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## Prevailing Wage on State Projects

**INVESTIGATION OF COMPLAINTS****D4.00****Purpose**

To establish uniform criteria for conducting complaint investigations.

**Responsibility**

The investigator is responsible for determining if the claim is subject to the provisions of the Act and conduct an investigation to determine compliance with Act 166. The investigator is responsible for sending the self-audit letter to the contractor and emailing a copy of the self-audit letter to administrative support for entry into WIN and the electronic claim file. Support staff is responsible for sending the compliance/non-compliance letter. The manager is responsible to review recommendations.

**Policy**

1. The contracting agent, prime contractor if known, and the project manager if known, shall be notified that a complaint has been filed with the department.
2. Time and payroll records of the contractor for the project construction dates, identified on the complaint, shall be inspected by the department to determine compliance or non-compliance. A sample audit of one pay period for each classification identified in the complaint shall be prepared to demonstrate compliance/non-compliance. If available, any time and payroll record(s) provided by complainant(s) will also be reviewed.
3. If non-compliance is determined, the investigator shall advise the contractor and complainant of the violation and forthcoming self-audit letter. A letter shall be sent requesting the contractor conduct a self-audit for the claim period and reimburse underpayments determined by the self-audit. **The self-audit shall be certified by either a certified public accountant of the employer's choosing, or certified by the personal signature of the employer, attesting to the self-audit's authenticity and completeness with the following language prior to the signature: "I hereby certify that this self-audit is complete and correct as to its findings."**
  - a. The payment may be paid by check or money order, made payable to the construction mechanic or department, sent to the department or paid directly to the employee. The contractor should be advised to notify this office of direct payment to the employee and submit proof of payment i.e. canceled checks, proof of direct deposit, signed receipt from construction mechanic(s) or acknowledgement from claimant that payment has been received.
  - b. If the contractor completes an audit and submits payment, the contractor will be considered in violation of the Act but resolution was successful. The claim is closed as contractor violation-paid.
  - c. If the contractor does not complete an audit, the contractor will be considered in violation. The claim is closed as contractor violation-nonpayment and contractor will be placed on Complaint Investigation Non-Compliance Summary Report.

## Prevailing Wage on State Projects

4. When a complaint alleges a violation of the posting requirement on an **ongoing** project, the department shall request the (sub) contractor certify compliance. If the (sub) contractor fails to certify compliance with the posting requirements, an on-site inspection shall be made to determine compliance/non-compliance (See application 3).
5. Contractors found in violation of posting requirements, failing to provide records, or failure to submit payment when violation(s) are found shall be placed on the Complaint Investigation Non-Compliance Summary Report for a period of three years from date of file closing.
6. The contracting agent is in violation of the Act. if the contracting agent fails to:
  - a. advertise and/or offer an invitation to bid for a state project,
  - b. have the commissioner determine rates for all classifications called for on the project,
  - c. provide rates, or
  - d. include a requirement and/or other evidence to pay rates as part of the specifications of a contract.

The **contractor is not in violation** of the Act because, the project was not advertised or let out for bid, or rates, or the requirement and/or other evidence to pay rates were not included in the contract.

**Application 1– Individual Complaint**

A plumber working on a school project files a prevailing wage complaint indicating that the posted rate for plumbers on the job was not paid. After jurisdiction has been established, a review of the payroll records of the contractor finds compliance in one week and non-compliance in one week, during the period claimed by the complainant. A sample audit is completed for one week that shows non-compliance. The investigator advises the contractor, complainant, or representative (filing on behalf of), if applicable, of the violation and forthcoming self-audit letter. The contractor is sent a letter requesting the contractor complete an audit for the entire period the plumber worked on the project and submit any underpayment found due.

If the contractor completes an audit and submits payment, the contractor will be considered in violation of the Act but resolution was successful. The claim is closed as contractor violation-paid.

