



# **PORT OF OAKLAND**

## **Port of Oakland**

### **\*Revised\* Maritime and Aviation Project Labor Agreement (MAPLA) Frequently Asked Questions**

*[These Frequently Asked Questions contain only a general discussion of MAPLA requirements. Please refer to the MAPLA for official guidance on its requirements. The Port may update these Frequently Asked Questions as new questions arise or additional clarification is requested.]*

#### **GENERAL**

##### **When does the Revised MAPLA become effective?**

The Revised MAPLA became effective February 1, 2016 and applies to Port contracts advertised, or Tenant building permits issued, on or after February 1, 2016. Three (3) components of the Revised MAPLA have a delayed implementation and will apply to Port contracts awarded, or Tenant building permits issued, on or after August 1, 2016; these three components are those provisions relating to:

- New Hire Apprentices
- Construction Trucking (e.g., on- and off-haul trucking)
- MAPLA Small Business Enterprise Program (MSBE)

##### **What is the term of the new MAPLA?**

The term is five (5) years effective February 1, 2016 through January 31, 2021.

##### **What are the key differences between the revised and old MAPLA?**

- Scope of Covered Work Changed
- Fewer “Core Workers” Allowed
- Apprentice Goals Increased
- Construction Trucking Covered
- Committee Structure Streamlined
- Social Trust Fund Amount Increased
- MSBE Allowances Increased

##### **Where may I find the MAPLA agreements?**

The prior and the Revised MAPLA agreements may be found at:  
<http://www.portofoakland.com/responsibility/>

## **COVERAGE**

### **What work does the Revised MAPLA cover?**

In general, the Revised MAPLA covers the following types of contracts:

- A construction contract that:
  1. Appears on the Capital Improvement Program list for the Maritime Division or Aviation Division of the Port **and**
  2. Has an estimated cost that exceeds \$150,000.
- A contract between a Tenant in the Port's Maritime or Aviation areas and a Contractor that:
  1. Has an estimated cost that exceeds \$150,000 **and**
  2. For which the Port issues a building permit during the term of the MAPLA.

### **Are projects in the Commercial Real Estate area covered under the Revised MAPLA?**

No, projects in the Commercial Real Estate area of the Port are not covered under the Revised MAPLA.

### **What work is exempt from MAPLA?**

Work that would otherwise be covered by MAPLA may be exempt if it falls under one of the exclusions listed in Section 2.3. These exclusions include, but are not limited to, work performed by non-manual employees, off-site inspection or testing services, work performed by certain entities (such as the Port, public utilities, railroads, airlines, and terminal operators), and architectural/engineering design services and other professional services.

### **What is a Letter of Assent?**

The Letter of Assent is an agreement executed by contractors and subcontractors indicating that the signee agrees to be party to and bound by the MAPLA.

### **If I am hiring a subcontractor today, but the project was started under the prior MAPLA, would the new MAPLA apply to this subcontractor?**

The prior MAPLA would continue apply to this project and subcontractor(s).

## **CORE WORKERS**

### **What are “core workers”?**

Contractors who are not signatories to Master Labor Agreements but who work on MAPLA-covered projects may be entitled to utilize some of their own “core workers” on the project. Such core workers must meet qualifications set forth in Section 7.6.

The first worker used by such contractors will be referred from the union hiring hall; the next worker will be one of the contractor’s core workers. The process will repeat, alternating one-for-one from the hiring hall or the core workers, until a certain limit.

### **What are the changes to the Core Worker Requirements?**

The Revised MAPLA decreased the allowable number of core workers from ten (10) to five (5). This means that a contractor’s workforce will come alternating from the union hiring hall or the core workers until a maximum of five core workers have been reached. Thereafter, any additional workers required by the contractor shall be referred from the union hiring hall.

### **May I use only my core workers for the warranty work as they are certified installers as required by the warranty?**

Yes.

## **APPRENTICES**

### **What are the changes to the Apprentice Goals?**

The Apprentice hire ratio has been adjusted to reflect current State of California Requirements (Labor Code Section 1777.5 *et seq.*, as amended). As with the previous MAPLA, Apprentice Hire Ratios minimum goals must be met within the Local Impact Area (LIA).

A new provision set forth in Section 8.9 explains that for each project, the prime contractor, and/or its subcontractor must hire a certain number of LIA resident new hire apprentice(s) based on the prime contractor’s construction bid value.

Additionally, there is a new goal that 25% of all apprentice hours shall be performed by Disadvantaged Workers, if available. Disadvantaged Workers are those who meet at least one of the barriers of employment set forth in Section 1.8.

## **MAPLA SMALL BUSINESS ENTERPRISE**

### **What is the definition and qualification for a MAPLA Small Business Enterprise (MSBE)?**

The MSBEs must be certifiable as a local impact area (LIA) business and may not exceed an average gross revenue of \$14,000,000 over the past three (3) consecutive years as defined by the regulations of the State of California's Department of General Services, Office of Small Business Procurement and Contracts (California Code of Regulations, Title 2, Division 2, Chapter 3, Subchapter 8).

