



Construction Policy Bulletin

CPB 07-5 Apprentice Registration—Federal Aid Contracts

References: Federal Register/Vol. 72, No. 41 March 2, 2007/Notices
Federal Contract Special Provisions IV,
Apprentices and Trainees 4.(a) “Apprentices”
Construction Manual, Section 8-103C “Payroll Deductions”
Construction Manual, Section 8-105E “Employment of Apprentices”
Labor Compliance Manual Chapter 2, Section 2-302

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Approved:

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Background

The California Department of Transportation is required to ensure contractors comply with prevailing wage requirements on all of its state and federal aid public works contracts. As part of the compliance process, resident engineers are responsible for tracking apprentice use on the contract and recording the information in inspector diaries. Labor compliance staff review the diaries and the contractors’ certified payrolls; and they verify that apprentices employed by contractors are registered in a state-approved or federally recognized apprenticeship program.

In 1978 the United States Department of Labor, Employment and Training Administration, Office of Apprenticeship (US OA) recognized the California Department of Industrial Relations, Division of Apprenticeship Standards (DAS) as an authority to oversee apprenticeship programs for “federal purposes.”¹ A state that is recognized by the US OA has the authority to approve apprenticeship programs and issue apprentice registration forms for both state and federal purposes. An apprentice registered by the state in an approved program is automatically approved for federal purposes.

In 1999, California made substantial changes to its apprenticeship laws. These changes resulted in the January 31, 2007, decision by US OA to derecognize California’s authority to approve apprenticeship programs and register apprentices for federal purposes. Effective March 2, 2007, all apprentices performing work on federal aid contracts must be registered in a federally sanctioned apprenticeship program and have a federal apprentice agreement.

¹ “Federal purposes includes any Federal contract, grant, agreement or arrangement dealing with apprenticeship; and any Federal financial or other assistance, benefit, privilege, contribution, allowance, exemption, preference or right pertaining to apprenticeship.” 29 CFR 29.2(k)

Existing Procedure - All Contracts

District labor compliance staff request that the prime contractor and subcontractor furnish evidence of registration in an apprenticeship program for each apprentice on the certified payroll. Evidence of registration must be provided on Division of Apprenticeship Standards Form DAS-1, "Apprenticeship Agreement," or in a letter from the DAS providing notice of registration. If an apprentice is scheduled to work on the project before the contractor receives evidence of registration, district labor compliance personnel can verify apprentice registration on DAS's website: <http://www.dir.ca.gov/DAS/appcertpw/AppCertSearch.asp> or by contacting the local DAS office.

On federal aid contracts containing a special provision for training, contractors who employ apprentices in a state-approved program are eligible to receive an 80-cent-per-hour reimbursement for each apprentice trained in accordance with an approved training program. Only those apprentices registered in a state-approved apprenticeship program may be employed on the project and paid at state apprentice wage rates. Before approving any requests for reimbursement of apprentice hours, resident engineers must ensure the apprentices are registered in such a program.

If a contractor does not submit evidence of registration, or if district labor compliance personnel are unable to verify registration status, the contractor must pay the apprentice at the journeyman wage rate for the type of work performed. If the contractor does not pay the apprentice at the journeyman wage rate, the resident engineer or district labor compliance staff must initiate a labor compliance deduction from the monthly progress estimate for failure to provide valid registration. In addition, the resident engineer must not approve federal reimbursement of training hours without valid evidence of registration.

New Procedure – Federal Aid Contracts Only

For each federal aid contract, district labor compliance staff must request that the prime contractor and subcontractor furnish evidence of federal registration for all apprentices performing work on the contract after March 2, 2007. Federal registration must be provided on United States Department of Labor's form ETA 671, "Program Registration and Apprenticeship Agreement" (sample attached), or identified in a letter from the US OA providing notice of registration. Form ETA 671 will also provide the wage schedule for each registered apprentice.

If an apprentice is registered in both a state-approved program and a federally approved program, district labor compliance staff must compare state and federal apprentice wage schedules and enforce the higher of the two wage rates for the classification used.

It is possible for apprentices to be registered only in a federally approved program and not in a state-approved program. The California Labor Code, Section 1777.5(c),² identifies apprentice requirements for state purposes. When the worker is not considered an apprentice for state purposes, district labor compliance staff must enforce the state journeyman wage rate for the classification used.³ In addition, according to federal provisions, only apprentices registered in a state-approved program may be considered for the 80-cent-per-hour training reimbursement.

If the contractor fails to provide valid state and federal apprentice registration on federal aid contracts while paying apprentice wages, the resident engineer or district labor compliance staff must initiate a labor compliance deduction from the monthly contract progress estimate. Refer to the *Construction Manual*, Section 8-103C, "Payroll Deductions," for explanations and examples.

If you have questions regarding the new registration requirements for federal aid projects only, please contact Angela Shell, Branch Chief, Labor Compliance Program, at (916) 654-3501.

Attachment

² California Labor Code, Section 1775.5(c) states, "Only apprentices, as defined in Section 3077, who are in training under apprenticeship standards that have been approved by the Chief of the Division of Apprenticeship Standards and who are parties to written apprentice agreements under Chapter 4 (commencing with Section 3070) of Division 3 are eligible to be employed at the apprentice wage rate on public works."

³ California Code of Regulations, Title 8, Division 1, Chapter 8, Subchapter 3, Payment of Prevailing Wages Upon Public Works, Article 2. Work Subject to Prevailing Wages, §16001 (3)(b) states, "Federally Funded or Assisted Projects. The application of state prevailing wage rates when higher is required whenever federally funded or assisted projects are controlled or carried out by California awarding bodies of any sort."