

DATE: March 20, 2008

TO: Region Engineers
Region Delivery Engineers
TSC Managers
Resident/Project Engineers
Region Construction Engineers

FROM: Larry E. Tibbits
Chief Operations Officer

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Engineer of Delivery

SUBJECT: Bureau of Highway Instructional Memorandum 2008-06
Prevailing Wage Oversight Procedures

The attached documents provide guidance for MDOT personnel on the process and procedures for prevailing wage oversight on construction projects with federal and state funding. The documents include:

- Procedures for prevailing wage oversight
- Functions, duties and responsibilities matrix
- Certified Payroll Review Checklist, form 1952
- Certified Payroll Status Record, form 1954
- Contractor's Certified Payroll Report, form 1955

The procedures have been updated to reflect the current expectations for performing prevailing wage oversight duties, and to promote a consistent approach for the prevailing wage program across the regions. The procedures include information to clarify many aspects of the overall prevailing wage program, including areas where the federal and state programs differ.

The matrix is provided to define the roles and responsibilities for the parties involved in implementing the procedures.

The certified payroll review checklist, form 1952, is for use as a quick reference tool to assist in the review of contractor certified payrolls.

A revised certified payroll status record form is for use in documenting receipt of certified payroll. This form contains a new area for documenting notifications sent to prime contractors for delinquent, deficient or incorrect certified payrolls, and for resolution of violations found

during the review process. This documentation is critical for the success of the oversight program.

These procedures are effective immediately, with the exception of those placing additional responsibilities on the prime contractor. The additional responsibilities for the prime contractor will take effect with contracts let on May 2, 2008. Additionally, these procedures will replace Sections 101.5, 101.6, 101.7 and 101.8 in the next revision of the *Construction Manual*.

Chief Operations Officer

Engineer of Delivery

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Attachments

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Prevailing Wage Compliance and Certified Payrolls

General Information

This document is intended to provide information and guidance regarding state and federal prevailing wages, as well as specific procedures and responsibilities to be carried out by the department and the contractor to assure compliance with contract prevailing wage provisions.

Contractor's Responsibilities

State prevailing wage requirements are set forth in the State of Michigan Prevailing Wage Law, Act 166, P.A. of 1965. Federal prevailing wage requirements are included in the Davis Bacon and Related Acts, some of which are set forth in Title 29 of the Code of Federal Regulations (CFRs), Parts 3 and 5. The requirements of these CFRs along with other federal regulations are included in FHWA 1273, which sets forth the Required Contract Provisions for federal aid construction contracts. FHWA 1273 is included in all MDOT let federal aid contracts.

The prime contractor is responsible for all subcontractor and lower-tier subcontractor compliance with the requirements for state and federal prevailing wage. Note: The term subcontractor includes any company with which the prime contractor has entered into a contractual agreement to work on the project. Each prime contractor and subcontractor is liable for the payment of prevailing wage rates to its employees. The prime contractor is also liable for the payment of prevailing rates that are not paid by their subcontractors. In order to comply with these requirements, the prime contractor must:

- Advise all subcontractors of prevailing wage requirements and that all employees must cooperate during wage rate interviews.
- Submit all required weekly certified payrolls for themselves, each subcontractor, and each lower-tiered subcontractor to the project engineer.
- Submit MDOT Form 1955 with each weekly payroll submittal verifying that certified payroll has been reviewed, as described in this procedure under "Certified Payroll Review".
- Display labor compliance posters and wage determinations on the jobsite.

Submittal requirements for the first weekly certified payroll on each contract are allotted a three week "grace period". The three week period is to allow for processing and review of the certified payrolls by the prime contractor. Subsequent certified payrolls shall be submitted on a weekly basis thereafter.

In addition, the first weekly certified payroll must also include:

- An hourly breakdown of fringe benefits paid each work classification and the program administrator contact information with the first certified payroll for each contract.
- Identification of trainees and apprentices, and program levels.

These contractor requirements are supplemental to all other required contract provisions.

State Prevailing Wage

The Michigan Department of Labor & Economic Growth (DLEG) determines prevailing rates pursuant to the Prevailing Wage Law, Act 166, P.A. of 1965. The purpose of establishing prevailing rates is to provide rates of pay for workers on construction projects for which the state is the contracting agent and which are financed or financially supported by the state. By law, prevailing rates are compiled from the rates contained in collectively bargained agreements that cover the locations of the state projects. The prevailing rates attached to state projects provide an hourly rate which includes wage and fringe benefit totals. Special attention should be paid to overtime and premium pay requirements, as they may vary from federal prevailing wage requirements.

Federal Prevailing Wage

The Davis-Bacon and Related Acts (DBRA) “prevailing wage” is made up of two interchangeable components – the basic hourly wage and the fringe benefits. The wage rate decision in the contract will list a basic hourly rate for all classifications and a fringe benefit for each classification. The total of the basic hourly wage and the fringe benefits comprise the “prevailing wage” requirements. The prevailing wage requirement may be met by any combination of hourly wages and creditable “bona fide” fringe benefits provided by the employer. Fringe benefits may be paid in one of the following manners.

- The total, including any fringe benefits listed for the classification, may be paid entirely in hourly wages.
- Payments made or costs incurred by the contractor for “bona fide” fringe benefits may be creditable toward fulfilling the requirements.
- A combination of hourly wages and “bona fide” fringe benefits may be used to meet the total required prevailing wage.

Examples of “bona fide” fringe benefits under DBRA include the following.

- Life insurance
- Health insurance
- Pension
- Vacation
- Holidays
- Sick Leave
- Disability insurance
- Defrayment of costs for apprenticeship programs
- Others as approved by the Secretary of Labor

The following are examples of fringe benefits not allowed under DBRA.

- Workers compensation
- Unemployment compensation
- Social security contributions
- Uniforms
- Clothes

- Safety Equipment
- Use of a company vehicle
- Christmas or other bonuses

If there are any questions on the eligibility of a fringe benefit listed on the contractor's breakdown, contact the Construction and Technology (C&T) Division's prevailing wage compliance specialist.

Wage Decisions

All MDOT-let contracts will contain either the state or the federal wage decision. On contracts involving two or more projects and job numbers and the type of funding is mixed, when one source of funding is federal, MDOT only places the wage rates issued by the U.S. Department of Labor (USDOL) in the contract. Federal requirements apply for all the contracted work. On contracts where DBRA does not apply, the state wage decision will be in the contract.

On most contracts where DBRA prevailing wages apply, the General Decision MI7 (AIRPORT & BRIDGE, HIGHWAY, SEWER/INCID. TO HWY.) is used in MDOT contracts with federal funds. There are some exceptions, which are detailed in each contract and discussed below.

