

Guidance on Deductions for Construction Projects Requiring Certified Payrolls

(Updated June of 2021)

All contractors working on projects where the wage determination was included (regardless of funding source) in the project specification are required to submit weekly certified payrolls in compliance with the Davis-Bacon and Related Acts (DBRA). The purpose of this guidance is to clarify what supporting documentation for payroll deductions must be submitted to CDOT to ensure compliance with all applicable law(s).

1. Other Deduction Notes

Within the LCPtracker system, “Other” approved deductions shall be detailed by type and amount within the “Other Deduction Notes” section of the payroll.

2. Supporting Documentation for Other Deductions

The 29 CFR 3.5 lists certain deductions that are permissible without application to or approval from the Secretary of Labor. Any deductions made to an employee’s pay outside of those permissible deductions require approval from the Secretary of Labor as demonstrated through Department of Labor (DOL) approval letters. While all deductions are subject to the request of additional supporting documentation, the supporting documents for certain permissible deductions are required at the time of submission of the certified payroll, as outlined in the table below. It is every contractor’s responsibility to reach full compliance of payroll requirements outlined in the 29 CFR parts 3.5 and 3.6.

3. Payroll Deductions Permissible with the Approval of the Secretary of Labor ([29 CFR 3.6](#))

A US DOL approval letter is required for ANY type of deduction that does not fall under the payroll deductions that are listed as permissible ([29 CFR 3.5](#)) without application for approval by the Secretary of Labor. Any deduction that is approved must include a specified time period of approval (within the DOL letter) for the deduction. If the time frames for approval are not outlined in the letter, the letter’s date from US DOL will serve as the time frame for which the deduction is approved or rejected. Any deduction that falls outside of this time frame will be subject to back pay. To request approval, send an email to DOL at dbadeductions@dol.gov, with any supporting documentation, that specifically describes how the deduction meets the requirements from 29 CFR 3.6. Once the letter is

received, it will need to be uploaded into eDocuments in LCPtracker. The written approval is required annually. If any contractor fails to obtain a letter from DOL, the deduction will not be allowable and restitution will be owed.

4. Payroll Deductions Permissible Without Application to or Approval of the Secretary of Labor.

Please note: It is possible that no documentation for other deductions may be required for CDOT’s weekly payroll submission; however, the requirements of the regulations still stand as obligatory as stated in the CFR.

Federal Reference	Type of Deduction	Required Supporting Documentation (at time of submission of certified weekly payroll in LCPtracker)
29 CFR 3.5 (a) Federal, State, and/or Local Laws	Any deduction made in compliance with the requirements of Federal, State, or local law, such as Federal or State withholding income taxes and Federal social security taxes	None May be requested at later date upon audit
29 CFR 3.5 (b) Loans / Cash Advances	Any deduction of sums previously paid to the employee as a bona fide prepayment of wages when such prepayment is made without discount or interest. A bona fide prepayment of wages is considered to have been made only when cash or its equivalent has been advanced to the person employed in such manner as to give him complete freedom of disposition of the advanced funds	Loans and cash advances shall include a written agreement between the Company and Employee. All written agreements must include: 1) the total amount advanced; 2) the date the funds were advanced; 3) the date(s) in which funds will be deducted for repayment; 4) the amount that will be deducted on each date; 5) the employee’s name and signature authorizing the deduction; and 6) a statement that indicates that no profit or other benefit is otherwise obtained, directly or indirectly by the contractor or subcontractor or any affiliated person in the form of commission, dividend, or otherwise by way of the funds advanced.
29 CFR 3.5 (c) Child Support / Wage Garnishments	Any deduction of amounts required by court process to be paid to another, unless the deduction is in favor of the contractor, subcontractor, or any	(Redacted) Court wage garnishment order



