



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



EMPLOYEE RIGHTS UNDER THE DAVIS-BACON ACT

FOR LABORERS AND MECHANICS EMPLOYED ON FEDERAL OR FEDERALLY ASSISTED CONSTRUCTION PROJECTS

THE UNITED STATES DEPARTMENT OF LABOR WAGE AND HOUR DIVISION

PREVAILING WAGES

You must be paid not less than the wage rate listed in the Davis-Bacon Wage Decision posted with this Notice for the work you perform.

OVERTIME

You must be paid not less than one and one-half times your basic rate of pay for all hours worked over 40 in a work week. There are few exceptions.

ENFORCEMENT

Contract payments can be withheld to ensure workers receive wages and overtime pay due, and liquidated damages may apply if overtime pay requirements are not met. Davis-Bacon contract clauses allow contract termination and debarment of contractors from future federal contracts for up to three years. A contractor who falsifies certified payroll records or induces wage kickbacks may be subject to civil or criminal prosecution, fines and/or imprisonment.

APPRENTICES

Apprentice rates apply only to apprentices properly registered under approved Federal or State apprenticeship programs.

PROPER PAY

If you do not receive proper pay, or require further information on the applicable wages, contact the Contracting Officer listed below:

or contact the U.S. Department of Labor's Wage and Hour Division.



For additional information:

1-866-4-USWAGE

(1-866-487-9243) TTY: 1-877-889-5627



WWW.WAGEHOUR.DOL.GOV

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)



Record of Employee Interview

U.S. Department of Housing and Urban Development Office of Labor Relations

OMB Approval No. 2501-0009
(exp. 10/31/2010)

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not collect this information, and you are not required to complete it, unless it displays a currently valid OMB control number. The information is collected to ensure compliance with the Federal labor standards by recording interviews with construction workers. The information collected will assist HUD in the conduct of compliance monitoring; the information will be used to test the veracity of certified payroll reports submitted by the employer. **Sensitive Information.** The information collected on this form is considered sensitive and is protected by the Privacy Act. The Privacy Act requires that these records be maintained with appropriate administrative, technical, and physical safeguards to ensure their security and confidentiality. In addition, these records should be protected against any anticipated threats or hazards to their security or integrity that could result in substantial harm, embarrassment, inconvenience, or unfairness to any individual on whom the information is maintained. The information collected herein is voluntary, and any information provided shall be kept confidential.

1a. Project Name			2a. Employee Name		
1b. Project Number			2b. Employee Phone Number (including area code)		
1c. Contractor or Subcontractor (Employer)			2c. Employee Home Address & Zip Code		
			2d. Verification of identification? Yes <input type="checkbox"/> No <input type="checkbox"/>		
3a. How long on this job?	3b. Last date on this job before today?	3c. No. of hours last day on this job?	4a. Hourly rate of pay?	4b. Fringe Benefits?	
				Vacation Yes <input type="checkbox"/> No <input type="checkbox"/>	4c. Pay stub? Yes <input type="checkbox"/> No <input type="checkbox"/>
				Medical Yes <input type="checkbox"/> No <input type="checkbox"/>	
				Pension Yes <input type="checkbox"/> No <input type="checkbox"/>	

5. Your job classification(s) (list all) --- continue on a separate sheet if necessary

6. Your duties

7. Tools or equipment used

8. Are you an apprentice or trainee?	Y <input type="checkbox"/> N <input type="checkbox"/>	10. Are you paid at least time and ½ for all hours worked in excess of 40 in a week?	Y <input type="checkbox"/> N <input type="checkbox"/>
9. Are you paid for all hours worked?	<input type="checkbox"/> <input type="checkbox"/>	11. Have you ever been threatened or coerced into giving up any part of your pay?	<input type="checkbox"/> <input type="checkbox"/>

12a. Employee Signature	12b. Date
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13. Duties observed by the Interviewer (Please be specific.)

