOP site and the labor classifications on the DIR site?

**A:** The Commodity List is based on the UNSPC codes in which prevailing wage may apply. It’s made to align with what a buyer would potentially see on a requisition. PW classification is based on the craft, not the services provided. A single trade can provide multiple types of services. In addition, the services map to the description of services that most of the e-commerce sites use. For example, as a buyer,

you're more likely going to see on a requisition for "phone system installation" not for a "telecommunications technician." It's a guide not gospel.

**Q:** Prevailing Wage projects are normally time sensitive requests. We are receiving requisitions for Prevailing Wage contractors that do not hold a contractor's license but are registered with the DIR. To complete the PWC-100 form it is required to select the contractor's license number from the drop down. Our question: What can be done with DIR to not allow contractor's to obtain a registration number without a license number, or establishing a "Professional Number" at the time of registration?

**A:** Our understanding is that Professional Number is an option.

**Q:** DIR is providing a "Professional Number" as a substitute for completing the PWC-100 form but it is taking sometimes up to a month, or no response at all to our requests for a "Professional Number" to enter on the PWC-100 form as the license number. Public Works projects are being delayed due to this issue. Any guidance?

**A:** If DIR is causing the delay, then they cannot hold UC or Contractor responsible for them.

**Q:** Please provide guidance on how to handle Prevailing Wage work which is rendered by a municipality to the University of California...i.e. County of Santa Clara providing snow removal services to our UCO Lick Observatory at Mount Hamilton. Is this an exception?

**A:** County and City Employees are not subject to PW. If the County's employees are performing the work, PW will not apply.

**Q:** Does prevailing wage registration apply to temporary workers? When the University contracts with a temp agency to provide prevailing wage work, do we require the temp agency to register with the DIR?

**A:** If we are hiring a Contractor/Supplier/Vendor, then PW will apply. If we are hiring temporary employees, then PW will not apply. There is a lengthy fact specific review required to determine if a contract person is actually an employee or an independent contractor. If you've hired the individual as an employee with no contractor's license requirement, and with direct supervision, then PW will likely not apply.

#### **Questions since Best Practices Training 12/8/15**

**Q:** Is installation (mainly plug and play) of high tech lab equipment done by salaried employees subject to prevailing wage? Why or why not?

**A:** It will depend on the type of equipment. If sterilizers are involved, then yes. If you need to run conduit or install plumbing, then yes. If it's purely plug and play, then no. You do not want to break out the individual tasks of the overall project. Look at the overall installation of the project.

**Q:** Is each Buyer required to have an account or is there a few account numbers for each campus and who is managing these accounts so we know what they are?

**A:** Everyone needs login and create a password in order to submit a P-100 form. Set up a Point of Contact on each entity at each campus (one for construction, one for Procurement and maintenance). Campus should create their own strategy on this. Go to [Prevailingwage@dir.gov](mailto:Prevailingwage@dir.gov) for DIR requests.

**Q:** Does prevailing wage apply to research projects, such as having a contractor come to the test facility and lay down asphalt for testing purposes?

**A:** This depends on the circumstances. If there are testing facilities that cars are driving over with people, then it's a safety issue, so yes. If it's a facility using equipment to crack things open, then no.

**Q:** Are we able to delete a PWC-100 after it's been submitted to the DIR?

**A:** As of 12/8/15, you can't, but we have submitted a request to DIR allowing us to do this. You can make changes, however.

**Q:** Does the \$1,000 threshold apply only to the filing of the PWC-100? If the contract is under \$1,000, does pw apply?

**A:** No to both questions

**Q:** Would providing soil treatment for subterranean termites as well as electro gun treatment for dry wood termites at a Provost's house be classified as prevailing wage? This supplier does not have a CSLB# but rather a registration # with the Structural Pest Control Board.

**A:** Preventing termites from eating a building is preservation, so prevailing wage would apply. Secondly, the supplier would need a professional number in order for you to submit the PWC-100 form as the license number would not suffice.