

Orange County District Attorney's Office



Public Works Unit

OCDA PUBLIC WORKS UNIT

- The District Attorney's Office created a new Public Works Unit within our Workers Compensation Insurance Unit in June 2011.
- This unit was created to ensure that contractors bidding on Public Works projects are on an even playing field and also to protect the wages and benefits of employees working on these projects. The unit focusses on investigating and prosecuting contractors and their agents who underpay employees prevailing wages as well as commit fraud in the workers' compensation arena.
- Work with Department of Industrial Relations (DIR), Employment Development Department (EDD), California Department of Insurance (CDI), and Contractor State License Board (CSLB).

CERTIFIED PAYROLL REQUEST

Labor Code Section 1776(f)(1) Notwithstanding any other provision of law, agencies that are included in the Joint Enforcement Strike Force on the Underground Economy established pursuant to Section 329 of the Unemployment Insurance Code and other **law enforcement agencies investigating violations of law shall, upon request, be provided nonredacted copies of certified payroll records.**

Any copies of records or certified payroll made available for inspection and furnished upon request to the public by an agency included in the Joint Enforcement Strike Force on the Underground Economy or to a law enforcement agency investigating a violation of law shall be marked or redacted to prevent disclosure of an individual's name, address, and social security number.(2) An employer shall not be liable for damages in a civil action for any reasonable act or omission taken in good faith in compliance with this subdivision.

LABOR CODE 1776

1776. (a) Each contractor and subcontractor shall keep accurate payroll records, showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by him or her in connection with the public work. **Each payroll record shall contain or be verified by a written declaration that it is made under penalty of perjury**, stating both of the following:

- (1) The information contained in the payroll record is true and correct.
- (2) The employer has complied with the requirements of Sections 1771, 1811, and 1815 for any work performed by his or her employees on the public works project.

LABOR CODE 1776

(c) The certified payroll records shall be on forms provided by the Division of Labor Standards Enforcement or shall contain the same information as the forms provided by the division. The payroll records may consist of printouts of payroll data that are maintained as computer records, if the printouts contain the same information as the forms provided by the division and the printouts are verified in the manner specified in subdivision (a).

DATE _____

I, _____,
(Name of signatory party) (Title)

Do hereby state:

(1) That I pay or supervise the payment of the persons employed by _____
(Contractor or Subcontractor)
on the _____
(Building or Work)

and that during the payroll period commencing on the _____ day of _____, 20____, and ending the _____ day of _____, 20____, all persons employed on said project have been paid the full weekly wages earned, that no rebates have been or will be made either directly or indirectly to or on behalf of said _____
(Contractor or Subcontractor)

from the full weekly wages earned by any person and that no deductions have been made either directly or indirectly from the full wages earned by any person, other than permissible deductions as defined in regulations, Part 3 (29 CFR Subtitle A), issued by the Secretary of Labor under the Copeland Act, as amended (48 Stat. 948,63 Stat. 108, 72 Stat. 967; 76 Stat. 537; 40 U.S.C. 276c), and described below:

(2) That any payrolls otherwise under this contract required to be submitted for the above period are correct and complete; that the wage rates for laborers or mechanics contained therein are not less than the applicable wage rates contained in any wage determination incorporated into the contract; that the classifications set forth therein for each laborer or mechanic conform with the work he performed.

(3) That any apprentices employed in the above period are duly registered in a bona fide apprenticeship program registered with a State apprenticeship agency recognized by the Bureau of Apprenticeship and Training, United States Department of Labor, or if no such recognized agency exists in a State, are registered with the Bureau of Apprenticeship and Training, United States Department of Labor.

**INCORRECT
FORM**

(4) The contractor, or subcontractor as appropriate, hereby states that:

(a) WHERE FRINGE BENEFITS ARE PAID TO APPROVED PLANS, FUNDS, OR PROGRAMS

In addition to the basic hourly wage rates paid to each employee listed in the above referenced payroll, payments to fringe benefits as listed in the contract have been or will be made to appropriate programs for the benefit of such employees, except as noted in Section 4 (c) below.