## Prevailing Wage on State Projects

**Application 2– Third Party Complaint**

A complainant filed a third party complaint against a contractor alleging laborers were not paid the proper prevailing wage rate. The Investigator will request records for all employees working in this classification during the pay period(s) indicated in the complaint. A sample audit will be completed for one mechanic for one pay period to determine compliance/non-compliance. The investigator advises the contractor and complainant, of the violation and forthcoming self-audit letter. The contractor is sent a letter requesting them to complete an audit for the entire period for **all** construction mechanics working in this classification on the project and submit any underpayment found due.

If the contractor completes an audit and submits payment to all affected construction mechanics, the contractor will be considered in violation of the Act but resolution was successful. The claim will be closed as contractor violation-paid.

**Application3– Posting Requirement Complaint**

1. If the (sub) contractor does not respond to the notification letter within 10 calendar days, the investigator requests the (sub) contractor complete the certification of posting form. This request must be documented through personal visit, telephone call, or letter.
2. If the (sub) contractor fails to complete and return the certification of posting form within 10 calendar days, and the project is ongoing, an on-site inspection on the construction site will be made. If the prevailing wage and fringe benefit rates are posted in a conspicuous place at the construction site a determination of compliance will be made regardless of who posted the copy.

## Prevailing Wage on State Projects

**CLASSIFICATION DISPUTES****D4.01****Purpose**

To establish uniform criteria for investigating complaints regarding classification disputes on covered state projects within the authority of the statute.

**Responsibility**

The investigator is responsible for determining whether a complaint involves a classification dispute and taking appropriate action.

**Policy**

1. Wage and Hour shall determine that the rate of pay is consistent with the work actually performed.
2. Wage and Hour will not pursue disputes alleging:
  - a. an incorrect classification for classifications with similar scopes of work.
  - b. jurisdictional disputes between *similar* trade classifications.
  - c. worker ratios: apprentice to journeyman, helper or assistant ratios on state projects.

**Application 1 - classification dispute**

- A. The following is an example of misclassification that Wage and Hour will investigate:

A construction mechanic installs roofing materials on the project site and is paid the general laborer's rate. An investigation is appropriate since the construction mechanic was paid the General Laborer prevailing rate for the skilled work (roofer) performed.

- B. The following is an example of a classification dispute that Wage and Hour will not pursue:

A contracting agent requests a determination on whether a contractor can install conduit in relation to a teledata system using the teledata classification, or does the electrical code require a permit and installation of the metallic and non-metallic conduit by an electrician under the inside wireman's classification.

Since the determination of which classification is appropriate would depend on what the electrical code requires, the question should be directed to the entity which regulates the electrical code and not Wage and Hour.

- C. The following is an example of similar scopes of work:

A construction mechanic works as a laborer and performs both cement finisher tender and mason tender duties on a project (i.e. setup scaffolding, cleaning tools, loading/unloading material), the cement finisher and mason tender duties are described as laborers duties as well. The construction mechanic is paid the laborers rate.

A determination will be made that the appropriate rate was paid.

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Prevailing Wage on State Projects

**Application 2 - classification verification**

Wage and Hour shall verify whether a construction mechanic is paid within the appropriate rate classification by utilizing available information for the classification. The prevailing practice of the industry determines how work is classified - work performed by the employee, not the worker's title or qualifications determines the classification.

There are resources within and outside the department that can be used to establish whether a construction mechanic performed within a specific classification.

1. Collective bargaining agreement work descriptions.
2. Bureau of Construction Codes can be contacted.
3. Trade representatives can be contacted by phone at the union locals of the various trades.
4. Dictionary of Occupational Titles, Standard Industrial Classification Manual. The North American Industry Classification System (NAICS) has replaced the U.S. Standard Industrial Classification (SIC) system.
5. Contractors may be contacted.
6. U.S. Department of Labor area offices of the Office of Apprenticeship and Training:\*\*

