



THE CITY OF SAN DIEGO  
**REPORT TO THE CITY COUNCIL**

DATE ISSUED:  
September 09, 2013

REPORT NO: 13-075

ATTENTION:  
Members of the City Council

SUBJECT:  
Report to the City Council Pursuant to the July 31, 2013 Prevailing Wage Ordinance Hearing

REFERENCE:  
Prevailing Wage Ordinance (O-2014-15 Rev.)

SUMMARY:

On July 31, 2013, the City Council passed the Prevailing Wage Ordinance to establish prevailing wages on all new public works construction projects in San Diego with a value of \$25,000 or greater and all repair and maintenance contracts with a value of \$15,000 or greater. The implementation date for enforcement of prevailing wages is January 1, 2014 with all contracts awarded after that date subject to the Prevailing Wage Ordinance. Included in the motion enacting the Ordinance, City Council requested a follow-up report by August 31, 2013 from staff regarding implementation of the Prevailing Wage Ordinance.

IMPLEMENTATION REPORT:

**Background**

Under existing law, the City applies prevailing wage requirements to utility improvement projects paid with City funds if the project cost is more than \$10.0 million. Additionally, per State law the City applies prevailing wage requirements to all projects that receive \$1,000 or more of funds from the State of California. Consequently, the City applies and enforces prevailing wage requirements to numerous contracts on an annual basis. Moreover, the City has long enforced federal wage requirements (Davis-Bacon) on City projects that are paid in part or whole with federal funds. As a result, the City of San Diego has some experience with enforcement of prevailing wage requirements. Although the City is well positioned to quickly expand its prevailing wages program, there will be operational challenges. These operational challenges are identified and summarized below.

**Personnel**

Under the category of personnel, staff will need to work out several issues. First, Equal Opportunity Contracting (EOC) will need to perform a work load assessment in order to

determine and finalize the exact number of new labor compliance positions needed. The number of new positions will be a function of the number of current labor compliance employees, their current utilization rate, and the volume and scale of expected work. An estimated six new positions may be needed to administer compliance with the Prevailing Wage Ordinance.

Step two will require City staff to work with the Personnel Department (Personnel) to create and/or verify the position descriptions. Step three is for Personnel to create the positions and post notices of employment opportunities for the positions. Last will be the personnel recruitment and selection process.

The following questions were asked at the July 31, 2013 City Council meeting, followed by bulleted responses:

1. What is the process and timeline for completing a workload assessment?
  - City staff will coordinate with key departments to determine the number of anticipated contracts for Fiscal Year 2014. For effective administration and compliance of the Labor Compliance Program (LCP), City staff anticipates that an appropriate ratio is 1.0 Full Time Equivalent (FTE) for every 10 active contracts.
  - The current ratio of FTE to contracts is 1.0 FTE for every 16 active contracts.
  - The estimated timeline to complete the assessment is 45 working days. However, the required tasks and efforts will continue in tandem during this timeframe.
2. How many labor compliance positions do we currently have?
  - There are currently 3.0 FTEs and all FTEs are in the Management Analyst series.
3. Please provide more detail regarding the methodology used to determine that the City will need six additional positions.
  - The methodology used to determine the additional positions was based on the California State Compliance Monitoring Unit (CMU) cost projections.
  - However, the CMU projections are not sufficient to accurately project the City's resource needs. As mentioned, to effectively administer the City's LCP and comply with Labor Code statutes, City staff anticipates that 1.0 FTE will be required for every 10 active contracts.
  - Based on historical data on number of contracts, City staff estimates the need for an additional 12.0 to 15.0 FTEs to effectively administer the LCP and meet the target of 10 active contracts per FTE. This estimate is based on the current assumptions and is subject to change (increase or decrease) should any of the assumptions change.
4. What is the estimated time for delivery for the six new positions that will administer compliance? Please provide a more detailed timeframe.
  - The details regarding the new staffing requirements are in progress and have not been finalized. However, the anticipated timeline for an expedited recruitment process is six to nine months.

5. What is the Civil Service certification and hiring process that needs to take into consideration? Please provide more detail on the anticipated steps that need to be taken throughout the process.
  - As these are new positions, classification studies will be required. Once approved, certification lists will be requested and provided by the Personnel Department followed by the recruitment and selection process.
  - The current City staff performing labor compliance duties are in the Management Analyst series. The standard City hiring process will be followed for all the new FTEs.
  
6. What is the Fiscal Year 2014 (or Fiscal Year 2015 phased-in) cost that you estimate for the six new positions? These figures are needed in order to be built into the Five-Year Outlook.
  - The estimated position costs for 6.0 FTE are based on current Management Analyst series positions in EOC.
    - i. The organization of positions is subject to change based on EOC's work load assessment.
  - The breakdown for these positions currently includes:
    - i. 4.0 FTE Associate Management Analysts
    - ii. 2.0 FTE Senior Management Analysts

Position	Salary	Fringe	Personnel Cost
1.0 - Associate Mangement Analyst	\$ 59,363	\$ 48,605	\$ 107,968
1.0 - Senior Management Analyst	\$ 65,333	\$ 50,567	\$ 115,900

- The full-year estimated personnel cost for the 4.0 FTE Associate Management Analyst positions is \$431,872.
- The full-year estimated personnel cost for the 2.0 FTE Senior Management Analyst positions is \$231,800.
- The full-year estimated total cost for the 6.0 FTE is \$663,672.