Multiple Wage Decisions

The USDOL requires multiple wage decisions to be placed in contracts in which a second category of work is substantial in relation to project cost. Substantial is defined as more than 20 percent (or \$1,000,000). The following are the most common types of work that may require an alternate decision:

- Sewer and watermain
- Landscaping
- Rest area or other buildings

When one or more of the above types of work is more than 20 percent of the contract cost or \$1,000,000 (based upon the engineer's estimate), an alternate wage decision will be included in the contract along with the MI7 decision. The wages in the alternate decision can only be used for the type of work that is more than 20 percent of the contract cost or \$1,000,000. All other work performed on the project will be subject to the wages in the MI7 decision.

Sewer and watermain work (MDOT prequalification classification K) is considered to fall under the Heavy Construction work classification; therefore, when that work type is more than 20 percent of the engineer's estimate or \$1,000,000, the wage decision with the construction type "HEAVY" will also be included in the contract and is to be used for the work related to the sewer and watermain work. All other work performed on the project will be covered by the "AIRPORT & BRIDGE, HIGHWAY, SEWER/INCID. TO HWY" (MI7) wage decision. If the contract also contains landscaping work, and it is not more than 20 percent of the contract or \$1,000,000, the "HEAVY" decision rates cannot be used for that work. The landscaping and restoration of areas disturbed by roadwork would be covered by the MI7 wage decision. However, any restoration of areas disturbed by the sewer and water main work would be covered under the "HEAVY" decision.

When landscape work (MDOT prequalification classification H) is more than 20 percent of the contract cost or \$1,000,000, the “HEAVY” wage decision will be included in the contract to cover all landscape work. All other work performed on the project will be covered by the MI7 wage decision. If the project is a total landscape project, only the “HEAVY” wage decision will be in the contract.

Rest area building contracts will include the construction type “BUILDING” wage decision when the Building portion of the work is more than 20 percent of the contract cost or \$1,000,000. The other work performed on the contract will be covered by the MI7 wage decision and/or the “HEAVY” wage decision (landscape and/or sewer and watermain work) if either or both are greater than 20 percent or \$1,000,000. In some cases the alternate decision is for both construction types: “BUILDING” and “HEAVY”. In this instance, the alternate decision could apply to the building, landscaping and sewer if the work for any or all is greater than 20 percent of the contract or \$1,000,000.

Certified Payrolls

Weekly certified payrolls covering the contractor’s and subcontractor’s workforce shall be submitted to the engineer on all MDOT-let contracts. Certified payroll information may be submitted in any format provided that all information requested on form WH-347 is included, and the compliance statement has original signatures. This is a USDOL form and a link is available on the MDOT Web site.

Submittal Requirements

The first certified payroll is to be received by the engineer within three weeks from the start of the work for the prime contractor and/or subcontractor(s). The three week period is to allow for processing and review of the certified payrolls by the prime contractor. The first pay estimate can be made prior to the submission of the first certified payrolls. The three week grace period allows the first estimate to be paid assuming the contractor and subcontractor(s) will submit certified payrolls in a timely manner. Subsequent certified payrolls shall be submitted on a weekly basis thereafter. Certified payroll submissions not meeting the above time requirements will be considered delinquent.

Notice of Delinquent Certified Payroll

When weekly certified payrolls are delinquent as defined above, the engineer is to provide written notice to the prime contractor by certified mail that certified payrolls from the prime and/or subcontractor(s) have not been received and payment is being withheld for work items where certified payrolls are delinquent. Payment is to be withheld from the appropriate contractor and/or subcontractor for their work items until such time all weekly certified payrolls are current. When the pay estimate is generated, the statement “Items withheld-Delinquent payrolls” should be entered in the comments area.

If the certified payrolls continue to be delinquent after 30 calendar days from receipt of the initial notification, the engineer is to notify the contractor by certified mail that payment for all work items will be withheld if the delinquent certified payrolls are not received within an additional 30

calendar days from receipt of the second notification. If certified payrolls have not been received from the contractor after 30 calendar days from receipt of the second notification, then payment for all work items is to be withheld until all certified payrolls are current. If a pay estimate was processed in good faith within the initial 3 week grace period and the certified payrolls continue to be delinquent, payment will be rescinded for the work items previously paid for where the certified payrolls are missing.

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 payroll is received (See Note 2)	30 days from receipt by contractor	Continue withholding item payments; Send second notice
Payroll remains delinquent 30 days after first notice received by contractor	Second Notice (See Note 1)	Intent to withhold payment for all work items on subsequent estimates and rescind prior payment for the offending contractor's work items (See Note 2)	30 days from receipt by contractor	Implement second notice

Note 1: Notice is to be signed by the project engineer and delivered by certified mail.

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".

The engineer should work with the project design staff to develop a Notice to Bidders for projects with a progress schedule duration of 75 days or less to adjust 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 is to be included in the bidding documents prior to the project advertisement or by addendum. The C&T Division's prevailing wage compliance specialist is available to assist with the development of the Notice to Bidders with an appropriate time frame.

Certified Payroll Status Record

The engineer is to maintain a current (updated weekly) log documenting the submittal status of certified payroll for each contract. The Certified Payroll Status Record (MDOT form 1954) is available for this purpose. The record is to show whether the contractor and/or subcontractor worked during the weekly period, and the date the certified payrolls were received from the

prime contractor. In addition, the status record should document the date any notifications are sent to the prime contractor (via certified mail) of delinquencies and/or deficiencies with certified payrolls, and the dates when the revised/corrected certified payrolls were received. All certified payrolls are to be date stamped upon receipt from the prime contractor. The envelope in which the certified payrolls arrive should be attached to the payroll and saved as part of the project file records.

The certified payroll is to include the following information:

- The firm's name and address with the prime or subcontractor(s) identified.
- Payroll number, week ending, project location and contract ID (contract identification).
- The employee's full name, address and last four digits of their social security number.
- Information identifying minority and female employees. The following ethnic code notation is to be used: Black (B), Hispanic (H), Native American Indian or Alaskan Eskimo (N/A), and Asian or Pacific Islander (A). For female use (F).
- The employee's classification and group number.
- Identification of trainees and apprentices, and program levels.
- The basic hourly rate, overtime rate and the method by which fringe benefits are paid. If fringe benefits are paid to an approved plan, a detailed breakdown of the type of benefits and hourly dollar values must accompany the first certified payroll. In addition, plan administrator contact information shall be included. If there is a change to the fringe benefits payment after submittal of the first certified payroll, the fringe benefit information must be resubmitted. This information is to be used to verify the benefits being paid are "bona fide" and that the total compensation is in compliance with the required prevailing wage in the contract.
- The employee's daily and weekly hours worked in each classification, including actual overtime hours worked.
- The itemized deductions - miscellaneous itemized deductions must be explained on the certified payroll.
- The net wages paid.
- The compliance statement with original signatures.

