Prevailing Wage Requirements for Ready-Mix Concrete

Presented by:
Caltrans Labor Compliance ©2019

TRAINING OBJECTIVE

➢ Provide background and information on prevailing wage requirements for contracts awarded on or after July 1, 2016.

➢ Provide statutory regulations governing prevailing wage requirements.

➢ Familiarize Ready-Mix Concrete companies with Department of Industrial Relations (DIR) wage determinations.

➢ Explain certified weekly payroll records and how to appropriately complete the documentation required to submit for processing on Caltrans contracts.
LABOR CODE SECTION 1722.1

For the purposes of this chapter, “contractor” and “subcontractor” include a contractor, subcontractor, licensee, officer, agent, or representative thereof, acting in that capacity, when working on public works pursuant to this article and Article 2 (commencing with Section 1770).
Labor Code 1720.9
(Assembly Bill No. 219)

- Approved by Governor Brown on October 10, 2015.
- Expands the definition of “public works” to include the hauling and delivery of ready-mixed concrete.
- Requires the prevailing wage rate to be applicable to the geographic area in which the concrete factory or batch plant is located.
- Requires “contractor” and “subcontractor” to enter into a written agreement.
- Requires entity hauling to submit payroll and time records to the prime contractor within five (5) working days after the employee has been paid.
- Effective for contracts which are awarded on or after July 1, 2016.

STATE OF CALIFORNIA PREVAILING WAGE REQUIREMENTS

LABOR CODE §1720- §1815
- Ready-mix additional requirements found in §1720.9

CALIFORNIA CODE OF REGULATIONS, CHAPTER 8, SUBCHAPTER 3
- §16000 - §16403 Payment of Prevailing Wages upon Public Works

CONTRACTUAL PROVISIONS
- Caltrans Standard Specifications for Construction contracts
- Maintenance and Service contracts (State Service Agreement STD-213)
Caltrans has a Department of Industrial Relations (DIR) approved Labor Compliance Program (LCP), also known as a “Legacy Program”:

- Approved in 1990.
- Caltrans has authority to monitor and enforce the prevailing wage requirements on its awarded contracts.
- Caltrans contracts are exempt from electronic reporting of payrolls to DIR.
- Caltrans is subject to additional requirements under Labor Code 1771.5 and California Code of Regulations, Title 8, as a condition of the LCP.

Labor Code §1771.5 requirements for an approved program, includes, but are not limited to:

- Construction contracts over $25,000 are subject to prevailing wage requirements
- Maintenance contracts over $15,000 are subject to prevailing wage requirements
- Pre-Job conference to be conducted
- Certified Payroll Records (CPRs) to be submitted directly Caltrans, not DIR
- Caltrans must review and confirm CPRs for prevailing wage requirements
- Caltrans may withhold payments for delinquent/inadequate CPRs
- Caltrans may withhold payments in the amount of any underpayments and anticipated penalties due to an investigation or identified violations
- Caltrans may audit payroll records
Caltrans has authority to audit payroll records. Should an audit be initiated, the contractor/subcontractor will receive a written notice for requested documents and submittal due dates.

**Payroll Records per CCR, Title 8, 16000 are defined as:**

*Payroll Records. All time cards, cancelled checks, cash receipts, trust fund forms, books, documents, schedules, forms, reports, receipts or other evidences which reflect job assignments, work schedules by days and hours, and the disbursement by way of cash, check, or in whatever form or manner, of funds to a person(s) by job classification and/or skill pursuant to a public works project.*
WHAT IS A WAGE DETERMINATION AND HOW DOES IT APPLY TO PREVAILING WAGE REQUIREMENTS?

- The wage determination for a contract is the prevailing wage rate of pay that is required for the life of the contract.
- In order to ensure the correct prevailing wage rate is being paid, the appropriate wage determination must be used.
- The appropriate wage determination is based on the advertised date of the contract.
- Once the appropriate wage determination has been identified, the contractor should only use the classifications within that determination year.

DIR publishes two (2) wage determinations each year:
- 2/22 = Year-1
- 8/22 = Year-2

The determinations are effective 10 days after publication:
- 2/22 + 10 days = Effective 3/4/20XX (w/the exception of Leap Year 3/3)
- 8/22 + 10 days = Effective 9/1/20XX
WAGE DETERMINATION BASED ON ADVERTISED DATE

How does it work?
- The advertisement date determines which DIR publication and determination year the project will fall under.
- The prevailing wages in this determination year shall be effective for the life of the contract.

A contract advertised:
- Between 3/4/19 - 8/31/19 = 2019-1 Determination Year
- Between 9/1/19 - 3/3/20 = 2019-2 Determination Year
- Between 3/4/20 - 8/31/21 = 2020-1 Determination Year

WAGE DETERMINATION

➢ The prime contractor is responsible to use the appropriate determination when bidding on a Caltrans project.
➢ All contractors/subcontractors working on public works projects are required to pay the prevailing wage rates for all applicable crafts and submit required records.
➢ General questions regarding prevailing wages and determinations (post contract award) may be directed to the prime contractor or the District’s Labor Compliance Office.
WAGE DETERMINATION CLASSIFICATIONS

▸ Each DIR wage determination contains a listing of specific classifications (crafts) which includes the required prevailing wage rate for that type of work.