National Registered Apprenticeship System\*\*

Search Program Sponsor Database: <http://oa.doleta.gov/OAT.cfm>

Region V: Chicago 312-596-5500, Dean Guido, email: [guido.dean@dol.gov](mailto:guido.dean@dol.gov)\*\*  
230 S. Dearborn St. RM 656, Chicago, IL 60604

USDOL State Office:\*\*

Russell Davis, State Director

[davis.russell@dol.gov](mailto:davis.russell@dol.gov)

315 W. Allegan RM 209

Lansing, MI 48933

517-377-1747

Michigan Workforce Development Agency\*\*

Doug Warner, Manager

Apprentice Programs

E-Mail: [warnerd2@michigan.gov](mailto:warnerd2@michigan.gov)

201 N. Washington Square, 5th Floor

Lansing, MI 48913

State website: <http://www.michigan.gov/wda/0,5303,7-304-64362-303223--,00.html>

\*\*Information is subject to change.

## Prevailing Wage on State Projects

**Application 3 – (policy 1) Third Party Complaint**

A sprinkler fitter union filed a third party complaint against a contractor alleging that landscape laborers were performing job duties consistent with the sprinkler fitter classification and therefore were not being paid the proper prevailing wage rate. A review of the records showed all mechanics were paid the landscape laborers rate. The contractor/subcontractor provided a job description identifying the duties performed by each audited mechanic. The job descriptions were NOT consistent with classifications paid. The job duties were consistent with the sprinkler fitter classification. The contractor/subcontractor is in violation of the Act. A sample audit was conducted for one mechanic for one pay period to demonstrate non-compliance.

**Application 4 – Third Party Complaint**

A carpenters union filed a third party complaint against a contractor alleging that three laborers were performing job duties consistent with the carpenter classification and were not paid the proper prevailing wage rate. A review of the records showed one mechanic was paid the prevailing wage rate as a laborer, the second mechanic was paid as carpenter, and the third was paid both the laborer rate and the carpenter rate based on the number of hours worked in each classification. The contractor/subcontractor provided a job description identifying the duties performed by each audited mechanic. The job descriptions were consistent with classifications paid. No violation was found. A sample audit was conducted for one mechanic for one pay period to demonstrate compliance.

## Prevailing Wage on State Projects

**DETERMINING IF PREVAILING RATE HAS BEEN PAID****D4.02****Purpose**

To establish criteria for determining whether the prevailing rate has been paid.

**Responsibility**

The investigator is responsible for inspecting records to determine compliance with the prevailing rate requirement for work performed by a construction mechanic on a covered state project.

**Policy**

1. A contractor is allowed a credit for wages paid to a construction mechanic for work performed on a state project.
2. Fringe benefits paid on an hourly basis shall be credited at the same hourly rate.
3. A contractor is allowed a fringe benefit credit for:
  - a. A fringe benefit paid directly to a construction mechanic
  - b. A fringe benefit contribution or payment made on behalf of a construction mechanic
  - c. A fringe benefit, which may be provided to a construction mechanic, pursuant to a written contract or policy.
5. Wage and Hour shall calculate an hourly credit based on 2080 hours per year (52 weeks x 40 hours per week) for the actual contribution or cost attributed to an employee for a fringe benefit not paid on an hourly rate basis, (e.g. medical coverage, life insurance) to determine credit for work on a project. **Application 2 & 3.**
6. Wage and Hour will exercise discretion in converting the formula or method of payment of a fringe benefit to an hourly rate, based on 2080 hours per year (52 weeks x 40 hours per week) in cases where an individual cost or contribution is not available and the fringe benefit contribution or cost is expressed in a formula or method of payment other than an hourly rate.
7. Fringe benefit contributions paid to an individual instead of a fund may be credited to the prevailing rate.
8. Monies provided by contractors to construction mechanics for items such as clothing, uniforms, gas, travel time, meals or lodging, or per diem shall be considered reimbursable expenses and shall not be credited to the payment of the prevailing rate. Payments on behalf of a construction mechanic that are not wages or fringe benefits, e.g. industry advancement funds, shall not be credited. **Payments into a trust for wages, to be paid at the end of a project, will not be credited or allowed.**

