

DEPARTMENT OF TRANSPORTATION

DIVISION OF CONSTRUCTION

DISTRICT XX

ADDRESS

CITY, STATE ZIP

PHONE XXX-XXX-XXXX

FAX XXX-XXX-XXXX

TTY 711

districtX.payrolls@dot.ca.gov



*Serious drought.
Help save water!*

**NOTICE OF DELINQUENT OR INADEQUATE CERTIFIED
PAYROLL RECORDS**

[Date]

[Prime Contractor's Name]

[Address]

[City, ST ZIP]

Dear [Prime Contractor's Name]:

The Department of Transportation (Caltrans) is temporarily withholding contract payments due to delinquent or inadequate certified payroll records as specified below for contract [Contract Number]. If the records are for a subcontractor, you are required to withhold funds for delinquent or inadequate certified payroll records under Labor Code § 1729. **Provide the delinquent or inadequate records within 15 days of the date of this letter.**

DELINQUENT CERTIFIED PAYROLLS— Records not provided to Caltrans by the 15th of the month for the previous month's work.

Contractor	Week Ending Date	Comments
Wet Concrete Company	1/8/11	Statement of Non Performance Received
Limpy Rebar, Inc.	1/8/11, 1/15/11	
Kaput Construction	1/22/11	
Blind Traffic Control Co.	1/1/11, 1/22/11	
Slow Poke Trucking	1/8/11, 1/15/11, 1/29/11	Submit Truck Owner Operator Certifications if drivers are not employees

INADEQUATE CERTIFIED PAYROLLS - Records missing those elements specified in Labor Code § 1776.

Contractor	Week Ending Date	Date Notified	Comments
Dandelion Landscaping	1/1/11	2/18/11	Missing Statement of Compliance
Rubber Tire Trucking	1/8/11, 1/15/11	2/18/11	Lacking full social security numbers
Blind Traffic Control Co.	1/22/11, 1/29/11	2/18/11	Lacking employee addresses

ESTIMATED WITHHOLDING OR RELEASE – Delinquent or Inadequate Certified Payrolls

Estimate #	Date	Withholding Amount	Release Amount	Comments
6	1/19/11	10,000.00		LCV for delinquent or inadequate Dec 2010 payrolls
7	2/18/10	10,000.00	10,000.00	LCV for delinquent or inadequate Jan 2011 payrolls Release from Est. 6 delinquent Dec 2010 payrolls

Expedited Hearing – Delinquent or Inadequate Certified Payroll Records

An affected contractor or subcontractor may request an expedited hearing to review the temporary withholding of contract payments for delinquent or inadequate certified payroll records under Labor Code §1742. The only issues in such a review proceeding are whether the specified certified payroll records are in fact delinquent or inadequate within the meaning of 8 California Code Regulations §16435 as defined in Delinquent or Inadequate Certified Payrolls above or whether the Labor Compliance Program has exceeded its authority under 8 CCR §16435. This is not a determination of liability for wages or penalties under Labor Code §1775, §1776, or any other statute. Caltrans cannot continue to temporarily withhold contract payments once the required records listed in the Delinquent or Inadequate Certified Payrolls section have been submitted. However, the contractor or subcontractor may still be subject to the assessment of back wages and penalties and the withholding of contract payments if, upon investigation, a determination is made that a violation of the public works requirements of the Labor Code has occurred. To obtain an expedited hearing, a written request must be transmitted to **both** Caltrans and the lead hearing officer for the Director of the Department of Industrial Relations as follows:

<p>DEPARTMENT OF TRANSPORTATION Division of Construction ATTN: Labor Compliance Expedited Hearing Request FAX to (916) 654-5990</p>	<p>DEPARTMENT OF INDUSTRIAL RELATIONS Office of the Director—Legal Unit ATTN: Lead Hearing Officer Expedited Hearing Request FAX to (415) 703-4277</p>
---	--

The request for expedited hearing should specify the basis for challenging the delinquent or inadequate certified payroll records and include a copy of this notice as an attachment. The request should also identify and provide contact information for the person(s) who will represent the contractor or subcontractor at the hearing.

OTHER DOCUMENTS OR INFORMATION REQUIRED

A review of payroll records indicates discrepancies as listed below. Provide the requested information or corrections within 15 days of the date of this letter. **Failure to provide the requested documents or correct the identified discrepancies may result in a withhold from the next pay estimate.** The listed discrepancies are not subject to the expedited hearing process as provided in the Notice of Delinquent or Inadequate Certified Payroll Records.

PAYROLL RECORD DISCREPANCIES --- *Underpayment of required prevailing wage rates or hours worked, misclassification of workers, and missing required certifications, authorizations, or other requested documents.*

Contractor	Description
Contractor Construction	<p><u>Payroll Discrepancies</u></p> <p>Our records indicate that <i>Employee A</i> operated a Bobcat 331 mini excavator 8 hours each day from 12/6/10 to 12/11/10. He was paid as a Laborer Group IV. He is due restitution of \$_____ for Operating Engineer Group _____. Make restitution to the worker, submit supplemental certified payroll, and follow up with copy of front and back of canceled check.</p> <p><u>Payroll Documents Required</u></p> <p>Federal Apprentice Certifications for: <i>Employee Names</i></p> <p>Failure to provide valid State and Federal apprentice certifications on federal aid contracts while paying apprentice wages will result in enforcement of the Federal journeyman prevailing wage rate, as well as, subject the contractor to a labor compliance violation (LCV).</p> <p>Deduction Authorizations for week ending 2/5/11: <i>Employee A</i> - \$150</p> <p>Pay stubs/Payroll Vouchers for week ending 2/9/11: <i>Employee B</i></p>
A Traffic Control Co.	<p><u>Payroll Discrepancies</u></p> <p>Our records indicate that <i>Employee A</i> worked 8 hours on 12/10/10, but he was paid for 4 hours. If you believe the information is inaccurate, provide signed timesheets or other substantiating documents. Otherwise, pay restitution, submit supplemental certified payroll, and follow up with canceled check.</p>
Trucking Company	<p><u>Documents Required</u></p> <p>Truck Owner-Operator Certifications of Ownership for: <i>O/O Names</i></p>

