



# OFFICE OF PLANNING AND BUDGET

**Brian P. Kemp**  
Governor

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Director

## **Davis Bacon and Related Acts Guide**

### **American Rescue Plan Act**

### **State Local Fiscal Recovery Funds**

#### Purpose

This information is provided by the Georgia Governor's Office of Planning and Budget (OPB) to serve as a resource for subrecipients engaged in Water, Sewer and Broadband infrastructure projects funded by the American Rescue Plan Act. The information included herein pertains to those projects with an overall budget (including match funds) in excess of \$10 million.

#### Background

The U.S. Department of the Treasury includes the following Davis Bacon Act and labor related requirements its Compliance and Reporting Guidance to non-Federal entities. The information below is an extraction, and the full Compliance and Reporting Guidance can be found here: [SLFRF-Compliance-and-Reporting-Guidance](#).

*For projects over \$10 million (based on expected total cost):*

*A recipient may provide a certification that, for the relevant project, all laborers and mechanics employed by contractors and subcontractors in the performance of such project are paid wages at rates not less than those prevailing, as determined by the U.S. Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code (commonly known as the "Davis-Bacon Act"), for the corresponding classes of laborers and mechanics employed on projects of a character similar to the contract work in the civil subdivision of the State (or the District of Columbia) in which the work is to be performed, or by the appropriate State entity pursuant to a corollary State prevailing-wage-in-construction law (commonly known as "baby Davis- Bacon Acts"). If such certification is not provided, a recipient must provide a project employment and local impact report detailing:*

- *The number of employees of contractors and sub-contractors working on the project;*
- *The number of employees on the project hired directly and hired through a third party;*
- *The wages and benefits of workers on the project by classification; and*
- *Whether those wages are at rates less than those prevailing.*

*Recipients must maintain sufficient records to substantiate this information upon request.*

# **Davis Bacon and Related Acts Guide**

## **American Rescue Plan Act**

### **State Local Fiscal Recovery Funds**

#### **Continued...**

#### Summary

To summarize the guidance provided on the preceding page, Subrecipients have two options:

- Certify compliance with Davis Bacon and implement processes and controls to collect required payroll records and contractor / subcontractor certifications during the project; or
- Provide a Project Employment and Local Impact Report on a quarterly basis reporting on the four (4) required elements explained on the preceding page.

#### Resources

The following is a summary of the information included in the pages that follow:

- Page 3 –Davis Bacon Overview produced by the U.S. Department of Labor. Some content has been removed from the original publication for efficacy, and the entire deck can be found here: [DOL DBA Overview](#)
- Page 41 – Frequently asked questions produced by the U.S. Department of Labor.
- Page 54 – U.S. Department of Labor Employment Law Guide which includes helpful record keeping and reporting guidance, among others.
- Page 59 – U.S. Wage and Hour Division commonly used Form 347 to document and certify weekly payroll.
- Page 61 – Sample Project Employment and Local Impact Report.
- [U.S. Department of Labor Wage and Hour Division Guidance](#)

#### Questions

Please submit questions regarding Davis Bacon not addressed in the resources above to [GeorgiaGrants@rsmus.com](mailto:GeorgiaGrants@rsmus.com)



# Davis Bacon Overview



# Contract Coverage

# DBA Coverage

- Applies to contracts in excess of \$2,000 to which the Federal Government or the District of Columbia is a party for construction, alteration, and/or repair, including painting and decorating, of public buildings or public works
- Does not apply to work performed in foreign countries or the U.S. territories

# Coverage – Contract for Construction

- Is the agreement a “contract for construction” to which the Federal Government or District of Columbia is a party?
- “Construction” includes all types of work done on a particular building or work at the site thereof, as defined in the regulations (section 5.2(j)(1)).
- A contract is “for construction” if “more than an incidental amount of construction-type of activity is involved in the performance of the government contract.”

# Coverage – Public Building or Work

- Is the “contract for construction” a contract for construction of a public building or public work of the U.S. or the District of Columbia?
- A “public building” or “public work” – includes “a building or work, the construction, prosecution, completion, or repair of which is carried on directly by authority of or with funds of a Federal agency to serve the interest of the general public regardless of whether title thereof is in a Federal agency.” 29 CFR 5.2(k)

# Davis Bacon Related Acts

- Davis-Bacon (DB) requirements extend to numerous “related Acts” that provide federal assistance by
  - Grants
  - Loans
  - Loan guarantees
  - Insurance

# Davis Bacon Labor Standards/Contract Stipulations

- The term “labor standards” means the requirements of:
  - The Davis-Bacon Act
  - The Contract Work Hours and Safety Standards Act
  - The Copeland Act
  - Prevailing wage provisions of the Davis-Bacon and “related Acts”; and
  - Regulations, 29 C.F.R. 1, 3, and 5



# Wage Determinations

# Types of Wage Determination

- Davis-Bacon WDs specify the prevailing wages, including fringe benefits, which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character in the localities specified therein
- Two types of wage determinations: general and project

# Selecting the Correct Category of Wage Determination

- Selecting and incorporating the appropriate general wage determination for the project type
  - Building
  - Residential
  - Heavy
  - Highway
  - Guidance provided in AAM 130
- Multiple wage determinations may apply where there are separate construction types and the different type of construction is at least 20 percent of the project cost or exceeds \$2.5 million – guidance provided in AAM 131 and 236.

# Selecting the Correct Wage Determination Modification

Incorporate most current WD:

- Negotiated contracts (“RFPs”) – Time of award.
- Competitively bids contracts: In effect 10 days or more before opening of bids
- Exceptions
- If the contract is not awarded within 90 days of bid opening, any modification to the WD must be incorporated unless the federal agency requests and obtains an extension to the 90 day period

# Interpreting General Wage Determinations

Useful information contained in a general wage determination:

- State and county
- Type of construction with description
- Record of modifications
- List of classifications and rates
- Basis for rates – Identifiers
  - Union Identifiers
  - Union Weighted Average Identifiers
  - SU Identifiers

# Wage Determinations

## Contracting Agency Responsibilities

- Ensure proper wage determination (WD) is identified and applied
- Advise contractors which schedule of rates applies to various construction items; and
- Advise contractors regarding the duties performed by various crafts in the WD



# Covered Workers

# Laborers and Mechanics

- Workers whose duties are manual or physical in nature;
- Includes apprentices, trainees and helpers; and
- For CWHSSA, includes guards and watchmen.
- Does not include workers such as timekeepers, inspectors, architects, engineers, or bona fide executive, administrative, and professional employees as defined under FLSA
- Working foremen are generally non-exempt:
  - must be paid the Davis Bacon (DB) rate for the classification of work performed if not 541 exempt.