▸ The appropriate classification for a Ready-Mix Concrete driver can be found in the “Statewide” region under the “Driver” classification.

▸ According to AB219 requirements, the geographic location of the batch plant will determine what wage rate shall be used within the “Driver” classification.

Director's General Prevailing Wage Determinations

- 2018-2 General prevailing wage determinations menu (journeyman)
- 2018-2 General prevailing wage apprentice determinations menu
- Superseded prevailing wage determinations
- Residential prevailing wage determinations
- Important notices (index 2006-1 to present)
- Important notice: off-site fabrication decisions on appeal
- Frequently asked questions - Prevailing Wage
- Frequently asked questions - Off-Site Hauling
- Still have questions on prevailing wage?

September 2018

http://www.dir.ca.gov/OPRL/DPreWageDetermination.htm
Choose DIR Statewide to locate the Driver On/Off Hauling Rate

Choose the Driver On/Off Hauling Rate
Once you have chosen the “Driver” link, click on the: “MIXERTRUCKS” option.

Choose the county where the batch plant facility is located.

Once you have the appropriate county pulled up, review all provisions for the location to determine the rate(s) required.

Ready-Mix Concrete falls under the Scope of Work for Mixer Trucks.

Statewide provision selection page

General prevailing wage determinations made by the director of industrial relations

Pursuant to California Labor Code part 7, chapter 1, article 2, sections 1770, 1773, and 1773.1

Craft: Driver (On/Off Hauling to/from Construction Site)

<table>
<thead>
<tr>
<th>Page</th>
<th>Classification</th>
<th>Holidays, scope of work, travel &amp; subsistence</th>
<th>Predetermined increase</th>
</tr>
</thead>
<tbody>
<tr>
<td>2K</td>
<td>Mixer Trucks</td>
<td>Select One</td>
<td>Increase</td>
</tr>
<tr>
<td>2L</td>
<td>Dump Trucks</td>
<td>Select One</td>
<td>No increase *</td>
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Return to main table
Craft: Driver (on/off hauling to/from construction site) - Mixer Trucks

<table>
<thead>
<tr>
<th>Page</th>
<th>Counties</th>
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</tr>
</thead>
<tbody>
<tr>
<td>2K-1</td>
<td>Marin, Napa, Solano, and Sonoma Counties</td>
<td>C-MT-261-X-265</td>
<td>Select One</td>
<td>No increase *</td>
</tr>
<tr>
<td>2K-2</td>
<td>Alpine, Amador, Calaveras, San Joaquin, and Tuolumne Counties</td>
<td>C-MT-830-261-5</td>
<td>Select One</td>
<td>No increase *</td>
</tr>
<tr>
<td>2K-3</td>
<td>Butte, Colusa, El Dorado, Placer, Sacramento, Sutter, Yolo, and Yuba Counties</td>
<td>C-MT-261-150-53</td>
<td>Select One</td>
<td>No increase *</td>
</tr>
<tr>
<td>2K-4</td>
<td>Del Norte, Humboldt, and Mendocino Counties</td>
<td>C-MT-261-624-17</td>
<td>Select One</td>
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</tr>
<tr>
<td>2K-5</td>
<td>Fresno, Madera, Mariposa, Merced, and Stanislaus Counties</td>
<td>C-MT-830-261-4</td>
<td>Select One</td>
<td>No increase *</td>
</tr>
<tr>
<td>2K-6</td>
<td>Glenn, Lassen, Modoc, Plumas, Shasta, Siskiyous, Tehama, and Trinity Counties</td>
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<td>Select One</td>
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<tr>
<td>2K-7</td>
<td>Imperial and San Diego Counties</td>
<td>C-MT-261-96-95</td>
<td>Select One</td>
<td>Increase</td>
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<tr>
<td>2K-8</td>
<td>Inyo, Mono, and San Bernardino Counties</td>
<td>C-MT-830-261-12</td>
<td>Select One</td>
<td>No increase *</td>
</tr>
<tr>
<td>2K-9</td>
<td>Kern, Kings, and Tulare Counties</td>
<td>C-MT-261-87-119</td>
<td>Select One</td>
<td>No increase *</td>
</tr>
</tbody>
</table>

Choose the county where batch plant is located.

PREVAILING WAGE DETERMINATION:

RATE OF PAY FOOTNOTES INCREASES
RATE OF PAY

The following rates are included on the prevailing wage classification:

- Basic Hourly Rate
- Employer Payments
- Total Hourly Rate
- Overtime Rate
- Holiday Rate
- Saturday and Sunday Rates
- Footnotes
- Pre-Determined Increases

REQUIRED RATE(S) OF PAY

Contractors and subcontractors performing prevailing wage work must comply with the following:

