

OUTSTATE TROWEL TRADES FRINGE BENEFIT FUNDS

Michigan Trowel Trades Health and Welfare Fund

Outstate Michigan Trowel Trades Pension Fund

**Michigan Operative Plasterers' and Cement Masons' International
Association Apprenticeship and Training Fund**

EMPLOYER HANDBOOK

Outstate Michigan and Road Builder Employers

This Employer Handbook is prepared on behalf of the Michigan Trowel Trades Health and Welfare Fund (“Health and Welfare Fund”), the Outstate Michigan Trowel Trades Pension Fund (“Pension Fund”) and the Michigan Operative Plasterers’ and Cement Masons’ International Association Apprenticeship and Training Fund (“Apprenticeship Fund”) (together, “Funds”) for use by employers obligated to pay fringe benefit contributions to those Funds pursuant to Collective Bargaining Agreements negotiated by the Operative Plasterers’ and Cement Masons’ International Association Local 514 covering work performed in Michigan (other than work performed in Metropolitan Detroit and the Upper Peninsula) and covering work described in the collective bargaining agreement negotiated with the Michigan Infrastructure & Transportation Association - Labor Relations Division.

If there are any conflicts between the information in this Employer Handbook and the Collective Bargaining Agreements or Funds’ document, the Collective Bargaining Agreements and/or Funds’ document shall control.

WILL THE FUNDS ACCEPT YOUR CONTRIBUTIONS?

If an employer is party to a Collective Bargaining Agreement or other written Agreement which requires it to make contributions to the Funds, the Funds will accept the employer’s contributions. Federal law requires that all fringe benefit contributions must be made based upon a written agreement. **ORAL AGREEMENTS REGARDING THE PAYMENT OF FRINGE BENEFIT CONTRIBUTIONS ARE ILLEGAL.** For this reason, the Funds monitor incoming contributions to make sure that every contributing employer has a written agreement detailing the basis on which contributions are made. It is the responsibility of each employer which makes contributions to the Funds to review the fringe benefit contribution provisions of the agreement. If you or your business are not signatory to an Agreement which requires contributions to the Funds, your contributions will be held in escrow and will not be credited to your Employees. This can create serious problems for your Employees, including the loss of coverage under the Health and Welfare Fund.

HOW DO YOU CONTRIBUTE TO THE FUNDS?

If you are not sure how to complete the Employer Contribution Reporting Form, please contact the Fund Office. The Funds use three different reporting forms - one for Highway and Road work, one for Building Construction work and another for Plasterers work. If you require forms, please contact the Fund Office or Local 514. Forms are supplied on a compact disc (CD). Each CD contains all of the required forms in Microsoft Excel and Adobe Acrobat formats. If you cannot locate your CD, please contact the Fund Office for a replacement or to have the forms emailed to you.

Please report only one month’s contributions and only one jurisdiction on each form. However, you may use one check to pay for the total amount due on all of the forms.

You are required to file an Employer Contribution Reporting Form for each work month during which your business is signatory to a Collective Bargaining Agreement with Local 514 regardless of whether you employ persons during that work month who perform work covered by the Agreement. **THERE ARE NO EXCEPTIONS TO THIS RULE.** You are responsible for obtaining and filing the monthly report.

If you did not have employees performing covered work during the month, please indicate this on the reporting form so the Fund Office will be aware that your company is inactive.

In order to comply with Internal Revenue Service regulations and maintain its tax exempt status, the Pension Fund is required to keep a record of gross wages earned by each employee being contributed upon to the Fund. You must provide that information.

Your check for contributions owed to the Funds and your reporting forms should be mailed to the Outstate Michigan Trowel Trades Fringe Benefit Funds, Department 77761, P.O. Box 77000, Detroit, Michigan 48277-0761. These items must be **RECEIVED** by the 15th day of the month following the month in which the work was performed. Retain a copy for your records and send a copy to Local 514.

FOR WHICH EMPLOYEES MUST CONTRIBUTIONS BE MADE?

CONTRIBUTIONS MUST BE PAID FOR EVERY HOUR OF COVERED WORK PERFORMED BY ANYONE WHO WORKS FOR YOU. Federal regulations require that contributions be paid on ALL employees working under the Collective Bargaining Agreement. Therefore, contributions must be paid on all work performed by anyone who works for you as a Cement Mason or Plasterer, including journeymen, apprentices, temporary employees, students, relatives of the owner, etc., whether or not they are members of Local 514. There are no exceptions. This requirement applies to the first hour worked by the employee. There is no probationary period.