# Apprentices

- Are laborers and mechanics; not listed on WDs.
- Only includes persons individually registered in a bona fide apprenticeship program registered with DOL's Employment Training Administration (ETA) Office of Apprenticeship (OA) or a State Apprenticeship Agency recognized by OA.
- Individuals in their first 90 days of probationary employment as an apprentice in such a program.
- Regulations: 29 C.F.R. §§ 5.2(n)(1) and 5.5(a)(4)(i).

# Apprentice Ratios

- Apprentices must be employed within the allowable ratio specified in approved program for the number of apprentices or trainees to journeymen.
- “The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program.” 29 CFR 5.5(a)(4)(i).
- Compliance with the ratio is determined on a daily, not a weekly basis.

# Apprentice Rates

- Apprentices individually registered in an approved program and employed within the allowable ratio may be paid less than the journeyworker wage when they are:
  - Paid the percentage of hourly rate required by the apprenticeship or training program required for each apprentice's level of training;
  - Paid the fringe benefit's specified in approved program; if the program is silent, the full amount of fringe benefit's listed on the WD



# Payment of Prevailing Wage Rates

# Prevailing Wage Payments

- All laborers and mechanics employed or working upon the site of work must be paid at least the applicable prevailing wage rate for the classification of work performed as listed in the applicable wage determination or a rate approved in accordance with the “conformance process” set forth at 29 C.F.R. § 5.5 (a)(1)(ii), without regard to skill
- The laborers and mechanics working on the site of work must be paid weekly unless the fringe benefits are paid into a bona fide FB plan and then contributions must be paid no less often than quarterly

# Base Hourly Wage Rates and Fringe Benefit Rates

- Under DBA, FBs are a component of the DBA “prevailing wage”
- The prevailing wage obligation may be satisfied by:
  - Paying the base hourly rate (BHR) and FB in cash (including negotiable instruments payable on demand)
  - Contributing payments to a bona fide plan; or
  - Any combination of the two
- Cash wages paid in excess of BHR may count to offset or satisfy the FB obligation (unlike under SCA); however, the regular rate for overtime cannot be less than the BHR

# Prevailing Wages for Multiple Classifications

- Laborers and mechanics who perform work in more than one classification may be paid the different applicable rates for the work they actually perform if the employer keeps an accurate record of the time spent working in each classification and pays accordingly.
- If in a single workweek an employee works in more than one classification for which different non-overtime rates of pay have been established, the overtime pay generally should be computed based on the weekly average rate.

# Determining Worker Classifications

- There are no nationwide standard classification definitions under the DBA.
- To determine proper classifications for workers employed on a Davis-Bacon covered project, it may be necessary to examine **local area practice**.
- Contracting agencies are responsible for advising contractors regarding the duties performed by various crafts in the WD

# Determining Local Area Practice

- If, in the applicable wage determination, the rates listed for the classification(s) that may perform the work in question are union rates:
  - any question will be resolved by examining the practice(s) of union contractors in classifying workers who have been performing the duties in question in the area.
- If, in the applicable wage determination, the rates listed for the classification(s) that may perform the work in question are non-union rates:
  - any question will be resolved by examining the practice(s) of non-union contractors in classifying workers who have been performing the duties in question in the area.



# Fringe Benefits

# Funded Fringe Benefit Plans

- Contractors may take credit (without prior approval from DOL) for bona fide FB fund contributions made to third-party trustees or insurers that:
  - Are *irrevocably* paid; and
  - Are made regularly, not less often than *quarterly*
- Credit is for payments made for individual workers eligible to participate in the plan, program, or fund.

# Unfunded Fringe Benefit Plans

- Costs for an “unfunded” FB plan count towards WD obligation if specific criteria are met:
  - The contributions reasonably anticipate the cost to provide a bona fide FB
  - Contributions are made pursuant to an enforceable commitment
  - That is carried out under a financially responsible plan; and
  - The plan has been communicated in writing to affected workers
- Contractors must submit a written request for DOL approval of unfunded plans, as required by 29 CFR 5.5(a)(1)(iv), prior to claiming fringe benefit credit.

# Eligibility and Participation

- Employers may not take credit for contributions for employees who are not eligible to participate in the fringe benefit plan.
- Employers may take credit for contributions made on behalf of employees who will likely become participants in a plan but are not yet eligible to receive benefits (for example, a health insurance plan with a 30 day waiting period for new participants)

# Administrative Expenses

- The administrative expenses incurred by a contractor or subcontractor in connection with the administration of a bona fide fringe benefit plan are not creditable towards the prevailing wage under the DBA.

# Annualization Principle

- Davis-Bacon credit is based on the effective annual rate of contributions for all hours worked in a year (both Davis-Bacon and non-Davis-Bacon work).
  - Davis-Bacon work may not be used as the exclusive or disproportionate source of funding for a benefit in effect during both covered and non-covered work.
- Determine the hourly rate of contribution that is creditable towards a contractor's Davis-Bacon prevailing wage obligation by dividing the total annual contributions by the total annual hours worked (both Davis-Bacon and non-Davis-Bacon work).



# Recordkeeping and Certified Payrolls

# Payroll and Basic Records

- Payrolls and related basic records shall be maintained by the contractor during the course of the work and for three years thereafter for all laborers and mechanics working at the site of the work.
- Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. 29 CFR 5.5(a)(3)(i)

# Certified Payroll Clauses

- Two separate contract clause requirements apply to “certified payrolls” for a project:
  - The contractor shall submit weekly for any week in which any contract work is performed a copy of all payrolls, which must contain the information that the contractor is required to maintain under § 5.5(a)(3)(i). 29 C.F.R. § 5.5 (a)(3)(ii)(A)
  - Each weekly payroll submitted must be accompanied by a “Statement of Compliance”. 29 C.F.R. § 5.5 (a)(3)(ii)(B)

# “Statement of Compliance”

- Must be executed by the contractor or subcontractor or by an authorized officer or employee of the contractor or subcontractor who supervises the payment of wages. 29 C.F.R. § 3.3(b).
- Each weekly statement must be delivered or mailed by the contractor or subcontractor, within seven days after the regular payment date of the payroll period, to a representative of a Federal or State agency contracting for or financing the building or work. 29 C.F.R. § 3.4(a).

# Certified Payrolls & Signatures

- The signature on each weekly “Statement of Compliance” may be either an original handwritten or an electronic signature.
- A contracting agency or prime contractor may permit or require contractors to submit the weekly payrolls, each with the accompanying “Statement of Compliance” through an electronic system.

# Falsification of Certified Payrolls

- The importance of the “Statement of Compliance” requirement is clear in that:
  - “The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.”