Certified Payroll Review

The engineer is to closely review the certified payrolls from the prime contractor and subcontractor(s) that work on the project. Once it is established that a contractor/subcontractor is submitting complete and accurate certified payrolls, subsequent payrolls need to be spot checked during the remainder of the project for that contractor/subcontractor. The review should verify that the information described above is included on the certified payroll. Form 1952, Certified Payroll Review Checklist, is available on MDOT's forms Web site to assist in checking the payrolls for completeness. In addition, the total combination of base wage and fringe benefit reported on the certified payroll should be at least the prevailing wage contained in the wage rate decision in the contract or applicable addendum.

The review should compare information contained in the certified payrolls with information on the Inspectors Daily Reports (IDRs), including number of workers, hours worked, type of work and equipment on the job. It is important that the information is accurately recorded on the IDR

each day so the proper review can be completed on the certified payrolls. The review should verify that the appropriate work classifications are reported to support the type of work being done on the job. For example, when concrete curb and gutter is being placed, there are finishers (cement masons and/or concrete specialist laborers); laborers, group 6 (form/line setters); laborers, group 1 (unskilled laborers); and operators, group 1 (if using a slipform curb machine). Compliance with prevailing wage requirements can only be determined once this comparison is made and any inconsistencies are brought to the attention of the contractor.

The rules for overtime should be considered during the certified payroll review. However, there are significant differences between overtime requirements when federal prevailing wages apply and when state prevailing wages apply.

Contracts with Federal Prevailing Wage:

- The overtime rate must be at least one and one half times the base hourly rate plus fringe benefits from the wage rate decision in the contract.
- Overtime is required to be paid for hours worked in excess of 40 hours in a work week.

Contracts with State Prevailing Wage:

- The time and one-half rate is stated in the prevailing wage schedule.
- The prevailing wage schedule for each contract will need to be referenced to determine the specific overtime payment requirements. In general, overtime is applied as follows:
 - For hours worked in excess of eight hours in a day.
 - For most classifications, the contractor may choose to work four tens (4 – 10 hour days) where overtime would be required after the tenth hour in a day and any time worked over forty hours in a week.
 - Some classifications require double time in certain situations.
 - The classification of iron worker has its own overtime requirements.

Deficient Certified Payroll

During the review, if the weekly certified payrolls are found to be incomplete, inaccurate, or inconsistent with the other project records, they are considered deficient. The engineer is to notify the prime contractor of the deficiencies in writing by certified mail with a copy by regular mail to any subcontractor(s) that may be involved, and the prime contractor shall have 30 calendar days from receipt of the notice to resolve the issues in the notification.

The contractor/subcontractor is to submit revised certified payrolls correcting all deficiencies and/or errors. The original certified payrolls submitted by the contractor/subcontractor(s) are to remain in the project files. Do not return certified payrolls to the contractor/subcontractor(s). Certified payrolls should never be altered, revised, corrected, amended or changed by project personnel (except for the date stamp).

If the issues are not resolved within 30 calendar days from the receipt of the notice, then payment is to be withheld for the work items of the contractor or subcontractor(s) who have deficient certified payrolls. When the issue persists beyond the 30 calendar day timeframe, the engineer is to notify the prime contractor in writing by certified mail that if the issue continues to be

unresolved for an additional 30 calendar days from receipt of the second notice, payment for all work items will be withheld until the certified payroll deficiency issues are fully resolved. The C&T Division’s prevailing wage compliance specialist and region coordinator for prevailing wage compliance are also to receive a copy of the second notice. If the contractor and/or subcontractor(s) do not resolve the issues within 30 calendar days of the second notification, the engineer is to withhold pay estimates for all work items until all certified payroll issues are resolved. If payments have been made for work prior to the violation becoming apparent and resolution has not been reached, the engineer is to rescind payment or generate a negative estimate in the amount that is appropriate for the 30 day actions noted above.

The notification sequence previously described would be as follows:

Initiate Notice	Notice Sequence	Notice of Action to Contractor	Allotted Time For Response /Resolution	If no Response /Resolution
Payroll deficiencies	First notice (See Note 1)	Intent to withhold payment for offending contractor’s work items	30 days from receipt	Implement 1 st notice provisions; send 2nd notice
Payroll issue not resolved 30 days after first notice	Second notice (See Note 2)	Intent to withhold payment for all work items on subsequent estimates	30 days from receipt	Implement 2nd notice

Note 1: Written notice is to be signed by the engineer and delivered by certified mail to the prime contractor. The offending subcontractor(s) and the region coordinator for prevailing wage will be copied by regular mail.

Note 2: Written notice is to be signed by the engineer and delivered by certified mail to the prime contractor. In addition, the offending subcontractor(s), the region coordinator for prevailing wage, and the C&T Division’s prevailing wage compliance specialist will be copied by regular mail.

The engineer should work with the project design staff to develop a Notice to Bidders for projects with a progress schedule duration of 75 days or less to adjust 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 is to be included in the bidding documents prior to the project advertisement or by addendum. The C&T Division’s prevailing wage compliance specialist is available to assist with the development of the Notice to Bidders with an appropriate time frame.

Wage Rate Interviews

Wage rate interviews are required to be performed at least once for each contractor and/or subcontractor when they are on the job, throughout the life of the project, for both state and federally funded projects. For multi-year projects, wage rate interviews are to be conducted with all contractor/subcontractors each season that they perform work on the project.

When a contractor/subcontractor works on multiple MDOT projects within a region during a construction season, the number of projects where wage rate interviews are required may be reduced for that contractor/subcontractor when the following criteria are met:

- The contractor/subcontractor certified payrolls must be current and complete.
- The contractor/subcontractor can not have been involved in any prevailing wage violation actions within the last 12 months or have had any unresolved complaints.
- For prime contractors, all posters and jobsite information must be posted as required.

If the above criteria are met, the region coordinator for prevailing wage compliance will coordinate with the TSCs to reduce the frequency of interviews to a rate of **one project in five** for a contractor/subcontractor within their region. The region coordinator will oversee the reduced frequency process and track which contractor/subcontractor(s) are eligible and which projects will have the wage rate interviews waived for those contractors. The region coordinator will provide the engineer with documentation for when wage rate interviews have been waived. This documentation will be placed in the project files. Wage rate interviews will continue to be required for all local agency projects.

The contractor and subcontractor(s) are to permit the engineer or their representative to interview employees during working hours on the project, and advise employees they must cooperate with department representatives during wage rate interviews. The prime contractor is responsible for advising subcontractor(s) of the requirement to pay the prevailing rate prior to the commencement of the work and that all employees must cooperate during wage rate interviews.

