Contractors are often confused about when and how to pay employees for time spent traveling and/or expenses related to travel. The assumption may be that if nothing is specified in the collective bargaining agreements (CBA), then no pay is due. This is a dangerous assumption, as California and Federal labor laws still apply. Here is a quick summary of basic information employers need to know.

**Travel Time**

In general, travel between home and work may be considered regular commute time and need not be compensated by the employer (CFR 29, 785.35). An example of that is an employee driving from their home to report directly to a jobsite within the normal dispatch zone. This is true even if s/he is using a company-provided vehicle.

However, when a non-exempt employee travels for work outside of normal commuting, travel time is considered time worked (CFR 29, 785.38). This can include:

- Reporting to the regular workplace or permanent yard and then traveling to another location to work for the day; the return trip would also be included if the employee must travel back to the regular workplace or permanent yard at the end of the day.
- Commute time between home and a site other than the regular workplace to the extent that such travel exceeds the employee’s normal commute time within the established dispatch zone. (See the 2003 DLSE opinion letter for more guidance on how this is viewed under Labor Code, including the issue of construction employees: www.dir.ca.gov/dlse/opinions/2003-04-22.pdf)
- Time spent in employer-provided transportation going from a central meeting place to a work site when the employees are required to use that transportation.
- However, Labor Code Section 510 (b) provides that when an employee commutes in a vehicle that is provided for ridesharing as defined in Vehicle Code Section 522, the commute time is not considered part of a normal day’s work.

These rules apply to both union and non-union non-exempt employees, unless there are other specific provisions in a CBA that are more stringent.

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**Contractor Best Practices:**

- Make sure that any vehicles supplied to non-exempt employees are subject to a use agreement between the company and the employee.
- Establish a lower travel pay rate where possible (for union employees, not possible unless part of the negotiated CBA) and communicate it clearly in writing to non-exempt employees.
- When providing transportation to a work site to non-exempt employees, make sure it is clearly optional for the employee to use employer-provided transportation unless you are prepared to pay for that travel time.
- Do not allow employees who show up at the yard to take advantage of a free ride to engage in any work at the yard, such as loading. Once they engage in work, they may be on the clock for the travel as well.
- Have a clear and consistent policy on reimbursement for travel expenses.
- Refer to the United Contractors quick reference guide to union provisions for subsistence and travel pay, available in our website Resource Center under Union Procedures.
Unless the CBA provides for a travel time rate, union employees must be paid at their normal rate of pay for travel time. However, for non-union employees, employers can set a different “travel time” rate other than the employee’s regular rate for travel time that is not subject to state prevailing wage requirements. The rate can be lower than the normal pay rate, as long as it is at least minimum wage, but it must meet the following conditions:

- All non-exempt employees are clearly notified of this travel time wage in writing prior to being paid on this basis.
- The travel time beyond the commute is counted as work time and therefore is subject to overtime. When using multiple rates, overtime must be calculated at the weighted average regular rate.
- Employees must also be reimbursed for any out-of-pocket expenses related to the travel (i.e., mileage, bridge tolls, meals and/or lodging where applicable) – see below for more on that subject.

**Subsistence/Per Diems & Other Travel Expenses**

Subsistence (also called “Zone Pay” or “Travel Pay”) is meant to help cover additional expenses incurred while the employee is away from home and/or in a remote area. Subsistence pay can be based on the distance traveled to the location of the work being performed, from the employer’s permanent shop, or yard or from the employee’s residence. However, in some cases it is based on specific geographic locations rather than distances traveled.

Amounts specified in the CBAs are minimums, and if no amounts are specified or the amounts do not apply to the work you are performing (see box below), this does not excuse employers from the obligation to provide reasonable reimbursement or per diems for out-of-town expenses required for work, such as lodging, mileage and meals. Labor Code 2802 requires employees to be reimbursed for necessary expenditures incurred by the employee in the discharge of his/her duties.

Operating expenses associated with driving one’s own vehicle on company time falls into the 2802 category of reimbursable expenses. The DLSE maintains the position that mileage reimbursement at the IRS rate creates a presumption of adequate reimbursement for vehicle operating expenses. As for per diems, “reasonableness” is the standard. You can always use the U.S. General Services Administration standard domestic per diem rates as a yardstick for reasonableness. Those can be seen at [www.gsa.gov](http://www.gsa.gov) (Policy & Regulations > Travel, Transportation, & Relocation > Travel Management > Per Diem > Per Diem Rates) and are broken down by state and by community within the state.

**OPERATORS & LABORERS (NORTHERN CALIFORNIA)**

The Operators (OE3) do not have specific subsistence requirements under the Master Agreement except for work covered under:

- Section 11.00.00 – Companies in the business of renting equipment
- Section 13.00.00 – Steel Fabricating & Erecting Work
- Section 14.00.00 – Piledriving

**Laborers** Zone Pay is $3.00 per hour in taxable wages, on top of whatever rate the Laborer is being paid. Supplement 6 of the Master Agreement details the parameters and exceptions. Supplement No. 2 has other pay requirements, but these are only for gunite, shotcrete, panelcrete and similar type work.

The OE3 Area 1 and 2 map is available In the United Contractors website Resource Center, under Union Procedures. OE3 Area 2 on the map also corresponds to the Laborers’ Zone Pay Area.

**Sources:** Simpson, Garrity, Innes & Jacuzzi Professional Corp.; California Chamber of Commerce