29 C.F.R. § 5.5(a)(3)(ii)(D),  
reiterated at FAR 48 C.F.R. § 52.222-8(b)(4).

# Internet Sites

- Wage Determinations – <https://sam.gov>
- Wage and Hour Division - <http://www.dol.gov/agencies/whd/government-contracts>
- Resource Book - <https://www.dol.gov/agencies/whd/government-contracts/prevaling-wage-resource-book>
- Office of the Administrative Law Judges Law Library - <http://www.oalj.dol.gov>
- Administrative Review Board - <http://www.dol.gov/arb>

# Disclaimer

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## Wage and Hour Division

# Davis-Bacon and Related Acts (DBRA) Frequently Asked Questions

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### ▼ Davis-Bacon Wage Determinations

- [What is a wage determination?](#)
- [What is a General Wage Determination?](#)
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### ► Prevailing Wage Rates

### ► Davis-Bacon Wage Surveys

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## I. Davis-Bacon Wage Determinations

### 1. What is a wage determination?

A "wage determination" is the listing of wage rates and [fringe benefit rates](#) for each classification of laborers and mechanics which the Administrator of the Wage and Hour Division of the U.S. Department of Labor has determined to be prevailing in a given area for a particular type of construction (e.g., [building](#), [heavy](#), [highway](#), or [residential](#)).

The [Wage and Hour Division](#) issues two types of wage determinations: [general determinations](#), also known as area determinations, and [project determinations](#). The term "wage determination" is defined as including not only the original decision but any subsequent decisions modifying, superseding, correcting, or otherwise changing the rates and scope of the original decision.

In accordance with the provisions of [29 CFR Part 1](#) and [Part 5](#), the wage rates and fringe benefits in the applicable Davis-Bacon wage determination shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

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### 2. What is a General Wage Determination?

A general wage determination reflects those rates determined by the [Wage and Hour Division](#) to be prevailing in a specific geographic area for the type of construction described. General wage determinations and [modifications](#) and [supersedeas](#) decisions thereto, contain no expiration dates and are effective from their date of publication on the Wage Determination website at

<https://sam.gov/content/home>; or notice in the Federal Register, or on the date written notice is received by the agency, whichever is earlier. Effective June 14, 2019, the sam.gov site is the official source for contracting agencies to use when obtaining wage determinations issued by DOL. If a contracting agency has a proposed construction project to which a general determination would be applicable, the published determination may be used by the contracting agency without consulting the Department of Labor, provided that questions concerning its use shall be referred to the Department of Labor.

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### 3. What is a project wage determination?

A project wage determination is issued at the specific request of a contracting agency (using a [Standard Form \(SF\) 308](#)); is applicable to the named project only; and expires 180 calendar days from the date of issuance unless an extension of the expiration date is requested by the agency and approved by the [Wage and Hour Division](#). If such a determination is not used in the period of its effectiveness, it is void.

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### 4. What are supersedeas wage determinations?

Supersedeas wage determinations are issued annually to replace [general wage determinations](#) published on the Wage Determination web site at <https://sam.gov/content/home>; or issued in the previous edition of the publication entitled **General Wage Determinations Issued Under the Davis-Bacon and Related Acts**. Supersedes wage determinations are "published" on the date of the notice of the supersedeas wage determination published on sam.gov or on the date the agency receives actual written notice of the modification from the Department of Labor, whichever occurs first.

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### 5. What is a modification to a wage determination?

A modification to a wage determination is issued to update data in the original determination. Where a contract will be entered pursuant to competitive bidding procedures, a modification, notice of which is published on the Wage Determination web site at <https://sam.gov/content/home>; or in the Federal Register less than 10 days before the opening of bids shall be effective unless the agency finds that there is not a reasonable time still available before bid opening to notify bidders of the modification and a report of the finding is inserted in the contract file. A modification to a general wage determination is "published" on the date of the notice of the modification published on sam.gov or on the date the agency receives actual written notice of the modification from the Department of Labor, whichever occurs first. (For projects assisted under the National Housing Act, and for projects to receive housing assistance payments under section 8 of the U.S. Housing Act of 1937, dates other than bid opening apply. See Regulations, 29 CFR Part 1, section 1.6).

If a contract has not been awarded within 90 days after bid opening, modifications prior to award to a general wage determination in the contract shall be effective with respect to that contract unless the agency requests and obtains an extension of the 90-day period from the Wage and Hour Division.

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## II. Obtaining Davis–Bacon Wage Determinations

### 6. How do I subscribe to General Wage Determinations Issued Under The Davis–Bacon and Related Acts?

Effective June 14, 2019, the Department of Labor migrated to the Wage Determination website at <https://sam.gov/content/home> as the source for obtaining Davis Bacon Act (DBA) general wage determinations. Instructions for how to “follow” a Wage Determination can be found in the FAQ section of the sam.gov website.

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## 7. Are the General Wage Determinations available electronically?

Yes. Effective June 14, 2019, the Department of Labor migrated to the Wage Determination website at <https://sam.gov/content/home> as the source for obtaining Davis Bacon Act (DBA) general wage determinations. Notice of future modifications and supersedes general wage determinations will be posted on sam.gov. Archived versions of the DBA wage determinations that are no longer current may be accessed by searching for inactive Wage Determinations for informational purposes only.

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## 8. How do I obtain a wage determination for a construction project to be performed at a location not covered by a published wage determination?

If no general wage determination is listed for a given county and type of construction, the following procedure to obtain a project wage determination should be followed.

The Federal agency funding or financially assisting the construction project requests a wage determination under the Davis-Bacon Act or any of the related prevailing wage statutes by submitting a Standard Form (SF) 308 via email to [WHD-CBACONFORMANCE\\_INCOMING@dol.gov](mailto:WHD-CBACONFORMANCE_INCOMING@dol.gov) or to the following address:

U.S. Department of Labor  
Wage and Hour Division  
Branch of Construction Wage Determinations  
200 Constitution Ave NW  
Room S-3014  
Washington, DC 20210

In completing a SF-308, the agency must furnish:

1. A sufficiently detailed description of the project to indicate the type(s) of construction involved. Separate attachments, if necessary for identification of the type of project, must be furnished.
2. The county (or other civil subdivision) and State in which the proposed project is located.

The time required for processing requests for wage determinations varies according to the facts and circumstances in each case. An agency should anticipate that such processing will take at least 30 days.

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## 9. Where can I obtain a copy of the General Wage Determination needed for a covered federal project?

General Wage Determinations should be obtained from the agency funding the project you will be working on. The contracting agency is responsible to furnish all interested parties involved on the project with the applicable wage determination. Subcontractors should request the applicable wage determination from the general contractor or the contracting agency.

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# III. Prevailing Wage Rates

## 10. Is the rate on the wage determination the minimum hourly wage rate?

Yes. The wage rate listed on the wage determination is the minimum rate that the contractor can pay its employees working on the project.

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## 11. Once construction has begun, are the workers– wage rates affected when the wage determination for the area in which the project is located is changed?

As a general rule, the wage determination incorporated into a bid solicitation and related contract award establishes the minimum wage rates and fringe benefits which must be paid for the entire term of the contract.

