

Civil Rights Business Resource Center

2829 West Howard Place, Suite 139

Denver, CO 80204

August 18, 2020

Dear Contractors,

After receiving new guidance from the Department Of Labor, CDOT wanted to share what we have discovered about the Statement of Compliance that is signed through the certification at the end of the payroll process. There are two ways that this affects contractors:

**1) Any Project in LCPtracker**

For these projects located in LCPtracker, contractors can choose to check the following:

* 4(a) if paying all fringe benefits to approved plans, funds, or programs in amounts not less than were determined in the applicable wage decisions
* 4(b) if paying cash (no fringe benefits)

* 4(a) and 4(b) if paying both cash and fringe.
* The only exception to this is in the case of apprentice wages, and then, the contractors should be using approved wage codes so there will be no exceptions to this rule as contractors are required to pay in either cash or fringe.

**2) Local Agency Projects (LAPs) Using Paper Payrolls**

Local agency projects are those projects that are bid and let through local agencies – cities, towns, counties, etc. For a few of these projects, paper payrolls are still submitted to the prime and ultimately turned into CDOT. For these projects, it is important that contractors follow the directions of the WH-347 in terms of affirmations that are made through the CDOT Form 118, Statement of Compliance:

* Check 4(a) if paying all fringe benefits to approved plans, funds, or programs in amounts not less than were determined in the applicable wage decisions
* Check 4(b) if paying cash (no fringe benefits)
* Check 4(c) for any exceptions to a or b and list ***each*** exception.

Any contractor who is making payment to approved plans, funds, or programs in amounts less than the wage determination requires is obliged to pay the deficiency directly to the covered worker as cash in lieu of fringe benefits.

This guidance came about because of the issues that contractors were having in trying to check the correct information. In the LAPs using paper payrolls, there is no place to delineate how the fringe is being paid on the actual payroll, and it is not done with fidelity on the CDOT Form 118. Within LCPtracker, contractors are required to define how that fringe or cash in lieu of fringe is being paid and therefore, CDOT has been give authorization by the DOL to use this easier reporting function.

Please reach out to the compliance specialist for your project if you have any questions about the Statement of Compliance.