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Contractor Beware: The Fine Line Between “Public Works” and “Private Projects” Under California’s Prevailing Wage Law

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The line between projects subject to the prevailing wage requirements, and those which are not, is not always as bright as it might seem. Although prevailing wage laws apply only to "public works," the definition of a public works project extends to otherwise private construction or development projects that are "paid in whole or in part out of public funds." Under most circumstances, a real estate development or construction project receiving public assistance is subject to prevailing wage requirements, unless one of the statutory exceptions to the prevailing wage law applies. Project labor costs at prevailing wage rates may be significantly higher than anticipated and may quickly surpass the cost benefit conferred by the public assistance. An unwitting contractor, subcontractor or material supplier may find itself in violation of California's prevailing wage law, and subject to a prevailing wage and penalty assessment, fines, lawsuits and disciplinary action, and may be barred altogether from bidding on future public works projects.

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