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Prevailing Wage on State Projects

9. Legally required payments and contributions such as unemployment taxes, Workers' Compensation Agency and Contractor/subcontractor's social security contributions shall not be credited to the payment of the prevailing rate.
10. A contractor/subcontractor shall pay overtime and premium pay to its workers as required in the prevailing rate schedule. **Application 1A.**
11. A contractor or subcontractor may utilize four 10 hour work days per week, Monday through Friday, and be exempt from overtime even when the employee works less than 10 hours per day or less than 40 hours per week and:
  - a. The 9th character in the overtime provisions of the rate schedule for that project and specific classification has a "Y" and,
  - b. Notification has been issued by the employer to the employees prior to the start of work on the project.
  - c. Meets all other stipulations as stated in the rate schedule for each classification.**Application 5**
12. A weighted average may be used to compute the overtime due when a construction mechanic works at two or more classifications on a covered project, during an overtime period. **Application 1B.**
13. **Only those hours worked on the covered project** shall be considered for computing straight time, overtime or premium pay when a construction mechanic works on a covered project and a non-covered project in the same pay period. **Application 1C.**
14. There shall be no combining of project and non-project hours to calculate premium pay and overtime pay. **Application 1C**
15. An apprentice shall be paid pursuant to the prevailing rate established for the classification and apprentice level.

Prevailing Wage on State Projects

**Application 1 - Regarding premium pay**

A. Prevailing Rate Schedule

The overtime pay schedule is included with the prevailing rate schedule and indicates the payment required for hours worked over 40 in a workweek, hours worked over a daily standard (e.g. 9, 10), at one and a half time (1 ½) or double time.

B. WEIGHTED AVERAGE,

In cases where an employee works at 2 or more different rates/classifications on the same project in a 40+ hour workweek, the contractor/subcontractor can voluntarily pay the 1 1/2 the highest rate, or use a weighted average computed by adding all earnings at straight time, dividing by the hours worked to obtain a weighted average rate. Overtime hours must be paid at the applicable regular plus 1/2 the weighted average. For example - overtime on 35 hours @ \$15.15 and 10 hours @ 16.00 is computed as follows:

$$\begin{array}{r}
 35 @ \$15.15 = \quad \$530.25 \\
 10 @ \$16.00 = \quad \underline{\$160.00} \\
 \qquad \qquad \qquad \$690.25
 \end{array}$$

$$\$690.25 \text{ divided by } 45 = \$15.34 \text{ weighted average}$$

$$\$15.34 \times .5 = \$7.67 \times 5 \text{ hours} = \$38.35$$

$$\text{The employee is due } \$530.25 + \$160.00 + \$38.35 = \$728.60$$

C. COVERED AND NON-COVERED OVERTIME/PREMIUM HOURS,

A complaint is received concerning non-payment of premium pay from a master plumber for time worked on a state project. A review of the time records for the period claimed showed the mechanic had worked at two locations during the period claimed. One location was at Central Michigan University, a covered project as defined by the Act. The other was at JSF Restaurant, a non-covered project.

pp end 10-18	12th	13th	14th	15th	16th	17th	18th	
Central Mich.	6	10	0	2	8	0	0	26
JSF Rest.	6	1	8	8	0	0	0	23
	12	11	8	10	8	0	0	49

The investigator reviews the rate schedule supplied with the file and determines the overtime/premium pay schedule requires 1 ½ times the straight hourly rate for hours in excess of 8 in a day, as well as 1 ½ times the straight hourly rate for hours worked over 40 in a week. The prevailing wage audit for this pay period showed the mechanic was due 1 ½ times the straight hourly rate for only the 2 hours worked over 8 on 10-13. Any remaining overtime would not be subject to Act 166 as only those hours worked on the project are counted.

