

Homekey Round 2 Prevailing Wage Frequently Asked Questions

What are public works projects?

When construction and related work is done under contract by private actors, but is paid for, in whole or in part, with public funds, such work is considered “public works.” All workers on public works projects must be paid the **prevailing wage**.

Are Project Homekey projects considered public works projects?

Since the grants issued by Project Homekey are public funds, most projects funded with Project Homekey funds will be considered public works projects. For nuanced or project-specific issues, the Department of Industrial Relations (DIR) posts advisory coverage determination letters, which examine whether specific projects and types of work are considered public work, on its website at:

<https://www.dir.ca.gov/OPRL/pwdecision.asp>

Parties may also seek informal guidance on project-specific questions by contacting DIR at PWCoverage@dir.ca.gov

What is the prevailing wage?

The prevailing wage is the minimum wage that applies on public works projects. It is defined as the single hourly rate paid to a majority of workers (or if there is no single rate paid to a majority, to the greatest number of workers) engaged in a particular craft, classification, or type of work in a particular area. These wage rates are determined by DIR according to a methodology set forth in the Labor Code and are regularly posted on the DIR website at: <https://www.dir.ca.gov/oprl/DPreWageDetermination.htm>

Note: The general commercial prevailing wage rates apply to all residential projects consisting of buildings of five or more stories. The residential prevailing wage rates apply to all residential projects consisting of buildings up to and including four stories. Residential prevailing wage rates are available at:

<https://www.dir.ca.gov/oprl/Residential/reslist.html>

Advice on identifying the correct prevailing wage, including the appropriate effective date, relevant predetermined increases, and calculation of overtime can be found at:

https://www.dir.ca.gov/oprl/FAQ_PrevailingWage.html

What types of work on a public works project are subject to prevailing wage requirements?

In general, prevailing wage requirements apply to construction and related work on a public works project. Construction and related work include construction, alteration,

demolition, installation, or repair work, as well as work performed during the design, site assessment, feasibility study, and other preconstruction phases of construction, including, but not limited to, inspection and land surveying work, regardless of whether any further construction work is conducted, and work performed during the post construction phases of construction, including, but not limited to, all cleanup work at the jobsite. Installation work includes the assembly and disassembly of freestanding and affixed modular office systems. Maintenance and repair contracts involving public funds or public assets may also be considered public works. Prevailing wage requirements also apply to the hauling and delivery of ready-mixed concrete to carry out a public works project, and to the hauling of refuse, such as soil, sand, gravel, rocks, concrete, asphalt, excavation materials, construction debris, from a public works site to an outside disposal location. Please contact PWCoverage@dir.ca.gov with project-specific questions.

I am a contractor for a Homekey project. Do I need to register with DIR to work on the project?

As mentioned above, Homekey projects will most likely qualify as a “public works” project. In addition to paying the prevailing wage to workers, contractors must also register with DIR as a public works contractor. Please see this webpage for additional information on how to register with DIR: <https://www.dir.ca.gov/Public-Works/Contractor-Registration.html>

Are there any payroll reporting requirements for public works projects?

Yes, in addition to paying the prevailing wage, contractors on public works projects must submit electronic certified payroll reports (eCPRs) to DIR for construction projects over \$25,000. Information regarding common concerns about certified payroll and recordkeeping on public works are addressed at <https://www.dir.ca.gov/Public-Works/FAQ-certified-payroll-reporting.html>

Do I also need to maintain certified payroll records if I have submitted eCPRs to DIR?

Yes. On all public works projects over \$1,000, contractors must maintain accurate certified payroll records and produce them upon request by DIR’s Division of Labor Standards Enforcement, also known as the Labor Commissioner’s Office. This is a separate and independent requirement in addition to the requirement to submit eCPRs to DIR for public works projects over \$25,000.

How is offsite fabrication treated?

Offsite fabrication is not subject to prevailing wage requirements if it takes place at a permanent, offsite manufacturing facility and the location and existence of that facility is determined wholly without regard to the particular development. However, offsite fabrication performed at a temporary facility that is dedicated to the development is subject to prevailing wage.

Do I need to employ apprentices on public works projects?

On all public works projects over \$30,000, contractors who employ journeypersons in an apprenticeable craft or trade must also employ apprentices in a ratio of one (1) apprentice hour for each five (5) straight-time journeyperson hours.

