Denver Auditor's Office

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Prevailing Wage Overview

What is prevailing wage?

Prevailing wage is ordinance § 20-76 of the Denver Revised Municipal Code.

Any project with City and County of Denver funding, or any project on City and County of Denver owned or leased property, requires prevailing wage compliance.

Who is covered?

The prime contractor and any subcontractor, at any tier, is covered under this ordinance who performs:

- Construction.
- Alteration.
- Improvements.
- Repairs.
- Maintenance.
- Demolition.

The prevailing wage ordinance requires the prime contractor to provide a list of all subcontractors (at all tiers) providing any services under the contract to the Auditor's Office Denver Labor staff when requested.

Who determines prevailing wage rates?

The prevailing wage administrator publishes wage determinations as the prevailing wage rates. The prevailing wage administrator reports directly to Auditor O'Brien and is independent of Denver Labor.

Selection of the wage determination is based on the area where the work is being performed. One or more wage determinations may be assigned to a project. Wage determinations are primarily categorized as Building, Heavy, Highway, and Residential.

- **Building wage rates** — Includes all work inside the footprint or foundation of the building.

- **Highway wage rates** — Includes the construction, alteration, or repair of roads, streets, highways, airport apron areas, runways, taxiways, alleys, parking areas, sidewalks, and other similar projects.
- **Residential wage rates** — Includes those projects involving the construction, alteration, or repair of single-family houses or apartment buildings of no more than four floors in height (e.g., townhomes or rowhouses, detached singlefamily homes, mobile homes, multifamily houses, apartment buildings, and student housing).
- **Heavy wage rates** — Includes work outside the footprint of the building. This applies to uninhabitable structures, including toll booths, outhouses, kiosks, parks, and parking garages. Heavy rates also apply to building demolition. Heavy rates are generally assigned to projects that are not Building, Residential, or Highways.
- **Prevailing wage administration** — Wage rates are issued for special classifications. Examples include appliance mechanic; finishers; furniture movers; pest controller; tree trimmers; window cleaner; and specialized classifications at Denver International Airport, such as transit mechanics or baggage system technicians. Prevailing Wage Administration wage rates also include rates for custodians.
- **Administrator supplemental rates** — For certain classifications not included in the federal wage determinations, reference the publication titled: "Administrator Supplemental Rates (Specific to the Denver projects)". The classification may include laborer groups, power equipment operator groups; truck driver groups, and water-proofer.

How are worker classifications and proper rates determined?

Employees must be classified and paid properly for the classifications of work they perform.

- Assignment of the wage determination(s) is based on the area of work being performed and assigned to a project by the Auditor's Office.
- Prevailing wage rates are a minimum. If a contractor has established a higher non-prevailing wage rate, the contractor must continue to pay the higher wage rate.
- Prevailing wage rates listed in the wage determination cannot be less than Denver Citywide Minimum Wage, which on Jan. 1, 2026, is $19.29.
- The Denver Citywide Minimum Wage is established by Denver City Council. A new Citywide Minimum Wage rate is effective 1/1 of every year.
- Wage rates can be viewed at DenverGov.org/DenverLabor.

Projects designated as Colorado Department of Transportation or federal — if a classification is not listed on the assigned wage determination(s) then the

classification and wage rate need to be requested from U.S. Department of Labor through the conformance process. “SF-1444 Request for Authorization of Additional Classification and Rate.”

What are the prevailing wage requirements?

Fringe benefit requirements

- Fringe benefits must be paid as a part of prevailing wage requirements.
- If a contractor offers a fringe benefit package and would like to offset the fringe portion listed in the wage determination, you must have an approval from our office before it can be applied. Only the portion paid by the contractor is allowed.
    - Fringe approvals are valid for one year from the approval date.
    - Fringe approvals are contactor specific.
    - It is the contractor’s responsibility to inform our office of any fringe benefit updates or changes.
    - The fringe benefit must be a guaranteed benefit to be approved.
    - Fringe benefits are owed on both standard time and overtime.
- All fringe benefit related documentation must be emailed to pwfringes@denvergov.org. Documentation must include (but is not limited to):
    - “Master Fringe Benefit Spreadsheet.”
    - Medical, dental, disability, life, or any other health and welfare insurance — a copy of the policy including evidence of the portion of the benefit paid by the employer.
    - Pension plans — IRS qualification letter, a copy of the plan, including name of any third-party administrator, and evidence of the portion of the contribution paid by the employer.
    - Vacation, holiday, or sick pay — a copy of the employer’s policy.
- The “Master Fringe Benefit Spreadsheet” can be provided by the prevailing wage division or downloaded from LCPtracker.
- The portion of fringe benefits not covered by an approved fringe benefit amount must be paid directly to the employee as cash in lieu.
    - If a contractor has approval from our office to make an additional 401(k) contribution, that contribution cannot exceed the published fringe amount of the wage determination for selected classification.
    - A 401(k) contribution cannot be made for restitution payment owed to an employee. Restitution payments must be paid directly to the employee.