14. Remarks

15a. Interviewer name (please print)	15b. Signature of Interviewer	15c. Date of interview
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Payroll Examination

16. Remarks

17a. Signature of Payroll Examiner	17b. Date
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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



**U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
REPORT OF ADDITIONAL CLASSIFICATION AND RATE**

HUD FORM 4230A

OMB Approval Number 2501-0011
(Exp. 01/31/2010)

1. FROM (name and address of requesting agency)	2. PROJECT NAME AND NUMBER	
	3. LOCATION OF PROJECT (City, County and State)	
4. BRIEF DESCRIPTION OF PROJECT	5. CHARACTER OF CONSTRUCTION <input type="checkbox"/> Building <input type="checkbox"/> Residential <input type="checkbox"/> Heavy <input type="checkbox"/> Other (specify) <input type="checkbox"/> Highway	
6. WAGE DECISION NO. (include modification number, if any) <input type="checkbox"/> COPY ATTACHED	7. WAGE DECISION EFFECTIVE DATE	
8. WORK CLASSIFICATION(S)	HOURLY WAGE RATES	
	BASIC WAGE	FRINGE BENEFIT(S) (if any)
9. PRIME CONTRACTOR (name, address)	10. SUBCONTRACTOR/EMPLOYER, IF APPLICABLE (name, address)	

Check All That Apply:

- The work to be performed by the additional classification(s) is not performed by a classification in the applicable wage decision.
- The proposed classification is utilized in the area by the construction industry.
- The proposed wage rate(s), including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage decision.
- The interested parties, including the employees or their authorized representatives, agree on the classification(s) and wage rate(s).
- Supporting documentation attached, including applicable wage decision.

Check One:

- Approved, meets all criteria. DOL confirmation requested.
- One or more classifications fail to meet all criteria as explained in agency referral. DOL decision requested.

<p>_____</p> <p style="text-align: center;">Agency Representative (Typed name and signature)</p> <p style="text-align: right;">_____</p> <p style="text-align: right;">Date</p> <p style="text-align: right;">_____</p> <p style="text-align: right;">Phone Number</p>	<p>FOR HUD USE ONLY</p> <p>LR2000:</p> <p>Log in:</p> <p>Log out:</p>
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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.



PAYROLL

(For Contractor's Optional Use; See Instructions at www.dol.gov/esa/whd/forms/wh347instr.htm)



U.S. Wage and Hour Division
Rev. Dec. 2008

Persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

OMB No.: 1215-0149
Expires: 12/31/2011

NAME OF CONTRACTOR OR SUBCONTRACTOR ADDRESS

PAYROLL NO. FOR WEEK ENDING PROJECT AND LOCATION PROJECT OR CONTRACT NO.

(1) NAME AND INDIVIDUAL IDENTIFYING NUMBER (e.g., LAST FOUR DIGITS OF SOCIAL SECURITY NUMBER) OF WORKER	(2) NO. OF WITH-HOLDING EXEMPTIONS	(3) WORK CLASSIFICATION	OT OR ST.	(4) DAY AND DATE							(5) TOTAL HOURS	(6) RATE OF PAY	(7) GROSS AMOUNT EARNED	(8) DEDUCTIONS				(9) NET WAGES PAID FOR WEEK
				HOURS WORKED EACH DAY										FICA	WITH- HOLDING TAX	OTHER	TOTAL DEDUCTIONS	
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While completion of Form WH-347 is optional, it is mandatory for covered contractors and subcontractors performing work on Federally financed or assisted construction contracts to respond to the information collection contained in 29 C.F.R. §§ 3.3, 5.5(a). The Copeland Act (40 U.S.C. § 3145) contractors and subcontractors performing work on Federally financed or assisted construction contracts to "furnish weekly a statement with respect to the wages paid each employee during the preceding week." U.S. Department of Labor (DOL) regulations at 29 C.F.R. § 5.5(a)(3)(ii) require contractors to submit weekly a copy of all payrolls to the Federal agency contracting for or financing the construction project, accompanied by a signed "Statement of Compliance" indicating that the payrolls are correct and complete and that each laborer or mechanic has been paid not less than the proper Davis-Bacon prevailing wage rate for the work performed. DOL and federal contracting agencies receiving this information review the information to determine that employees have received legally required wages and fringe benefits.

Public Burden Statement

We estimate that it will take an average of 55 minutes to complete this collection, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. If you have any comments regarding these estimates or any other aspect of this collection, including suggestions for reducing this burden, send them to the Administrator, Wage and Hour Division, ESA, U.S. Department of Labor, Room S3502, 200 Constitution Avenue, N.W. Washington, D.C. 20210

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**

