

Joint Labor Compliance Monitoring Program

Purpose/Intent:

The Joint Labor Compliance Monitoring Program is a partnership between the County of Santa Barbara and Compliance Group Representatives. Compliance Group Representatives are defined as outside organizations with knowledge and experience in the construction industry as it relates to State and Federal Labor Compliance. The purpose of the Compliance Group Representatives is to provide assistance in the monitoring of prevailing wage compliance on County construction projects. Thereby, decreasing the number of potential labor violations on County projects. The program will apply to Public Works, General Services, and the Community Services Department.

This program is intended to assist Santa Barbara County in enforcing the payment of prevailing wages to workers employed on County construction projects. The County utilizes the services of the Compliance Group Representatives to access construction sites on a monthly basis for the purpose of interviewing workers. Currently, the County interviews Contractor's employees as part of Federal and State compliance procedures. The Joint Labor Compliance Monitoring Program will assist and augment the interview process.

Benefits:

The information provided by the Compliance Group Representatives supplements that labor compliance information already obtained by Santa Barbara County through its own construction administration efforts. This information serves to strengthen the County's position in identifying whether or not workers employed on the County's projects are compensated properly. It also helps to prove the existence and identify workers which are not shown on certified payrolls. Further, this information serves to strengthen the County's position in administrative hearings before State appointed Hearing Officers. The ultimate desired effect is to deter contractors from attempting to circumvent prevailing wage laws; thus helping to insure a "level playing field" for all contractors working on County of Santa Barbara construction projects.

Rules of Engagement

The Compliance Group Representative, under the direction of the County of Santa Barbara Department Heads or it's Assigned Designee (Labor Compliance Coordinator, (LCC)) are authorized to conduct labor compliance site visits and interview workers on County of Santa Barbara construction projects. Also when requested, by the Department's Labor Compliance Coordinator (LCC), to assist with audits, hearings and review conferences and to assist under the following conditions:

1. As part of the routine monitoring activities: interviews shall be conducted with a frequency of one interview per trade, per month, per project as the maximum allowable number of interviews allowed under this program, unless otherwise authorized. Interviews shall be done jointly with a County Inspector.
2. If requested by the County, assist in comparing employee interviews with the certified payroll submittals.
3. When alerted by the County of Santa Barbara of potential areas of interest.
4. When complaints from workers are received.

Observance of County Rules and Regulations

All Compliance Group Representatives personnel shall observe County rules and regulations while on Santa Barbara County construction project sites. This includes, but is not limited to, job specific safety rules, the prohibition of violence, sexual harassment, and the possession of illegal drugs and/or weapons. Access to County construction project sites is for the sole purpose of conducting labor compliance interviews jointly with County Inspectors.

Additional Rules below shall be strictly abided by:

1. Wearing non-professional attire (such as, shirts or hats with logo advertisement, etc.) is not allowed.
2. Distributing literature is not allowed.
3. Engaging in conversation except for the explicit purpose of conducting an interview is not allowed.
4. Compliance Group Representatives should be on time for scheduled interviews or the interview may be cancelled.
5. Remaining on site after the interview is completed is not allowed.
6. Videotaping/or photographing of County projects is not allowed.
7. All Compliance Group Representatives shall exercise integrity and common sense while conducting business and shall jointly interview employee with the County Inspector present.
8. When interviewing workers at a County job site, the Compliance Group Representatives will record no more than the last four digits of the worker's social security number.
9. Compliance Group Representatives must provide their own safety gear (i.e.: hardhats, steel toe work boots, vests etc.) before being allowed on a job site.
10. Interviews will occur only once a month; with one interview per trade, per month, per County project.
11. Interviews shall be done in the presence of the County Inspector unless prior authorization is obtained by the LCC.

Any individual found to be in violation of the rules outlined above shall be immediately removed from the Compliance Group.

Notification

A Compliance Group Representative must contact the Department Head or its Assigned Designee (Labor Compliance Coordinator, LCC) and receive approval from the LCC to conduct a field interview. A scheduled interview with an exact place and time will be emailed or faxed back to the Compliance Group Representative.