	affiliated person, or when collusion or collaboration exists	
29 CFR 3.5 (d) Medical and hospital care, death benefits, pensions, compensation for injuries, etc., and other various benefits	Any deduction constituting a contribution on behalf of the person employed to funds established by the employer or representatives of employees, or both, for the purpose of providing either from principal or income, or both, medical or hospital care, pensions or annuities on retirement, death benefits, compensation for injuries, illness, accidents, sickness, or disability, or for insurance to provide any of the foregoing, or unemployment benefits, vacation pay, savings accounts, or similar payments for the benefit of employees, their families and dependents	None May be requested at a later date upon audit
<p>For the deductions listed in part d (above), contractors will need to ensure that: (1) The deduction is not otherwise prohibited by law; (2) That they are either (i) voluntarily consented to by the employee in writing and in advance of the period in which the work is to be done and such consent is not a condition for the obtaining of or for the continuation of employment, or (ii) provided for in a bona fide collective bargaining agreement between the contractor or subcontractor and representatives of its employees; (3) No profit or other benefit is otherwise obtained, directly or indirectly, by the contractor or subcontractor or any affiliated person in the form of commission, dividend, or otherwise; and (4) The deductions shall serve at the convenience and interest of the employee.</p>		
29 CFR 3.5 (e) Defense Bonds	Any deduction contributing toward the purchase of US Defense Stamps and Bonds when voluntarily authorized by the employee	None May be requested at later date upon audit
29 CFR 3.5 (f) Credit Unions	Any deduction requested by the employee to enable him to repay loans to or to purchase shares in credit unions organized and operated in accordance with Federal and State credit union statutes	None May be requested at later date upon audit
29 CFR 3.5 (g) American Red Cross	Any deduction voluntarily authorized by the employee for the making of contributions to governmental or quasi-governmental agencies, such as the American Red Cross	None May be requested at later date upon audit



<p>29 CFR 3.5 (h) Charitable Organizations</p>	<p>Any deduction voluntarily authorized by the employee for the making of contributions to Community Chests, United Givers Funds, and similar charitable organizations</p>	<p>None May be requested at later date upon audit</p>
<p>29 CFR 3.5 (i) Unions</p>	<p>Any deductions to pay regular union initiation fees and membership dues, not including fines or special assessments: provided, however, that a collective bargaining agreement between the contractor or subcontractor and representatives of its employees provides for such deductions and the deductions are not otherwise prohibited by law</p>	<p>Collective bargaining agreement</p>
<p>29 CFR 3.5 (j) Board, Lodging, or Other Facilities</p>	<p>Any deduction not more than for the “reasonable cost” of board, lodging, or other facilities meeting the requirements of section 3(m) of the Fair Labor Standards Act of 1938, as amended, and part 531 of this title. When such a deduction is made, the additional records required under §516.25(a) of this title shall be kept.</p>	<p>Required documentation shall include: 1) Invoice(s) evidencing actual cost to employee of board, lodging, or other facilities; 2) Documentation of the agreement between the Company and Employee that includes (i) the total amount to be repaid, (ii) the date constituting the purchase by the employee, (iii) the date(s) in which funds will be deducted for repayment, (iv) the amount that will be deducted on each date, and (v) the employee’s name and signature authorizing the deduction. This documentation should expressly state and/or evidence by way of the total amount paid back that no profit or other benefit is otherwise obtained, directly or indirectly, by the contractor or subcontractor or any affiliated person in the form of commission, dividend, or otherwise by way of the purchase facilitated by the employer and/or the collective bargaining agreement as applicable. FAQs of FLSA 3M</p>
<p>29 CFR 3.5 (k) PPE</p>	<p>Any deduction for the cost of safety equipment of nominal value purchased by the employee as his own property for his personal protection in his</p>	<p>Per OSHA Requirements (29CFR) 1910.132, on most occasions, PPE is not an allowable deduction. Please see OSHA Handout #7 for clear guidance as to what</p>



	<p>work, such as safety shoes, safety glasses, safety gloves, and hard hats, if such equipment is not required by law to be furnished by the employer, if such deduction is not violative of the Fair Labor Standards Act or prohibited by other law, if the cost on which the deduction is based does not exceed the actual cost to the employer where the equipment is purchased from him and does not include any direct or indirect monetary return to the employer where the equipment is purchased from a third person, and if the deduction is either: (1) Voluntarily consented to by the employee in writing and in advance of the period in which the work is to be done and such consent is not a condition either for the obtaining of employment or its continuance; or (2) Provided for in a bona fide collective bargaining agreement between the contractor or subcontractor and representatives of its employees.</p>	<p>employers must pay for and what employees can be charged. For any allowable PPE deductions per the above reference, CDOT will require a written agreement between the Company and Employee. All written agreements must include the following:</p> <ol style="list-style-type: none">1) the total deduction for PPE;2) the date(s) of the deduction or deduction installment;3) the amount that will be deducted on each date;4) explanation of the type of PPE and the reason for the deduction;5) the employee's name and signature authorizing the deduction; and6) a statement that indicates that no profit or other benefit is otherwise obtained, directly or indirectly by the contractor or subcontractor or any affiliated person in the form of commission, dividend, or otherwise by way of the funds advanced.
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