Where the proper wage determination is incorporated into a contract prior to award of the contract, wage determination modifications issued after bid opening are not applicable to the contract -- except in the case of a general wage determination in a contract that has not been awarded within 90 days after the bid opening and an extension of the 90-day limit has not been granted. (Specific requirements involving dates other than bid opening apply for projects assisted under the National Housing Act and for projects that receive housing assistance payments under section 8 of the U.S. Housing Act of 1937).

Upon his or her own initiative or at the request of an agency, the Administrator may correct any wage determination if he or she finds that the determination contains an inadvertent clerical error. For example, a wage determination contains a wage rate where there is a transposition of numbers, such as a fringe benefit of \$2.53 appears in the wage determination as \$2.35.

Also, the Administrator may issue a wage determination after contract award or after the beginning of construction if:

1. the contracting/assisting Federal agency has failed to incorporate the applicable wage determination in a contract required to contain prevailing wage rates determined in accordance with the Davis-Bacon Act, or has used a wage determination which by its terms or the provisions of Regulations, 29 CFR Part 1, clearly does not apply to the contract, or
2. the wrong wage determination has been incorporated in the contract because of an inaccurate description of the project or its location in the agency's SF-308 request.

Under either of these two circumstances, the agency shall either terminate and resolicit the contract with the valid wage determination, or incorporate the valid wage determination retroactive to the beginning of construction through supplemental agreement or through change order, provided that the contractor is compensated for any increases in wages resulting from such change. The method of incorporation of the valid wage determination, and adjustment in contract price, where appropriate, should be in accordance with applicable procurement law.

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## 12. Is it possible for more than one wage schedule to apply to specifications for a particular contract?

Yes. Construction projects are generally classified as either Building, Heavy, Highway or Residential for purposes of issuing wage determinations. Wage schedules for one or more of these construction categories may have application to construction items contained in a proposed construction project. Guidelines for the selection of proper wage schedules are set forth in All Agency Memoranda No. 130 (March 17, 1978) and No. 131 (July 14, 1978). All Agency Memoranda No. 236 was published on December 14, 2020 updating the threshold identified in AAM 131 for incorporating multiple Davis-Bacon Wage Determinations and should be reviewed as well when determining applicability of multiple wage determinations. Any questions regarding the application of these guidelines to a particular project, or any disputes regarding the application of the wage schedules issued for the various construction categories are to be referred to the Wage and Hour Division, together with relevant information, including a complete description of the project and area practice.

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## 13. Can apprentices, trainees, and/or helpers work on a project covered by the Davis–Bacon or related Acts (DBRA), and what wage rates must they be paid?

Individuals who meet the following definition may be employed as apprentices on DBRA projects:

(a) A person employed and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State Apprenticeship Agency recognized by the Bureau,

or

(b) A person in the first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been properly certified to be eligible for probationary employment as an apprentice.

Trainees employed must be persons registered in a construction occupation under a program which has been approved in advance by the U.S. Department of Labor, Employment and Training Administration, as meeting its standards for on-the-job training programs and which have been so certified by that Administration.

Information on wage rates paid to apprentices and trainees is not reflected in Davis-Bacon wage determinations. Similarly, their addition through the additional classification procedure (conformance) is neither necessary nor appropriate. On projects funded by the Federal-Aid Highway Act, apprentices and trainees certified by the Secretary of Transportation are not covered by Davis-Bacon labor standards.

The proper wage rates to be paid to apprentices and trainees are those specified by the particular programs in which they are enrolled, expressed as a percentage of the journeyman rate on the wage determination. In the event employees reported as apprentices or trainees on a covered project have not been properly registered within the meaning of the Regulations and the contract stipulations, or are utilized at the job site in excess of the ratio to journeymen permitted under the approved program, they must be paid the applicable wage rates for laborers and mechanics employed on the project performing in the classification of work they actually performed. This applies regardless of work classifications which may be listed on the submitted payrolls and regardless of their level of skill.

Helper classifications may be issued in or added to a wage determination only where the (a) the duties of the helpers are clearly defined and distinct from those of the journeyman classification and from the laborer, (b) the use of such helpers is an established prevailing practice in the area, and (c) the term "helper" is not synonymous with "trainee" in an informal training program.

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#### **14. What wage rates must be paid to supervisory employees (foremen, superintendents, etc.) employed on a covered project?**

The wage rates for bona fide supervisory employees are not regulated under the [Davis-Bacon and Related Acts](#) because their duties are primarily administrative or executive in nature rather than those of laborers or mechanics. However, such employees who devote more than 20 percent of their time during a workweek to mechanic or laborer duties are laborers and mechanics for the time so spent, and must be paid at least the appropriate wage rates specified in the wage determination. Employees who are bona fide executive, administrative, or professional employees as defined under the Fair Labor Standards Act at [29 CFR Part 541](#) are not covered by the Davis-Bacon Act.

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## **IV. Davis–Bacon Wage Surveys**

#### **15. What are Davis–Bacon Wage Surveys?**

The Davis-Bacon and Related Acts (DBRA) require the payment of prevailing wages to laborers and mechanics employed on the site of the work of certain federal or federally assisted contracts for construction, alteration, or repair. For more information about the types of contracts covered by the DBRA, visit <http://www.dol.gov/agencies/whd/govcontracts/dbra>. The Davis-Bacon Act requires the Secretary of Labor to determine the prevailing wage and fringe benefit rates that are included in DBRA-covered contracts. To determine such rates, the U.S. Department of Labor's Wage and Hour Division (WHD) obtains and compiles wage rate information through a survey program conducted in accordance with the DBRA's implementing regulations.

The wage rate information collected through WHD surveys is used to publish "general" wage determinations. General wage determinations are published on the Wage Determinations website, at <https://sam.gov/content/home>, and reflect those rates determined by WHD to be prevailing in a specific geographic area, typically a county, for the type of construction described, i.e., building, residential, highway or heavy construction. If there is a general wage determination applicable to a DBRA-covered project, the contracting agency may incorporate the wage determination into the contract without consulting the Department of Labor.

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## 16. Who does the Department of Labor contact during the survey?

WHD reviews “Dodge Reports” to identify active projects in the area to be surveyed. An initial notification package is mailed to all general/prime contractors that are identified through this review. This package includes a letter containing information regarding the parameters of the survey as well as WHD contact information. The letter encloses a copy of Form WD-10 ([e WD-10](#)), “Report of Construction Contractor Wage Rates,” reflecting the project and contractor information WHD obtained from the Dodge Reports. The letter also requests that the identified general/prime contractor provide responsive wage rate information in its possession and also identify other contractors and subcontractors on the general/prime contractor’s projects who may possess wage rate information within the survey parameters.