If a language barrier is encountered, employees of the contractor or subcontractor are not to assist in language interpreting. The services of a language interpreter are available to the engineer upon request. Contact the C&T Division's prevailing wage compliance specialist for information about interpreter service.

Use the Minimum Wage Rate Interview Sheet (form 1156) to record information obtained during the wage rate interview. The form is to be filled out completely. The following procedures are to be used when conducting wage rate interviews.

- Project or region staff will conduct field interviews with workers covered under DBRA or state prevailing wage on all federal and state funded projects in progress.
- Wage rate interviews will be completed each season for multi-season projects.
- Interviews will be conducted with a representative sample of the work force for each contractor and subcontractor on the project during each construction season. Each classification and group should be included in the interview process. Operators of equipment and trucks whose ownership is not clearly identified should be interviewed.

- Interviews should be completed during the early part of the project to verify prevailing wage compliance. If issues are found, they need to be dealt with immediately.
- The interview is to be done to ensure the privacy of the workers. Coworkers and supervisors are not allowed to be present during the interview or allowed to hear the interview.
- The worker shall be given a standard business card with contact information in the event the interviewee would like to discuss the interview issues further, supply additional documentation or information, or to continue the interview in a more private and confidential setting.

The engineer will compare the wages and the work classifications documented on form 1156 with the certified payrolls, IDRs, inspector's observations, diaries, documentation in the project files and prevailing wage compliance requirements in the contract. If deficiencies or discrepancies (i.e., an employee is not paid prevailing wages and fringe benefits as stated in the contract) are found, the engineer is to look into the apparent violation (see section In-Depth Examinations below for further guidance). The engineer should contact the C&T Division's prevailing wage compliance specialist and region coordinator for prevailing wage compliance to discuss the examination and any actions that may be taken as a result of the findings.

In-Depth Examination

When an apparent prevailing wage compliance violation arises and an in-depth examination of the certified payroll records becomes necessary, the engineer is to contact the region coordinator for prevailing wage compliance for guidance and assistance. It is imperative that during any examination the identity and privacy of all individuals be protected. DBRA regulations require strict confidentiality for individuals. All discussions and communications with contractors and others must be general and all encompassing so individuals can not be singled out. Examinations may be required due to a number of reasons including, but not limited to, the following:

- Wage rate interview issues
- Employee complaint
- Certified payroll discrepancies
- Fraud and Abuse Hot Line calls
- Laborer's Council requests
- Contractor requests
- Inspector observations
- Other issues

Depending on the nature of the issue, a number of avenues may be pursued. Examinations will need to utilize, but will not be limited to, the following:

- Information in the project files which may include: IDRs, certified payrolls, payroll status records, wage rate interviews, diaries, force account records, delivery tickets, progress reports or other sources from the files and other readily available project information.
- Interviews with present and former employees of the contractor.
- Documentation from employees such as time cards and check stubs.
- Information from the contractor or subcontractor(s).

The examination may require detailed observation of the contractor's activity on the job and documenting the number of workers, hours on the project and equipment in use. It is important that any information gathered and used in any examination be factual and accurate, as it may have to withstand the scrutiny of a court proceeding. The information from these and any other sources should be reviewed and analyzed to either support the existence of a violation, that no violation has occurred, or that there is not enough evidence to make a determination and further investigation is needed.

When it is determined that an investigation will need to go beyond what is readily available to the engineer in the project files and other sources, the C&T Division's prevailing wage compliance specialist is to be contacted. The situation will be reviewed and a determination made whether to pursue the issue further and turn it over to others to perform the investigation.

Restitution

If the engineer and the region coordinator for prevailing wage compliance determine there are prevailing wage violations and restitution is required, the C&T Division's prevailing wage compliance specialist is to be notified. If possible, the amount of restitution will be determined and the engineer is to notify the prime contractor of the violation and restitution amount in writing by certified mail, with a copy by certified mail to any subcontractor(s) that may be involved. When the restitution amount has been determined, the engineer will withhold payment equal to the amount of the restitution. The contractor shall have 60 calendar days from receipt of the notice to resolve the prevailing wage violation. The engineer and the contractor can mutually agree in writing to extend this 60 day requirement. A copy of all correspondence dealing with prevailing wage violations will be sent to the C&T Division's prevailing wage compliance specialist and region coordinator for prevailing wage compliance. In addition, any extension of the 60 day requirement will be discussed with the C&T Division's prevailing wage compliance specialist and region coordinator for prevailing wage compliance.

The engineer will require the contractor to submit revised certified payrolls and canceled checks as proof of restitution. If the violation involves a subcontractor, the engineer and region coordinator for prevailing wage compliance are to work through the prime contractor to assure that restitution is made. Once restitution has been made, the amount is to be reported to the C&T Division's prevailing wage compliance specialist.

Post-Construction

When prevailing wage violations become apparent after the final estimate has been processed, the contractor is to be notified of the violation(s) in writing by certified mail with a copy to the C&T Division's prevailing wage compliance specialist and the region coordinator for prevailing wage compliance. If the violation involves a subcontractor, a copy of the letter will go to the subcontractor. The letter will give notice that if the issue is not resolved within 60 calendar days from contractor receipt of notification, a post final negative estimate is to be generated rescinding payment in the amount required for restitution for the violation from the work items of the contractor found to be in violation.

Contractor Performance Evaluation (CPE)

When a contractor/subcontractor(s) is found to be in non-compliance with the state prevailing wage or DBRA requirements and fails to take the necessary actions to become compliant, the engineer is to document the non-compliance through the use of the CPE process. Item number five includes prevailing wage compliance. During the project, when issues are found and there is a lack of cooperation from a contractor/subcontractor, an interim evaluation is to be submitted. The documented record of non-compliance is important when contractor prequalification is being reviewed for possible negative action. The use of the interim CPE can assist in getting the contractor to become compliant while the project is active. Without accurate and timely evaluations, corrective action with contractors is difficult to achieve.

Prevailing Wage Discussion at the Preconstruction Meeting

The following issues are to be discussed at the preconstruction meeting to establish the expectations of MDOT for the contractor with regards to prevailing wage compliance during the work on the contract:

- The Wage Rate Decision(s) to be used when there are multiple decisions in the contract.
- The wage classifications to be used when there are apparent overlaps in classification duties and rates (Open-cut; Airport, Bridge, Highway Construction; Underground etc.).
- Submittal of certified payrolls through the prime contractor.
- Prime contractor's responsibility for prevailing wage compliance for all subcontractors on the project.
- Posting of wage rates and posters on the job site.
- Wage Rate Interview process and availability of employees for interviews.
- Other issues as needed.

