



Davis-Bacon & Prevailing Wage

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Chapter 1 – Laws, Regulations, Contracts & Responsibilities

- Davis-Bacon - Prevailing wages on projects \$2000 or more for laborers/mechanics
- Contract Work Hours & Safety Standards Act (CWHSSA)
 - **Time and one-half pay for over 40 hours in a work week**
- Copeland Act (Anti-Kickback Act)
 - **Prevents employers from receiving a kickback from prevailing wages**
- Fair Labor Standards Act (FLSA)
 - **Contains federal minimum wage rates, overtime, and child labor requirements**



Davis-Bacon Regulations

- Title 20 CFR Parts 1, 3, 5, 6, & 7
- Part 1 – Explains DBA wage determinations
- Part 3 – Copeland Act & payroll deductions & submission of weekly reports
- Part 5 – Labor standards provisions relating to DBA wage rates and responsibilities of contractors and agencies
- Part 6 – Administrative proceedings enforcing labor standards
- Part 7 – Sets parameters for practice before Administrative Review Board



Construction Contract Provisions

- **Labor Standards Clauses**

- describe to the contractor the responsibilities of the contractor and how to comply with the labor requirements. These clauses provide remedies in the event of violations, including withholding payments due to the contractor in order to ensure the payment of wages or liquidated damages which may be due.

- **Davis-Bacon Wage Decisions**

- a list of wages for different classifications such as carpenter, electrician, plumber, or laborer. These wages listed are the MINIMUM wage and fringe benefits (if applicable) these individuals must be paid on this particular project. These wages are established by the Department of Labor and are based on the type of work, and the geographical area, usually a county or group of counties, for 4 different types of construction: building, residential, heavy, and highway. These wages vary from time to time, but the most updated list can be found at www.wdol.gov These wages are locked in and the minimum paid is not up for negotiation.



Responsibilities

- **Responsibility of the Principal Contractor**
 - (also known as prime or general contractor) is responsible for the full compliance of all employers (subcontractors and any lower-tier subcontractors) with the labor standards provisions applicable to the project. Because of the contractual agreement between a prime contractor and his/her subcontractors, subs should only communicate with the contract administrator via the principal contractor.
- **Responsibility of the Contract Administrator**
 - (DOL) is responsible for proper administration and enforcement of the Federal labor standards provisions on contracts covered by Davis-Bacon requirements. Administrator also monitors labor standards compliance by conducting interviews with construction workers at job sites and reviewing payroll reports. The contract administrator could be an employee or agent of the Department of Housing and Urban Development (HUD)



Chapter 2 – How to Comply with Labor Standards & Payroll Reporting

- Wage decision
 - **Laborer**
 - **Mechanic**
- Additional “trade” classification and wage rates
- Request for additional classification/wage
- Review/decision



Certified Payroll Reports

- Weekly certified payroll reports
- Payroll formats - The form to use is DOL's form WH-347
- **Payroll certifications** - Payrolls are called certified because each payroll has language certifying the information is correct and true. This language is located on the second page of the form WH-347. If a contractor chooses to use a different form, the back page of WH-347 must be attached indicating the payroll is certified true and correct.
- **“No work” payrolls** - If you do not have employees reporting to the project, you must submit a “no work” payroll if you have previously sent a payroll report in.
- **Payroll retention/inspection** — Each contractor must keep a set of payrolls for 3 years after the project is completed.



Davis-Bacon Definitions

- Laborer or mechanic – Physical labor
- Exclusions – Administrative, Clerical
- Apprentices and trainees – can be paid less than prevailing wage if registered with an approved program
- Piece-work employees – acceptable as long as wages paid are prevailing based upon actual hours worked
- Fringe benefits - can include health insurance premiums, retirement contributions, life insurance, vacation and other paid leave as well
- Overtime – time and one half for excess of 40 hours worked each week
- Deductions – legally permissible deduction only
- Proper Designation of trade
- Site of work – site where Davis-Bacon wages apply (i.e. clients homes)



Completing a Payroll Report

- What needs to be reported?
 - **Employee's name**
 - **Work classification**
 - **Rate of pay**
 - **Gross amount earned**
 - **Deductions**
 - **Net amount paid**



Payroll cont'd

- Project & contractor/subcontractor information
- Employee information
- Work classification/split classification
- Hours worked
- Rate of pay
- Gross wages earned
- Deductions
- Net pay
- Statement of compliance
- Signature



Payroll Reviews

- On-site interviews
- Project payroll reviews



Payroll Errors & Corrections

- Incomplete payrolls
- Classifications
- Wage rates
- Overtime
- Computations
- Deductions
- Fringe Benefits
- Signature
- On-site interview comparisons



Restitution for Underpayment of Wages

- Notification to the employer/prime contractor
- Computing wage restitution
- Correction payrolls
- Review of Correction CPR
- Unfound workers



Chapter 3

- Labor standards disputes
- Administrative reviews
- Withholding
- Deposits and escrow accounts
- Sanctions



Labor Standards Disputes, Administrative Reviews, & Withholdings

- **Administrative review on Labor Standards Disputes** - If there is a dispute about labor standards and compliance, it's usually because of denial of an additional classification and wage rate. If an employer is dissatisfied with a denial can request consideration from the DOL. The employer may continue to pay the requested wage rate until a final decision is reached. If the decision stands, the employer is then required to pay the employee the correct wage which would require back wages owed to the underpaid employees.
- **Findings of Underpayment** - If you are found you owe an employee payment due to underpayment, restitution must be paid immediately to the affected employee. You will have an opportunity to provide additional information to the contract administrator that may explain apparent inconsistencies and/or resolve the discrepancies. By using form WH-347, this should eliminate any discrepancies on payroll reporting.
- **Withholdings** - Withholdings may occur if the prime contractor or DOL feels payment is due and is unpaid. If wage underpayments or other violations are not corrected within 30 days after notification to the prime contractor, payment will be withheld until said violations and payments are brought current.