**LIA** represents the area most impacted by Port projects, i.e., the cities of Oakland, Alameda, San Leandro and Emeryville.

### **How may I qualify under the MSBE Program?**

You must be Port certified as a LIA SBE.

### **How do I become Port certified?**

You may register your business for Port certification on the online SRD Certification Application at <http://www.portofoakland.com/srd/>. To get started, click on the link "Register New Company."

### **What is the Port of Oakland certification time period?**

Port of Oakland certified businesses are certified for up to two (2) years at which time renewal must take place to remain certified.

## **SOCIAL JUSTICE TRUST FUND**

### **What is a Social Justice Trust Fund?**

The Social Justice Trust Fund is a contribution made by all general contractors and subcontractors of \$0.30 per craft hour worked and to be collected from monthly contractor progress payments.

### **What is the fund used for?**

The fund is used to support programs that assist LIA residents to eliminate employment barriers and gain entry into and remain in the building trades.

## **MAPLA ADMINISTRATION**

### **What committees oversee the MAPLA?**

The Social Justice Committee (SJC) meets on a monthly basis to review and monitor social justice provisions (e.g., local hire). The newly formed Joint Administrative and Social Justice Trust Committee (JASTC) will meet to help resolve issues and disputes as to the interpretation and implementation of MAPLA. There is a grievance subcommittee of the JASTC that will meet as needed in an attempt to resolve grievances.

### **How is the grievance process administered?**

Employee grievances (e.g., discipline or discharge of employees) shall be resolved through the applicable craft's Master Labor Agreement,

For non-employee grievances, there is a four-step grievance procedure outlined in Article 13 of the MAPLA.

## **CONSTRUCTION TRUCKING**

### **What types of trucking is covered by the Revised MAPLA?**

The Revised MAPLA covers the delivery of ready-mix, asphalt, aggregate, sand, or other fill material that are directly incorporated into the construction process of a MAPLA-covered project, as well as the off-hauling of debris, excess fill, material, mud, dirt, ground asphalt, or concrete rubble ("Construction Trucking Work".)

### **Are all truck drivers performing work covered by the Revised MAPLA?**

Yes, unless the drivers fall under a valid exemption. Drivers performing on-site trucking work are covered by the MAPLA as any other craft worker. Drivers performing Construction Trucking Work are also covered by the MAPLA, subject to some special provisions that only apply to Construction Trucking Work.

Drivers who perform Construction Trucking Work but who are genuine independent contractors are exempt from MAPLA unless proven otherwise through the MAPLA grievance process.

### **How do you determine if a truck driver is an independent contractor?**

The Port does not determine if a driver is an independent contractor but rather collects information that may be relevant for determining such classification.

Drivers who claim to be genuine independent contractors will automatically be exempt from MAPLA coverage, but will need to complete a trucking questionnaire that establish facts relevant to determining independent contractor status. Such drivers will remain exempt, regardless of the answers on the questionnaire, unless their employment status is challenged and determined to be different through the MAPLA grievance process.

All other drivers will be subject to MAPLA, either as a craft worker under a contractor, or as a subcontractor who must execute a Letter of Assent. These drivers only need to fill out the health & safety-related questions of the questionnaire.

**If a truck driver is an owner-operator, doesn't that mean they are an independent contractor?**

No. The "owner-operator" label does not determine whether a driver is an employee or an independent contractor. Determining employment status requires looking at numerous different factors and cannot be determined simply by looking at a driver's label.

**What is the trucking questionnaire?**

The trucking questionnaire serves two purposes. First, the questionnaire contains health & safety-related questions that must be completed by all drivers performing Construction Trucking Work. Second, drivers seeking a MAPLA exemption for being genuine independent contractors must also complete the rest of the questionnaire, which explores the various factors relevant to determining if a driver is an employee or an independent contractor. Completed questionnaires are public records, except for various sections marked confidential (such as driver's license numbers and home addresses.)

**What happens if a truck driver cannot or will not complete the questionnaire?**

Questionnaires must be filled out within five (5) business days of the driver first performing Construction Trucking Work on a project – either the complete questionnaire for those drivers seeking a MAPLA exemption, or only the health & safety-related questions for other drivers who are covered by MAPLA. Drivers who cannot or will not complete the questionnaire will be subject to normal MAPLA coverage. Such drivers will be covered either in their capacity as an employee of the contractor/broker for whom they work, or will be covered in their capacity as a subcontractor who must execute a Letter of Assent to the MAPLA.

**Who may I contact with additional MAPLA questions?**

Kitty Creech or Jake Sloan  
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MAPLA Administrator  
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Lila Zinn  
Port Social Responsibility Division  
(510) 627-1485  
[lzinn@portoakland.com](mailto:lzinn@portoakland.com)

**Who may I contact for technical project questions, not specific to MAPLA?**

Steve Low  
Port Engineering  
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[sklow@portoakland.com](mailto:sklow@portoakland.com)