If responses to the initial notification package have not been received from all identified general/prime contractors within four to five weeks, follow-up letters will be sent to all non-respondents. If after six to seven weeks a response still has not been received from all identified general/prime contractors, a telephone follow-up may be made. If it is not practical to telephone each non-respondent, a random sample telephone follow-up may be conducted

Letters announcing a survey are also sent to Congressional representatives, contractor trade associations, and unions at both the local and headquarters levels to advise them of the survey and solicit their cooperation in furnishing payment data. Federal, state, and local government agencies also are notified. These letters contain information regarding the type of construction being surveyed, the area being surveyed, the survey time frame, and the cut-off data for data submission. These letters also request recipients to encourage contractors to respond to the survey.

Contractors identified by any source, including in response to the initial notification package, are asked to provide wage information and to furnish lists of subcontractors. WHD then contacts such subcontractors about participating in the survey.

If you are not notified of a survey but have relevant wage data, contact the Branch of Wage Survey Team, listed [here](#) for your geographical area of interest and request that you be informed of surveys in your geographic area.

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## 17. Why should I participate?

Survey results are based solely on the information received during the course of a survey. Your participation is crucial to the process. The higher the level of participation, the more WHD can be confident that the wages it publishes reflect the prevailing wages in the area. Where WHD receives insufficient wage data for a particular county, WHD may be required to consider wage data from projects in surrounding counties or even counties across the entire state to determine a prevailing wage rate, or WHD may be required to omit classifications from the published wage decision. Omitting classifications on wage decisions may increase the number of conformances necessary on DBRA- covered construction projects. Your participation makes a difference.

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## 18. Do I have to receive a letter to participate in the survey?

You do not need to receive notification from WHD to participate in the survey. All interested parties, including all contractors who worked on construction projects within the survey parameters in the areas being surveyed, are encouraged to participate. If you do not receive a letter, you can fill out WD-10s electronically or contact the [Branch of Wage Survey Team](#) for a notification letters and paper WD-10s. The electronic WD-10 can be found at [www.dol.gov/agencies/whd/programs/dbra/wd-10](http://www.dol.gov/agencies/whd/programs/dbra/wd-10).

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## 19. Does Wage and Hour use data collected during the survey process to target enforcement activity?

No. Data collected during the survey process is used for survey purposes only. Data collected during the survey process is not used to target enforcement activity.

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## 20. If I do not work on federally funded construction projects, should I participate in the survey process?

Yes. Contractors that do not work on DBRA construction projects should still participate in the survey process, and any usable data they submit within the survey parameters will be used in establishing prevailing wage and fringe benefit rates. Wage surveys are contractors' chance to help ensure that the rates WHD publishes most accurately reflect prevailing wage rates, and contractors that do not work on DBRA construction projects have a particular incentive to participate in the survey process to the extent that the wage rates published on DBRA wage determinations may affect the labor markets in which such contractors participate. Moreover, data on projects that are not subject to a DBRA is used exclusively to determine prevailing wage rates for building and residential wage surveys unless such data is insufficient to determine a prevailing wage rate.

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## 21. Is my response limited to the projects identified on the forms I received with my notification letter?

No. Our notification letter encourages you to not only provide data for any projects WHD has identified, but also to submit data for any other projects you have worked on, or for which you otherwise possess wage data, within the survey parameters. Blank WD-10 forms are enclosed with our notification letters for that purpose. You are encouraged to submit data for ALL construction projects that fall with the parameters of the survey.

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## 22. Is WHD only collecting data on federally funded construction projects?

No. WHD collects data on all construction projects within the survey parameters when conducting a wage survey. This includes privately funded, state funded, locally funded and federally funded construction projects. Data on **building** and **residential** projects that are subject to a DBRA is not used to determine prevailing wage rates unless data received on other projects is insufficient to determine a prevailing wage rate. Federal wage data is always included in the determination of prevailing wage rates for **heavy** and **highway** wage surveys.

All wage data within the survey parameters, whether on federally, state, local or privately funded construction projects, is requested.

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## 23. How are prevailing wage rates calculated?

The following basic rules apply to calculation of prevailing wage rates:

**Basic hourly rate.** The prevailing wage is the wage paid to the majority (greater than 50 percent) of the workers in the classification on similar projects in the area during the relevant period. If the same wage is not paid to a majority of workers in the classification, then the prevailing wage is the weighted average wage rate. See [29 C.F.R. § 1.2\(a\)\(1\)](#).

**Fringe benefit rate.** If more than 50 percent of the workers in a single classification are paid any fringe benefits, then fringe benefits prevail. In determining the amount of prevailing fringe benefits, WHD follows the same rules set forth above with respect to calculation of prevailing hourly wage rates, i.e., the prevailing fringe benefit rate is the rate paid to the majority (greater than 50 percent) of the workers in the classification who received at least some fringe benefits on similar projects in the area during the relevant period. If the same fringe benefit rate is not paid to a majority of such workers, then the prevailing rate is the weighted average fringe benefit rate. See [29 C.F.R. § 1.2\(a\)\(1\)](#).

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## 24. I am the owner of the construction project. How can I participate in the Davis-Bacon wage survey?

You may provide WHD with the name and contact information of the general or prime contractor and/or subcontractors that worked on the project so that WHD may contact these contractors directly about participating in the survey. This information should be provided as early on in the survey process as possible.

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## **25. I am a prime/general contractor and I subcontract for all of the project work. How can I participate in the Davis-Bacon wage survey?**

You may provide a list of your subcontractors, including their contact information, for each of your projects so that WHD may contact the subcontractors directly about participating in the survey. This list should be provided as early in the survey process as possible.

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## **26. In order to submit wage data for a survey, must the underlying work have been performed within the survey time frame?**

No. The survey time frame is the period in which the projects must have been active. The work performed by a company on such projects could be before or after the survey time frame. However, the data submitted must reflect work already performed before the data submission cut-off date.

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## **27. What is a peak week?**

The peak week is that week during which the greatest number of workers in each classification are used on the project. You should provide wage data for each classification of worker that your firm employed on the project on which you are reporting. The peak week does not have to fall within the timeframe for active construction projects.

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## **28. I have a large number of workers, can I average my wage rates?**

WHD may not accept average wage rates as these would skew the results of the wage survey calculations. You should report the individual wage rate and fringe benefit for each of your workers. (See example below)

Carpenter

1 @ \$10.00

1 @ \$10.50 plus \$26.00 weekly Health Insurance

2 @ \$ 9.50

1 @ \$10.30

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## **29. Do I report forepersons and/or apprentices?**

You should report any foreperson who is performing manual labor on the project more than 20 percent of the time. Forepersons who do not spend more than 20 percent of their time performing manual labor on the site of the work do not need to be reported. Those employees in a bona fide apprenticeship program also do not need to be reported for the survey. WHD does not issue wage rates for forepersons or apprentices.