- Pay the Basic Hourly Rate to employees as an hourly wage [PW Manual 4.2.2 & LC 1773.1(c)]
- Pay the total amounts identified under the Employer Payments
- Either to an approved plan/program or directly to the employee
- Meet the required Total Hourly Rate [employee’s hourly wage + any eligible Employer Payments (credit)]
- Pay the applicable Training Fees directly to a DIR approved apprentice program for all apprenticeable crafts
- Pay the Overtime Rate for all hours worked over 8 hours in a calendar day, and 40 hours in a calendar week
- Premium Rate(s) of Pay are required for any work performed on a Saturday/Sunday [regardless of whether employee has worked 40 hrs in a week]
- Pay the applicable Holiday Rate for any hours worked on a day that is recognized as a “holiday” [in accordance with the Holiday Provisions published for the specific classification]
- Pay the applicable Pre-Determined Increases
- Pay the applicable Compensable Travel Time [based on point of dispatch]
- Pay the applicable Travel Per Diem [in accordance with the Travel Provisions published for the specific classification]
- Pay the applicable Shift Rates [in accordance with the Shift Provisions published for the specific classification]
REQUIRED RATE(S) OF PAY

Contractors and subcontractors performing prevailing wage work must comply w/the following:

1. Pay the Basic Hourly Rate to employees as an hourly wage [PW Manual 4.2.2 & LC 1773.1(c)]

2. Pay the total amounts identified under the Employer Payments
   • Either to an approved plan/program or directly to the employee
   • Employee benefits must be recognized as bona fide Employer Payments under California law to be eligible for credit towards the employee’s hourly wage

3. Meet the required Total Hourly Rate [employee’s hourly wage + any eligible Employer Payments (credit)]

4. Pay the applicable Training Fees directly to a DIR approved apprentice program for all apprenticeable crafts

5. Pay the Overtime Rate for all hours worked over 8 hours in a calendar day, and 40 hours in a calendar week

6. Premium Rate(s) of Pay are required for any work performed on a Saturday or Sunday [regardless of whether employee has worked 40 hrs in a week]

7. Pay the applicable Holiday Pay Rates for any hours worked on a day that is recognized as a “holiday” [in accordance with the Holiday Provisions published for the specific classification]

8. Pay the applicable Pre-Determined Increases [increase links, footnotes, etc.]

9. Pay the applicable Compensable Travel Time [based on point of dispatch]

10. Pay the applicable Travel Per Diem [in accordance with the Travel Provisions published for the specific classification]

11. Pay the applicable Shift Rates [in accordance with the Shift Provisions published for the specific classification]
## PREVAILING WAGE DETERMINATION

<table>
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<th>Page</th>
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<tr>
<td>2K-1</td>
<td>Alameda, Contra Costa, Marin, Napa, Solano, and Sonoma Counties</td>
<td>C-MT-261-X-265</td>
<td>Scope</td>
<td>Increase</td>
</tr>
<tr>
<td>2K-2</td>
<td>Alpine, Amador, Calaveras, San Joaquin, and Tuolumne Counties</td>
<td>C-MT-830-261-5</td>
<td>Select One</td>
<td>No increase *</td>
</tr>
<tr>
<td>2K-3</td>
<td>Butte, Colusa, El Dorado, Placer</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

## WAGE DETERMINATION: RATE BREAKDOWN

**Determination:** C-MT-830-261-12-2016-1  
**Issue Date:** August 22, 2016  
**Expiration date of determination:** September 30, 2016 * Effective until superseded by a new determination issued by the Director of Industrial Relations. Contact the Division of Labor Statistics and Research at (415) 703-4774 for the new rates after 10 days from the expiration date, if no subsequent determination is issued.

**Localities:** All localities within Inyo, Mono and San Bernardino Counties.

<table>
<thead>
<tr>
<th>Classification</th>
<th>Basic Hourly Rate</th>
<th>Health And Welfare</th>
<th>Vacation And Pension</th>
<th>Holiday</th>
<th>Training</th>
<th>Other</th>
<th>Total Hourly Rate</th>
<th>Overtime Hourly Rate</th>
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<tbody>
<tr>
<td>Driver: Mixer Truck</td>
<td>$19.05</td>
<td>$6.66</td>
<td>$1.71</td>
<td>$1.37</td>
<td></td>
<td></td>
<td>$28.59</td>
<td>$38.115</td>
</tr>
</tbody>
</table>

1. The contribution applies to all hours until $1155.24 is paid for the month.  
2. $1.54 after 7 years of service  
3. $1.91 after 14 years of service  
4. Rate applies to work in excess of eight (8) hours daily and forty (40) hours weekly.  
5. There is no predetermined increase applicable to this determination.

**BASIC HOURLY RATE ($19.05) + CONTRACTOR PAYMENTS ($9.54) =**  
**TOTAL HOURLY RATE REQUIRED ($28.59)**
WAGE DETERMINATION: FOOTNOTES

Wage determinations also include footnotes which give additional direction to the specified classifications:

- Increases based on service years
- Additional pay based on hour and/or location
- Calculation of wages direction

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WAGE DETERMINATION: FOOTNOTES

\[a\] The contribution applies to all hours until $1097.30 is paid for the month.

\[b\] $1.33 after 4 years of service
$1.61 after 14 years of service
$1.90 after 24 years of service

\[c\] Rate applies to work in excess of eight (8) hours daily and forty (40) hours weekly.

\[\ast\] There is no predetermined increase applicable to this determination.
WAGE DETERMINATION: CALCULATIONS

- Total Hourly Rate of Pay
  Basic Hourly Rate + Fringe Benefits

- Overtime Rate of Pay & Saturday Rate of Pay Calculation
  (new BHR x 1.5) + Fringe Benefit

- Sunday Rate of Pay & Holiday Rate of Pay Calculation
  (new BHR x 2) + Fringe Benefit