Overtime requirements

- Overtime is enforced after 40 hours worked. If an employee works over 40 hours in a workweek, regardless of whether the 40 hours worked were on a

prevailing wage project or not, overtime must be paid for hours worked over 40 hours.

- Overtime is enforced after the 12th hour of work performed in a single day or on a shift (12-Hour Rule Colorado Overtime & Minimum Pay Standards Order #36).
- Overtime is calculated at one-and-a-half times the greater of the established base hourly rate or the wage determinations base hourly rate plus fringe benefits.

Apprentice requirements

- Our office only recognizes apprentices with a current Apprenticeship Certification issued by the U.S. Department of Labor.
- Our office enforces a 1-1 ratio. The maximum is one apprentice to one journeyman.
- The 1:1 ratio can only be employees employed by the same contractor performing the same craft.
- Helpers or trainees are not allowed.
- If a current apprenticeship certificate cannot be provided or an apprentice is working out-of-ratio, the apprentice must be paid the applicable journeyman wage rate.
- Projects designated as Colorado Department of Transportation (CDOT) or Denver Construction Careers Program (DCCP) may have additional apprentice requirements.
    - CDOT may have on-the-Job training goals. CDOT form “838 OJT Trainee/Apprentice Record.”

Operator requirements

- All contractors who classify themselves as “owner-operators” must have at least twenty percent or more ownership and must verify to our office that they are a legitimate business entity and must complete the “Affidavit Contractor Personally Performed Work” form and provide the required supporting documentation listed on the form.
    - Owner-operator must complete the “Affidavit Contractor Personally Performed Work” form and provide one of the following supporting documents:
        - Form “1040 Schedule C.”
        - IRS federal identification number letter.
        - Trade name registration with the Colorado Secretary of State.
        - Articles of incorporation or articles of organization.
    - Trucking owner-operators must complete the “Affidavit Contractor Personally Performed Work” form and provide a copy of their:

        - Vehicle registration.
        - Certificate of vehicle insurance.
        - Driver's license.
- Owner-operators do not have to report hourly rate paid but must report all hours worked on certified payroll records.

Independent contractor requirements

- Payroll records submitted with 1099 workers must verify to our office that they are a legitimate independent contractor.
- Relevant factors to determine whether a worker is an employee or independent contractor include a) the degree of control an employer may or does exercise over the person and b) the degree to which the person performs work that is the primary work of the employer. A worker is not an employee if they are both "a" and "b."
- Provide evidence and argument establishing that the worker is an independent contractor under the "Colorado Wage Act."
    - Colorado Department of Labor and Employment "Interpretive Notice & Formal Opinion #10" contains additional information on the standard to determine if a worker is an employee or independent contractor.

Other deductions

- Employee payroll records submitted with other deductions will be reviewed to verify whether they are permissible.
- Permissible other deductions such as required by or in accordance with laws and court orders require supporting documentation. Examples (not limited to): child support and garnishments.
- Other deductions that are not required by or in accordance with laws and court order must be for the employee's benefit. Other deductions will be reviewed and determined if permissible. These other deductions require a written agreement and/or supporting documentation. Examples (not limited to): employee contributions for benefits, voluntary donations.
- Examples of unallowed other deductions (not limited to): cost of required Personal Protective Equipment (PPE) or uniform, damage to company property, personal use of company vehicle.

When do salaried personnel need to be reported?

- Salaried personnel performing work must be reported on certified payroll records.
- Their salary must be converted to an hourly rate (salary divided by 2,080 hours) and must be earning at least the minimum prevailing wage rate.

- Overtime applies to working salaried employees after 40 hours and/or 12 hours on a single day.
- DO NOT include salaried personnel who only supervise the project.

What is the established payment schedule for employees?

- The ordinance requires that all employees working on the project must be paid weekly by check or direct deposit.

