

MISSING MIDDLE HOUSING PROGRAM

Prevailing Wage Related Information

Updated 7-24-2024

How do I participate in the Missing Middle Grant Program?

When funding is available, we have an application round. Rounds 1 and 2 have closed and there are currently no plans for Round 3. If funds become available, information about when and how to apply will be posted on the Missing Middle webpage found here: [Missing Middle Housing Program \(michigan.gov\)](https://www.missingmiddle.org).

My Round 1 or Round 2 application was approved, what then?

If you received a Round 1 or Round 2 Missing Middle Housing Program award, you would work closely with Missing Middle staff to complete your requirements and enter into your grant agreement. You must also follow progress reporting requirements and timelines as established by the federal government to ensure funding is disbursed within program parameters.

Do I have to be registered on sam.gov?

Yes, all Missing Middle recipients are required to have an active registration with the System for Award Management (SAM) (<https://www.sam.gov>).

Do we need to check www.sam.gov to determine if a business and/or their owners, officer, or partners of the business have been debarred or suspended by the federal government?

Yes. Any business that is under debarment or suspended cannot work in the Missing Middle Program.

Do I need to include Missing Middle Certification Language in the subcontractors' and lower tier subcontractors' contracts?

Yes. All contractors must be made aware **in advance** of the Missing Middle program requirements.

Do Missing Middle awardees (awarded projects) have to pay Prevailing Wages?

Yes. Round 1 and 2 Missing Middle awards come from Federal American Rescue Plan (ARPA) funds via U.S. Treasury. As such, anyone working on site (i.e. physically on-site) must be paid prevailing wages even if your project starts construction before entering into the grant agreement. A final wage decision will be attached to your executed grant agreement and the wages will remain at those amounts for the entire project (i.e. not increase/decrease) **so long as construction starts within 180 days of the executed grant agreement.**

If new construction, project start is when site work begins. With rehab it could be such actions as, demo, removal or replacement of materials, construction, etc.

Future application rounds may have different requirements depending on their funding source.

What is federal prevailing wage?

Davis-Bacon prevailing wage rates generally appear as a basic hourly rate plus fringe benefits, if any. “Prevailing wage” is made up of **two** interchangeable components: the basic hourly wage and fringe benefits. The **total** of the **basic hourly wage** and **fringe benefits** comprises the “**prevailing wage**” obligation. This obligation may be met by any combination of cash wages and creditable “bona fide” fringe benefits provided by the employer.

Example: Say a prevailing wage/Davis-Bacon wage decision shows: Basic Hourly Rate \$10.00 plus Fringe Benefits \$1.00 equals a **Total Prevailing Wage \$11.00**. Employers may comply by paying:

- \$11.00 in cash wages;
 - \$10.00 plus \$1.00 in bona fide fringe benefits; or
 - *Any combination of wages and benefits that totals \$11.00 per hour.
- *The hourly wage rate can never be less than the federal minimum wage listed on the General Decision.

What is considered a fringe benefit?

Fringe benefits may include (paid by the employer):

- Sick, vacation, or holiday pay;
- Costs to defray expenses of apprenticeship or similar programs;
- Medical or hospital care;
- Supplemental unemployment benefits;
- Life insurance;
- Pensions on retirement or death;
- Compensation for injuries or illness resulting from occupational activity;
- Other bona fide fringe benefits; or
- Insurance to provide any of the above

Note: If you pay an annual rate for a benefit (such as medical insurance), you can divide that dollar amount by 2080 hours (40 x 52) to get an hourly fringe benefit rate.

For example: \$2,000.00 annually for medical insurance - Divided by 2080 hours = .962 cents an hour

No credit may be taken for a benefit *required* by federal, state, or local law, such as:

Workers’ compensation, unemployment compensation, Social Security contributions, or anything paid by the employee.

How do I classify employees that do not fall within the trades listed?

The **work performed** and the **tools and equipment used** determines the employee’s classification. Laborers are onsite to assist (i.e., loading, unloading, cleaning, setting up equipment, etc.) the journeyman in his work. However as soon as he uses the tools of the trade, he is no longer considered to be a Laborer. Example: Laborers working for a roofing company cannot be on the roof. Once they climb onto the roof, they are then considered to be a Roofer.