Jobsite Posting

The following is a list of items to be posted at the job site for projects covered under federal and state prevailing wage requirements:

- OSHA 3165 – Job Safety and Health Protection
- OFCCP 1420 – Equal Employment Opportunity is the Law *
- WH-1420 – Your Rights Under Family and Medical Leave Act of 1993
- WH-1321 – Notice to Employees (Davis-Bacon Wage Rate)
- WH-1495 – Wage Rate Information * (May be substituted for FHWA 1321)
- FHWA 1022 – Notice: Federal Aid Projects *
- WH-1462 – Notice: Employee Polygraph Protection Act

These posters may be obtained by calling 800-927-7332 (USDOL Office of Small Business Programs). For informational purposes, pdf versions may be downloaded at: <http://www.dol.gov/osbp/sbrefa/poster/matrix.htm> .

- State of Michigan Civil Rights poster *
- State of Michigan Title VI poster *

*These posters may be obtained by calling 517-373-8546 (MDOT's Business Development Division).

The contractor is also required to post the following at the jobsite:

- Prevailing wage rates from the contract
- Equal Employment Opportunity (EEO) policy statement
- Letter appointing an EEO officer for the contract

Supervisors and Working Foremen

Supervisory and managerial workers are generally not covered by federal or state prevailing wage requirements. However, working foremen who perform the work of mechanics and/or laborers on the job may be subject to prevailing wage requirements. On projects covered by DBRA, if the supervisor or working foreman devotes more than 20 percent of their time during the time worked during a work week to laborer or mechanic duties, they are considered to be laborers or mechanics for the time spent performing those duties and are subject to prevailing wage requirements. The state prevailing wage requirements are similar to those under DBRA except that the time requirement is more than 40 percent of their time in a work week.

Supervisors and working foremen that meet the above criteria must be reported on certified payrolls with the same reporting requirements as laborers and mechanics. For the time the supervisors and foremen are not performing DBRA covered duties, they still need to be included on the certified payrolls although their work hours and wages do not need to be reported.

Apprentices and Trainees

Apprentices and trainees are allowed to be paid at rates that are below the prevailing rates as long as they are registered in the approved apprenticeship programs discussed below. They are to be paid a percentage of the prevailing rate based upon their level of progression within their program.

Davis-Bacon

An apprentice is a person employed and individually registered in a bona fide apprenticeship program registered with the USDOL, Employment and Training Administration, Bureau of Apprenticeship and Training (BAT); or with a state apprenticeship agency recognized by BAT, or a person who in the first 90 days of probationary employment as an apprentice in such an apprenticeship program; is not individually registered in the program, but who has been certified by BAT or a state apprenticeship agency to be eligible for probationary employment as an apprentice. The C&T Division prevailing wage compliance specialist should be contacted to verify all apprenticeship programs and to obtain appropriate documentation of the approved program from the contractor for the project files.

State Prevailing Wage

In order for the contractor to pay apprentice rates to employees, all of the following criteria must be met:

- The employee must be registered with the USDOL, BAT.
- The contractor must provide the engineer with a registration certificate from the BAT for each apprentice.
- The contract must include apprentice rates as part of the prevailing wage rate schedule.

If any of the above criteria are not met, the contractor shall be required to pay the journeyman rates in the prevailing wage decision.

Information contained in the registration certificate will enable the engineer to verify the correct wages are being paid the apprentice employees. Fringe benefits are to be paid to apprentices in accordance with the provisions of the registration certificate. If the registration certificate is silent on fringe benefits, then the apprentice is to receive full benefits. Information in the registration certificate will also allow the engineer to verify that the ratio of apprentices to journeyman workers on the project is in accordance with the ratio set up in the apprenticeship program (this requirement only applies to DBRA covered projects). Any questions regarding the apprentice program should be directed to the C&T Division prevailing wage compliance specialist or the region coordinator for prevailing wage compliance.

MDOT's On-the-Job Training (OJT) Program

Trainees are persons employed by the contractor and are covered under MDOT's OJT program. The program is managed by the Business Development Division.

For trainees, the wage rates schedule is listed in the Special Provision for On-The-Job Training Program in the contract as a percentage of the journeyman level prevailing wages. Trainees are to receive fringe benefits during their entire training period. For additional information and questions regarding the OJT program, contact the OJT technician in the Business Development Division at 517-241-2981.

Davis-Bacon and State Prevailing Wage Information

The following information clarifies various areas of DBRA and Michigan prevailing wage compliance oversight, and assist in consistent interpretation of the regulations.

Definition of Site of Work

The USDOL regulatory definition (See 29 CFR 5.2) for "site of the work is the physical place or places where the . . . work called for in the contract [is occurring]; and any other site where a significant portion of the . . . work is constructed, *provided* that such site is established specifically for the performance of the contract or project."

The site of work for most MDOT projects is defined as the entire construction site as specified in the plans and contract. The site of work also includes batch plants, borrow pits, job headquarters, tool yards, etc., provided they are established for and dedicated exclusively, or nearly so, to the . . . project, **and** are adjacent or virtually adjacent to the site of the work.

The following locations are specifically excluded from the site of work definition:

- Permanent home offices, branch plant establishments, fabrication plants, tool yards, etc., of a contractor or subcontractor whose location and continuance in operation are determined wholly without regard to a particular federal or federally–assisted project. In other words, if it is a permanent site that is not dedicated to the job, it is not within the site of work definition.
- Fabrication plants, batch plants, borrow pits, job headquarters, tool yards, etc., of a commercial or material supplier that are established by a supplier of materials for the project before opening of bids, **and** not on the site of the work, even where such operations for a period of time may be dedicated exclusively, or nearly so, to the performance of a contract.

Truck Drivers

Coverage of truck drivers under DBRA and state prevailing vary in several areas. The following guidance is to be used to determine whether truck drivers are covered under DBRA and state prevailing wage regulations.

Truck drivers are covered by DBRA while:

- They are working on the “site of the work.”
- Hauling to or from a facility that is deemed part of the “site of the work.” (For example, driving between the job site and a dedicated batch plant or tool yard located adjacent to, or virtually adjacent to, the job site).

Truck drivers are not covered by DBRA in the following instances:

- If the driver is not working exclusively on the site of work. To be covered by DBRA, the time spent working on site must be more than de minimis (20 percent or more of the work week).