(b) WHERE FRINGE BENEFITS ARE PAID IN CASH

Each employee listed in the above referenced payroll has been paid, as indicated on the payroll, an amount not less than the sum of the applicable basic hourly wage rate plus the amount of the required fringe benefits as listed in the contract, except as noted in Section 4 (c) below.

(c) EXCEPTIONS

EXCEPTION (Craft)	EXPLANATION
REMARKS	
NAME AND TITLE	SIGNATURE

The willful falsification of the above statements may subject the contractor or subcontractor to civil or criminal prosecution. See Section 1001 of Title 18 and Section 231 of Title 31 of the United States Code.

PENALTY OF PERJURY

Each payroll record shall contain or be verified by a written declaration that it is made under penalty of perjury, stating the information contained in the payroll record is true and correct.

I, _____, the undersigned, am the
(Name – print)

_____ with the authority to act for and on behalf of
(Position in business)

_____, certify under penalty of perjury
(Name of business and/or contractor)

that the records or copies thereof submitted and consisting of _____
(Description, number of pages)

are the originals or true, full, and correct copies of the originals which depict the payroll record(s)
of the actual disbursements by way of cash, check, or whatever form to the individual or
individuals named.

Date: _____ Signature: _____

Form can be located at: <https://www.dir.ca.gov/dlse/DLSEFormA-1-131.pdf>

COMMON CHARGING SECTIONS

Labor Code 1778 – Taking and receiving portion of worker's wage on Public Works

Penal Code 115(a) – Record false and forged Instrument

Insurance Code 11760(a) – Misrepresent Facts to Worker's Compensation Insurance Company

Insurance Code 11880(a) – Fraud against State Compensation Insurance Fund

Unemployment Insurance Code 2117.5 – Failure to properly report payroll taxes

Unemployment Insurance Code 2118.5 – Willful failure to pay tax

TAKING OR RECEIVING PORTION OF WAGES OF WORKMAN Labor Code 1778

Every person, who individually or as a representative of an awarding or public body or officer, or as a contractor or subcontractor doing public work, or agent or officer thereof, who takes, receives or conspires with another to take or receive, for his own use or the use of any other person any portion of the wages of any workman or working subcontractor, in connection with services rendered upon any public work is guilty of a felony.

- **The defendant was a contractor doing public work;**
- **The defendant hired a worker to render service upon a public works project**
- **The defendant paid wages to the worker**
- **The defendant took a portion of the workers wages**

PREMIUM FRAUD

Labor Code 11760(a)

Commission of premium fraud constitutes a Felony crime under the provisions of Insurance Code §11760(a) if the insurance company defrauded is a private insurance company .

- 1. A person made, or caused to be made, any knowingly false or fraudulent statement**
- 2. The statement was made either orally or in writing;**
- 3. The statement contained a fact material to the determination of the premium, the rate, or cost of the insurance**
- 4. The person made that statement for the purpose of reducing the premium, reducing the rate, or reducing the cost of insurance.**

ACTIVITY SINCE JUNE 2011

Search Warrants Served: 50

Includes business, homes, banks, etc.

Filed: 17 Defendants

CONTRACTOR	STATUS
General Contractor	Completed – Received 2 years prison
Subcontractor / Fire Sprinkler	Completed - Received 2 years prison
Subcontractor / HVAC	Convicted 37 counts. Sentence pending
General Contractor	Court Case pending. Co-defendant 7 years 4 months
Subcontractor / Electrician (Bookkeeper & Office Manager)	Completed – (2) defendants received 6 months jail time and 3 years probation
Landscaper	Court Case pending

Grand Jury Indictments: 4

Pending Cases: 9

CONTACT INFORMATION

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Insurance Fraud Hotline

(714) 648-3650

QUESTIONS?