How are wage rates increased or decreased?

- Wage determinations assigned to a project are updated annually on the anniversary date of the project and remain in effect for 12 months from the anniversary date. This cycle repeats itself until the project is complete.
- The anniversary date is the contract bid issuance/advertisement/publication date or for purchase orders — the issue date.
- Projects with a contract term fewer than 365 days will not have an anniversary date, however, if the project exceeds 365 days beyond the "Notice to Proceed," wage rates will be updated. For projects designated as Colorado Department of Transportation or federal — wage rates are bound in the contract and are frozen for the duration of the project.

What are certified payroll records and the LCPtracker and how are they used?

- Certified payroll records must be submitted electronically using the web-based software LCPtracker.
- Certified payroll records need to be submitted weekly.
- All contractors performing work on a prevailing wage project must enter payroll data into LCPtracker.
- Awarded projects will be setup in LCPtracker by the assigned labor compliance analyst.
- Contractors and subcontractors submit their certified payroll records electronically and upload requested information/documentation in LCPtracker at no cost to the contractor.
    - LCPtracker may be able to provide conversion software compatible with most major payroll software to upload payroll data. There may be a one-time cost and requires contacting LCPtracker directly.
- Our office is available to assist with LCPtracker.

What is an on-site inspection and how is it conducted?

- On-site inspections will be conducted by the Auditor's Office Denver Labor staff.

- Inform your employees that this is a prevailing wage project, and our office has the authority to observe work being performed, conduct employee interviews, and take pictures.
- Wage rates, wage theft poster, and the prevailing wage poster must be displayed in an easily accessible place on the job site. It is recommended to display the posters in both English and Spanish.
- Projects designated as CDOT require the completion of Colorado Department of Transportation Form 280 Equal Employment Opportunity and Labor Compliance Verification.
    - Our office will conduct job site interviews completing the Equal Employment Opportunity and Labor Compliance sections however our office will only be verifying the Labor Compliance section.

What are the penalties for noncompliance?

Invoices, draws, and pay applications for payment are routed to our office for prevailing wage compliance and final approval. Note: a message generated from Textura software system is not the final approval.

- The prime contractor is responsible for the entire project.
- Under the ordinance, our office will withhold payment for noncompliance of prime and subcontractors at all tiers.
    - Common noncompliance issues include:
        - Certified payroll records not submitted in LCPtracker.
        - Unapproved fringe benefits.
        - Unapproved fringe benefit amounts.
        - Missing documentation.
        - Wage underpayments.

Under Denver's Civil Wage Theft Ordinance, underpaying workers is a violation and wage theft tools will be applied.

- Contractor notified: 14 days to pay restitution.
- If restitution is not paid within 14 days: Pay restitution + 12% interest.
- If restitution is not paid after 30 days: Pay restitution + 12% interest + 300% damages.
- Fines may be assessed for failure to submit performing certified payroll records regularly.
- Fines may be applied according to the following tier level:
    - **Tier I** — $10 per worker, per week.
      Example: Contractor is a first-time offender, but the contractor is aware of the requirement and still does not submit performing certified payroll records for 1-4 months or fewer.

- **Tier II** — $25 per worker, per week.
  Example: Contractor is either a second-time offender who has been fined at the Tier I level in the past two years or is aware of the requirement and does not submit performing certified payroll records for 4-8 months.
- **Tier III** — $50 per worker, per week.
  Example: Contractor is either a third-time offender who has been fined at Tier I and/or Tier II levels in the past two years or is aware of the requirement and does not submit performing certified payroll records for 8 months or more.
- **Tier IV** — $100 per worker, per week.
  Example: Contractor is a repeat offender who has been issued fines at all tier levels, is aware of the requirement and appears to violate the law knowingly/deliberately and/or hides records from our office (e.g., payment of workers off the record, consistently underpayment of workers, consistently misclassifying workers, or otherwise engages in behavior reflecting a disregard for the prevailing wage ordinance).
- **Tier v** – $100 per worker, per week plus the Denver Auditor's Office may pursue debarment. Example: Contractor is a repeat offender who has been issued Tier IV fines at least three times and has established a pattern and practice of knowingly and deliberately violating the law and/or withholding records from our office.

Where can more information be found?

Contact the Auditor's Office at 720-913-5000.

Visit our website: DenverGov.org/DenverLabor

Our website includes additional compliance information, documents, resource tools, and training videos.

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