Identification

The County of Santa Barbara will provide temporary County identification cards which will be made available at the project sites to Compliance Group Representatives. An identification such as a California Driver's license (or other photo identification) will be needed from all Compliance Group Representatives to be shown to the onsite inspector.

Upon entering a construction site, Compliance Group Representatives must contact the County's project inspector to coordinate a joint interview with the County Project Inspector present. Compliance Group Representatives must have their Identification in their possession in order to enter any County construction project site.

Reports

Interviews with workers shall be recorded on a Caltrans Employee form (Employee Interview: Labor Compliance/EEO, CEM 2504 or an equivalent County approved form). Each form will be completed in its entirety. Copies of all worker interviews shall be faxed or sent to the LCC within 48 hours of the time the interview was conducted.

County of Santa Barbara Contact-County Department Heads or their Appointed Designee

The LCC shall be the point of contact for purposes of coordinating all labor compliance activities. All issues having to do with labor compliance shall be processed through the LCC.

The LCC is:

<u>Public Works</u>	Linda Thompson	805-739-8780 North County
	Cecelia Barnes	805-681-5697 South County
<u>General Services</u>	Bob Nisbet	805-568-2626
<u>Community Services Department</u>	Brian Roney	805-568-2475

Joint Labor and Compliance Monitoring Program – Agreement and Liability Release

In-Service Labor Compliance

All Compliance Group Representatives must sign a copy of the attached agreement and liability release on the Rules of Engagement prior to commencing authorized monitoring of County of Santa Barbara construction projects. These Rules of Engagement are subject to amendment by the Department Heads.

COUNTY OF SANTA BARBARA

JOINT LABOR COMPLIANCE MONITORING PROGRAM

TERMS AND CONDITIONS AGREEMENT AND RELEASE OF LIABILITY

I HAVE READ AND UNDERSTAND THE ABOVE RULES OF ENGAGEMENT AND AGREE TO ABIDE BY THE COUNTY OF SANTA BARBARA TERMS AND CONDITIONS

Name (print) _____ Date: _____

Address: _____

Organization: _____

Office Number: _____ Fax: _____

Cell Number: _____ Pager: _____

Email Address: _____

Waiver of Liability, Assumption of Risk & Indemnity Agreement

WAIVER: In consideration of permission to use or visit, today and all future dates, the property, easements, facilities, staff, equipment and services of the County of Santa Barbara, I, for myself, my heirs, personal representative or assigns, do hereby release, waive, discharge, and covenant not to sue the County of Santa Barbara, its supervisors, directors, officers, employees or agents from liability for any and all claims, including the negligence of the County of Santa Barbara, its supervisors, directors, officers, employees or agents resulting in personal injury, accidents, illnesses, death and property loss arising from, but not limited to, my activities, participation in activities, observation and/or use of facilities, premises or equipment.

ASSUMPTION OF RISK: The use of the County property and County Construction projects, facilities, staff, equipment, and/or services carries with it certain inherent risks that cannot be eliminated regardless of the care taken to avoid injuries. I hereby agree to freely and expressly assume all risk of danger, injury or death resulting from my own actions or the actions of others

while on County construction projects, and utilizing the property, facilities, staff, equipment and services of the County. I understand that I am responsible for any bodily injury that I may suffer and that any injuries I may sustain are entirely my responsibility. I understand that the County is not responsible for any damages or expenses incurred.

INDEMNIFICATION AND HOLD HARMLESS: I also agree to indemnify and hold the County of Santa Barbara harmless from any and all claims, actions, suits, procedures, costs, expenses, damages and liabilities, including attorney's fees brought as a result of my involvement at the County and to reimburse them for any such expenses incurred.

SEVERABILITY: The undersigned further expressly agrees that the foregoing waiver and assumption of risks agreement is intended to be as broad and inclusive as is permitted by the law of the State of California and that if any portion thereof is held invalid, it is agreed that the balance shall, notwithstanding, continue in full legal force and effect.

