

# Restitution

## 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. The engineer is to send the first notice to the prime contractor and any involved subcontractors of the violation and restitution amount, if known, in writing by certified mail or other method which establishes the date the notice is received by the prime contractor. The first notice is to inform the contractor(s) that the engineer is immediately withholding the amount of the violation, if known, or an estimated amount and that if the violation is not fully resolved in 60 calendar days from the receipt of the first notice, the intent to withhold payment for the offending contractor's items. The engineer and the contractor can mutually agree in writing to extend this 60 day requirement.

If the violation is not fully resolved within 60 calendar days from the receipt of the first notice or the mutually agreed upon extension, the engineer is to implement the actions from the first notice. Concurrently, the engineer is to send a second notice to the prime contractor and involved subcontractor(s) stating that if the violations are not fully resolved within 30 calendar days of the receipt of the second notice, non-compliance damages will be assessed back to the date of the first notice, and the contractor will be responsible for any and all costs associated with the investigation and audit expenses accrued by MDOT and associated entities in dealing with the violation. The notice will also state that the assessment of non-compliance damages will continue to be assessed until the date the violation is fully resolved and proof of payment in the form of cancelled checks or other form of acceptable proof is provided to the engineer.

If the violation is not fully resolved within 30 calendar days of the receipt of the second notice, the engineer will implement the actions from the second notice and prepare interim Contractor Performance Evaluations reflecting the non-compliance activity of the offending contractor(s) and lack of supervision by the prime if the offending contractor(s) are subcontractor(s).

A copy of all correspondence dealing with prevailing wage violations is to 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 supplemental certified payrolls and canceled checks as proof of restitution. The supplemental payroll(s) shall reflect the amount of restitution paid to each employee, the time period covered by the restitution listing the payroll(s) number(s) and week ending date(s). 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 delivery engineer is to report the amount and number of employees involved to the region coordinator for inclusion in the central office semiannual report. On local agency projects, the local agency engineer is to report the same data to the delivery engineer in the TSC for inclusion in their report to the region coordinator.