



**COLORADO**

**Office of the State Architect**

Department of Personnel & Administration

# **LABOR COMPLIANCE**

**(Prevailing Wage & Apprenticeship Program)**

## **SB19-196**

**Modification in HB21-1319**

**November 17, 2021**

# Welcome – Introductions

**Cheri Gerou – State Architect**

**Tana Lane – Manager of State Buildings  
Program**

**Kathy Miller – Payroll Specialist/Interim  
Prevailing Wage Analyst**

**Rod Vanderwall – Manager of Energy  
Program**

**Brandon Ates – Manager of Real Estate  
Program**



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# Overview – Communication

Due to the statutory authority of SB19-196 and the complexity of the program – OSA will maintain communications on all matters through the OSA designated delegate only. It is the delegate's responsibility to work with the agency's or IHE's internal structure to coordinate all aspects of the prevailing wage and apprenticeship



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# Overview – Construction Procurement – OSA is Different!

## Procurement of Construction vs. Goods and Services

- ◆ **CRS § 24-101-301(7) “ ‘Construction’ means the process of building, altering, repairing, improving, or demolishing any public structure or building or any other public improvements of any kind to any public real property. For the purposes of this code, "construction" includes capital construction and controlled maintenance, as defined in section 24- 30-1301”**
  
- ◆ **Construction is not limited by:**
  - **Source of funds**
  - **Size or cost or scope of project, or**
  - **Type of encumbrance document (purchase order or construction contract)**



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# Overview – Construction Procurement – OSA is Different!

## Procurement of Construction vs. Goods and Services continued...

### ◆ Why This Determination of Construction vs. Goods and Services is Important

- Good and Services must comply with the Procurement and Fiscal rules.
- Specialized requirements of the design & construction industry
- Construction procurements must comply with these rules plus SBP policies, procedures, and the other statutory requirements. All dependent on the estimated cost of the project
- R-24-101-105-04 - All bidding and contracting shall utilize OSA forms. Any modifications must be approved by OSA.



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# Overview – Two Parts (1st)

## Colorado Department of Labor & Employment

- **CDLE is responsible for the apprenticeship compliance program and maintaining graduated increases in apprenticeship program participation.**
- **CDLE investigates all complaints and sets fines for willful violations of prevailing wage requirements.**



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# Overview – Two Parts (2nd)

## Office of State Architect

- **OSA is responsible for the implementation of the prevailing wage program**
- **OSA determines and posts apprenticeship wage and benefits (UPDATES 2x YEAR)**
- **OSA maintains and regularly updates resources on OSA website**
- **OSA provides reports to the Capital Development Committee on a yearly basis**



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# Overview – Apprenticeship

## Apprenticeship Utilization Requirements:

- **Construction cost of \$1 million or more**
- **Pertains to all mechanical, sheet metal, fire suppression, sprinkler fitting, electrical, and plumbing work required on the project**



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# Overview – Apprenticeship

## CDLE oversees apprenticeship programs:

- Beginning July 1, 2021 – graduates a minimum of 15% of its apprentices for at least 3 of past 5 years.
- Beginning July 1, 2025, through June 30, 2031 – graduates a minimum of 20% of apprentices for at least 3 of the past 5 years.
- Beginning July 1, 2031, and each year after – graduates a minimum of 30% of apprentices for at least 3 of the past 5 years.



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# Overview – Prevailing Wage

## Prevailing Wage Utilization Requirements:

- Construction costs of \$500 thousand or more
- Pertains to **all** labor employed on the project



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# Overview – Prevailing Wage

- **OSA maintains apprenticeship contribution rates on website**
- **LCPtracker provides Davis-Bacon wage determinations**
- **OSA provides process for obtaining wage determinations if Federal wage determinations do not appear to include that job description**



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# Overview – Prevailing Wage

## Delegate Responsibilities:

- Execute Task Order subscription with LCPtracker
- Attend training on LCPtracker software
- Prior to solicitation – delegate must include Prevailing Wage Requirements in Solicitation



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# Overview – Prevailing Wage

## Delegate Responsibilities cont'd:

- Solicitation must include wage determinations by the county the project is located in.
- Solicitation must include apprenticeship contribution rates
- Prevailing wages lock (through the life of the project) at solicitation posting



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# Overview – Prevailing Wage

## Delegate Responsibilities cont'd:

- Is responsible for determining classifications if a particular determination is questionable.
  - if no classification seems appropriate, delegate to contact OSA for assistance and an addendum will be added to the solicitation.



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# Overview – Prevailing Wage

## Delegate Responsibilities cont'd:

- Is responsible for submitting a conformance request form and submitting to Federal Wage and Hour Division.



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# Overview – Prevailing Wage

## Delegate Responsibilities cont'd:

- If no apprenticeship program can be found for trades during solicitation, delegate can issue a waiver.
  - if there are no responsive, eligible contractors with apprenticeship OR
  - if eligible contractors and apprentices are in excess of 50 miles (one way) from the project.



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# Overview – Prevailing Wage

## Delegate Responsibilities cont'd:

- **Responsible for poster preparation to be placed on the job site with all wages to be paid on the project also on display. Poster is available in English and Spanish (located on OSA website).**

**\$100/day and Class 3 Misdemeanor penalty If poster not posted.**



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# Overview – Prevailing Wage

## Delegate Responsibilities cont'd:

- No payment can be made to the contractor if there are unpaid Certified Payrolls on the project or if ACR payments outstanding or not paid to the correct fund
- All apprenticeship contributions must be paid to the appropriate fund



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# Overview – Prevailing Wage

## Delegate Responsibilities cont'd:

- If a temporary classification is in use, the contractor is responsible for paying all employees the correct wage and tracking wages in LCPtracker



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# Overview – Prevailing Wage

## Delegate Responsibilities cont'd:

- If a wage conformance is granted, contractor must verify that all employees working under the new classification have been paid in accordance to set wages
- If overpayment made, no refund will be given to the contractor



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# Overview – Prevailing Wage

## Delegate Responsibilities cont'd:

- If underpayment was made, restitution must be made to all employees within 15 calendar days. CDLE violations chart referenced in CDLE INFO #14.



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# Resources – OSA Website

## Under State Buildings Program:

- Explanation of current manual process for all solicitations prior to January 1, 2022.
- Basic Steps has been modified to include OSA/delegates/contractor responsibilities for implementation of labor compliance.



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# Resources – OSA Website

## Questions:

- **Please submit all questions via email. OSA will respond to your questions and send a recap of all questions and answers to all delegates for their information and review.**



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**THANK YOU!**



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