ACKNOWLEDGEMENT OF UNDERSTANDING: I have read this waiver of liability, assumption of risk and indemnity agreement, fully understand its terms and understand that I am giving up substantial rights, including my right to sue. I acknowledge that I am signing the agreement freely and voluntarily, and intend by my signature to be a complete and unconditional release of all liability to the greatest extent allowed by law.

Signature

Print Name

Date



BOARD OF SUPERVISORS
AGENDA LETTER

Agenda Number:

Clerk of the Board of Supervisors
105 E. Anapamu Street, Suite 407
Santa Barbara, CA 93101
(805) 568-2240

Department Name: County Executive Office
Department No.: 012
For Agenda Of: July 10, 2012
Placement: Administrative
Estimated Time:
Continued Item: No
If Yes, date from:
Vote Required: Majority

TO: Board of Supervisors
FROM: Department Director: Chandra L. Wallar, County Executive Officer, 568-3400
Contact Info: Renée Bahl, Assistant CEO, 568-3400
SUBJECT: Joint Labor Compliance Program, All Supervisorial Districts

County Counsel Concurrence

As to form: Yes

Auditor-Controller Concurrence

As to form: No

Recommended Actions:

That the Board of Supervisors:

- A. Adopt a Joint Labor Compliance Program for the Departments of General Services, Community Services, and Public Works for all Capital Improvement Contracts.
- B. Find that the proposed action(s) do not constitute a "Project" within the meaning of CEQA, pursuant to 14 CCR 15378(b)(2) (continuing administrative or maintenance activities, such as purchases for supplies, personnel-related actions, general policy and procedure making), and approve the filing of a Notice of Exemption on that basis.

Summary Text:

A Labor Compliance Program is the procedure by which an agency monitors its project contracts to ensure that contractors are paying their employees prevailing wages, training wages, and overtime. The State and Federal government set Labor Compliance regulations for special grant-funded construction projects. For example, California Cities and Counties use the CALTRANS Labor Compliance Manual for projects that use State and Federal highway grant funding. The State Division of Industrial Relations enforces State and Federal Labor Laws, and may impose fines on contractors who violate these laws, or ban them from bidding on projects.

Staff members from the Departments of General Services, Community Services and Public Works ("Departments") have reviewed the policies and procedures of each Department, and determined that overall, the County is meeting State and Federal Labor Compliance requirements for grant-funded projects.

The Departments reviewed an existing successful program in the City of Los Angeles and drafted a similar program to augment the County's existing Labor Compliance. The new Joint Labor Compliance Program would be used for County projects which have Federal, State and Local Funding, in General Services, Community Services and Public Works. Staff recommends your Board's approval of the Joint Labor Compliance Plan.

Background:

The proposed Joint Labor Compliance Program would allow compliance group representatives to assist County staff in conducting interviews with contractor employees at construction sites. Information obtained from these employee interviews is compared against monthly certified payrolls submitted by contractors on County projects to ensure contractors are paying employees correctly.

Labor Compliance is founded in State and Federal Law. To establish a level playing field for all contractors bidding on County projects, Labor Compliance is necessary, and an augmentation of existing Labor Compliance with the Joint Labor Compliance Program would be an added value. Staff has met with the City of Los Angeles to discuss their Labor Compliance augmentation program, which has been a successful program for seven years. Staff has also met with interested construction groups in the community to review the purposed program. Staff used components of the Los Angeles program, as well as input from these meetings to develop the proposed Joint Labor Compliance Plan for Santa Barbara County.

Fiscal and Facilities Impacts:

Budgeted: N/A

Fiscal Analysis:

A nominal amount of additional staff time would be required to implement and schedule employee interviews. Implementation of the proposed Joint Labor Compliance Program would not require additional employees.

Special Instructions:

Please return one copy of the executed agreement and a certified stamped Minute Order to each of the following:

- Cam Van Wingerden, County Executive Office, ext. 3404
- Gena Valentine Felix, Public Works, Transportation, ext. 3064

Attachments:

Joint Labor Compliance Monitoring Program

Authored by:

Scott McGolpin, Director, Public Works

NOTICE OF EXEMPTION

TO: Santa Barbara County Clerk of the Board of Supervisors

FROM: Department of Public Works – Transportation Division
(Lead Department/Division)

Based on a preliminary review of the project the following activity is determined to be exempt from further environmental review requirements of the California Environmental Quality Act (CEQA) of 1970, as defined in the State and County Guidelines for the implementation of CEQA.