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## **30. In responding to a Davis-Bacon wage survey, what should I consider as fringe benefits?**

Fringe benefits are:

- The rate of contributions irrevocably made by a contractor or subcontractor to a trustee or third party pursuant to a bona fide fringe benefit fund, plan, or program.
- The rate of costs incurred by a contractor or subcontractor which may be reasonably anticipated in providing bona fide fringe benefits to laborers and mechanics pursuant to an enforceable commitment to carry out a financially responsible plan or program which was communicated to the workers in writing.

Examples:

- Life insurance
- Health insurance
- Pension
- Vacation
- Holidays
- Sick Leave
- Other “bona fide” fringe benefits

Payments required by federal, state or local law are not fringe benefit contributions. For example, payments required to fund Social Security, unemployment compensation and workers’ compensation programs, as required by law, are not fringe benefits.

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### **31. How should wage data be reported for operating engineers on the WD-10 Form?**

Data for operating engineers needs to be reported by piece of equipment used on the project, e.g., Backhoe Operator, Bulldozer Operator, Loader Operator, etc. You should report the number of workers operating each piece of equipment on the project and the wage rate paid to each worker.

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### **32. How should wage data be reported for ironworkers on the WD-10 Form?**

Data for ironworkers needs to be reported by type of work performed on the project, e.g., structural, reinforcing, ornamental, etc. You should report the number of workers performing each type of work on the project and the wage rate paid to each worker.

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### **33. How should wage data be reported for laborers on the WD-10 Form?**

Data for laborers needs to be reported by type of work performed on the project, e.g., pipe layers, cement mason tender, general labor, etc. You should report the number of workers performing each type of work on the project and the wage rate paid to each worker.

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### **34. What types of clarification and analysis are done on the data submitted?**

Craft Clarification involves determining the nature of work performed by various occupational classifications reported in an area, particularly for crafts that may perform a number of tasks, e.g., laborers, truck drivers, and equipment operators.

Project and Construction Type Clarification verifies that projects meet the survey criteria. In particular, the project construction type must be verified and projects involving multiple types of construction must be reviewed carefully.

Rate and Fringe Benefit Clarification resolves any questions regarding the rate paid to the reported workers. Only bona fide fringe benefits may be used in the survey. Fringe benefits do not include benefits required by federal, state or local law.

Union/Collective Bargaining Agreement (CBA) Rate Clarification resolves any questions regarding variation in CBA rates. The wage survey may produce data for a number of CBA rates for a single classification/craft. Data from different points in time may have produced the appearance of a variation in rates that does not actually exist. If it is determined that the various rates were in fact

then-current CBA rates and the apparent variation only occurred because the data reflected different points in time covered by the survey, the data on the number of workers will be combined by WHD in determining whether or not a majority at the same rate exists within the classification.

Area Practice Determinations resolve questions as to the proper classification of the work performed by a laborer or mechanic, or the proper type of construction (building, heavy, highway or residential). In a wage survey, “area practice” refers to the predominant classification of worker that does a particular kind of construction work within the geographic boundaries of the survey.

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### 35. Does WHD verify the data submitted?

**Third Party Data Verification.** The third party data is data submitted for use in a wage survey by anyone other than a holder of payrolls. A “holder of payrolls” may include a construction company owner or a government entity enforcing/administering a DBRA contract. Third party submissions are separated by type of submitter (e.g., union, association, etc.) and by usability because only usable WD-10s should be included in the sample. WHD reviews a random sample of the submissions from each type of submitter and verifies the data submitted by those selected.

**Contractor Data Verification Procedures.** For each survey at completion, five percent or at least five WD-10s (whichever is greater) of data collection forms submitted by contractors should be randomly selected for verification. Each selected form must be from a different contractor.

**On-Site Verification Procedures.** When a survey is completed, a sample will be drawn from the entire usable survey data. This sample data will include data from those contractors with the biggest impact on wage data for each craft for which a rate is proposed. Only that data used to calculate the wage rate will be included in the sample.

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## V. Appeal Process

### 36. If it is believed that the rates on a wage determination are not accurate can the wage determination be appealed?

Yes. Any interested person requesting reconsideration of a wage determination or of a ruling regarding application of a wage determination to a specific construction project should present their request in writing accompanied by supporting data or other pertinent information to the [Wage and Hour Division](#). The Wage and Hour Division should respond within 30 days or notify the requestor within this time frame that additional time is needed.

An "interested person" is considered to include, without limitation:

(1) Any contractor, or an association representing a contractor, who is likely to seek or to work under a contract containing a particular wage determination, or any laborer or mechanic, or any labor organization which represents a laborer or mechanic, who is likely to be employed or to seek employment under a contract containing a particular wage determination, and,

(2) Any Federal, State, or local agency concerned with the administration of a proposed contract or contract containing a particular wage determination issued pursuant to the Davis-Bacon Act or any of its related statutes.

If reconsideration of a wage determination has been sought and denied, an appeal for review of the wage determination or its application may be filed with the [Administrative Review Board](#), U.S. Department of Labor, Room S-4309, 200 Constitution Avenue, N.W., Washington, D.C. 20210. Requests for review of wage determinations must be filed, and any new wage determination resulting from the appeal must be issued, before contract award or start of construction where there is no award (or under the National Housing Act, before the date of initial endorsement, or the beginning of construction, whichever occurs first; or under Section 8 of the U.S. Housing Act of 1937, before the date of the housing assistance payments agreement, or the beginning of construction, whichever occurs first).

The Wage Appeals Board (now the Administrative Review Board) was established by the Secretary of Labor in 1963 to decide, at its discretion, appeals concerning questions of fact and law related to final decisions of the Wage and Hour Division concerning:

- Controversies over the payment of prevailing wage rates, overtime pay, or proper classifications;
- Wage determinations issued under the Davis-Bacon and Related Acts;
- Debarment cases arising under [29 CFR Part 5](#);
- Cases involving the assessment of liquidated damages under the Contract Work Hours and Safety Standards Act;
- Appeal of any other final decision under [29 CFR Part 1](#), [Part 3](#) or [Part 5](#).

The Administrative Review Board consists of three members, one of whom is designated chairman. The members are appointed by the Secretary of Labor and majority vote of the Administrative Review Board is necessary for a decision, except that a decision to hear any appeal may be made by one member. The Board can act as fully and finally as the Secretary of Labor concerning the matters within its jurisdiction. The rules prescribed in [29 CFR, Part 7](#), "Practice Before Wage Appeals Board", govern the proceedings of the Board.