How do I find the correct wage chart for my project? (i.e. Selecting the General Decisions (Wage Decisions):

General Decisions can be found at www.sam.gov

To select the correct decision for your project you must know the following:

- **County** where project is located.
- **Construction Type:**

Residential construction includes the construction, alteration, or repair of single-family houses or apartment buildings of no more than four (4) stories in height. Basements and attics can be counted as a story if housing units are in those areas and/or if a portion of the basement is above grade. This is the most common type for Missing Middle projects.

Building construction includes buildings exceeding four (4) stories in height that have housing units **and** buildings of four (4) stories or less that do not have housing units. Examples: high-rise apartment buildings, nursing homes and convalescent facilities, community centers, fire stations, commercial buildings, parking garages, and dormitories.

Please note: Construction items that exceed either \$2.5 million or 20% of the total project cost will require an additional general wage decision. **Example:** If a three (3) story building has commercial space that cost more than \$2.5 million or 20% of the total construction cost, the Building General Decision must be used.

Highway - includes the construction, or repair of roads, streets, etc. **not** incidental to the main category of construction, which is either residential or building for housing.

Heavy - includes projects that are not properly classified as “residential,” “building,” or “highway.” Examples include antenna towers, canals, landscaping, and irrigation projects.

What do I do if my trade is not listed on the General Decision?

If your trade is not listed, a comparable trade can be used if you can provide a current Union Agreement that includes that trade as part of their union. Otherwise, you can complete HUD Form 4230A and send via email to MSHDA Missing Middle staff explaining the situation and providing the category in question then we can help identify where the position would fall within the wage chart.

Example: Drywall Hanger is listed in the Carpenter’s Union Agreement. Therefore, the Carpenter’s wages can be paid for Drywall Hangers. However, there is no comparable for Elevator Mechanic. If Elevator Mechanic is not listed on the General Decision, a request for classification and wage rate must be submitted to MSHDA using HUD Form 4230A.

Here are a few examples based on past inquiries:

- Vinyl Siding installation- falls under Carpenter.
- Flooring installation- falls under Carpenter (with all soft finishes, not ceramic)
- Drywall – Hanging is Carpenter, Finishing is Painter
- Framers – Carpenter

- Closet Installation - Carpenter
- Insulation – Carpenter *except* foam insulation which would be categorized as Painter.
- Foundation (Cement/Concrete) – Mason Tender (Laborer)

Apprentices - The Apprentice's hourly wage rate is determined by the level/year the individual has achieved in their apprenticeship program. The requirements for the program are detailed in the Apprenticeship Standards. The Apprenticeship Standards should list what percentage of the journeyman's rate he/she should be paid. Each program is different, so the percentage may differ for the year or step the apprentice has achieved.

For example: If a 1st year apprentice was under a program that requires 50% of the journeyman's rate, it would be paid as follows:

$$\$30.13 \times .50\% = \$15.07 + \$8.36 = \mathbf{\$23.43}$$
 prevailing wage rate

If bona fide fringe benefits are paid on behalf of the apprentice, the fringes can be deducted from the \$23.43 as long as the hourly rate does not go below the State's minimum wage.

What Does the State of Michigan Wage and Hour Division Require*?

Note: Missing Middle awards are federal funds (via U.S. Treasury) thus you must use **FEDERAL wage charts.**

*Note the following are **State** requirements, not exclusively applicable to Missing Middle projects only.

Payroll Records Requirement for Employers – An employer shall maintain a record for each employee which indicates the employees' name, address, birth date, occupation, or classification in which employed, total basic rate of pay, total hours worked in each pay period, total wages paid each pay period, a separate itemization of deductions and a listing or itemization of fringe benefits. In the case of an employer who has a group of 10 or more employees who have identical fringe benefits, one (1) central itemization or listing may be kept for each group, providing the record identifies what group they belong to.

Records shall be maintained for not less than **3 years**. The records shall be open to inspection by an authorized representative of the department at any reasonable time.

Wage Statements – An employer shall furnish each employee at the time of payment of wages a statement of the hours worked by the employee, the gross wages paid, identification of the pay period for which payment is being made, a separate itemization of deductions, and for each hand harvester paid on a piece work basis furnish a statement of the total number of units harvested by the employee.

Electronic pay or wage statements are allowed, provided the employee has the ability to print out the statement at the time the wages are paid. This manner of obtaining statements must be consistent throughout the company.

Overtime - State of Michigan Overtime (O/T) hours are defined as all hours worked in excess of 40 hours in any workweek. Where governed by Federal labor standards, O/T hours shall be compensated at not less than one and one-half times the regular rate of basic pay plus the straight-time rate of any required fringe benefits.