WAGE RATE: OVERTIME

Labor Code 1810-1815 dictates overtime requirements for work subject to prevailing wage:

- Eight hours labor constitutes a legal day’s work.
- The time of service of any worker employed upon public work is limited and restricted to 8 hours during any one calendar day, and 40 hours during any one calendar week.
- Every contractor and subcontractor shall keep an accurate record showing the name of and actual hours worked each calendar day and each calendar week by each worker employed by him or her in connection with the public work.
- The contractor or subcontractor shall, as a penalty forfeit twenty-five dollars ($25) for each worker employed in the execution of the contract not paid appropriately.
- For all work hours exceeding 8 hours per day, and 40 hours during any one week, payment shall be 1 1/2 times the basic rate of pay.
WAGE RATE: EXCEPTIONS

California Code of Regulations Section 16200

- **Exception 1:** If a workweek other than Monday through Friday is a fixed business practice or is required by the awarding body, no overtime payment is required for the first eight hours on Saturday or Sunday.

- **Exception 2:** If the collective bargaining agreement provides for Saturday and Sunday work at straight-time, no overtime payment is required for the first eight (8) hours on Saturday or Sunday.

- **Exception 3:** If the awarding body determines that work cannot be performed during normal business hours or work is necessary at off hours to avoid danger to life or property, no overtime is required for the first eight hours in any one calendar day, and 40 hours during any one calendar week.

- **Exception 4:** No overtime payment is required for less than 40 hours in a standard work week or for less than eight hours in a calendar workday unless specified in the collective bargaining agreement used as the basis for the prevailing wage determination.

This does not apply to Saturday/Sunday required premium rate (if applicable)

WAGE RATE:

PRE-DETERMINED INCREASE

- Pre-determined increases are available at the time of publication for a wage determination

- The pre-determined increases must be taken into consideration as the increase is the required rate of pay during the course of the contract.

- Not all classifications have pre-determined increases. If there is no predetermined increase, the classification will indicate “**No Increase**”.

- If a pre-determined increase exists for the classification there will be a blue link and will indicate “**Increase**”.

- Pre-determined increases may also be identified by the **asterisk** sign located next to the expiration date of the wage determination.
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<td>Holidays</td>
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<td>C-MT-830-261-12</td>
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<td>2K-9</td>
<td>Kern, Kings, and Tulare Counties</td>
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<td>2K-10</td>
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<td>2K-11</td>
<td>Los Angeles, Orange, and Ventura Counties</td>
<td>C-MT-261-X-258</td>
<td>Travel</td>
<td>No increase *</td>
</tr>
</tbody>
</table>

**WAGE RATE: PRE-DETERMINED INCREASE**

Next to the expiration date:

* = No pre-determined increase

** = Pre-determined increase

**GENERAL PREVAILING WAGE DETERMINATION MADE PURSUANT TO CALIFORNIA LABOR CODE PART 7, CHAP. FOR COMMERCIAL BUILDING, HIGHWAY, HEAVY**

**CRAFT: DRIVER (ON/OFF-HAULING TO)**

**Determination:** C-MT-261-X-265-2016-1  
**Issue Date:** February 22, 2016  
**Expiration date of determination:** June 30, 2016**

The rate to be paid for extend past this date, the new rate must be paid and should be incorporated in Research Unit for specific rates at (415) 703-4774.
WAGE RATE: PRE-DETERMINED INCREASE

If the footnotes indicate there is an increase in a rate after years of service for an employee, those rates must be adjusted accordingly and included in the calculation for the individual employee.

EXAMPLE:

- The original rate is $1.47 to vacation for San Diego Co. 2018-2.
- Footnote shows after 1 year of service the employees vacation rate is increased to $2.00.
- There is a $0.53 increase in the vacation minimum required rate for that employee.
- The $0.53 is added to the total hourly rate required.
WAGE RATE:
PRE-DETERMINED INCREASE CALCULATIONS

When there is a pre-determined increase the contractor must include the increased amount to the employees rate of pay on the effective date, as well as consider any footnote increases:

EXAMPLE
A project has a wage determination of 2018-2. The batch plant facility is in San Diego County.

Employee who has worked for 3 years

- Original total hourly rate required to be paid: $42.10 (footnotes show service increase of vacation rate from $1.47 to $2.00 after 1 year of service)
- On 10/29/18 an increase of $0.52 becomes effective for employee(s) with more than 1 year service, new total rate $42.62
- On 11/1/18 an increase of $0.45 becomes effective for all workers. New total rate $43.07
- On 1/1/19 an increase of $0.48 becomes effective for all workers. New total rate $43.55

EXERCISE #1:
CALCULATING TOTAL RATE OF PAY
Prevailing wage rate(s) are not just the craft rate(s), but the provisions associated with the contract. Provisions include:

- Scope of Work
- Holiday
- Travel
- Shift (if applicable)

All provisions should be reviewed to identify if there are additional requirements under prevailing wage.
PREVAILING WAGE DETERMINATION: PROVISIONS

SCOPE OF WORK

- The DIR Scope of Work determines which classification(s) may be used for the type of work performed.
- DIR’s current Scope of Work for the “Mixer Truck” has been identified as the most appropriate classification for the Ready-Mix Concrete driver.
- Contractors may obtain the Scope of Work directly from DIR’s website for review and confirmation.
SCOPE OF WORK

HOLIDAY PROVISIONS

- Holiday provisions can be found using the same drop down box used to locate the Scope of Work
- Each geographical area has its own recognized holidays
- If a worker is hauling ready-mix concrete on a day identified as a holiday per the provisions, they are to be paid at the appropriate Holiday Rate of Pay
HOLIDAY PROVISION

HOLIDAY PROVISION

FOR

DRIVER: MIXER TRUCK

IN

ALPINE, AMADOR, CALAVERAS, SAN JOAQUIN AND TUOLUMNE COUNTIES.