For instance, if a contractor employs journeyperson carpenters for 500 straight-time hours on a \$1,000,000 public works project, the contractor must also employ apprentices for 100 hours.

Apprentices employed to meet the 1-to-5 hourly ratio must be registered in programs approved by the Chief of the Division of Apprenticeship Standards and be paid at least the applicable apprentice prevailing wages, which are lower than journeyperson prevailing wages in the same craft.

To find the apprentice prevailing wage rates, please visit the Department of Industrial Relations' website at:

<https://www.dir.ca.gov/OPRL/PWAppWage/PWAppWageStart.asp>.

A list of approved apprenticeship programs that may dispatch apprentices to public works projects is available at: <https://www.dir.ca.gov/databases/das/aigstart.asp>. For more information on employment of apprentices on public works projects, please visit the following DIR webpages:

<https://www.dir.ca.gov/das/publicworksfaq.html>

<https://www.dir.ca.gov/Public-Works/Apprentices.html>

What about the existing exemptions and exceptions to prevailing wage law?

Although California law requires that prevailing wages be paid on all projects that are considered "public works," the Labor Code provides several exemptions and exceptions for certain types of residential projects. Due to how these projects are funded by Project Homekey, the exemptions and exceptions are unlikely to apply to Homekey-funded projects, but parties with project-specific issues may seek informal guidance by contacting PWCoverage@dir.ca.gov.

Where can I get more information on prevailing wage requirements?

General information regarding the state's prevailing wage laws is available in the Department of Industrial Relations' Public Works website:

<https://www.dir.ca.gov/PublicWorks/PublicWorks.html>. You may also consult the Division of Labor Standards Enforcement Public Works Manual for detailed information:

<https://www.dir.ca.gov/dlse/PWManualCombined.pdf>. Contact information for public

works and prevailing wage-related questions is available here:

<https://www.dir.ca.gov/public-works/ContactUs.htm>.

What is a Skilled and Trained Workforce?

For a Homekey-funded project to be exempted from the California Environmental Quality Act (CEQA), one of the conditions is that the project proponent must obtain an enforceable commitment that all contractors performing work on the project will use a

skilled and trained workforce for any proposed rehabilitation, construction, or major alterations.

A skilled and trained workforce is one in which all workers are either: a) skilled journeypersons or b) apprentices currently registered in a Division of Apprenticeship Standards (DAS)-approved apprenticeship program. A skilled journeyperson is a worker who has either graduated from a DAS-approved apprenticeship program (or out-of-state program approved by the federal Department of Labor) or has at least as many hours of on-the-job experience in the applicable occupation as would be required to graduate from the DAS-approved apprenticeship for that occupation. After January 1, 2020, at least 60% of the skilled journeypersons for *each* contractor in *each* apprenticeable occupation must have actually graduated from an apprenticeship program, rather than qualifying by on-the-job hours alone. However, there are exceptions for specific trades as outlined in the following chart.

Applies to work performed on or after:	% of journeypersons who must be graduates of apprenticeship program:	Not applicable to work performed by the following trades/occupations:	Authority
January 1, 2017	30%	Teamster.	Pub. Contract Code §2601 (d)(2)(A)
January 1, 2018	40%	Acoustical installer, bricklayer, carpenter, cement mason, drywall installer or lather, marble mason, finisher, or setter, modular furniture or systems installer, operating engineer, pile driver, plasterer, roofer or waterproofer, stone mason, surveyor, teamster , terrazzo worker or finisher, and tile layer, setter, or finisher.	Pub. Contract Code §2601 (d)(2)(B)
January 1, 2019	50%	Same as above. (Including Teamster.)	Pub. Contract Code §2601 (d)(2)(C)
January 1, 2020	60%	Same as above. (Including Teamster.)	Pub. Contract Code §2601 (d)(2)(D)

As shown in chart above, the minimum graduation percentage requirements do not apply to teamsters. The minimum graduation percentage requirements are fixed at 30% for: acoustical installers, bricklayers, carpenters, cement masons, drywall installers or lathers, marble masons, finishers, or setters, modular furniture or systems installers, operating engineers, pile drivers, plasterers, roofers or waterproofer, stone masons, surveyors, terrazzo workers or finishers, and tile layers, setters, and finishers. For all other apprenticeable occupations, the minimum graduation percentage requirements for work performed on or after January 1, 2020 is 60%.