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## VI. Contracting Agency Responsibilities

### **37. How do workers on a construction site know that a project is covered by the Davis-Bacon Act? – How do they know the prevailing wage to which they are entitled?**

The wage determination (including any additional classifications and wage rates conformed) and a [Davis-Bacon poster \(WH-1321\)](#) must be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen. The WH-1321 poster may be obtained at no charge from offices of the [Wage and Hour Division](#). In the absence of such posted information, any person who wants to determine if the project is covered should contact the federal agency funding or assisting the project or the Wage and Hour Division. Multi-year construction contracts that contain option provisions by which a contracting agency may unilaterally extend the term of the contract require inclusion of a current wage determination at the time the option is exercised. (In contrast, in situations where a contractor is given additional time to complete original contract commitments, the wage determination in that contract applies).

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### **38. As the contracting officer/Federal agency representative, what is my obligation when the wage determination(s) applicable to a construction project contains multiple wage schedules (for different counties and/or types of construction)?**

It is the responsibility of the contracting officer/Federal agency representative to advise contractors which schedule of prevailing wages shall be applied to the various construction items in the bid specifications. Because of the complexities in the application of multiple schedules, the contracting officer should consult with the [Wage and Hour Division](#) to resolve any questions.

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### **39. The wage determination applicable to my project does not contain a class of workers which is needed to complete construction. – Can other worker classification(s) and wage rate(s) be approved for use on the project?**

Prior to bid opening, if the only classification that will perform work on a contract is not listed on a [general wage determination](#) for the type of construction in the area, the contracting/assisting agency may submit a [SF-308](#) request for a [project wage determination](#) for application to that project. In order to assure special treatment of a request where this circumstance exists, a note explaining the special circumstances should be made in the project description block of the SF-308. (A similar note may be made on a SF-308 request for a project wage determination, where a general wage determination is not applicable, and all of the work on the project will be performed by a particular classification, as a means to assure that a wage rate for that classification will be issued for the project).

Example:

An upcoming contract calls for repainting all the residences at a military base, and there is no painter classification in the general wage schedule issued for application to residential construction in the county where the project is located. A SF-308 may be submitted by the agency for application to that contract, and a project wage determination will be issued with a painter classification and wage rate for use prior to bid opening (or the other applicable date where certain assistance programs of the Department of Housing and Urban Development (HUD) are the basis for coverage under the Davis-Bacon and Related Acts). If there is no general wage determination issued for that area and type of construction, the same procedure should be followed.

After contract award, if the contract wage determination does not contain a class of workers that is needed to complete the construction, a contractor shall submit to the contracting officer a request for the addition of the needed classification(s) of laborers or mechanics not listed in the wage determination, together with proposed wage rates and fringe benefits conformable to the wage determination.

The contracting officer shall require that any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract be classified in conformance with the wage determination. An additional classification action, even if undisputed, is not valid unless the Department of Labor has approved it. If a dispute exists, the matter must be referred to the Wage and Hour Division for resolution, together with the views of all interested parties and the recommendation of the contracting officer. Approval of the additional classification and the proposed wage rate and fringe benefits requires that the following criteria have been met:

1. The work to be performed by the classification requested is not performed by any classification in the wage determination; and
2. The classification is utilized in the area by the construction industry; and
3. The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination; and
4. There is evidence of agreement on the classification and proposed wage rate among the parties involved, or the views of those involved -- the contractor(s), employees (if known) or their representative, and the contracting officer/agency -- are forwarded for consideration to the Wage and Hour Division; and
5. The request does not involve wage rates for apprentices or trainees.

All conformance notices should be responded to in writing within 30 days of receipt. These responses either approve or deny the request or inform the submitting agency that additional time will be required. Failure to receive a response does not constitute approval. If a response is not received, the Wage and Hour Division should be contacted directly. Every conformance request is analyzed to verify that the criteria for approval are met.

Any interested person requesting reconsideration of a conformance should present their request in writing accompanied by supporting data or other pertinent information to the Wage and Hour Division. The Wage and Hour Division should respond within 30 days or notify the requester within this time frame that additional time is needed.

If reconsideration of a conformance action has been sought and denied, an appeal for review may be filed with the Administrative Review Board. (See 29 CFR 1.8 and 1.9, and 29 CFR Part 7.)

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If your question has not been addressed sufficiently in either FAQ, please submit your DBRA related question using the WHD Contact Us Form.

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**Wage and Hour Division**

**FEDERAL GOVERNMENT**

White House

Coronavirus Resources

Disaster Recovery Assistance Español

DisasterAssistance.gov

**LABOR DEPARTMENT**

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**WHD PORTALS**

YouthRules!

Wage Determinations

An agency within the U.S.  
Department of Labor

200 Constitution Ave NW  
Washington, DC 20210  
[1-866-4-US-WAGE](tel:1-866-4-US-WAGE)  
[1-866-487-9243](tel:1-866-487-9243)  
[www.dol.gov](http://www.dol.gov)

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## Employment Law Guide

# Federal Contracts–Working Conditions: Prevailing Wages in Construction Contracts

### Related Information

#### DOL Agency Assistance

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Updated: December 2016

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**Davis-Bacon and Related Acts**  
**(40 USC §3141 et seq.; 29 CFR Parts 1, 3, 5, 6 and 7)**

The Davis-Bacon and related Acts (DBRA) generally apply to contractors and subcontractors performing on federal and federally assisted contracts in excess of \$2,000 for construction, alteration, or repair (including painting and decorating). Laborers and mechanics performing on the site of the work of DBRA-covered contracts are entitled to receive prevailing wage rates for such work.

## Basic Provisions/Requirements

The Davis-Bacon and related Acts (DBRA) require that contractors and subcontractors performing on covered contracts pay laborers and mechanics employed on the project jobsite not less than the prevailing wage rates (including fringe benefits) listed in the contract's Davis-Bacon wage determination for corresponding classes of laborers and mechanics. The rates listed are based on wages and fringe benefits WHD found to be prevailing for laborers and mechanics employed on similar projects in the area. Davis-Bacon labor standards clauses and the applicable wage determination(s) must be included in covered contracts.

Apprentices may be employed at less than the predetermined rates if they are individually registered in and employed pursuant to an apprenticeship program registered with the Department of Labor or with a state apprenticeship agency recognized by the Department. Trainees individually registered may be employed at less than predetermined rates if they are participating in a trainee program certified by the Department.

Contractors and subcontractors on DBRA projects are required to pay laborers and mechanics weekly and to submit weekly certified payroll records to the contracting agency. DBRA contractors and subcontractors are also subject to rules concerning allowable payroll deductions.

Contractors and subcontractors on Davis-Bacon Act prime contracts in excess of \$150,000, or related Act contracts in excess of \$100,000, are also required, pursuant to the Contract Work Hours and Safety Standards Act, to pay laborers and mechanics one and one-half times their basic rates of pay for all hours over 40 worked on a covered contract in a workweek.

## Employee Rights

The Davis-Bacon and Related Acts provide laborers and mechanics on covered contracts the right to receive at least the locally prevailing wages (including fringe benefits), as determined by the Department of Labor, for the type of work performed. The Wage and Hour Division and respective federal contracting agencies accept complaints of alleged Davis-Bacon violations.