Examples when a truck driver is not covered by DBRA include, but are not limited to, the following:

- While off the “site of the work.” The transportation of materials supplies, tools, equipment, etc., from one site of work to another is not covered unless such sites are dedicated and adjacent.
- While loading and/or unloading materials and supplies on the “site of the work.” As a practical matter, since the majority of time spent by material delivery truck drivers is off site beyond the scope of DBRA coverage and the time spent on site is relatively brief, MDOT chooses to use a rule of reason and will assume that some activities will never exceed de minimis. These items include, but are not limited to:
 - Trucks delivering materials to a stockpile.
 - Trucks delivering materials along the jobsite for later installation. Example: concrete pipe, traffic control devices, etc.
- Drivers traveling between a DBRA project and a commercial supply facility, while they are off the “site of the work.”
- The travel time between two DBRA projects. The one exception to this rule is when there are adjacent projects under the same or different contracts that were established to

accomplish the same objective (60 miles of resurfacing may be broken into several contracts), then all of these projects are considered contiguous and travel between sites is covered by DBRA.

Truck drivers are covered under state prevailing wage when:

- Truck drivers are employed by the contractor/subcontractor and are making product and materials delivery (i.e. sand, HMA, concrete, barricades, signs) to the project. Note: “Site of Work” and “de minimis” criteria are not applicable.
- Truck drivers working under a subcontract and making product or material deliveries or simply dropping off materials/products (i.e. sand, HMA, concrete, barricades, signs) on the site of the work. Note: “Site of Work” and “de minimis” criteria are not applicable.

Truck drivers are not covered under state prevailing wage when:

- Truck drivers are making product and material deliveries (i.e. sand, HMA, concrete, barricades, signs) to the work site under a purchase order or invoice and are not employed by the contractor/subcontractor or do not have a subcontract.
- Broker trucking – product and material deliveries (i.e. sand, HMA, concrete, barricades, signs) who are not employed by the contractor/subcontractor, do not have a subcontract in place and are working under a purchase order, invoice or priced per load agreement.

Bona fide owner-operators of trucks who own and drive their own truck and operate the truck on the “site of the work” are not covered under DBRA or state prevailing wage requirements. However, the contractor who hires the owner-operator must include the names of such owner-operators on their certified payrolls, but do not need to show the hours worked or rates paid, only the notation “owner-operator.” (Note: This applies only to the individual owner of a truck. The same policy does not apply to owner-operators of other equipment such as bulldozers, backhoes, cranes, welding machines, etc.)

Product and Material Suppliers Personnel

Product and materials suppliers such as barricade companies are not generally subject to DBRA coverage unless they are spending more than a de minimis amount of time on the site of work (20 percent or more of the work week). This 20 percent rule applies to individual projects and is not cumulative.

However, the USDOL maintains that when a material supplier, manufacturer, or carrier undertakes to perform part of a construction contract as a subcontractor, its laborers and mechanics employed at the site of the work are subject to the prevailing wage requirements in the same manner as those employed by any other contractor or subcontractor. Prevailing wages must be paid to the employees for all time spent working on the site of work, and certified payrolls must be submitted to the engineer. In other words, if the traffic control company puts the devices into place as specified by the contract documents (not just unloading them off to the side of the road), then they have undertaken the performance of part of the contract and all work done under the contract is then covered.

Examples of when DBRA coverage is required:

- Placing/moving temporary signs and barricades on the DBRA covered site of work in accordance with the requirements of the contract (including initial placement).
- Providing flag control on a DBRA covered site of work.

Examples when DBRA coverage **is not** required:

- Drop off and pick up of traffic control products on the site of work when this time is de minimis.
- Maintaining/servicing temporary signs and barricades, replacing lights, etc., when this time is de minimis.
- Drop off and pick up of traffic control products at contractor's yard outside the site of the work.
- Travel between DBRA-covered projects.

Post Tensioning of Concrete Beams at the Site of Work

The USDOL regulatory definition (See 29 CFR 5.2) of "construction" includes "[m]anufacturing or furnishing of materials, articles, supplies or equipment on the site of the . . . work . . ." as well as the installation of items fabricated off site. For example, employees of a materials supplier who are required to perform more than an incidental amount of **construction work** in any work week at the site of the work would be covered by DBRA and due the applicable wage rate for the classification of work performed.

For enforcement purposes, the USDOL adopts a policy that if such an employee spends more than 20 percent of his/her time in a work week engaged in the work of a laborer or mechanic on the site of work, he/she is subject to DBRA coverage for all time spent on the site during the work week. DBRA coverage does not apply to factory representatives who simply observe and monitor the post tensioning activities.

Prevailing Wage Oversight Quality Assurance

In order to assure compliance with MDOT prevailing wage oversight procedures, Quality Assurance (QA) reviews will be conducted at all levels of prevailing wage oversight for MDOT let contracts.

The following process is to be followed at all of the levels of oversight.

- In order to identify any problems with prevailing wage compliance, the QA reviews will be conducted each construction season while the contract is active.
- A sufficient number of contractors assigned to the contract will be reviewed to assure compliance with prevailing wage requirements.
- Certified payrolls and other project documentation will be reviewed to determine compliance. The certified payroll review checklist form 1952 will be used for the review.
- If deficiencies are discovered during the review, follow-up and document the resolution. When deficiencies are found, the proper procedures are to be reviewed with the engineer.

During the review, the following prevailing wage compliance procedure requirements are to be checked:

- All posters and jobsite information must be posted, as required.
- Wage rate interviews are conducted according to the prevailing wage procedures.
- The certified payrolls are completed properly and agree with project documentation.
- The workers for all classifications were paid the correct wage.

Local Agency Level

- The region coordinator for prevailing wage compliance will work with the engineer of each TSC to assure that a QA review is done for a minimum of one contract for each local agency under the jurisdiction of the TSC. Additional reviews may be needed if the level of compliance is questionable.
- Once the review is complete, the engineer will forward a copy of the review documents to the region coordinator.
- The region coordinator will review the documents to assure compliance with MDOT procedures and forward a copy to the C&T Division prevailing wage compliance specialist.

TSC Level

- The region coordinator for prevailing wage compliance will conduct random QA reviews for each TSC in the region.
- The region coordinator will select a minimum of 10 percent of TSC projects for review. If the TSC has less than ten projects in a construction season, then at least one project is to be reviewed. Additional reviews may be needed if the level of compliance is questionable.
- Once the review is complete, the coordinator will forward a copy of the review documents to the C&T Division prevailing wage specialist.

Statewide Level

The C&T Division wage compliance specialist assures compliance of the prevailing wage oversight program statewide. The following process will be used:

- Review reports from region coordinator for prevailing wage to assure oversight compliance at the TSC and local agency level.
- Select a minimum of one contract from each region for QA review of prevailing wage compliance.
- In addition to the above, review a minimum of one consultant-administered contract if applicable.

