



"Innovation and Service
In
Prevailing Wage Compliance"

Certified Payroll Reporting Standards - "First Things First".

The world of California Prevailing Wage and Apprenticeship Law is complex, ambiguous, and almost impossible to effectively enforce. Justice P.J. Kline, in his authoritative position in reviewing a prevailing wage case may have said it best; **"Indeed it is difficult to escape the conclusion that the act as a whole is exceptionally poorly drawn."** – J & K Painting Co. v. Bradshaw Cal.App.4th 1394 (footnote 6.).

So now we're in trouble. Even an appellate court judge appears frustrated by Labor Code §§1720-1861! So where does this leave the rest of us? A few words which come to mind for this writer include; conundrum, quagmire, and enigma. Maybe some phrases which fit the bill include; "Catch-22" and "Can of Worms". Surely there are other words and phrases which fit nicely. Take your pick.

As an old friend of mine used to say; "It doesn't matter how the Jackass got in the ditch! Get it out!". And so here we are. There's a big problem with enforcement and nobody seems to know how to fix it. The sense of futility is rampant in the enforcement community with most simply throwing up their hands and saying; "If you don't have a worker who is complaining, there is nothing you can do!".

I disagree with this sentiment after operating for over fifteen years as a contractor and another three and a half years as a 3rd Party LCP. Just as in any complex problem involving individuals or special interest groups, there is but one way to begin to correct trouble. It begins by figuring out where to start and then simply making that start. It's the well known principle of "First Things First".

Following this principle the first thing to focus upon in labor compliance is the payroll report. These reports are the first substantial element of public information which may be obtained and reviewed. And since these reports are the first step, the remaining steps to building a case will to some extent be predicated upon these reports which have been certified as true and correct under penalty of perjury. Will the payroll reports alone be the "smoking gun" of a successful case against a cheater? Almost never. Complete payroll reports are simply the *foundation* of a good case. Complete reports tell many things about payroll practices, just as incomplete reports say very little about the facts of the payroll.

And without complete reports, the foundation of any case against an improper work assignment, apprenticeship, or prevailing wage and hours complaint, or even tax and workers comp fraud, is undermined substantially. If confusing and incomplete reporting is routinely accepted, the *"defense-by-confusing-paperwork"* method currently used by cheaters is given support. The violator and their legal defenders practice a method in which nobody can make sense of what is submitted for review. Finally hands are thrown up in settlement which may not adequately impact the offender. After all, who would want to prosecute a complicated and nebulous case built on confusing paperwork before someone such as Justice Kline? Therefore, it becomes quite clear that the standard at which payroll reports *are accepted by anyone, including the awarding body*, must be maintained at an adequate level to support the system.

It is obvious that the currently accepted standard of reporting is too low and possibly slipping downward. Yet the CPRs are the foundation of most, if not all, prevailing wage cases. Without readable CPRs the Administrative Law Judge may have a harder time deciding a case. It is time to refocus our efforts onto the clarification and maintenance of high "reporting standards" which are fully consistent with LC §1776 and the regulations which back that law. It's a matter of "First Things First".

– Doug Shortridge, President CallCP.com