Deposits & Escrow Accounts

- Where the parties have agreed to amounts of wage restitution that are due
- Where underpayments are suspected or alleged and an investigation has not yet been completed
- Where the parties are waiting for the outcome of an administrative hearing



Sanctions

- DOL Debarments
- Falsification of certified payroll reports



Slide 19

JM1 On this line, identify if the contractor or subcontractor is the one preparing the payroll report.

jmoen, 6/24/2009

JM2 Put the address of the company reporting the payroll.

jmoen, 6/24/2009

JM3 Every payroll should be numbered each week. The first payroll is #1, the following week would be #2, and so on. When there aren't any more payrolls, the final would should be numbered and the word "FINAL" behind it.

jmoen, 6/24/2009

JM4 Put the week ending for this payroll in this line

jmoen, 6/24/2009

JM5 This line should be labeled "WAP"

jmoen, 6/24/2009

JM6 Project or Contract Number. This will be provided by the prime contractor and will not change.

jmoen, 6/24/2009

JM7 (1) On the first payroll put the employees name, address and social security number. You will only need to do this once for each employee. After each employee has been on the payroll once, put the employees name and last four digits of the ssn.

jmoen, 6/24/2009

JM8 (2) This isn't mandatory, but if the contractor reporting wishes to report it, that is fine.

jmoen, 6/24/2009

JM9 (3) Please put the employees work classification on this line. It should match a classification listed on the wage decision or one which was approved by DOL. Any other classifications not approved will cause the payroll to be rejected.

jmoen, 6/24/2009

JM10 (4) These boxes should list the days of the week according to the contractors reporting week and the appropriate date listed below. ex. The work week starts Sunday and goes through Saturday.

S M T W T H F S A
1 2 3 4 5 6 7

jmoen, 6/24/2009

JM11 (4) cont'd.

There are two rows of boxes that correlate with the day and date listed above. For each employee, record the hours worked on those particular days for this project ONLY. The top row that runs to the right of the "O" is for overtime worked, and the bottom row that runs to the right of the "R" is for straight time worked. There should not be any hours listed here that weren't regarding this project.

jmoen, 6/24/2009

JM12 (5) This column is asking for the total hours worked by the employee. The top half is for overtime hours worked, the bottom half is for the straight time worked. Add up the totals from column 4 and put them here

jmoen, 6/24/2009

JM13 (6) This column represents the rate of pay for both overtime and straight time. The overtime rate would go on the top and the straight

Slide 19 (Continued)

time on the bottom. Overtime hours must be paid at no less than one and one-half times the regular rate of basic pay plus the straight time rate of any required fringe benefits.

jmoen, 6/24/2009

JM14 (7) The gross amount earned is the combination of the straight time and overtime wages earned by this employee. the top half will be the gross amount earned on this project ONLY, while the bottom half will be gross amount earned by the employee altogether. This means if Joe works 10 hours on this project at \$10/hour and 30 hours on other projects at \$8 an hour his gross amount would look like this: \$100/\$340. Basically if you were to look at Joe's paystub, his gross amount on his check would be exactly the same number as the bottom half of this column.

jmoen, 6/24/2009

JM15 (8) Deductions taken from employees checks that are mandated by law will be listed in these columns. FICA is listed in the first, Federal withholding in the second, AZ state tax will be in the third. Any other deductions will need to be listed in the other column along with an authorization of deduction form signed by the employee. If the employee has a recurring deduction, for instance a savings account that is the same amount every week, an authorization form would only need to accompany the very first payroll the deduction is shown. In the total deductions column, add up all deductions for that employee and put that total here. This number will be different for every employee.

jmoen, 6/24/2009

JM16 (9) Net wages paid for week will be the amount the employees check was made out for. if you take the bottom half of column 7 and subtract each deduction, that should reflect the net amount paid to the employee for that week. This amount paid needs to ALWAYS match the amount paid on the employees check.

jmoen, 6/24/2009

Slide 20

- JM17** The date this payroll was created
jmoen, 6/24/2009
- JM18** The name of the person authorized to sign this payroll. If the person isn't authorized, he/she cannot sign.
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- JM19** The title of the authorized signatory party
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- JM20** The name of the company preparing the payroll
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- JM21** Name of the project
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- JM22** First day of this weeks payroll period. Ex: if the payroll period began on 6/21/09, put 21 here.
jmoen, 6/24/2009
- JM23** Month
jmoen, 6/24/2009
- JM24** Year
jmoen, 6/24/2009
- JM25** Ending date of the payroll period. Ex: if the payroll period ended on 6/27/09, put 27 here.
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- JM26** Month
jmoen, 6/24/2009
- JM27** Year
jmoen, 6/24/2009
- JM28** The name of the company preparing the payroll
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- JM29** Check this box if fringe benefits are paid to an approved plan, fund, or program.
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- JM30** Check this box if fringe benefits are paid in cash (straight hourly wage).
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- JM31** This box should state either "Payroll # or NO WORK PERFORMED"
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- JM32** Name and Title of person authorized to sign the payroll.
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- JM33** Signature of person authorized to sign payroll.
jmoen, 6/24/2009

Conclusion

- Follow the federal dollar
- Prevailing wage is a MINIMUM wage
- Proper documentation
- Communication