Prevailing Wage on State Projects

**Application 2**

Example: A construction mechanic has been employed for six months at a regular rate of \$14.00/hour. The written policy expressly requires that 80 hours of vacation/personal time be paid after one year of seniority.

The investigator will compute the fringe credit in the following manner:

$$80 \text{ hours} \times \$14.00/\text{hour} = \$1120.00$$

$$\$1120.00/2080 \text{ hours} = \$ .54/\text{hour to be credited}$$

**Application 3, calculating fringe benefit credits**

- A. The construction mechanic earns \$1.00 per hour for vacation paid = \$1.00 per hour fringe benefit credit.
- B. Employee fringe benefits are as follows:

Vacation/PTO/Sick pay	40 hours X \$14.00	\$560.00
Dental insurance	monthly premium	\$31.07
Vision insurance.	monthly premium	\$5.38
Blue Cross	monthly premium	\$230.00
Life insurance	monthly premium	\$27.04
Training/tuition	annual	\$500.00
Year End Bonus	\$250 per quarter	\$1,000.00
401k Employer contribution	annual	\$2,000.00

Calculated fringe benefit credit:

Vacation/PTO/Sick pay	40 hours X \$14.00 = 560/2080 =	\$ .27
Dental insurance	\$31.07 X 12 months = \$372.84/2080 =	\$ .18
Vision insurance	\$5.38 X 12 months = \$64.56/2080 =	\$ .03
Blue Cross	\$230.00 X 12 months = \$2,760.00/2080 =	\$1.33
Life insurance	\$27.04 X 12 months = \$324.48/2080 =	\$ .16
Training/tuition	\$500.00/2080 =	\$ .24
Year End Bonus	4 x \$250 = \$1000.00/2080 =	\$ .48
401k Employer Contribution	\$2000.00/2080 =	\$ .96
Total fringe benefit credit		<u>\$3.65</u>

**Application 4**

A review of the billing invoices from a company that provided training to employees of XYZ Company shows that \$15,000 was paid for training during a 12 month period. There are 20 employees of XYZ Company eligible for the training. The fringe credit would be calculated as follows; \$15,000 paid/20 employees = 750/2080 hours = \$.36 hourly credit.

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Prevailing Wage on State Projects

**Application 5, policy 12**

Employer has notified their employees prior to beginning work on the project that the project allows for 4 ten hour days without paying overtime for hours worked over 8 hours each day.

- A. Perfect Plumbing begins work at Miller Public High School in Lansing. An employee works 10 hours each day, Monday through Thursday. The rate schedule for this project contains the following language for plumbers: "4 ten hour days may be worked only Monday through Friday." The employee is exempt from overtime because the rate schedule for that project allows for 4 ten hour days Monday through Friday. The following week the employee works 10 hours each day Monday through Wednesday and Friday. Again, the employee is not due overtime because the rate schedule for that project allows for 4 tens Monday through Friday and does not indicate the days have to be consecutive.
- B. Perfect Plumbing begins work at Central Public High School, for the Flint Public Schools. The rate schedule for this project contains the following language for plumbers: "4 tens may be worked Monday-Thursday or Tuesday-Friday at the straight time rate." The employees work 4 ten hour days Monday through Wednesday, and again on Friday. The employees would be due overtime pay for the 9th and 10th hours Monday, Tuesday, Wednesday and Friday because the employer did not follow the stipulation in the rate schedule for 4 tens which allows for no overtime if 4 ten hour days are worked Monday through Thursday or Tuesday through Friday.
- C. Bob's Electrical was awarded a contract to perform work at Central Michigan University. Their employees worked 4 ten hour days Monday through Wednesday, but run into a supply issue on Thursday and worked only 6 hours. The rate schedule for the project contains the following language for electricians: "4 consecutive 10 hour days may be worked at the straight time rate of pay Monday-Friday. Saturday may be used as a make- up day when work was canceled due to weather conditions." The employees are not due overtime. Policy 11 allows an exemption from overtime even when the employee works less than 10 hours per day or less than 40 hours per week.
- D. The following week Bob's Electrical has some weather problems, again on Thursday, when the employees have already worked 4 ten hour days Monday through Wednesday. The employees do not work at all on Thursday, but are told to come in on Saturday for 10 hours to make up for Thursday. As stated in Application C, the rate schedule for that project states, "Saturday may be used as a make- up day when work was canceled due to weather conditions." The employees are not due overtime because the rate schedule allows for a make- up day on Saturday and the employees only worked 4 days that week.

