



ENERGY AND  
ENVIRONMENT CABINET

# DAVIS-BACON ACT CONTRACTOR GUIDE

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# 1. INTRODUCTION TO THE DAVIS-BACON ACT

## **PURPOSE OF THE DAVIS-BACON ACT**

The Davis-Bacon Act (DBA) was passed in 1931, establishing the requirement that contractors pay the local prevailing wage on public works projects in construction. It applies to any contract valued in excess of \$2,000 that involves construction, alteration, and repair on government projects.

The Davis-Bacon Act's emphasis on paying a local prevailing wage and fringe benefits was created to protect communities from the upheaval usually caused by federal contracts. The DBA essentially levels the playing field by preventing outside contractors from entering a higher cost area and underbidding local contractors.

## **DAVIS-BACON ACT COMPLIANCE**

The basics of Davis-Bacon Act compliance are pretty straightforward. It's the burden of keeping up with compliance that's tricky. During the performance of the contract, employees must be paid at least once a week with full wages, as well as the employer's choice of two options – fringe benefits or paying the fringe amount out in cash.

Additionally, companies are required to maintain basic records for all workers during the performance of the contract and for at least three years after. These records must contain basic employee information such as a name and social security number, hourly rates of pay, any rates associated with the fringe, hours worked in the performance of the contract, and details on any fringe benefit plans and programs and proof that the program has been communicated to the workforce.

## **PENALTIES FOR NON-COMPLIANCE**

The Davis-Bacon Act is enforced by the Wage and Hour Division of the Department of Labor (DOL). Penalties for non-compliant contractors and subcontractors can be incredibly steep, causing an administrative headache and perhaps even going so far as to keep a contractor from bidding on future projects. Compliance flows from top to bottom, so it's important that contractors be prepared.

Common penalties associated with being out of compliance with the DBA include paying owed back wages and fringe benefits to the employees, personal liability to company officials, withholding payments due to the contractor, and termination of the contract as well as prohibition from all government contracts for a three-year period.

## 2. DAVIS-BACON ACT FACT SHEET



WAGE AND HOUR DIVISION  
UNITED STATES DEPARTMENT OF LABOR

### Fact Sheet #66: The Davis-Bacon and Related Acts (DBRA)

October 2023

This fact sheet provides general information concerning DBRA.

#### Coverage

DBRA requires payment of prevailing wages on federally funded or assisted construction projects. The Davis-Bacon Act applies to each federal government or District of Columbia contract in excess of \$2,000 for the construction, alteration, or repair (including painting and decorating) of public buildings or public works. Many federal laws that authorize federal assistance for construction through grants, loans, loan guarantees, insurance, and other methods are Davis-Bacon "Related Acts." The "Related Acts" include provisions that apply Davis-Bacon labor standards to most federally assisted construction.

Examples of "Related Acts" include the Federal-Aid Highway Acts, the Housing and Community Development Act of 1974, and the Federal Water Pollution Control Act.

#### Basic Provisions/Requirements

Contractors must pay laborers and mechanics working on the site of the work at least the locally prevailing wages (including fringe benefits), listed in the Davis-Bacon wage determination applicable to the contract, for the work performed. Davis-Bacon labor standards clauses must be included in covered contracts.

The Davis-Bacon "prevailing wage" is the combination of the basic hourly rate and any fringe benefits listed in a Davis-Bacon wage determination. The contractor's obligation to pay at least the prevailing wage listed in the applicable wage determination can be met by paying each laborer and mechanic the applicable prevailing wage entirely as cash wages or by a combination of cash wages and employer-provided bona fide fringe benefits. Prevailing wages, including fringe benefits, must be paid for all hours worked on the site of the work.

Apprentices may be paid less than the rates listed in the applicable wage determination only when they are individually registered in an apprenticeship program registered with the Department of Labor or with a state apprenticeship agency recognized by the Department, and the terms of the apprenticeship program are met.

Contractors are required to pay covered workers weekly and submit weekly certified payroll records to the contracting agency. They are also required to post the applicable Davis-Bacon wage determination and the Davis-Bacon poster (WH-1321) on the work site in a prominent and accessible place where they can be easily seen by the workers.

## **Davis-Bacon Wage Determinations**

Davis-Bacon wage determinations are published on the System for Award Management (SAM) website for contracting agencies to include them into covered contracts. The "prevailing wages" are determined based on wages paid to various classes of laborers and mechanics employed on specific types of construction projects in an area. Guidance on determining the type of construction, and when multiple wage determinations are applicable to a project, is provided in All Agency Memoranda 130, 131 and 236.

## **Retaliation Is Prohibited**

Retaliation is prohibited against any worker or job applicant for engaging in protected activities. Examples of protected include, but are not limited to, making a complaint to a manager, contractor, contracting agency, or WHD; cooperating in a WHD investigation; requesting payment of wages; refusing to return back wages to the contractor; complaints by a third party on behalf of a worker; consulting with WHD staff; informing another worker about their rights under the DBRA; and testifying at a hearing or trial.

WHD will notify contractors of violation findings and direct them to provide appropriate make whole relief to affected worker(s) and job applicant(s) or take appropriate remedial action, or both, where retaliation has been found to have occurred. Engaging in prohibited retaliation may also be grounds for debarment.

## **Penalties/Sanctions and Appeals**

Contract payments may be withheld in sufficient amounts to satisfy liabilities of the contractor for unpaid wages, and for liquidated damages for overtime violations under the Contract Work Hours and Safety Standards Act (CWHSSA). In addition, violations of the Davis-Bacon labor standards may be grounds for contract termination, contractor liability for any resulting costs to the government, and debarment from future contracts for a period of three years.