Pursuant to Labor Code section 1773 the holidays for this craft are upon Government Code section 0700.

(a) Every Sunday.
(b) January 1st.
(c) The third Monday in January, known as "Dr. Martin Luther King Jr. Day."
(d) February 15th, known as "Lincoln Day."
(e) The third Monday in February.
(f) March 31st known as "Cesar Chavez Day."
(g) The last Monday in May.
(h) July 4th.
(i) The first Monday in September.
(j) September 16th, known as "Admission Day."
(k) The second Monday in October, known as "Columbus Day."
(l) November 11th, known as "Veterans Day."
(m) December 25th.
(n) Good Friday from 12 noon until 3 p.m.
(o) Every day appointed by the President or Governor for a public fast, thanksgiving, or holiday.

Except for the Thursday in November appointed as Thanksgiving Day this subdivision and subdivisions (c) and (f) shall not apply to a city, county, or district unless made applicable by charter, or by ordinance of resolution of the governing body thereof.

If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Chapter 12 (concerning with Section 3560) of Division 4 of Title 4, the memorandum of understanding shall be controlling without further legislative action, except that if those provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the legislature in the annual Budget Act.
TRAVEL PROVISIONS

- Travel provisions give direction if/when per diem subsistence may apply
- The travel rate(s) are in addition to the hourly rate(s) of pay required and are not considered part of the work day
- The travel provisions may include requirements for:
  - Lodging
  - Mileage
  - Per diem

TRAVEL PROVISION

ARTICLE XIX
USE OF PERSONAL VEHICLES

When an employee is required to use their personal vehicle to report to other than their base location, they shall receive the Internal Revenue Service’s standard mileage rate for business use per road mile round trip from their established base location to their reporting location, provided the distance between such plants is greater than ten (10) miles and provided the new location is further from the employee’s residence than the employee’s base location.
TRAVEL & SUBSISTENCE vs. COMPENSABLE TRAVEL TIME

There are two distinct types of travel, each with their own requirements

- **Regular travel/subsistence**
  - Additional pay required due to employee outside of their hourly rate and work day
  - Captured via the Fringe Benefit Statement

- **Compensable travel time**
  - Part of the workday, hourly rate to be paid at full journeyman level
  - Subject to overtime requirements
  - Captured in the weekly certified payroll as part of hour worked by employee

COMPENSABLE TRAVEL TIME PER DIR

4.1.5 Compensable Travel Time

Travel time related to a public works project constitutes “hours worked” on the project, which is payable at not less than the prevailing rate based on the worker’s classification, unless the Director’s wage determination for that classification specifically includes a lesser travel time rate. (See Director’s Decision in In the Matter of Kern Asphalt Paving & Sealing Co., Inc. (March 28, 2008), Case No. 04-0117-PWH. (See also Monillion v. Royal Packing Co. (2000) 22 Cal.4th 575.).) Travel time required by an employer after a worker reports to the first place at which his or her presence is required by the employer is compensable travel time, and includes travel to a public work site, whether from the contractor’s yard, shop, another public work site, or a private job site. All such compensable travel time must be paid at the same prevailing wage rate required for the work actually performed by the worker at the public works site. No additional facts, such as whether tools or supplies are being delivered by the worker to the site, need be present.
The following certified weekly payroll records are required:

- Fringe Benefit Statement (CEM-2501)
- Contractor/Subcontractor Weekly Certified Payroll (CEM-2502)
- Statement of Compliance (CEM-2503)
- Driver certified timesheet (specific to Labor Code 1720.9)

Contractors may use their own forms, however they must contain all required labor code elements and information required on Caltrans forms**
CONTRACTOR/SUBCONTRACTOR WEEKLY CERTIFIED PAYROLL

LABOR CODE §1776(a) AND §1776(c) REQUIRES THE FOLLOWING ELEMENTS TO BE REPORTED ON THE WEEKLY CERTIFIED PAYROLL RECORD:

✓ Name, address and full social security number of each employee
✓ Classification of work (the most appropriate classification for Ready-Mix Concrete work is "DRIVER")
✓ Hourly and overtime rate of pay
✓ Week ending date, date and day of work, hours worked each day and total hours for the week
✓ Gross & Net pay with deductions
✓ Check number or direct deposit transaction number
✓ Project location
✓ Federal-Aid Number
✓ Caltrans Contract number
CONTRACTOR/SUBCONTRACTOR WEEKLY CERTIFIED PAYROLL

- All deductions from an employee’s paycheck must be explained. Any deduction marked “other” (i.e., garnishments; 401k; payroll advances; etc.) must be explained on the payroll or on the Statement of Compliance (SoC) form.