## Prevailing Wage on State Projects

- E. Bob's Electrical has his employees work 4 ten hour days Monday through Wednesday, but due to supply issues they only worked 4 hours on Thursday. The employees were told to come in on Friday and worked 6 more hours. The rate schedule for that project states, "4 consecutive 10 hour days may be worked at the straight time rate of pay Monday- Friday.." Since the employer did not follow the stipulations outlined in the rate schedule and the employees worked more than 4 consecutive days by working on a 5th day, they would be due overtime pay for the 9th and 10th hours, Monday, Tuesday and Wednesday.
- F. Sparty Asbestos Removal performing work at MSU, had their employees work 4 ten hour days Wednesday through Saturday. The rate schedule for that project contains the following language for asbestos removal: "4 ten hour days @ straight time allowed Monday-Saturday, must be consecutive calendar days." Since the employer followed the requirements of the rate schedule for that project, the employees are not due overtime.

## Prevailing Wage on State Projects

**INVESTIGATING APPRENTICESHIP CLAIMS****D4.03****Purpose**

To establish uniform criteria for determining whether a construction mechanic is to be paid the prevailing rate as an apprentice. To establish uniform criteria for determining whether a construction mechanic in the electrician classification is to be paid the prevailing rate as an apprentice pursuant to Act 73 of 2016 which amended the Electrical Administrative Act 217 of 1956. Act 73 increased the ratio of apprentice to journeymen or master electrician to 3 to 1. Act 73 became effective July 4, 2016.

**Responsibility**

The investigator is responsible for determining whether a construction mechanic is an apprentice and whether the correct prevailing rate is paid.

**Policy**

1. Except as described in Policy 2 of this Section, a construction mechanic shall only be paid the apprentice rate:
  - a. if registered with the U.S.D.O.L. Office of Apprenticeship and Training (OAT) and
  - b. for the period covered by the OAT certificate
  - c. if apprentice rates are included on the prevailing wage rate schedule contained in the contract.
2. A construction mechanic employed in the electrician classification may be paid the apprentice rate if they are enrolled in either of the following programs for the period covered by the claim:
  - a. Apprenticeship program registered with the U.S.D.O.L., Office of Apprenticeship and Training (OAT), or
  - b. Any other electrician apprenticeship program that is approved by the Michigan Electrical Administrative Board as equivalent to or exceeding the requirements of the U.S.D.O.L., Office of Apprenticeship and Training (OAT).
3. Journeyman or master electrician to apprentice ratios shall not be considered in determining compliance with the Act.
4. A contractor shall be required to pay the journeyman rate to a construction mechanic who is not a registered apprentice.
5. The apprenticeship rates must be included in the prevailing wage rate schedule contained in the contract.
6. The rate paid must be from the rate schedule for the work performed.

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Prevailing Wage on State Projects

**Application 1 - Registered apprentice – rates in contract**

A construction mechanic is working on a project as a registered apprentice with the Office of Apprenticeship and Training (OAT) during the entire period of the project. A review of the records show:

- a. The apprenticeship rates are included in the prevailing wage rate schedule contained in the contract.
- b. The apprentice is in the sixth period of his term.
- c. The apprentice is paid the apprentice rate for the sixth period as indicated in the prevailing rate schedule.

The contractor is in compliance with the Act.