Example 1:

Eclectic Electric is an electrical contractor on a project which began on July 2, 2021. Eclectic employs 10 journeyperson electricians and 2 apprentice electricians. Of the journeyperson electricians, 6 are graduates of a DAS-approved apprenticeship program for electricians and 4 have over 20 years of experience in the electrical trade. Eclectic Electric is in compliance with the requirement to employ a skilled and trained workforce. Its workforce consists of 2 registered apprentices and 10 journeypersons, all of whom are considered skilled journeypersons. Eclectic also satisfies the minimum graduation percentage requirements of its skilled journeypersons: **60%** of the 10 skilled journeyperson electricians are **graduates**. (Minimum graduation percentages for work performed on or after January 1, 2020 are 60% for electricians)

Example 2:

Cozy Carpentry is a carpentry contractor on a project which began on July 2, 2021. Cozy employs 10 journeyperson carpenters and 2 apprentice carpenters. Of the journeyperson carpenters, 3 are graduates of a DAS-approved apprenticeship program for carpenters and 7 have over 20 years of experience in the carpentry trade. Cozy Carpentry is in compliance with the requirement to employ a skilled and trained workforce. Its workforce consists of 2 registered apprentices and 10 journeypersons, all of whom are considered skilled journeypersons. Cozy also satisfies the minimum graduation percentage requirements of its skilled journeypersons: **30%** of the 10 skilled journeyperson carpenters are **graduates**. (Minimum graduation percentages are fixed at 30% for carpenters)

Example 3:

Optimal Prime is the prime contractor on a project which began on July 2, 2021. Tiles 'r Us is a subcontractor that employs 10 tile layers, all of whom graduated from a DAS-approved apprenticeship program for tile layers, and 2 glaziers, who have 20 years of experience as glaziers but *did not* graduate from either a DAS-approved program or out-of-state federally-approved program. Glacier Glass employs 4 tile layers, who have 20 years of experience as tile layers but did not graduate from either a DAS-approved program or out-of-state federally approved program, and 15 glaziers, all of whom graduated from a DAS-approved apprenticeship program for glaziers.

Neither Tiles 'r Us nor Glacier Glass are compliant with the requirement to employ a skilled and trained workforce. Tiles 'r Us is compliant for its tile layers because the tile layers it hired are skilled journeypersons, and 100% of them are graduates from a DAS-approved apprenticeship program for tile layers. Tiles 'r Us, however, is **not** compliant for its glaziers. Even though the 2 glaziers it hired were skilled journeypersons by virtue of them having 20 years of experience, **0%** of the Tiles 'r Us glaziers graduated from a program.

Similarly, Glacier Glass is compliant for its glaziers because the glaziers are skilled journeypersons, and 100% of them are graduates from a program. However, Glacier Glass is **not** compliant for its tile layers. Glacier Glass's 4 tile layers are skilled journeypersons, but **0%** of them graduated from a program.

Optimal Prime cannot combine the workforces of Tiles 'r Us and Glacier Glass to meet the percentage requirements because the requirements are calculated by each individual contractor and subcontractor, and within each contractor and subcontractor, by each apprenticeable occupation.

How do I know if a worker is a registered apprentice or graduated from an apprenticeship program?

DAS provides a tool to verify a worker's apprenticeship status:

<https://www.dir.ca.gov/DAS/appcertpw/AppCertSearch.asp>

To verify if an individual has graduated from an out-of-state, federally-approved apprenticeship program, please contact the federally approved Apprenticeship Agency for that state. Contact information from the Department of Labor is available here:

<https://www.dol.gov/agencies/eta/apprenticeship/contact>

Where can I get more information on skilled and trained workforce requirements?

Additional information on skilled and trained workforce requirements is available at:

<https://www.dir.ca.gov/Public-Works/ADA-Compliant-STW-FAQ.pdf>

Where can I get information and assistance on workplace safety and health requirements?

For workplace safety and health questions or to request assistance with workplace safety and health compliance, call the Cal/OSHA Consultation Services Branch at **1(800) 963-9424** or email them at InfoCons@dir.ca.gov. The Cal/OSHA Consultation Services Branch provides consultative assistance to employers and employees through a variety of services including on-site visits and offsite telephone support. Their consultations are free, and they do not issue citations, fines, or penalties. More information is available at:

<https://www.dir.ca.gov/dosh/consultation.html>