- Any deductions from an employee’s paycheck must be authorized and shall meet Labor Code §221 & §224 requirements.

- Labor Compliance is responsible to monitor and enforce any violations and order any payroll records which have prevailing wage work. Confirmation of authorized deductions may be requested by Caltrans.
WEEKLY CERTIFIED PAYROLL

If a paycheck includes work not associated with the specific Caltrans contract, how does the company document the information on the weekly payroll?

### STATEMENT OF COMPLIANCE
PREVAILING WAGE REQUIREMENTS: STATEMENT OF COMPLIANCE

The submitted weekly payroll record is not considered certified without a Statement of Compliance:

- Must include all language on the CEM-2503 form and be signed under “Penalty of Perjury”
- First and Last Day of Pay Period required (corresponding to dates on the weekly certified payroll record)
- **ITEM 2**: Director of Department of Industrial Relations is the required wage rate for DRIVER
- **ITEM 4**: This section is completed based on the contractor’s payment process
- Should include any explanation for “other” deductions reported on weekly payroll record
SoC: “Other” deductions

(4) That fringe benefits as listed in the contract:

(a) ☐ Have been or will be paid to the approved plan(s), fund(s), or program(s) for the benefit of listed employee(s), except as noted below.

(b) ☑ Have been paid directly to the listed employee(s), except as noted below.

(c) ☑ See exceptions noted below.

Payment: Training Funds
Training Funds Paid to:
California Apprenticeship Council
P.O. Box 511263
Los Angeles, CA 90051-7638

REMARKS: Employee Name Here

Employee Name Here

- Additional voluntary deduction for health insurance (dependent coverage) paid to California Choice
- $13.94 reimbursement of pocket phone usage
- Child Support Order Deduct paid to Cal. State Disbursement Unit

NAME (PLEASE PRINT): Title:
If the work is being performed by an *bona-fide* "owner-operator", the CEM-2505 "Owner-Operator Listing" may be used in lieu of the contractor/subcontractor weekly payroll.

- The contractor employing an owner-operator must complete the forms and sign the Statement of Compliance (SoC).
- The forms will not be accepted from the equipment owner-operator unless the hiring contractor signs the owner-operator Statement of Compliance.
- All required information, including the equipment used, and license number must be present.
- Owner-Operator is not a DIR recognized classification, the work classification reported would be based on the type of equipment they operated and the appropriate classification DIR has identified for that type of work.
  - In ready-mix cases, the classification reported remains DRIVER: Mixer truck.
- The form is not to be used to capture *employees* of a company who are performing the work.

### Owner-Operator Listing

<table>
<thead>
<tr>
<th>PAYROLL NO.</th>
<th>FOR WEEK ENDING</th>
<th>PROJECT AND LOCATION</th>
<th>CONTRACT NO.</th>
</tr>
</thead>
<tbody>
<tr>
<td>NAME, ADDRESS, SOCIAL SECURITY NO. AND CONTRACTORS LICENSE NO. OF OWNER-OPERATOR (IF ANY)</td>
<td>WORK CLASSIFICATION</td>
<td>DESCRIPTION OF EQUIPMENT</td>
<td>TRUCK CAL. NO. AND OR EQUIP LICENSE NO.</td>
</tr>
<tr>
<td>DAY AND DATE</td>
<td>TOTAL HOURS</td>
<td>HOURLY RATE OF PAY</td>
<td>GROSS PAYMENT EARNED</td>
</tr>
</tbody>
</table>

**NOTE:** Certification will be accepted only from the contractor employing the owner-operator. It will not be accepted from the owner-operator himself.
FRINGE BENEFITS

FRINGE BENEFITS ARE ALSO REFERRED TO AS EMPLOYER PAYMENTS

Labor Code 1773.1 allows contractors and subcontractors to receive credit for employer payments: California Code of Regulations §16000 defines employer payments as:

Employer Payments Include:

(1) The rate of contribution irrevocably made by a contractor or subcontractor to a trustee or to a third person pursuant to a fund, plan, or program for the benefit of employees, their families and dependents, or retirees;

(2) The rate of costs to the contractor or subcontractor which may be reasonably anticipated in providing benefits to employees, their families and dependents or to retirees pursuant to an enforceable commitment or agreement to carry out a financially responsible plan or program which was communicated in writing to the workers affected; and

(3) The rate of contribution irrevocably made by the contractor or subcontractor for apprenticeship or other training programs authorized by Section 3071 and/or 3093 of the Labor Code.
FRINGE BENEFITS

Requirements of a Fringe Benefit:

• Irrevocable, in writing, to a 3rd party trust, fund or program
• Cannot decrease the basic hourly rate of payment required by DIR’s determination

What qualifies as a Fringe Benefit?

• Contractor payments for medical, pension, insurance etc.
• Does not include: workers comp, sick leave or any other benefit required by law

FRINGE BENEFITS

Employer payments are not part of the employee’s hourly rate of pay, rather a payment made to a plan/fund/program that benefits the employee. Therefore; the payments are not captured on the weekly certified payroll record.