**Application 2 - Registered apprentice – rates in contract**

A construction mechanic is working on a project as a registered apprentice during the entire period of the project. The apprentice program is approved by the Michigan Electrical Administrative Board as equivalent to OAT requirements. A review of the records show:

- a. The apprenticeship rates are included in the prevailing wage rate schedule contained in the contract.
- b. The apprentice is in the sixth period of his term.
- c. The apprentice is paid the apprentice rate for the sixth period as indicated in the prevailing rate schedule.

The contractor is in compliance with the Act.

**Application 3****A. Registered apprentice - no apprenticeship rates in contract**

A construction mechanic is working as a plumber on a project. The mechanic is a registered apprentice with OAT during the entire period of the project. The mechanic is paid a rate less than the journeyman rate. The contract does not include plumber apprenticeship rates.

The contractor is in violation for not paying the journeyman rate.

- B. Unregistered apprentice** – an unregistered apprentice must be paid the journeyman rate whether or not apprenticeship rates are in the contract rate schedule. If the contractor pays apprentice rates they are in violation for not paying the correct prevailing wage rate.

**Application 3 – Period of registration**

A construction mechanic works as a carpenter on a state project from June 1 to December 31. The mechanic becomes a registered apprentice with OAT on September 1 of the same year. Apprenticeship rates can only be paid from September 1 forward (beginning with the date of registration). The mechanic must be paid the journeyman rate from June 1 to August 31.

## Prevailing Wage on State Projects

**VIOLATION AND THE REQUEST FOR COMPLIANCE****D4.04**

MCL 408.555 and 408.556

**Purpose**

To establish uniform criteria for informing the contracting agent, contractor/subcontractor, prime contractor and project manager that a violation has been found and that compliance is requested.

**Responsibility**

**The investigator assigned to the case is responsible for determining if the Act has been violated and, if so, advising the contractor and complainant of the violation and forthcoming self-audit letter then recommending the notification and request for compliance letter be sent. The administrative support staff is responsible for sending letters to all parties.**

**Policy**

1. Contracting agents, contractors and s ubcontractors not in compliance with the provisions of the Act shall be sent a letter notifying them of a violation and requesting compliance.
2. The letter may contain:
  - a. the nature of the violation.
  - b. the nature of the corrective action to be taken:
    - i. provide required records, or
    - ii. conduct self-audit, and a request to submit payment due
    - iii. a request for a listing of names, addresses and amounts being paid to each individual construction mechanic audited , with proof of payment i.e. canceled checks, signed receipts.
    - iv. a request to comply with the Act
  - c. the authority of the contracting agent as described under Section 6 of Act 166.
3. Contractors and s ubcontractors shall be g iven 10 calendar days to demonstrate compliance.
4. The violation notification and request for compliance letter shall be sent to the contracting agent, contractor and subcontractor and copied to the complainant, third party or representative (filing on behalf of), prime contractor and project manager when:
  - a. the contract specifications do not include :
    - i. a prevailing rate schedule for all classifications called for on the project,
    - ii. a requirement and/or other evidence to pay rates, or
  - b. when the contracting agent fails to request the department determine rates for all classifications called for on the project, or
  - c. a review of payroll records reveals a payment less than the prevailing rate, or
  - d. the established prevailing rates are not posted, or

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- e. a contractor does not maintain the appropriate records, or provide records as required by Section 5 of Act 166.

Prevailing Wage on State Projects

**WITHDRAWAL OF COMPLAINTS****D4.05**

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**Purpose**

To establish procedures for withdrawal of a complaint.

**Responsibility**

The investigator is responsible for documenting the withdrawal of complaints.

The investigator is responsible for completing a closing summary with the recommended resolution of the complaint and submitting to their manager for approval

The manager is responsible for reviewing the closing summary and notifying administrative support of the proper closing letter to be sent to all parties.

**Policy**

1. A signed statement may be submitted by the complainant to withdraw a complaint, or a verbal withdrawal will be considered valid if confirmed by a letter from the department which is not disputed by the complainant within 10 calendar days of the date mailed, and the file shall be closed as withdrawn. All parties shall be copied.
2. No further action shall be taken if the complaint is withdrawn.