## Recordkeeping, Reporting, Notices and Posters

### Notices and Posters

Every employer performing work covered by the labor standards of the DBRA must post the WH-1321 “Employee Rights Under the Davis-Bacon Act” poster at the site of the work in a prominent and accessible place where it may be easily seen by workers. The applicable wage determination must be similarly posted.

## Recordkeeping

Under the Davis-Bacon and related Acts, covered contractors must maintain payroll and basic records for all covered laborers and mechanics during the course of the work and for a period of three years thereafter.

Records to be maintained include:

- Name, address, and social security number of each worker
- Each worker’s work classifications
- Hourly rates of pay, including rates of contributions or costs anticipated for fringe benefits or their cash equivalents
- Daily and weekly numbers of hours worked
- Deductions made
- Actual wages paid
- Detailed information regarding bona fide fringe benefit plans and programs, including records that show that the plan or program has been communicated in writing to the laborers and mechanics affected
- If applicable, detailed information regarding approved apprenticeship or trainee programs

Some of the records required to be kept under the law are also required under the Fair Labor Standards Act. See Wage and Hour Division Fact sheet #21: Recordkeeping Requirements under the Fair Labor Standards Act (FLSA).

## Reporting

Each covered contractor and subcontractor must, on a weekly basis, provide the contracting agency a copy of all payrolls providing the information listed above under “Recordkeeping” for the preceding weekly payroll period, except that that full social security numbers and home addresses shall not be included on weekly transmittals, and instead the payrolls only need to include an individually identifying number for each worker (e.g., the last four digits of the worker’s social security number). Each payroll submitted must be accompanied by a “Statement of Compliance” using page 2 of Form WH-347 Payroll (For Contractors Optional Use), or any form with identical wording, certifying compliance with applicable requirements. The statement is to be signed by the contractor or subcontractor, or by an authorized officer or employee of the contractor or subcontractor who supervises the payment of wages, and delivered to a representative of the federal or state agency in charge. This must be submitted within seven days after the regular pay date for the pay period

From time to time, contractors may also be asked to submit, via survey, wage data from construction projects on which they have employed laborers and mechanics for use by WHD in determining the locally prevailing wage rates that will apply to Davis-Bacon and related Acts-covered projects in the future. The submission of

wage data is encouraged, but voluntary. When new surveys are conducted to enable WHD to reflect the locally prevailing wages, contractors and others may use the WD-10 Form, Report of Construction Contractor's Wage Rates.

## Penalties/Sanctions

Contractors or subcontractors found to have disregarded their obligations to employees under the Davis-Bacon Act, or found to be “in aggravated or willful violation” of any of the related Acts, may be subject to debarment from future contracts for up to three years. In addition, contract payments may be withheld in sufficient amounts to satisfy liabilities for unpaid wages and for liquidated damages that result from overtime violations of the Contract Work Hours and Safety Standards Act (CWHSSA). Breach of the required contract clauses under the Davis-Bacon and related Acts and CWHSSA may also be grounds for termination of the contract.

Contractors and subcontractors may challenge the Wage and Hour Division's determinations of violations and debarment before an Administrative Law Judge. Contractors and subcontractors may appeal decisions by Administrative Law Judges to the Department's Administrative Review Board (ARB). ARB determinations on violations may be appealed to and are enforceable through the federal courts.

Falsification of the required certified payroll records or any kickback of wages may subject a contractor or subcontractor to civil or criminal prosecution, the penalty for which may be fines and/or imprisonment.

## Relation to State, Local, and Other Federal Laws

Since 1931, Congress has extended the Davis-Bacon prevailing wage requirements to numerous other laws – “related Acts” – that provide federal assistance for construction through loans, grants, loan guarantees, and insurance. These laws require payment of the prevailing wages determined in accordance with the Davis-Bacon Act on federally assisted construction undertaken pursuant to the relevant law. Examples of the related Acts are the Federal-Aid Highway Acts, the Housing and Community Development Act of 1974 (and various other HUD-administered laws), and the Federal Water Pollution Control Act.

The Copeland "Anti-Kickback" Act prohibits contractors from inducing any person employed in DBRA-covered construction to give up any part of the compensation to which he or she is entitled, and requires contractors to submit a weekly statement of the wages paid to each employee performing DBRA-covered work. Implementing regulations govern allowable payroll deductions.

Contractors on projects subject to Davis-Bacon labor standards may also be subject to overtime pay requirements under the Contract Work Hours and Safety Standards Act (CWHSSA) and the Fair Labor Standards Act.

In addition to these federal labor standards, State and local prevailing wage and overtime pay requirements may apply.

# Compliance Assistance Available

The Department of Labor provides employers, workers, and others with clear and easy-to-access information and assistance on how to comply with the DBRA, such as the DOL Prevailing Wage Resource Book and the [DBRA Forms page](#). Other compliance assistance related to the DBRA is available on the [Davis-Bacon and Related Acts \(DBRA\) webpage](#). Also, the [Wage Determinations Learning Center](#) provides help understanding wage determinations, a quick-start guide, and the ability to search wage determinations.

## DOL Contacts

[Wage and Hour Division](https://www.dol.gov/whd/) (<https://www.dol.gov/whd/>)

[Contact WHD](https://webapps.dol.gov/contactwhd/Default.aspx) (<https://webapps.dol.gov/contactwhd/Default.aspx>)

Tel: 1-866-4-US-WAGE (1-866-487-9243)\*

\*If you are deaf, hard of hearing, or have a speech disability, please dial 7-1-1 to access telecommunications relay services.

The Employment Law Guide is offered as a public resource. It does not create new legal obligations and it is not a substitute for the U.S. Code, Federal Register, and Code of Federal Regulations as the official sources of applicable law. Every effort has been made to ensure that the information provided is complete and accurate as of the time of publication, and this will continue.

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Governor's Office *of*  
PLANNING AND BUDGET

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THE STATE OF GEORGIA

**Project Employment and Local Impact Report**

Grantees who cannot certify compliance with Davis Bacon must submit a Project Employment and Local Impact Report that must include:

- The number of employees of contractors and sub-contractors working on the project;
- The number of employees on the project hired directly and hired through a third party;
- The wages and benefits of workers on the project by classification; and
- Whether those wages are at rates less than those prevailing.

Note: Recipients must maintain sufficient records to substantiate this information upon request.

Grantee Name:

GA Number (Award Number):

Program Name:

Date:

Report POC Name:

Report POC Email:

1. Please enter the number of employees of contractors and sub-contractors working on the project.
2. Please enter the number of employees on the project hired directly and hired through a third party.
3. Please enter your report narrative below. Be sure to include all necessary information to ensure completeness.

Narrative Continued