**Training**

The new employees must receive training to be effective administrators. The implementation date for enforcement of prevailing wages is January 1, 2014 with all contracts awarded after that date subject to the Prevailing Wage Ordinance. Generally, contracts are awarded within 90 days after receipt of construction bids. According to Public Works and EOC staff, contractors begin construction about 30 days from the date of award. EOC and Public Works will develop a training plan to reflect the above schedule.

The following questions were asked at the July 31, 2013 City Council meeting, followed by bulleted responses:

1. Who will provide training for new employees?

- Training will be provided by current Purchasing and Contracting Department staff.
2. When will the training commence?
    - Current City staff are already trained. As the new positions are filled, they will receive the required training.
    - Training will be on-going and commence as positions are filled; the anticipated start is April 2014.
  3. Do we currently have trainers on hand or do trainers also need to be hired and trained?
    - Existing staff will conduct training. However, periodic training on a bi-annual basis is provided by outside sources to keep staff aware of current regulations and any associated revisions to the Labor Code statutes.
  4. Who will design the training plan? Do you have a preliminary overview of the elements of the training plan?
    - The existing City training plan and manuals will be used. As mentioned, periodic training is provided by outside sources to keep staff aware of current regulations and any associated revisions to the Labor Code statutes.

### **External Outreach**

As noted above, the City has an existing labor compliance program. Nevertheless, it is imperative that extensive outreach be conducted to the contractor community and labor unions. EOC, working with the Mayor's Office, will develop an outreach program to inform contractors, labor unions, and special districts (e.g. Maintenance Assessment Districts (MADs)), and community groups.

The following questions were asked at the July 31, 2013 City Council meeting, followed by bulleted responses:

1. What is the timeframe for the outreach?
  - As part of the implementation plan, a comprehensive outreach and communication plan will be developed to ensure effective dissemination of information and new compliance requirements.
  - Outreach will be on-going. The Prevailing Wage Ordinance has been discussed at the industry quarterly meetings hosted by the Public Works Department. To date, meetings have been held at the Construction Industry-wide meeting, the Small/Emerging Local Business Enterprise (SLBE/ELBE) meeting, and the Associated General Contractors of America (AGC) Liaison Committee meeting. In addition, EOC staff has provided notification of free prevailing wage training opportunities to SLBE/ELBE firms hosted by Public Agency Consortiums (PAC).

### **Internal Outreach**

It will be necessary to educate Public Works, Purchasing and Contracting, and EOC staff on the particulars of the expanded Prevailing Wage Ordinance. This outreach will take place via on-

going department meetings, the Capital Improvement Program Review and Approval Committee (CIPRAC) meetings, and other well established meeting schedules.

The following questions were asked at the July 31, 2013 City Council meeting, followed by bulleted responses:

1. Who will conduct this outreach?
  - Training will be provided by current City staff.
2. What will this outreach and education look like?
  - Existing City training plan and manuals will be used. As mentioned, periodic training is provided by outside sources to keep staff aware of current regulations and any associated revisions to the Labor Code statutes.

### **Administrative Regulations**

The City of San Diego has a State approved Labor Compliance Program (LCP). The LCP functions as the substantial equivalent of administrative regulations. Staff will need to amend the LCP in order to reflect passage of the Prevailing Wage Ordinance. As the City has an approved State LCP and the Prevailing Wage Ordinance is only an extension of applicability, amending the LCP should not be overly cumbersome.

The following questions were asked at the July 31, 2013 City Council meeting, followed by bulleted responses:

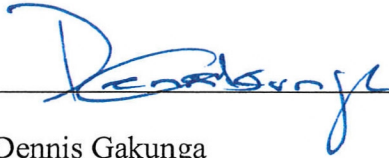
1. Can you please provide a copy of a recent LCP report and summarize how the report will be amended?
  - It is important to note the Labor Compliance Program (LCP) refers to the entity that has been approved by the California Director of Industrial Relations to monitor and enforce compliance with California prevailing wage laws (as per the standards established in Labor Code section 1771.5(b) and the Directors' regulations at Title 8, California Code of Regulations, sections 16421 – 16439). An "approved LCP" is the entity that has been approved to do this work rather than its operation manual or its methodology.
    - i. The Labor Compliance Report must be submitted to the State of California. San Diego LCP reports that are already submitted will not be amended because of implementation of this ordinance.
    - ii. In the future, the annual report that must be completed is the "Labor Compliance Program Annual Report 2" or LCP-AR2. The report now submitted is LCP-AR1 because the LCP only enforces prevailing wage on some, but not all public works projects. The LCP-AR1 and LCP-AR 2 forms are nearly identical and the annual reporting period is by fiscal year from July 1 to June 30. Annual reports are due by no later than August 31.
    - iii. Link to the City of San Diego's LCP-AR1 for 7/11/11 to 6/30/12: [City of San Diego's LCP-AR1](#)

- iv. Link to the blank LCP-AR2 form for reference to submission requirement information as indicated for LCP-AR1:

<http://www.dir.ca.gov/lcp/LCPReporting.htm>

- 2. Has the Office of the City Attorney been consulted in revising the LCP report to the State?
  - The Office of the City Attorney has not been consulted because the LCP Annual Report does not need to be amended. However, the Office of the City Attorney has been consulted in preparation of the Prevailing Wage Ordinance.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:



Dennis Gakunga  
Purchasing and Contracting Department



Scott Chadwick  
Assistant Chief Operating Officer