If an employer wishes to receive credit for payments made on behalf of the employee, they must submit a completed Fringe Benefit Statement (FBS).
FRINGE BENEFITS

- The contractor’s completed FBS is submitted to receive credit for benefits in which they pay directly to a 3rd party trust, fund, or program that benefits the employee.
- The form must be submitted with the first payroll and if/when fringe benefit amounts or subsistence changes.
- The form must reflect the hourly amount to be credited towards the employees hourly rate of pay.
- The form must include the name and address of where the fringe benefit is being paid to.
- The form must be signed under penalty of perjury.

HOW DO I CALCULATE THE HOURLY RATE FOR A FRINGE BENEFIT?

- Often times Fringe Benefits are paid monthly, quarterly, bi-annually or annually and do not have an official hourly rate
- In order to find the hourly rate required on the FBS, the contractor must conduct a method called the “Annualization” principle of the fringe benefit
- The benefit is calculated to a yearly/annual rate and then divided by the full time employees hours worked in a year: **2,080 hours**

  **EXAMPLE:** Medical is paid by the contractor at the rate of $200 per month
  
  $200 x 12 = $2,400 a year
  
  $2,400 divided by **2,080 hours** is: $1.15 hourly credit
FRINGE BENEFITS

Calculation to determine employees total hourly rate (loaded rate) is paid:

- Hourly Rate on CPR + Total Hourly Fringe Credit = Total Hourly Rate Paid to Employee

**EXAMPLE:**

- Hourly Rate on CPR for employee = $25.00/hour
- Hourly Rate of Fringe Credit paid by the employer for the employee’s medical & pension = $6.00/hour

**TOTAL RATE of PAY: $31.00/hour**

This Total Rate is then cross referenced to the Total Hourly Rate required by DIR to ensure the minimum required rate(s) are paid.
EXERCISE #2: FRINGE BENEFIT CALCULATION & REPORTING

DRIVER CERTIFIED TIME RECORD
DRIVER CERTIFIED TIME RECORDS

➤ Labor Code 1720.9 requires drivers certified timecards to be submitted as part of the weekly certified payroll records.

➤ Per Caltrans Standard Specifications Section 7-1.02K(3) the prime contractor is required to submit all timecards with the required certified payroll records no later than the 15th of the month for the prior month’s work.

➤ There is currently no specific form for recording timecards. However; the Standard Specifications provides a listing of required information which must be present on the timecards.

➤ Failure to submit the timecards will result in a delinquent payroll record which in turn may be subject to withholds and penalties.

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Standard Specifications 7-1.02K(3)

Submitted certified payrolls for hauling and delivering ready-mixed concrete must be accompanied by a written time record. The time record must include:

1. Truck driver’s full name and address

2. Name and address of the factory or batching plant

3. Time the concrete was loaded at the factory or batching plant

4. Time the truck returned to the factory or batching plant

5. Truck driver’s signature certifying under penalty of perjury that the information contained in this written time record is true and correct
DRIVER CERTIFIED TIME RECORDS

- Electronic reporting systems with electronic signatures may be accepted.
  - All required information identified in the Standard Specifications must be present.
  - The driver must sign the time record electronically and certify the information.
  - If the electronic reporting system utilizes assigned ID numbers in lieu of driver names, additional records may be required for identity verification.

- Contact the district labor compliance office to ensure that your electronic reporting system meets all requirements and whether any additional documentation may be required.

PAYROLL RECORDS: OVERVIEW

01 The Fringe Benefit Statement (FBS)
Must be due with the first weekly payroll records and resubmitted whenever fringe or subsistence amounts change.

02 The Weekly Certified Payroll Record
Must include all information required by Labor Code, including all information reflected in the Caltrans form CEM-2502, and be submitted by the 15th of each month for the prior month’s work.

03 The Statement of Compliance
Must be completed, signed under Penalty of Perjury, and submitted along with every weekly certified payroll record.

04 Driver Certified Time Record
Must include all required information at submittal.
PAYROLL SUBMISSION

- Labor Code §1720.9 requires payroll records to be submitted to the prime contractor within five (5) business days after payment has been made.

- The prime contractor is required to submit all weekly payroll records for work performed to Caltrans labor compliance by the 15th of the following month.
  - Service contracts, Minor B's and Emergency contracts may require payrolls submitted with the invoice. Check the contract provisions to confirm the submission requirement if unsure.

- Failure to provide payroll records as required will result in a withholding of payment up to $10,000 for the prime contractor under construction contracts.

- Penalties may be assessed for failure to provide payroll records as required pursuant to Labor Code §1775, §1776 & §1810-1815.
PAYROLL SUBMISSION

Payrolls may be submitted electronically to Caltrans:

- Submissions must be sent via a secure file transfer protocol (FTP) and meet the following criteria:
  - Non-modifiable PDF format
  - All Labor Code elements must be present
  - Include a Statement of Compliance form
  - Submit a completed and signed *Request for Electronic Submission of Certified Payroll Records* for each Caltrans contract

- Electronic Submissions are not mandatory and Caltrans will continue to accept paper records.

