



## ECRG & Prevailing Wage

### What is prevailing wage?

Under the California Labor Code, prevailing wages must be paid to all covered employees of a public works project where a state, municipal, or local agency administers public funds for works of improvement which exceed \$1,000.

Public works generally includes construction, alteration, demolition, installation, or repair work done under contract and paid in whole or in part out of public funds, including certain pre-construction work.

Generally, all personnel who perform construction, construction related or similar work on a site such as heavy equipment operators, surveyors, carpenters, cement masons, electricians, and laborers are required to receive prevailing wages and meet other requirements of public work projects.

Professional or support personnel, such as engineers, scientists, geologists, toxicologists, project managers, architects, planners, computer programmers, and clerical staff working primarily in office settings are usually NOT subject to prevailing wages.

In California, all workers on public works projects must be paid the prevailing wage determined by the Director of the Department of Industrial Relations (DIR), according to the type of work and location of the project. The prevailing wage rates are usually based on rates specified in collective bargaining agreements and other parameters.

### Why is Prevailing wage important?

Prevailing wage laws are in place to ensure that government funds do not undercut local wage and benefits standards. California's prevailing wage laws ensure that the ability to get a public works contract is not based on paying lower wage rates than a competitor. Additionally prevailing wages helps support living wage jobs, helps close racial pay gaps, promotes quality work, and produces good value to taxpayers in addition to other benefits for workers and taxpayers.

Use of prevailing wage is one of the cornerstones of ECRG since it contributes to the equitable distribution of funds and enhances access to living wage jobs.

### How should an ECRGrantee incorporate prevailing wage on ECRG tasks?

The Equitable Community Revitalization Grant (ECRG) is a publicly funded program and ECRG funding is considered to be *public funds*, therefore prevailing wages must be applied



on all ECRG funded activities where applicable and ECRGrantees and contractors must comply with the requirements of public works projects. Field work conducted as part of ECRG tasks are generally considered to be *public works projects* (See Cal. Labor Code section 1720 for exceptions to public works projects).

There are two different sets of responsibilities required under public works projects, those for:

1. **Awarding Body**, also sometimes known as the “project owner,” can be any entity using public funds. ECRGrantees are considered to be the Awarding Bodies for purposes of public works and prevailing wage reporting and compliance. Awarding Bodies award the contract and pay the Public Works Contractor(s).
2. **Public Works Contractors** conduct the work and are the Contractors hired by the ECRGrantees whose activities could be subject to public works and prevailing wage requirements.

See specific language from the ECRG Agreement in Section 9.1:

## 9. PREVAILING WAGES

*9.1 Grantee must carry out ECRG Activities in accordance with State public work project requirements, including prevailing wages, for all applicable contracts and subcontracts and costs pursuant to California Labor Code Section 1720 et seq.*

ECRG does not require the use of prevailing wages on activities conducted outside of ECRG funding. But ECRGrantees cannot use creative accounting to avoid public works requirements. Some ECRG tasks may not be covered trades subject to prevailing wage.

If the ECRGrantee or applicant has questions regarding the applicability of prevailing wage, public works projects, or any of the exceptions to the requirements, consult a public works or prevailing wage expert or legal counsel.

## **Registering with State of California Department of Industrial Relations**

ECRGrantees whose ECRG tasks include public work activities must use the DIR website to register and furnish electronic certified payroll records to the Labor Commissioner.

1. Awarding Bodies – The ECRGrantee, aka the Awarding Body, is responsible for completing the registration process with DIR and notifying potential contractors of the requirements if they are bidding on the project. The ECRGrantee must then complete the [PWC-100 form](#) within five days of awarding the contract. Once Awarding Body application is approved, a link will be sent from DIR to register the project. (See DIR website for further details: <https://www.dir.ca.gov/Public-Works/Awarding-Bodies.html>)



2. Public works Contractors – ECRGrantee Contractors who are selected to implement the ECRG tasks must also register on DIR, pay prevailing wages, and maintain and submit certified payroll records when performing ECRG tasks that are considered to be applicable public works tasks. Contractor registration requirements and instructions can be found on the [State DIR website](#). (See Cal. Labor Code section 1725.5, 1725.6)

If the ECRGrantee already has contracts in place for public works activities, please confirm that the contractor(s) can meet the public works requirements if awarded an ECRG grant or seek legal advice on whether your specific project will need to meet the public works requirements. ECRGrantees and Contractors may face potential penalties if they fail to register timely. See Cal. Labor Code section 1725.5, 1725.6.

## **Where can an ECRGrantee go for more information?**

Here is a link to California Labor Code Section 1720 et seq.:

[https://leginfo.legislature.ca.gov/faces/codes\\_displayText.xhtml?lawCode=LAB&division=2.&title=&part=7.&chapter=1.&article=1](https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=LAB&division=2.&title=&part=7.&chapter=1.&article=1).

Additional information on requirements for contractors (includes registration as a public works contractor and paying prevailing wages) and awarding bodies (includes registering public works projects with DIR) can be found on the State of California Department of Industrial Relations Public Works website at <https://www.dir.ca.gov/public-works/publicworks.html>.

For very general ECRG prevailing wage requirements, please contact the DTSC portfolio manager or CCLR at ([ecrg@cclr.org](mailto:ecrg@cclr.org)).

Prevailing wage trainings and tutorials are available on the DIR website at:

[https://www.dir.ca.gov/Public-Works/Training\\_and\\_Tutorials.html](https://www.dir.ca.gov/Public-Works/Training_and_Tutorials.html)