**Prevailing Wage Oversight Functions and Duties Matrix
Federal Aid & State Funded
Projects**

Abbreviations

CP = Certified Payroll
 WRI = Wage Rate Interview
 RC = Region Coordinator
 PWCS = Prevailing Wage Compliance Specialist-Central Office
 PW = Prevailing Wage
 FHWA = Federal Highway Administration

USDOL = United States Department of Labor
 FAHL = Fraud and Abuse Hot Line
 AG = Attorney General
 OJT = On the Job Trainee
 MDOT = Michigan Department of Transportation
 DLEG = Department of Labor and Economic Growth

Function/Duty	Responsible Party			
	TSC	Region	Central Office	Contractor
Provide guidance and advice on PW issues		Assist PWCS with this function with TSC personnel	Lead activity for this area to coordinate with RC and TSCs	
Conduct training for PW compliance oversight at various levels and groups		Assist PWCS in conducting region level training including local agencies and consultants	Lead and coordinate training at all levels in MDOT, local agencies and consultants	
Organize and conduct an annual meeting with the RCs to improve consistency and uniformity in the statewide PW compliance program			Lead duty	
Provide updates on procedures and changes to the PW regulations to MDOT and other personnel		Assist PWCS as needed	Lead duty	
Act as technical advisor on all PW issues on MDOT committees and task forces		Assist PWCS as needed	Lead duty	
Serve as MDOT liaison with USDOL, DLEG, FHWA and industry on PW issues			Lead duty	

Function/Duty	Responsible Party			
	TSC	Region	Central Office	Contractor
Coordinate PW over sight activities on a statewide basis to provide consistency and uniformity in the PW compliance program			Lead duty	
Discuss PW compliance at precons	Lead duty	Assist TSC as needed		Discuss PW requirements with all subcontractors
Monitor & document CP submission on Status Log for all contractors	Lead duty			Prime & Subs submit CPs to Engineer through the Prime
Conduct in depth review of CPs to verify acceptable quality, including proper format, content, and compliance; when contractor submits acceptable quality CPs; then spot check	Lead duty			Submit properly completed CPs
Obtain OJT and Apprentice Program documentation from contractor, review for compliance and maintain records in project files	Coordinate with PWCS for verification when apprentices and OJTs are listed on CPs		Assist the TSC's with verification of approved program documentation and wage rates	Provide TSC with OJT & Apprenticeship Program documentation
Determine the projects where WRIs will be conducted	Work with the RC to coordinate WRIs	Lead duty for RC to coordinate with TSC		
Verify that PW rates and posters are posted on all projects	Lead duty	RC randomly audits 10% of projects		Post wage rates and posters on the job in conspicuous place
Verify the accuracy of CPs using project documentation	Lead duty	RC randomly audits 10% of projects		
Perform WRIs for the TSC projects	Lead duty	RC randomly audits 10% of projects		Make employees available
Compare information from WRI with CPs & other project documentation to verify compliance	Lead duty	RC randomly audits 10% of projects		
Conduct and document QA reviews on all aspects of the PW compliance oversight program statewide		Assist PWCS as needed	Lead duty	

Function/Duty	Responsible Party			
	TSC	Region	Central Office	Contractor
Provide assistance and guidance to local agencies & consultants on PW issues and oversight procedures	Lead duty	Assist TSC as needed	Assist RC and TSC as needed	
Conduct QA review of PW oversight program on local agency projects	Shared responsibility with RC	Shared responsibility with the Engineer		
Identify WRI issues, conduct follow-up data gathering on WRI issues to verify compliance needs	Lead duty	Act as support in follow up activities in data gathering and coordinate with PWCS.	Provide guidance and assistance as needed to RC and TSCs	Cooperate with Engineer in providing documentation & records and resolve issues
Coordinate PW activities as assigned on issues from the FAHL, complaints or other sources; document actions taken and follow-up until the issues are resolved	Assist PWCS and/or RC with this activity as needed	Assist PWCS as needed	Serve as coordinator and assist others as needed	
Identify potential PW violations and issues for possible investigation by others	Assist RC and PWCS as needed	Assist TSC and PWCS as needed	Work with region and central staff to determine if an investigation is required; submit to others for further action	Cooperate with Engineer in providing documentation & records and resolve issues
Take appropriate action when PW violations are found during investigation by others	Lead duty	Works with PWCS and others	PWCS provide support	
Provide oversight and follow-up with TSC to verify resolution is reached on all PW issues identified in investigation by others	Initiate appropriate actions to obtain resolution of PW issues	Lead duty for RC to assure resolution is reached to the extent possible	Provide guidance and assistance as needed to RC and TSCs	
Serve as coordinator for PW investigation handoffs to AG and others			Lead duty	
Compile state-wide semi annual report of PW violations and issues for FHWA and others	Assist RC as needed	Assist PWCS with providing data and information	Lead duty	
Manage the PW data base under development			Lead duty	

Function/Duty	Responsible Party			
	TSC	Region	Central Office	Contractor
Prepare miscellaneous reports and updates for the USDOL, FHWA, the Executive PW Committee (See Note 1), as needed	Assist PWCS as needed	Assist PWCS as needed	Lead duty	
Coordinate and chair the Labor Compliance Oversight Team (See Note 2)			Lead duty	

Note 1: The Executive PW Committee evaluates the prevailing wage oversight program and recommends changes, as needed. Following is the current membership – Myron Frierson (Finance and Administration), John Friend (Bureau of Highway-Delivery), Brenda O’Brien (Construction and Technology Division), Wayne Roe (Contract Services Division), David Brickey (Office of Attorney General), Jerry Jones (Office of Commission Audits), Randy VanPortfliet (Superior Region), and Mark Chaput (University Region).

Note 2: The Labor Compliance Oversight Team reviews procedures and recommends changes, as needed. Following is the current membership – Michael Eustice (Metro Region), Sue Powers (Contract Services Division), Victor Judnic (Metro Region), Gian Taneja (Construction and Technology Division), Drew Senters (Southwest Region), Yvonne Guerra (University Region), and Ali Wellington (Construction and Technology Division).

CERTIFIED PAYROLL REVIEW CHECKLIST

CONTRACT ID	PRIME/SUBCONTRACTOR
GENERAL WAGE DECISION	PAYROLL ENDING

INSTRUCTIONS: This checklist is to be used in conjunction with MDOT Form 1954 – Certified Payroll Status Record Form 1954. All certified payrolls are to be date stamped upon receipt from the prime contractor. The envelope in which the certified payrolls arrive should be attached to the payroll and save as part of the project file records.