Hourly Employees - Contributions must be remitted based on the number of hours worked. The current contribution rates will be reflected in your Collective Bargaining Agreement and also on the Employer Contribution Reporting Form you receive from the Funds.

Salaried Employees - Unless you maintain records of actual hours worked by your salaried employees, contributions must be based on 160 hours per month, 12 months per year for every month the employee receives a salary. If you maintain records of actual hours worked, contributions must be made based on those hours, however, the Pension Fund will not accept contributions in excess of 160 hours per month, no matter how many hours a salaried employee works.

Under the Internal Revenue Code, the Pension Fund is prohibited from allowing sole proprietors or partners to accrue benefits based upon work performed for a company they own. Therefore, the Board of Trustees of the Pension Fund does not require or permit owners who operate as sole

proprietors or partners (unincorporated businesses) to contribute to the Pension Fund on their own behalf, even if they work as cement masons or plasterers.

WHEN ARE CONTRIBUTIONS DUE?

Contributions must be RECEIVED by the depository bank by the 15th day of the month following the month in which the work was performed. If contributions are not received by the depository bank by that date, late payment assessments will be charged as described below. Late payments may also adversely affect your employees' eligibility for benefits from the Health and Welfare Fund.

If contributions cannot be remitted in a timely manner, it is better if you notify the Fund Office and a Local 514 representative to explain the situation, although this will not affect the imposition of late payment assessments.

WHAT HAPPENS WHEN PAYMENTS ARE LATE?

Late payments cause serious problems for the Funds and for your employees and cause the Funds to incur significant expense. If your contributions are not received at the depository bank by the due date, the Funds will charge late payment assessments. The schedule of late payment assessments is determined by the Boards of Trustees and is currently a daily rate based on an annual interest rate, based on the prime interest rate (which was in effect as of the prior December 31) plus 10%. The annual rate is divided by 365 to determine the daily rate, which is then multiplied by the actual number of days a payment is late to determine the assessment percentage applicable. The assessment amount will be the resulting computation or \$20.00, whichever is greater.

You have the right to appeal any late payment assessments charged to you by writing to the Outstate Michigan Trowel Trades Joint Delinquency Committee in care of the Fund Office. An appeal should explain the basis for your request for a waiver of the late payment assessments.

WHAT HAPPENS IF YOUR CHECK DOES NOT CLEAR THE BANK?

The Funds charge a \$10.00 fee for reprocessing an employer's first check returned for insufficient funds. Subsequent bad checks will be subject to a \$25.00 reprocessing fee. In addition, late payment assessments will be charged, if appropriate, based upon the date that any reprocessed check is honored by the issuing institution.

WHAT RECORDS IS THE EMPLOYER OBLIGATED TO MAINTAIN?

Federal law requires all employers which must remit contributions to the Funds to maintain proper and complete business records which are sufficient to allow the Funds to verify by audit the accuracy of all contributions and to determine all amounts which may be owed to the Funds. Employers are also required to maintain records identifying work on individual jobs.

The records necessary to perform the audit include are but not limited to:

Employee earning records by calendar year, showing each employee's name, address, social security number, occupation, straight time and overtime hours worked, rate of pay, gross earnings, all deductions, and net pay.

Copy of IRS Form W-2 form filed for each employee annually.

Copy of IRS Form W-3 form filed for each year.

Copy of current year M.E.S.C. Form 1017 (employers quarterly wage detail report)

Copy of all IRS Form 1099s issued annually.

Copy of IRS Form 1096 form filed for each year.

WHY DO THE FUNDS REQUIRE AUDITS OF PAYROLL RECORDS?

FEDERAL LAW AUTHORIZES THE FUNDS TO CONDUCT PAYROLL AUDITS. The Trustees of the Funds are charged with the responsibility of collecting contributions owed to the Funds. The Trustees must comply with reporting requirements established by the Internal Revenue Service and the U.S. Department of Labor, and must provide regular reports and notices to plan participants and beneficiaries.

The Trustees' right to perform these audits is based upon the language of the Agreement you signed and on the Funds' Trust Agreements. For example, the Trust Agreement for the Health and Welfare Fund states:

“Each Employer shall promptly furnish to the Trustees on request any and all records concerning the classification of his Employees, their names, social security numbers, amounts of wages paid and hours worked and any other payroll records and information that the Trustees may require in connection with the administration of the Trust Fund and for no other purpose. Each Employer shall also submit in writing to the Trustees, at such regular periodic intervals and in such forms as the Trustees may establish, such of the above data as may be requested by the Trustees. The Trustees or their authorized representative may examine the payroll books and records of each Employer whenever such

examination is deemed necessary or advisable by the Trustees in connection with the proper administration of the Trust.”

