

# CALSAFE – ALERT

2/1/2015

***A bill was passed last year that is going to have a major impact on our business!***

SB854 was passed in 2014 that set up several different requirements that businesses like ours will have to comply with.

One of the provisions is a requirement for “contractors” to register with the DIR to be considered for “public works” contracts. Two things to note:

- First the term contractor does not limit this to those who have contractor’s licenses with the CSLB but any business that will be performing work defined as a public works job.
- Secondly this includes any work, ***including maintenance.*** This is not just construction!

Note in Title 8 section 16000 under definitions relating to prevailing wages and public works, maintenance is defined as:

*Maintenance. Includes:*

*(1) Routine, recurring and usual work for the preservation, protection and keeping of any publicly owned or publicly operated facility (plant, building, structure, ground facility, utility system or any real property) for its intended purposes in a safe and continually usable condition for which it has been designed, improved, constructed, altered or repaired.*

*(2) Carpentry, electrical, plumbing, glazing, [touchup painting,] and other craft work designed to preserve the publicly owned or publicly operated facility in a safe, efficient and continuously usable condition for which it was intended, including repairs, cleaning and other operations on machinery and other equipment permanently attached to the building or realty as fixtures.*

*Exception:1: Janitorial or custodial services of a routine, recurring or usual nature is excluded.*

*Exception:2: Protection of the sort provided by guards, watchmen, or other security forces is excluded.*

**Fixed systems would be included since they are attached to the building. These systems would include, commercial cooking (kitchen) systems, engineered systems (CO2 Clean Agent etc), fire alarm and fire sprinkler systems.**

**The initial response is that FIRE EXTINGUISHERS WILL NOT BE INCLUDED IN THE SB854 REQUIREMENTS!!!! GREAT NEWS** cket attached

**WE JUST HAD WORD FROM DIR THAT PORTABLE FIRE EXTINGUISHERS WILL NOT BE INCLUDED IN THE SB854 REQUIREMENTS!!!! GREAT NEWS**

**trying to get a determination from DIR about fire extinguisher service.**

Public works has a very lengthy definition found in Labor code section 1720. Part of that definition states public works means: Construction, alteration, demolition, installation, or repair work done under contract and paid for in whole or in part out of public funds. The DIR considers “maintenance” a part of this definition.

**There are several aspects of SB854 that have already started and some have compliance dates for 2015. The following are some of the requirements and deadlines:**

Any contractor that is going to bid on a public works contract after March 1st **must be registered** with the California Department of Industrial Relations (DIR) as a public works contractor. **This includes all of the types of work listed above** from section 1720 which includes maintenance! **If you are not registered with the DIR and you bid on a public works contract of \$ 1,000 or more you will be in violation of the law and subject to a \$2,000 fine.**

You can register at <http://www.dir.ca.gov/> and click on **"Public Works projects" in the upper right section.** The awarding agency (who ever put the contract bid out) has the responsibility to check all bidding contractors to see if they are registered, so the DIR will find out who you are and can fine you for trying to make a bid on that contract. At the agency's discretion you may be allowed to pay the fine, register with the DIR to have your bid accepted. Alternatively they can simply disqualify you from the bid process and you will still be required to pay the \$ 2,000 fine.

***So you could be fined \$ 2,000 for just bidding on these jobs if you are not registered!!!!***

Any contractor that bid a job prior to March 1<sup>st</sup> but is awarded the contract after April 1<sup>st</sup> still has to register prior to being awarded it and will have to comply with the prevailing wage payment and reporting.

***Any contract that is over \$ 1,000 (WHICH MAY INCLUDE FIRE EXTINGUISHER SERVICE) will be subject to this process and pre-registration as well as subject to the paying and reporting of prevailing wages if you get the job.*** This is covered under the labor code section 1771. While the awarding agency is supposed to tell you what the prevailing wages are for the project, they may or may not know. The fact that they did not advise you of that wage may not relieve you of paying the wages or the reporting that goes along with it. Note: even though you are acting as a subcontractor and your part is below \$ 1,000, if the entire contract for the general exceeds \$ 1,000, you still have to comply with the registration, payment and reporting of prevailing wages.

You will be required to submit certified payroll reports for the project directly to the DIR. The awarding agency should be requiring you to submit the reports to them, but the contractor now has the additional responsibility to submit them directly to the DIR through their website. You will now have dual reporting requirements.

There is not a need to register each branch location as long as they are part of a single legal entity.

***Note: even sole proprietors have to register.***

The public works contractor registration was required to begin on July 1<sup>st</sup> 2014 but the mandates where the registration was needed did not kick in until March and April of this year. The renewal will come due in June and be active from July through June. Even though you are registering now you will have to renew in June.

Material only suppliers are exempt.

While this applies to contracts bid or awarded over \$ 1,000 it could be applied to an agency that is using PO's to pay for accumulated services that they should know will exceed \$ 1,000 for the year. This may be difficult for the contractor to know or discern if they have not been advised by the agency issuing the PO's but may not exempt the contractor for their obligations. If you know that the total amount of system services for the year are going to exceed \$ 1,000 for a public agency, you may want to discuss with them the fact that this may trigger these requirements and you may want to consider whether or not you comply with the prevailing wage orders to protect yourself.

***You can't afford to ignore this if you do any work for municipalities, state facilities, schools etc....***