

Responsibilities of the Contractor

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 contractor.
- 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
- Supplemental unemployment benefit 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
- Per diems
- Fuel allowance

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.