In order to fulfill these and other responsibilities and requirements, the Funds have implemented a routine payroll audit program which requires all Employers to be audited periodically. The purpose of the audit program is to verify the accuracy of the reports and contributions you submitted to the Funds and to determine whether contributions have been paid for all covered work. Routine payroll audits are normally scheduled once every three years and are performed by authorized representatives of the Funds. In addition, payroll audits may be performed more frequently if the Trustees or their representatives have reason to believe that payments are not being remitted in accordance with the terms of the Collective Bargaining Agreement.

When your company is selected for an audit, you will be notified in writing by the Funds’ auditor.

WHAT HAPPENS WITH THE AUDIT RESULTS?

You will be notified in writing of the results of the payroll audit. If the auditor finds delinquencies, you will be assessed additional amounts on the unpaid contributions. Furthermore, if any contributions are found due, you will be notified to make the payment, which shall include an assessment. Currently, the amount charged for audit assessments is 10% of any delinquency. Audited delinquencies which remain unpaid are turned over to the Funds’ attorneys for collection.

If you disagree with the results of an audit, you should contact the auditor promptly to discuss your concerns and possibly schedule a review.

RECIPROCITY

Employers are required to make contributions precisely as required by the terms of the Collective Bargaining Agreement in effect in the geographic location in which covered work is performed and/or any other Agreement requiring contributions. This means that you may be required to remit contributions to Funds other than the “home” Funds of your employees if they are working for you outside their normal work area. The Outstate Michigan Trowel Trades Funds have reciprocity agreements with other funds and all qualifying contributions will be transferred pursuant to those agreements if the employees have requested in writing that the transfers be made. The Outstate Michigan Trowel Trades Funds are required by Federal law to collect the contributions which are due to them. Therefore, if you try to bypass the reciprocity system and pay contributions which are due to the Outstate Michigan Trowel Trades Funds to any other Funds, you will face the possibility of paying those contributions twice.

HOW CAN I AVOID CERTAIN COSTLY MISTAKES?

- Do not put “fringe benefit contributions” on the employees’ paychecks. You remain obligated to contribute to the Funds and you will end up paying twice.
- Do not make any arrangement different than that in your Collective Bargaining Agreement or any other written Agreement that requires payment of fringe benefit contributions with anyone who is not an authorized agent of the Funds. A business agent of Local 514 is not an authorized agent of the Funds. A business agent, even if he is a Fund Trustee, cannot change or modify your Agreement concerning fringe benefit contributions.
- Be aware that calling an employee a “sub-contractor” does not relieve you of your obligation to remit fringe benefit contributions to the Funds on his/her behalf.
- Do not provide alternative benefits for employees covered by a Collective Bargaining Agreement. That will not relieve you of the obligation to contribute to the Funds and you may end up paying more than you need to.
- Contact the Fund Office for assistance if you are uncertain about the rules contained in this handbook or if you simply want information.
- Be aware that the Funds are jointly administered by an equal number of management and labor Trustees. The management Trustees are contractors just like you who are appointed by the signatory parties to the Trust, the Michigan Chapter, Associated General Contractors of America, Inc., Labor Relations Division and the Michigan Road Builders Association, Inc. - Labor Relations Division.

RESOURCES AVAILABLE AT NO CHARGE

The Michigan Trowel Trades Health and Welfare Fund Summary Plan Description and the Outstate Michigan Trowel Trades Pension Fund Summary Plan Description are available online at www.outstatetroweltrades.org.

Contribution Forms on Compact Disc can be requested from the Fund Office.

OUTSTATE MICHIGAN TROWEL TRADES EMPLOYER ASSOCIATIONS

Michigan Chapter, Associated General Contractors of America, Inc., Labor Relations Division
2323 North Larch Street
P.O. Box 27005
Lansing, MI 48909
(517) 371-1550
Fax (517) 371-1131

Michigan Infrastructure & Transportation Association - Labor Relations Division
2937 Atrium Drive
Suite 1640
Okemos, MI 48805
(517) 347-8336
Fax (517) 347-8344

OUTSTATE MICHIGAN TROWEL TRADES EMPLOYEE ORGANIZATION

OPCMIA Local #514
1154 E. Lincoln Avenue
Madison Heights, MI 48071
(248) 548-0800
Fax (248) 548-0700

FUND OFFICE CONTACT INFORMATION

Outstate Michigan Trowel Trades Fund Office
TIC International Corporation
6525 Centurion Drive
Lansing, MI 48917