General Decisions and Conformances must be posted onsite along with all Labor Standards Posters required by Federal, State, and local laws and regulations.

What if I didn't pay the Prevailing Wage or shorted someone?

Restitution Payroll – In the event you do not pay the prevailing wage, restitution payroll will be needed. If caught early, the employer can issue a corrective payroll (preferably a separate check that clearly indicates the purpose is to correct wage shortfall on xx project). The payroll should list the payroll period, total hours worked at the incorrect wage, hourly rate of pay (the difference between what was paid and what should have been paid), gross pay, deductions, total deductions, and net pay. A form is available to assist you with this reporting.

Waivers – A waiver is given by a contractor, subcontractor, or supplier whenever payment is made. In simple terms, it is a receipt for payment. Waivers should be provided directly to the owner, lessee or designee from the lien claimant named on the waiver. If the waiver is provided by anyone other than the lien claimant, the owner, lessee, or designee shall contact the lien claimant to verify the authenticity of the waiver.

Waivers are legal documents and must use prescribed wording. To be considered legal documents, and to serve the purpose for which they were designed, use the appropriate type of waiver. Be certain the kind of waiver you sign is appropriate to the situation. In most cases, the primary lender will use a title company and their form(s) to collect lien waivers at the same time of draw disbursement(s).

There are four (4) types of Waivers: Full Unconditional Waiver, Full Conditional Waiver, Partial Unconditional Waiver, and Partial Conditional Waiver.

What are the consequences for failure to pay prevailing wages on a Missing Middle project?

- The Missing Middle grant disbursement could be delayed or withdrawn.
- Disbursed funds could be recaptured (if discovered during a post-disbursement audit)
- Potentially barred from future MSHDA grant programs.

Is it true that the Missing Middle Housing Program has reduced reporting requirements related to prevailing wages?

Yes. The Missing Middle Housing Program received a waiver of the standard Davis-Bacon related requirements and instead can rely on self-certification forms (available on our webpage). While this relieves the contractor of significant paperwork, in the event of an audit, the developer (or contractor) would be expected to provide the required documentation to prove prevailing wages were in fact paid.

While not required, it may be beneficial in the event of an audit that you have an on-the-job record showing which days and hours all parties worked on the site. For example, a sign in/out sheet reflecting the individual(s) name, date, and start/end time. This could help prove the number of hours an individual worked.

Missing Middle projects are NOT required to follow standard practices which typically includes, formal on-site postings/notifications; documents including executive orders, clauses, related acts, and formal provisions within the contracts/bids including mandatory pre-construction conferences, submission of certificated weekly payroll reports, weekly payments, apprenticeship provisions, and conducting of employee interviews. For full details, please refer to the Missing Middle Prevailing Wage Requirement/Davis-Bacon policy on our webpage.

My General Contractor has only administrative duties – does he/she need to be paid prevailing wages?

If the General Contractor’s duties are administrative, and will **not** be performing **any** construction onsite, they are exempt from prevailing wages.

What if we use 1099 workers?

Ideally the contractor has some documents to support the timeframes these individuals were on site as well as payment information. We suggest using sign in/sign out forms whenever possible to identify the number of hours that person was on site. If the work was already completed and no specific documentation is available, **notarized** statements could be used to support the timeframe and wages paid. It should specify the 1099 employee’s name and details about the exact site, dates, and payment(s) then be signed by the contractor representative and the 1099 person. The objective is to help us determine how much the worker was paid hourly. Be sure to list all timeframes and payments. A statement might read something like this:

October 13,2023

To Whom It May Concern:

Mary Smith, SS#123-45-6789 {or tax ID} installed drywall for {Contractor Name}, at the development known as {insert project name} located at 123 Main Street, Lansing MI 48917 {project address} and was paid as follows:

Date(s)	Number of Hours Worked	Payment Amount	Payment Date
May 1-May 14, 2023	75	\$3,500	May 16, 2023
May 15-May 31, 2023	84	\$3,700	June 4, 2023
June 1 – June 10, 2023	41	\$1,800	June 15, 2023
TOTALS	200	\$9,000	

We certify this information is accurate to the best of our knowledge.

{signature} Mary Smith Date

{signature} Jon Doe, for {contractor company} Date

****NOTARY INFORMATION****