

Notice	Public Works Project Funding
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Public works funding is not the typical sponsored projects funding that we handle in the Offices of Research, Innovation, and Economic Development (ORIED) and UEI Sponsored Programs Administration (SPA), because it requires specialized expertise in understanding and complying with these laws. Compliance is required no matter the level of the involvement in a public works project and activities cannot be parsed out as subject to or not subject the law. Thus, in consultation with legal counsel and after performing extensive due diligence, it has been determined that we must not be involved in performing public works projects as we do not have the means to comply with laws applicable to such projects.

Background: We were made aware of this issue because of a sub-agreement that we could not accept after being advised of the legal and financial requirements and liabilities of public works projects.

What is a Public Works Project? A public works project:

- Will frequently (but not always) be identified as such by the funding agency in the funding agreement
- Uses public funds in whole or in part to pay for a construction, alteration, demolition, installation, or repair work project
- The law defines the term “construction” broadly to include design, site assessment, feasibility study, and other preconstruction phases of construction, including, but not limited to, inspection and land surveying work, regardless of whether any further construction work is conducted, and work performed during the postconstruction phases of construction, including, but not limited to, all cleanup work at the jobsite.

Who is considered a Public Works Contractor? Per the California Department of Industrial Relations (DIR), if you work or bid on a public works project, then you are considered a public works contractor. The term "public works contractor" includes subcontractors. All public works contractors must satisfy all legal responsibilities including the following:

- Register as a public works contractor
- Pay prevailing wages and comply with applicable labor laws regarding payment of compensation (and comply with Labor Code wage and hour requirements applicable to public works projects).
- Follow apprenticeship requirements
- Maintain and submit certified payroll records

- Comply with the Occupational, Safety and Health laws and regulations applicable to the particular public works project.

What are the Risks? All of the above must be done accurately in order to maintain compliance with the law. The Labor Commissioner's Office monitors and enforces compliance with public works law and works with district attorneys' offices around the state to prosecute violations. Violations may result in: restitution of wages owed, plus interest and liquidated damages; monetary penalties; debarment of up to three years; criminal prosecution; and reimbursement of investigation costs to the Department of Industrial Relations. Contractors and subcontractors share monetary responsibility (known as joint and several liability) for all monies due as a result of a violation.

Why are we not able to accept public works contracts? University Enterprises, Inc. (UEI), like other CSU auxiliaries, does not have the expertise, knowledge, or ability to comply with the law as it applies to the administration of public works contracts. UEI has performed extensive due diligence in this matter, including discussions with California Department of Industrial (DIR) legal counsel for public works.

Where do we go from here? We ask for your assistance in getting the word out to your colleagues. Additionally, ORIED staff are aware and will be reviewing grant solicitations, RFPs, and contracts for indications of public works funding and advising PIs of the limitations on these types of agreements.