

SB 693 Spec. / General Condition

Unless exempt by law, Contractor commits that Contractor, and its subcontractors at every tier, will use a skilled and trained workforce for work on the Project that falls within an apprenticeable occupation in the building and construction trades in accordance with California law.

“Skilled and trained workforce” shall be given the meaning defined in Public Contract Code section 2601 (Section 2601), which may be amended from time to time. Contractor agrees that skilled journeypersons employed to perform work on the Project by Contractor or its subcontractors at every tier are graduates of an apprenticeship program for the applicable occupation at the following percentages per Section 2601:

- (1) At least 30 percent for work performed on or after January 1, 2017;
- (2) At least 40 percent for work performed on or after January 1, 2018;
- (3) At least 50 percent for work performed on or after January 1, 2019; and
- (4) At least 60 percent for work performed on or after January 1, 2020.

The apprenticeship graduation requirements are satisfied for a particular calendar month if either of the following is true:

- (1) At least the required percentage of the skilled journeypersons employed by the Contractor or subcontractor to perform work on the Project meet the graduation percentage requirement; or
- (2) For the hours of work performed by skilled journeypersons employed by the Contractor or subcontractor on the Project, the percentage of hours performed by skilled journeypersons who met the graduation requirement is at least equal to the required graduation percentage.

The Contractor or subcontractor need not meet the apprenticeship graduation requirements of Section 2601, if:

- (1) During the calendar month, the Contractor or subcontractor employs skilled journeypersons to perform fewer than 10 hours of work on the Project.

The subcontractor need not meet the apprenticeship graduation requirements of Section 2601 if both of the following are met:

- (1) The subcontractor was not a listed subcontractor under Section 4104 or a substitute listed subcontractor; and

- (2) The subcontract does not exceed one-half of 1 percent of the original price of the prime contract.

Contractor's commitment that a skilled and trained workforce will be used to perform the Project shall be established by providing a monthly report demonstrating that the Contractor and its subcontractors at every tier are complying with the requirements of Section 2601 while the Project is being performed. A monthly report shall be provided thirty (30) days after the end of the month for which work is being reported or as otherwise agreed between Contractor and Owner.

If Contractor fails to provide a monthly report, Owner shall withhold payment for the portion of the monthly pay application related to the non-compliance of the Contractor or portion of the monthly pay application related to the non-compliance of any subcontractor.

Upon notice to the Contractor of withholding for non-compliance, the non-compliant Contractor and/or subcontractor may cure the non-compliance. If Contractor and/or any subcontractor cures the non-compliance or substantially complies with required percentages of Section 2601, any monies withheld by the Owner will be released no later than the next pay application. If Contractor and/or any subcontractor fails to cure the non-compliance or substantially comply with the requirements within 60 days of notice of the non-compliance, the Contractor and/or non-compliant subcontractor shall meet and confer with the Owner to demonstrate the Contractor's and/or subcontractor's efforts and plan to achieve substantial compliance with the requirements, on a cumulative basis, by completion of the Project. A meet and confer may be held earlier upon Contractor's written request to the Owner. The Owner, after reasonable demonstration by the Contractor and/or subcontractor that good faith and best efforts have been and are being made to substantially comply with the requirements of Section 2601, shall release any monies withheld.

The Section 2601 percentages shall not apply to punchlist or warranty for a Contractor and/or subcontractor if that Contractor and/or subcontractor has otherwise substantially complied with the requirements of Section 2601 during the Project.

If Contractor and/or subcontractor is unable to substantially comply with the required percentages, on a cumulative basis, by completion of the Project, the Owner, in its discretion may assess a charge to the non-compliant party of \$1,000.00 per percentage that the Contractor and/or subcontractor fails to meet the graduation percentage requirements, not to exceed \$5,000.00 or 10 percent of the total contract or subcontract value, whichever is less. This shall be the sole and exclusive remedy for Contractor's and/or any subcontractor's non-compliance with this section.