

Delinquent Certified Payroll

Notice of Delinquent Certified Payroll

When weekly certified payrolls are delinquent as defined above, the engineer is to provide the prime contractor a first written notice of delinquent certified payrolls by certified mail or other method which establishes the date the first notice was received by the prime contractor, with a copy by regular mail to the offending subcontractor. The region coordinator for prevailing wage compliance is to receive a copy by regular mail. The notice informs the contractor that payment for work is suspended as of the date the certified payrolls became delinquent for the work items of the offending contractor(s). When the pay estimate is generated, the statement "Items withheld-Delinquent payrolls" should be entered in the comments area. In addition, the notice is to state that if certified payrolls remain delinquent after 30 calendar days from receipt of the first notice, non-compliance damages will be assessed retroactive to the date the contractor received the first notice. The damages will be assessed on a calendar day basis until complete and accurate certified payrolls are submitted and are current.

If the certified payrolls continue to be delinquent after 30 calendar days from receipt of the first notice by the prime contractor, the engineer is to implement the actions from the first notice. Concurrently, the engineer is to send the prime contractor a second written notice of delinquent certified payrolls by certified mail or other method which establishes the date the second notice was received by the prime contractor, with a copy by regular mail to the offending subcontractor. The region coordinator for prevailing wage compliance and the C&T Division prevailing wage compliance specialist are to receive a copy by regular mail. The notice is to state if the certified payrolls remain delinquent for 30 days from the receipt of the second notice, the engineer will rescind all previous payments for work completed by the offending contractor(s). In addition, the engineer will complete interim Contractor Performance Evaluations for the offending contractor. If certified payrolls have not been received from the contractor after 30 calendar days from receipt of the second notification, the engineer is to implement the actions from the second notice. In all circumstances, the withholding of payments, assessment of non-compliance damages, and rescinded payments are to continue until all delinquent certified payrolls are current, complete and correct.

The notification sequence previously described would be as follows:

Initiate Notice	Notice Sequence	Contractor Notice of Action	Allotted Time For Response /Resolution	If No Response /Resolution
First payroll has not been received within 3 weeks.	First Notice (See Note 1)	Payment is being withheld for offending contractor's work items. Non-payment will continue until complete and accurate payrolls are received. Intent to assess non-compliance damages until all payrolls are complete, accurate and current. (See Notes 2 and 3)	30 days from receipt of first notice by the prime contractor	Implement actions from the first notice. Send second notice.
Payroll remains delinquent 30 days after first notice received by prime contractor	Second Notice (See Note 1)	Intent to rescind all prior payment for the offending contractor's work items. Intent to submit interim Contractor Performance Evaluation(s) for the offending contractor(s). (See Note 2)	30 days from receipt of second notice by the prime contractor	Implement actions from the second notice

Note 1: Notice is to be signed by the engineer and delivered by certified mail or other method which establishes the date received by the prime contractor. The region coordinator for prevailing wage is to be copied on the first notice to the prime contractor. The region coordinator for prevailing wage and the C&T Division's prevailing wage compliance specialist are to be copied on the second notice to the prime contractor.

Note 2: Prior to generating an estimate on which payment is being withheld or deducted, the following statement will be entered in the comment box: "Items withheld – Delinquent payroll".

Note 3: See Table 1 Schedule of Non-Compliance Damages

The engineer should work with the project design staff during the development phase of the project to include Notice to Bidders 03NB12, Prevailing Wage Oversight for Short Duration Projects, for projects with a progress schedule duration of 75 days or less. The Notice to Bidders reduces the "grace period" from three weeks to two weeks for the initial certified payroll submittal, and adjusts the allotted time for response/resolution from the above table. This will allow the engineer time to ensure resolution will be

obtained prior to the contract completion date. The Notice to Bidders 03NB12 is to be included in the bidding documents prior to the project advertisement or by addendum.

Table 1 Schedule of Non-Compliance Damages

Contract/Subcontract/P.O./Invoice Amount ^a	Non-compliance damages per calendar day
\$0 to 49,999	\$200
50,000 to 99,999	400
100,000 to 499,999	600
500,000 to 999,999	900
1,000,000 to 1,999,999	1,300
2,000,000 to 4,999,999	1,550
5,000,000 to 9,999,999	2,650
10,000,000 and above	3,000
Trucker	\$200

^a "Contract" amount if offending contractor is the prime contractor. "Subcontract/P.O./Invoice" amount if offending contractor is a subcontractor/vendor.