



# OFFICE OF THE CONTROLLER

## CITY AND COUNTY OF SAN FRANCISCO

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### **San Francisco's Residential Construction Wage Theft Prevention Ordinance, Labor and Employment Code Article 81 (RCWTPO) Labor Compliance Bond Requirements under the RCWTPO**

#### **What is the Residential Construction Wage Theft Ordinance (RCWTO) and who is it intended to protect?**

In May of 2022, the City approved a new law to ensure construction workers receive their full pay and benefits. Owners of projects creating 10 or more new residential units are now required to secure and file a labor compliance bond with the San Francisco Controller's Office prior to receiving a building permit. Project owners may consider contacting their insurance broker(s) or carrier(s) to learn more about surety and labor compliance bonds.

#### **What is a Labor Compliance Bond? Is it the same as a Surety Bond?**

- A Labor Compliance Bond is a type of surety bond used to protect employees and can be used to provide compensation to affected parties in the event payments are due.
- What is a Surety Bond? A surety bond is a contract between three parties—the principal (e.g., Project Owner), the surety (issuer) and the obligee (e.g., the City & County of San Francisco, the entity requiring the labor compliance bond)—in which the surety financially guarantees to an obligee that the principal will act in accordance with the terms established by the bond.

#### **What does the San Francisco's Residential Construction Wage Theft Prevention Ordinance (RCWTPO) require?**

As a condition of receiving a permit, the RCWTPO requires Project Owners to maintain the labor compliance bond required under Building Code Section 106A.1.18 and to acknowledge that they may be held responsible, through forfeiture of the bond, for labor violations committed on the project.

#### **Who must secure and file the Bond, for which Projects, and at what Bond Amounts?**

The Owner or Owners of a Project are required to secure and file the labor compliance bond. Owner is defined under Labor and Employment Code Article 81 as the person or persons, firm, corporation, partnership, or other legal entity that owns a Project, individually or jointly with another Owner., A

Project is defined as a development in Residential Group R (Building Code Section 310.1), issued a permit under Building Code Section 106A requiring a Bond under Building Code Section 106A.1.18 on or after June 6, 2022, to construct, enlarge, alter, repair, improve, or convert a building or a portion thereof that results in the creation or addition of 10 or more residential or sleeping units within the geographic boundaries of the City. Project does not include a residential development that is subject to local, state, or federal prevailing wage requirements or a valid Project Labor Agreement or Community Workforce Agreement.

A PLA or a CWA is a multi-employer, multi-union pre-hire agreement designed to systematize labor relations at a construction site. Pre-hire agreements are collective bargaining agreements providing for union recognition, compulsory union dues, and mandatory use of union hiring halls prior to the hiring of any employees. A PLA or CWA can include local hire and/or targeted hire provisions.

Bonds must be filed and maintained in not less than the following amounts based on Estimated Project Cost.

Estimated Project Cost	Bond Amount
Less than \$5,000,000	\$500,000
\$5,000,000 to \$7,500,000	\$750,000
\$7,500,000.01 to \$10,000,000	\$1,000,000
More than \$10,000,000	\$1,250,000

## **What other conditions must be included in the Bond?**

Under the RCWTPO, the bond coverage must:

- 1) Name the City as exclusive beneficiary.
- 2) Include conditions that require the Owner holding the Bond to comply fully with all provisions of the RCWTPO and acknowledge that the Bond or portions thereof may become payable to the City, to be used to satisfy a determination of violation of a City labor protection for work on the Project, under the conditions set forth in Labor and Employment Code Article 81. For online access to the City & County of San Francisco's Municipal Code, please see:

[https://codelibrary.amlegal.com/codes/san\\_francisco/latest/overview](https://codelibrary.amlegal.com/codes/san_francisco/latest/overview)

## **What is the required credit rating for the Bond Issuer that is acceptable to the City, and how can the Project Owner confirm a Bond Issuer's credit rating?**

Bond issuers with an AM Best Issuer Credit Rating of bbb or better (i.e. Good, Excellent, Superior, or Exceptional) are deemed acceptable. For more information about AM Best ratings and methodology or to search for a rating, please see:

- <https://ratings.ambest.com/>
- [https://www.ambest.com/ratings/icrguide.pdf?\\_ga=2.233620254.1284440723.1654196561-357982333.1652481289](https://www.ambest.com/ratings/icrguide.pdf?_ga=2.233620254.1284440723.1654196561-357982333.1652481289).

## **How should the Project Owner file their Labor Compliance Bond?**

The Project Owner must file the bond with the Controller's Office. Please deliver the bond to the Controller's Office at San Francisco City Hall, Room 316, 1 Dr Carlton B Goodlett Pl, San Francisco, CA 94102.

## **Questions about the Labor Compliance Bond requirements?**

Please contact the Controller's Office by using NextRequest (<https://sanfrancisco.nextrequest.com/>), the City's online portal for public information requests. Thank you.

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