Payroll Information Checklist:

- Contractor’s name and address and subcontractor identified
- State contract ID numbers
- Payroll No., week ending, project location, and contract ID block completed
- Employee full name, address and social security number
- Employee’s full work classification, including group or class
- Identification of female and minority employees
- Base and overtime rates shown for each employee
- Daily hours and weekly total hours for each employee
- Separate listing of daily regular overtime hours
- Net weekly wages shown and identified
- All deductions are shown and identified
- Method of fringe benefit payment is identified
- Fringe benefit package information received from contractor with first payroll
- Identification of OJTs and Apprentices on payrolls
- Compliance paragraph
- Certification statement
- Original signatures

Compliance Review Checklist:

- Verify work classifications reported are consistent with the work performed
- Verify correct wage rates are being paid
- Verify overtime is being paid correctly (Federal vs. State requirements)
- Verify that OJT and Apprentice Program documentation is in project files
- Compare payrolls with wage rate interviews when conducted
- Compare number of employees and hours worked with project documentation

REVIEWED BY	DATE
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CERTIFIED PAYROLL STATUS RECORD

Contract ID: _____ **Project Engineer:** _____ **Subcontractor:** _____
Location: _____ **Prime Contractor:** _____ **Contact Information:** _____

	W	R	A	W	R	A	W	R	A	W	R	A	W	R	A	W	R	A	W	R	A	W	R	A	W	R	A	W	R	A			
Week Ending																																	
Week Ending																																	
Week Ending																																	
Week Ending																																	

Wage Rate Interview? Date: _____

NOTICE OF DELINQUENT CERTIFIED PAYROLL

Date of Notice	Date CPR Due	Date CPR Received	Follow Up Action Taken / Comments

NOTICE OF DEFICIENT CERTIFIED PAYROLL

Date of Notice	Date Revised CPR Due	Date Revised CPR Received	Follow Up Action Taken / Comments

KEY: W = Contractor Worked R = Certified Payroll Received A = Certified Payroll Accepted CPR = Certified Payroll
 Note: A date fillable excel spreadsheet version is available on the MDOT website under **Maps and Publications - Manual & Guides**.

INSTRUCTIONS

Form 1954 is to be updated **weekly** for each contractor and used to track: 1) whether the contractor worked, 2) whether the contractor’s certified payroll is received, 3) whether the certified payroll is accepted and 4) the Notice of Withholding sent to the prime contractor in the event certified payroll is either delinquent or not accepted as complete and correct.

Notice of Delinquent Certified Payroll

The first certified payroll for each prime contractor and/or subcontractor is to be received by the engineer within three weeks of the first week worked and on a weekly basis thereafter. Certified payroll not received within these time frames will be considered delinquent. Notice to the prime contractor of delinquent certified payroll and withholding payment is summarized in the following table:

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 payroll is received.	30 days from receipt by contractor	Continue withholding item payments and send second notice
Payroll remains delinquent 30 days after first notice	Second notice (See Note 1)	Intent to withhold payment for all work items on subsequent estimates and rescind prior payment for the offending contractor’s work items	30 days from receipt by contractor	Implement second notice – withhold further pay estimates

Notice of Deficient Certified Payroll

When reviewing a contractor’s certified payroll for acceptance, **MDOT Form 1952-Certified Payroll Review Checklist** is to be used in conjunction with this form. When certified payrolls are found to be incomplete, inaccurate, or inconsistent with the other project records, they are considered deficient. Notice to the prime contractor of deficient certified payroll and withholding payment is summarized in the following table:

Initiate Notice	Notice Sequence	Contractor Notice of Action	Allotted time for Response / Resolution	If no Response / Resolution
Payroll deficient	First notice (See Note 1)	Intent to withhold payment for offending contractor’s work items	30 days from receipt by contractor	Implement first notice provisions and send second notice
Payroll deficiency not resolved 30 days after first notice	Second notice (see note 2)	Intent to withhold payment for all work items on subsequent estimates	30 days from receipt by contractor	Implement second notice – withhold further pay estimates

Note 1: Written notice is to be signed by the project engineer and delivered by certified mail to the prime contractor. The offending subcontractor(s) and the region coordinator for prevailing wage are to be copied by regular mail. **Note 2:** In addition to the instructions given in Note 1, the C&T Division’s prevailing wage compliance specialist is to be copied on all second notices to the contractor by regular mail.

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 and/or deficient payroll”.

CONTRACTOR'S CERTIFIED PAYROLL REPORT

Contract ID	Week Ending
Location	Prime Contractor

Subcontractor	<u>Worked</u> Yes	<u>Payrolls</u> <u>Accepted</u> Yes No		Comments
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
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	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

Signature:	Date
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The Prime Contractor is to include this form when submitting certified payroll (CPRs) to the Project Engineer's office each week. "Payrolls Accepted" means the CPRs have been completed as specified in the current written MDOT procedure for prevailing wage compliance oversight. Comments are required if the "no" box is checked or if the CPR week ending date differs from that at the top of the form.

Instructions for MDOT Form 1955 – Contractor’s Certified Payroll

Purpose:

- Document each week subcontractors perform work on the project (or any other company required to submit CPR).
- Document that CPR has been reviewed for acceptance.
- Document CPR deficiencies in instances where the CPR is not accepted.
- Document when a subcontractor has worked but has not submitted CPR.

Week Ending is the date the weekly payroll period ends.

The list under the heading **Subcontractor** is to include all subcontractors (or any other company required to submit CPR) performing work on the contract. If the subcontractor did not perform work on the contract for the “Week Ending” date in the form heading, then the **Yes** checkbox under **Worked** is left blank. If the subcontractor worked on the contract but has not submitted CPR for the “Week Ending” date, then check the **Yes** checkbox and provide comments that CPR was not yet submitted.

Accepted means the CPR contains the following information:

- 1) The firm’s name and address the with the prime or subcontractor(s) identified.
- 2) Payroll number, week ending, project location and contract ID
- 3) The employee’s full name, address and last four digits of their social security number.
- 4) Information identifying minority and female employees. The following ethnic code notation is to be used: Black (B), Hispanic (H), Native American Indian or Alaskan Eskimo (N/A), and Asian or Pacific Islander (A). Use (F) for female.
- 5) The employee’s classification and group number.
- 6) Identification of trainees and apprentices and program levels.
- 7) The basic hourly rate, overtime rate and the method by which fringe benefits are paid. Note: If fringe benefits are paid to an approved plan, a detailed breakdown of the type of benefits, hourly dollar values and plan administrator contact information is to accompany the first certified payroll.
- 8) The employee’s daily and weekly hours worked in each classification, including actual overtime hours worked.
- 9) The itemized deductions. Miscellaneous itemized deductions must be explained on of the certified payroll.
- 10) The net wages paid.
- 11) The compliance statement with original signatures.

Comments are to identify the reason(s) a CPR is not accepted, to state that CPR was not yet submitted, or to document the week ending date of a CPR if it differs from the date in the form heading.

Distribution: The prime contractor is to include this form with the weekly transmittal of certified payroll to the project engineer