MCL 408.556

**Purpose**

To identify what resolves a complaint.

**Responsibility**

Wage and Hour is responsible for encouraging contractor/subcontractors to comply with the prevailing wage law.

The investigator is responsible for completing a closing summary with the recommended resolution of the complaint and submitting to their manager for approval

The manager is responsible for reviewing the closing summary and notifying administrative support of the proper closing letter to be sent to all parties.

**Policy**

1. If a complainant withdraws a complaint at any time, the file shall be closed as withdrawn.
2. If a contractor/subcontractor pays an amount, which is accepted by the complainant as resolution of the complaint, prior to the preparation of a sample audit, the file shall be closed as paid.
3. If the sample audit demonstrates a violation, the contractor and complainant shall be advised of the violation and the contractor sent a letter requesting a self-audit and payment.
  - a. If the contractor submits payment and the self-audit has no egregious errors, then a closing letter shall be sent to all parties notifying them that a violation was found, and a payment received.
  - b. If the contractor submits payment and the self-audit shows egregious errors, then the investigator shall notify the contractor of errors and request the contractor to submit a corrected self-audit with payment, if applicable.
  - c. If the contractor fails to submit payment, or if no response from the contractor is received; a closing letter shall be sent to all parties advising them of the contractor's non-compliance and that the contractor will be placed on the Complaint Investigation Non-Compliance Summary Report for a period of three years from date of file closing. The Complaint Investigation Non-Compliance Summary Report will be sent with all issued rates and upon any Freedom of Information Act (FOIA) requests for the report.

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4. The contracting agent shall be informed of the results of the investigation and advised of the right under Section 6 of Act 166 to terminate the contract if a violation is determined. All parties shall be copied with this letter.

**Application**

When correct payment is received within 10 calendar days of a Self Audit Letter mailing date, the case file will be closed as violation found, paid. When a Self Audit Letter is returned due to improper address or postage and then re-mailed, the later mailing date shall be used to calculate the 10 calendar days voluntary compliance period.

## Prevaling Wage on State Projects

**COLLECTION OF MONEY****D4.07****Purpose**

To establish uniform policy regarding the collection and distribution of money.

**Responsibility**

The investigator is responsible for the timely submission of any checks or money orders received in the field. Wage and Hour staff is responsible for accounting and distribution of funds received in the office.

Wage and Hour shall distribute and account for funds collected.

**Policy**

Wage and Hour shall request the payment of money by check or money order made payable to the construction mechanic(s) for the payment of prevailing wage complaints be made within 10 calendar days.

1. Direct payment to construction mechanics shall be permitted provided proof of payment is submitted to Wage and Hour (i.e.: canceled checks, signed receipt, proof of direct deposit).
2. Payments, by check or money order, made payable to the State of Michigan received in the field by Wage and Hour representatives, must be mailed to Wage and Hour Lansing office on or before the next business day.
3. Payments, by check or money order, made payable to the construction mechanic, received in the field by Wage and Hour representatives, must be mailed to Wage and Hour Lansing office, or delivered to the construction mechanic, on or before the next business day.
4. Cash payments to Wage and Hour representatives are prohibited.
5. When payment is made in the presence of an investigator, the investigator shall document the payment in a report.
6. When a check is hand delivered to the construction mechanic, the investigator shall;
  - a. Identify the construction mechanic with a pictured ID, and
  - b. Have the construction mechanic acknowledge receipt of the check by signing the report that documents the delivery of the check to the construction mechanic.

**Application**

**Checks made out to the department shall be immediately deposited in the Wage and Hour account. Checks made payable to the State of Michigan for an amount \$500 or greater will be deposited immediately, however, the payment to the claimant will not be made until after 30 days after the deposit date to allow the check to clear; checks payable to the State of Michigan less than \$500 will not be held. A State of Michigan check shall be issued to the employee.**