APN(s): Various **Case No.:** N/A

LOCATION: 105 East Anapamu Street, 4th Floor Board of Supervisors Hearing Room

PROJECT TITLE: Joint Labor Compliance Program in all Supervisorial Districts

PROJECT DESCRIPTION: The County desires to adopt a Joint Labor Compliance Program for the Departments of General Services, Communities Services, and Public Works for all Capital Improvement Contracts. A Labor Compliance Program is the procedure by which an agency monitors its project contracts to ensure that contractors are paying their employees prevailing wages, training wages, and overtime. The State and Federal government set Labor Compliance regulations for special grant-funded construction projects.

EXEMPT STATUS: (Check One)

- Ministerial
- Statutory
- X Categorical Exemption [Sec. 15378(b, 2)]
- Emergency Project
- No Possibility of Significant Effect [Sec. 15061(b, 3)]

Cite specific CEQA Guideline Section: Section 15378 a project means the whole of an action, which has the potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect change, and that is any of the following: (b), Project does not include: (2) Continuing administrative or maintenance activities, such as purchases for supplies, personal-related actions, general policy and procedure making...

Reasons to support exemption findings (attach additional material, if necessary):

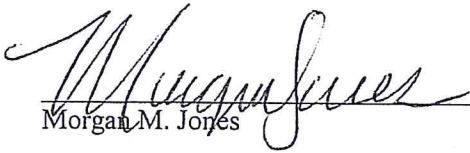
The Board of Supervisors is a responsible agency to adopt a Labor Compliance Program by which an agency monitors County projects and their contracts to ensure that contractors are paying their employees prevailing wages, training wages, and overtime The Labor Compliance Program is not a project by definition. The term project refers to the activity which is being approved and which may be subject to several discretionary approvals by governmental agencies. The term project does not mean each separate governmental approval.

Lead Agency Contact Person: Eric Pearson, Interim Deputy Director Public Works Transportation/Engineering Division, Phone: (805) 568-3064

Department Representative: Morgan M. Jones, Senior Engineering Environmental Planner

Acceptance Date: **July 10, 2012**

Distribution: Hearing Support Staff for posting


Morgan M. Jones

June 22, 2012
Date

NOTE: A copy of this document must be posted with the County's Planning & Development Department at least 6 days prior to consideration of the activity by the decision-makers to comply with County CEQA guidelines and a copy must be filed with the County Clerk of the Board after project approval to begin a 35 day statute of limitations on legal challenges.

Distribution:

Date filed with Planning & Development

Date filed with Clerk of Board

A-24) COUNTY EXECUTIVE OFFICE12-00572

Consider recommendations regarding a Joint Labor Compliance Program, as follows:

- a) Adopt a Joint Labor Compliance Program for the Departments of General Services, Community Services, and Public Works for all Capital Improvement Contracts.
- b) Find that the proposed action(s) do not constitute a "Project" within the meaning of CEQA, pursuant to 14 CCR 15378(b)(2), continuing administrative or maintenance activities, such as purchases for supplies, personnel-related actions, general policy and procedure making; and
- c) Approve the filing of a Notice of Exemption on that basis.

A motion was made by Supervisor Gray, seconded by Supervisor Carbajal, that this matter be Acted on as follows:

- a) Adopted.
- b) and c) Approved.

The motion carried by the following vote.

Ayes: 5 - Supervisor Carbajal, Supervisor Wolf, Supervisor Farr, Supervisor Gray, and Supervisor Lavagnino

A-25) FIRE12-00509

Consider recommendations regarding the 2012 Hazard Reduction Program, as follows:

- a) Approve the declaration of all properties, whose owners have not complied with a notice to abate, as a fire nuisance;
- b) Authorize the issuance of infraction citations and necessary abatement work relative to the 2012 Fire Department Defensible Space Program - Weed Abatement; and
- c) Direct the Clerk of the Board to post the affected Property Owners List.