

# REVOCAION OF CONTRACTOR REGISTRATION & AWARDING BODY CITATIONS

PUBLIC WORKS, CALIFORNIA LABOR COMMISSIONER'S OFFICE  
DEPARTMENT OF INDUSTRIAL RELATIONS

# DISCLAIMER

- ▶ The following presentation is intended to summarize relevant portions of existing law in the Labor Code and California Code of Regulations, but those code sections, as interpreted by the courts, will govern actual enforcement. The information contained in this presentation is a general overview of existing law or regulation. Any opinions expressed are solely those of the author/speaker and are not necessarily the official position of the Department of Industrial Relations (DIR), its Director, or any related public entity. The information in this presentation is not intended as legal advice, and does not guarantee any outcome in specific enforcement or coverage proceedings within the jurisdiction of DIR.

# CONTRACTORS' DUTY TO REGISTER

- ▶ A contractor or subcontractor shall not be qualified to bid on, be listed in a bid proposal, or engage in the performance of any contract for public work, unless registered and qualified to perform public work pursuant to Labor Code section 1725.5.

# QUALIFICATIONS OF REGISTERED CONTRACTORS

- ▶ To qualify for registration contractors must establish ALL of the following under penalty of perjury:
  - ▶ The contractor has sufficient worker's compensation coverage.
  - ▶ If applicable, the contractor is licensed with the California Contractor's State Licensing Board (CSLB).
  - ▶ The contractor does not have any delinquent liability to an employee or the state for any assessment of back wage or related damages, interest, fines, or penalties to any final judgment, order, or determination by a court or any federal, state or local administrative agency, including a confirmed arbitration award.

# QUALIFICATIONS OF REGISTERED CONTRACTORS (cont'd)

- ▶ The contractor is not currently debarred from public works.
- ▶ The contractor has not bid on a public works, been listed in a bid proposal, or engaged in the performance of a contract for public works without being lawfully registered within the preceding 12 months.
  - ▶ A contractor in violation of the above paragraph may still register if BOTH the following are true:
    - ▶ No violations within the preceding 12 months.
    - ▶ The contractor pays an additional penalty registration fee of \$2,000.00.

WHAT HAPPENS WHEN A REGISTERED  
CONTRACTOR IS NO LONGER QUALIFIED?

**REVOKED**

# REVOCACTION OF REGISTRATION

- ▶ The Labor Commissioner's Office (DLSE) may revoke the registration of a contractor or subcontractor if ANY of the following are true:
  - ▶ The contractor no longer meets the qualifications specified in Labor Code section 1725.5;
  - ▶ At the time of the most recent registration or renewal, the contractor did not meet the qualification specified in Labor Code section 1725.5;
  - ▶ The contractor made a certification it knew or should have known to be false at the time of certification.

# NOTICE OF REVOCATION

- ▶ A notice of revocation will:
  - ▶ Specify the grounds for the revocation.
  - ▶ Identify or describe the evidence which supports the revocation.
  - ▶ Specify the length of time a contractor is disqualified from registering.
    - ▶ Between 30 days and 24 months.
    - ▶ The Labor Commissioner's Office may postpone or waive the disqualification period for a first-time violation that was unintentional and did not prejudice the rights of any other interested party or hinder the Labor Commissioner's ability to monitor and enforce compliance with the public works requirements of the Labor Code.



# APPEAL RIGHTS

- ▶ A notice of revocation can be appealed by submitting a written request for a hearing.
  - ▶ The appeal is sent either electronically or by mail to both to the Director's Lead Hearing Officer and the Labor Commissioner's Office.
- ▶ The appeal may be submitted anytime within 60 days following the service of the notice of revocation.
  - ▶ Only an appeal transmitted and received within 10 days will stay the revocation.

# WHAT HAPPENS WHEN YOU HAVE AWARDING BODIES AND UNREGISTERED CONTRACTORS COLLIDE?



# AWARDING BODY CITATIONS

## Labor Code section 1773.3

- ▶ An awarding body may be subject to civil penalties of \$100 per day, up to a maximum of \$10,000 per project, for the following violations:
  - ▶ Failing to register the project with DIR.
  - ▶ Entering into a contract with an unregistered contractor.
  - ▶ Permitting an unregistered contractor or subcontractor to perform work on a project.
  - ▶ Unregistered contractor discovered after the project is completed.

# REGISTERING THE PROJECT WITH DIR

- ▶ An awarding body shall provide notice to the DIR of any public works project within 30 days of the award, but no later than the first day of a work on the project.



# ENTERING INTO A CONTRACT WITH UNREGISTERED CONTRACTORS

- ▶ Awarding a contract to a prime contractor who is not registered at the time the project is awarded.
- ▶ What happens if the contractor allows his registration to lapse?
  - ▶ If the contractor registration lapses during the project, the awarding body is not liable for penalties since the contractor was registered at the time the contract was awarded. However, the awarding body may be subject to civil penalties if it permitted the contractor to perform work while unregistered.

# PERMITTING AN UNREGISTERED CONTRACTOR OR SUBCONTRACTOR TO WORK

- ▶ The awarding body allows an unregistered contractor or subcontractor to perform work is subject to penalties.
- ▶ But wait a second! How is the awarding body responsible to make sure that all subcontractors are registered?
  - ▶ The awarding body is the owner of the project and has a responsibility to ensure that subcontractors at every tier are registered.
  - ▶ Current registration status can be verified on DIR's website

# UNREGISTERED CONTRACTOR DISCOVERED AFTER THE PROJECT COMPLETED

- ▶ An awarding shall withhold final payment due to the contractor until at least 30 days after all the required information has been submitted to DIR, including providing a complete list of all subcontractors.
- ▶ If an awarding body makes a final payment to a contractor after that time and an unregistered contractor or subcontractor is found to have worked on the project, the awarding body shall be subject to civil penalties of \$100 for each full calendar day of violation for a period of up to 100 days (\$10,000).
  - ▶ The civil penalties for these violations are separate from the above obligations and penalties under 1773.3(c). An awarding body can potentially receive a citation for up to \$10,000 for permitting an unregistered contractor to work during the project and up to \$10,000 for unregistered contractor(s) discovered after final payment was made to the contractor.

# STOP ORDERS FOR UNREGISTERED CONTRACTORS

- ▶ When unregistered contractor(s) are discovered, the Labor Commissioner will issue a stop order prohibiting the unregistered contractor(s) from performing work on all public works projects until they become registered.
- ▶ The stop order does NOT apply to the registered contractors or subcontractors on the public work. See, Labor Code Section 17771.1(j)(1)



