



Fort Ord Prevailing Wage *Application and Enforcement*

Presentation to the
Fort Ord Reuse Authority Board of Directors
November 14, 2014

Prevailing Wage - Definition



The hourly wage, including benefits and overtime, paid to the largest group of laborers, mechanics, and tradesmen within a particular region.

Prevailing Wage (PW) Rate law is based upon the premise that government is a major public client in the local economy and should use its buying power and state contract law to provide adequate wages.

Recent Events



- FORA has received complaints regarding prevailing wage issues related to projects in the surrounding jurisdictions.
- The volume and variety of these have given rise to the need to refresh everyone's knowledge of FORA's Prevailing Wage Policy and enforcement requirements.

Prevailing Wage In California



- California Labor Code establishes PW requirements for public works projects.
- “Public works” includes “construction, alteration, demolition, or repair work done under contract and paid for in whole or in part out of public funds.” (Labor Code § 1720)
- The general prevailing rate of hourly wages is determined by the California Department of Industrial Relations.
- California is divided into Northern and Southern regions. (Monterey County is in Area 2 of Northern California)

Prevailing Wage - FORA History



Jul. 1995	FORA Procurement Code Adopted (Ord. 95-01)
Apr. 1996	FORA Master Resolution – Chapter 3
Mar. 2006	FORA Counsel Clarifies PW Policy
Jul. 2006	Trades Council Requests PW Reports
Oct. 2006	FORA Counsel Opinion – PW Enforcement
Nov. 2006	Executive Committee/Board PW Review
Nov. 2006 - Jan. 2007	FORA Board Debates PW Policy
Feb. 2007	Trades Council Sues for PW Enforcement
Feb. 2007	Special PW Board Workshop
Mar. 2007	Master Resolution Amendment (Res. 07-4) – Clarifies 1 st Generation Construction

FORA Master Resolution Requirements



3.03.90 PREVAILING WAGES

- Shall be paid to all workers for 1st generation construction on parcels subject to the Base Reuse Plan.
- Applies to work performed under development entitlements and by contract with a FORA member agency, including their transferees, agents, successors-in-interest, developers or building contractors.
- Member agencies shall provide notice of the policy in all contracts and deeds.
- FORA determines member agency compliance through consistency determinations (Master Resolution Chapter 8).

FORA Master Resolution Exceptions



3.03.90 PREVAILING WAGES

“In addition to the exceptions enumerated...in §1.01.050...this policy does not apply to:

- FORA/member jurisdiction construction workforce.
- Developer full-time employee construction work, unless performing work of a contractor.
- Post-occupancy permit construction improvements.
- Affordable housing as exempted under California law.
- Facilities constructed for charitable purposes and owned by a 501(c)(3) non-profit organization.”

How is Prevailing Wage Applied?



- All FORA bid documents contain information regarding the applicability of PW rates, either state or federal.
- Bidders are also informed that the applicable PW rate applies to all subcontractors performing work valued at more than 5% of the total contract.
- PW rates apply to workers assigned to the contracted project, and do not extend to workers who are ancillary to the construction (e.g., drivers delivering materials).

Enforcement



FORA is the enforcement agency for contracts to which FORA is a direct party. The member agency is responsible for enforcement of all other contracts.

FORA Enforcement Measures:

- During construction, contractors submit monthly certified payroll(s) for their labor force and that of each subcontractor.
- FORA compares # of workers to the certified payroll(s) and ensures compliance with the current PW rate per trade.
- Failure of the contractor/subcontractor to meet prevailing wage obligations is addressed in several ways, from issuance of a Correction Notice to referral to the Department of Industrial Relations for action and resolution.

FORA Board Report Example



FORT ORD REUSE AUTHORITY BOARD REPORT

NEW BUSINESS

Subject:	Consistency Determination: The Promontory at California State University, Monterey Bay	
Meeting Date:	August 9, 2013	INFORMATION/ACTION
Agenda Number:	7a	

(9) Is not consistent with FORA's prevailing wage policy, section 3.03.090 of the FORA Master Resolution.

The submittal does not modify prevailing wage requirements for development within Marina's former Fort Ord footprint.

Reference Documents



- California Labor Code (Sections 1720-1743)
- California Health & Safety Code (past)
- Jurisdictional Requirements
- FORA Resolution #07-4 (PW Policy)
- FORA Master Resolution
- FAQs on FORA website at www.fora.org