PAYROLL SUBMISSION

- Caltrans recommends that projects for the Div. of Construction & Div. of Maintenance use FileZilla, an FTP that is secure and free to download for electronic submittal transfers.
  - The contractor/subcontractor should submit the *Request for Electronic Submission of Certified Payroll Records* form and e-mail it to the appropriate Labor Compliance Office
  - The Labor Compliance Office will assign the contractor a username and password for future submissions
    - *Each district/region has its own secure transfer file that can only be accessed with their supplied username & password*

- Make sure to communicate with the Caltrans project designee to confirm a preferred method for payroll submissions.
**CALTRANS PAYROLL REVIEW & CONFIRMATION PROCESS**
PAYROLL REVIEW

Upon receipt of received payroll records, Caltrans:

• Logs receipt of records into a tracking system
• Checks to ensure all required records were submitted
• Verifies all required elements are present and forms have all required signatures
• Records any delinquent and/or inadequate records

PAYROLL CONFIRMATION

Caltrans uses additional documents to confirm information provided on the submitted certified weekly payrolls:

• Caltrans Daily Reports
• DIR Determination appropriate for contract
• Time records
• Any other document which may confirm information on CPR meets requirements
# Prevailing Wage Violation

## Types of Violations

<table>
<thead>
<tr>
<th>Delinquent</th>
<th>Inadequate</th>
<th>Discrepant</th>
</tr>
</thead>
<tbody>
<tr>
<td>Required records not submitted to Caltrans as required per Labor Code &amp; contract provisions</td>
<td>Records submitted to Caltrans but missing required Labor Code &amp; contract provision information</td>
<td>Records submitted and have all required Labor Code elements, but information present is inconsistent with Caltrans records or other payroll records</td>
</tr>
</tbody>
</table>
NOTIFICATION OF VIOLATIONS:
DELINQUENT & INADEQUATE

Caltrans informs the prime contractor of any identified delinquent and/or inadequate records via the Notice of Delinquent or Inadequate Payroll Records

• A withhold of contract funds consistent with contract provisions will be included on the Notice
• The prime contractor is given 15 days to submit delinquent records, or correct any inadequacies
• Failure to submit the delinquent records, or corrected inadequate records, will result in a Final Notice and the contractor is given 10 days to comply
• Beginning the 11th day after receipt of the Final Notice, if the records identified are not received, the Labor Compliance Office will begin processing a Wage Case to submit to DIR for failure to furnish records

NOTIFICATION OF VIOLATIONS:
DISCREPANCY

If, after review, there are identified discrepancies (i.e., misclassification, underpayment of wages, hours worked, etc.) Caltrans will include an addendum to the Notice of Delinquent or Inadequate Payroll Records and include an Other Documents or Information Required section:

• The identified discrepancy with supporting information will be explained along with any underpayments identified
• The contractor is given 15 days to resolve the discrepancy before a withhold of contract payment is initiated
• If not resolved within 15 days, records become delinquent and Caltrans will issue a Final Notice giving the contractor 10 days to comply, the Notice will include all underpayment calculations & possible penalties under Labor Code 1775 & 1813
• Beginning the 11th day after receipt, if records are not received to resolve violations, Caltrans will begin processing a wage case for submission to DIR and include any identified penalties
PENALTIES

➤ Labor Code §1775:
  • Underpayment of wages
  • Up to $200 per day, per worker, for each worker paid less than the required prevailing wage rate

➤ Labor Code §1776(h):
  • Failure to furnish records within 10 days of receipt written notice
  • $100 per day per worker until strict compliance is effectuated

➤ Labor Code §1813:
  • A $25 penalty may be assessed for failure to pay the required overtime rate of pay

Liquidated damages in the amount of the underpayments may also be assessed

OVERVIEW & RESOURCES
OVERVIEW

As per DIR’s current published Scope of Work, the most appropriate wage determination and classification to be used is **Driver: Mixer Truck for Ready-Mix Concrete**.

The prevailing wage rate will be based on the location of the batch plant, not the Caltrans project site.

The **Total Hourly Rate** for straight time work is required to be paid to/on behalf of the employee(s).

- Contractors may receive credit for contractor payments that meets requirements

**Overtime** must be paid for all hours over 8 in a calendar day and 40 hours in a week.

**Saturday & Sunday Premium Rate of Pay** is required for all hours worked on those days unless it falls within the allowed exceptions.

OVERVIEW

Payroll documents must contain all information required by Labor Code §1776 including all information reflected on the Caltrans forms.

The FBS is required to be submitted with the first payroll and if/when fringe benefits or subsistence amounts change.

Drivers certified time records must contain all information required by the Standard Specifications.

All weekly certified payroll records and time records must be submitted by the 15th of the month for the prior month’s work on construction contracts.

- **For Service Contracts, see contract provisions for submission requirements**
OVERVIEW

- Penalties may be assessed for failure to meet prevailing wage requirements
- Caltrans has the authority to audit any prime contractor and subcontractor payroll records for work performed under a Caltrans contract
- Caltrans has the authority to withhold payment from the prime contractor for failure to comply with prevailing wage requirements
- The prime contractor has the ability to withhold payment from a subcontractor for failure to comply with prevailing wage requirements

RESOURCES

- DIR Director’s General Prevailing Wage Determinations: [http://www.dir.ca.gov/OPRL/dprewagedetermination.htm](http://www.dir.ca.gov/OPRL/dprewagedetermination.htm)
- DIR’s Public Works Manual: [https://www.dir.ca.gov/dlse/PWManualCombined.pdf](https://www.dir.ca.gov/dlse/PWManualCombined.pdf)