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

## **Typical Compliance Issues**

Compliance issues that frequently arise on DBRA projects include:

- Misclassification of laborers and mechanics.
- Failure to pay full prevailing wage, including fringe benefits, for all hours worked (including overtime hours).
- Incomplete or inaccurate recordkeeping, such as not counting all hours worked or not recording hours worked in each classification by an individual who worked in two or more classifications during a day.
- Failure to maintain a copy of the bona fide apprenticeship program and individual registration documents for apprentices.
- Failure to submit certified payrolls weekly.
- Failure to post the Davis- Bacon poster and applicable wage determination at the work site.

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

The Copeland "Anti-Kickback" Act prohibits contractors from in any way inducing an employee to give up any part of the compensation to which they are entitled and requires contractors to submit a weekly statement of the wages paid to each worker performing DBRA-covered work.

Contractors on projects subject to DBRA labor standards may also be subject to additional prevailing wage and overtime pay requirements under State (and local) laws. Also, overtime pay requirements under CWHSSA and the Fair Labor Standards Act may apply.

Under Reorganization Plan No. 14 of 1950, (5 U.S.C. Appendix 1), the federal contracting or assistance-administering agencies have day-to-day responsibility for administration and enforcement of the Davis-Bacon labor standards provisions and, in order to promote consistent and effective enforcement, the Department of Labor has regulatory and oversight authority, including the authority to investigate compliance.

### Where to Obtain Additional Information

For additional information, visit our Wage and Hour Division Website: <http://www.dol.gov/agencies/whd> and/or call our toll-free information and helpline, available 8 a.m. to 5 p.m. in your time zone, 1-866-4USWAGE (1-866-487-9243).

This publication is for general information and is not to be considered in the same light as official statements of position contained in the regulations.

The contents of this document do not have the force and effect of law and are not meant to bind the public in any way. This document is intended only to provide clarity to the public regarding existing requirements under the law or agency policies.

### 3. RESOURCES

#### Davis-Bacon Act

- 29 CFR 5.5
- F.A.R. Subpart 22.4
- F.A.R. 52.222-6 through 52.222-16

#### Department of Labor Prevailing Wage Seminars

<https://www.dol.gov/agencies/whd/government-contracts/construction/presentations>

#### Completing Certified Payroll Tutorial (Non-Department of Labor Source)

<https://www.youtube.com/watch?v=7lyNLL7wgBY>

#### Wage Determinations (WDs)

<https://sam.gov>

#### Department of Labor Wage and Hour Division (WHD)

<http://www.dol.gov/agencies/whd/government-contracts>

#### WHD Protections for Workers in Construction under the Bipartisan Infrastructure (BIL) Law

<https://www.dol.gov/agencies/whd/government-contracts/protections-for-workers-in-construction>

#### Department of Labor Resource Book

<https://www.dol.gov/agencies/whd/government-contracts/prevailing-wage-resource-book>

#### Office of the Administrative Law Judges Law Library

<https://www.dol.gov/agencies/oalj/topics/libraries/LIBDBA>

#### Department of Labor Local Office Addresses

<https://www.dol.gov/agencies/whd/contact/local-offices>

## 4. STATUTES, REGULATIONS, CONTRACT CLAUSES, RESPONSIBILITIES

### **LABOR STATUTES APPLICABLE TO FEDERAL CONTRACTORS**

#### **The Davis-Bacon Act (40 U.S.C. §§ 3141-48)**

(1) DBA applies to contracts in excess of \$2,000 for the construction, alteration, and/or repair of public buildings or public works, including painting and decorating, where the United States or the District of Columbia is a direct party to the contract. DBA specifies that each covered contract contain provisions, found at Title 29 CFR 5.5, requiring contractors to pay the laborers and mechanics employed on the project's site of the work, on a weekly basis, no less than the wages and benefits that are prevailing in the area as determined by the Secretary of Labor. Construction includes activities performed on the site of the work such as preparation for construction (e.g., demolition of existing structures, equipment and material set-up, etc.), fabrication of materials, installation of materials, and post-construction clean-up. The agency awarding the contract must make the determination that DBA applies to the project and must incorporate the applicable DBA clauses and wage determinations (also referred to as "wage decisions") into the requirements of the contract.

(2) A construction "project" may often involve more than one "contract" if all such contracts are closely related in purpose, time, and place (e.g., preparatory demolition contracts and final interior decorating contracts are often separate from the "construction" contract). DBA will apply to all such individual contracts, regardless of amount, if the overall project is in excess of \$2,000.

#### **Davis-Bacon and Related Acts (DBRA)**

(1) The Davis-Bacon "Related Acts" are numerous statutes that authorize federal assistance such as contributions, grants, loans, insurance, or guarantees for various programs involving construction, alteration and/or repair of hospitals, housing, sewage and water treatment plants, highways, airports, and similar structures. A DBRA will often include language further defining work that must be covered by the DBA prevailing wage requirements. The Infrastructure Investment and Jobs Act, also known as "The Bipartisan Infrastructure Law" (Public Law 117-58 November 15, 2021) is an example of a DBRA statute. The Bipartisan Infrastructure Law states:

*"All laborers and mechanics employed by contractors or subcontractors in the performance of construction, alteration, or repair work on a project assisted in whole or in part by funding made available under this division or an amendment made by this division shall be paid wages at rates not less than those prevailing on similar projects in the locality, as determined by the Secretary of Labor..."*

In order to implement this DBRA requirement, the federal agency awarding the contract or providing the funding assistance must first make the determination that DBA applies to the project under the DBRA, and must then ensure that DBA clauses and wage determinations are made applicable to the performance of the work.

(2) Where the Energy and Environment Cabinet has determined that DBRA provisions apply, "contract" means contracts and subcontracts for construction, alteration, and/or repair awarded under EEC grants, cooperative agreements, technology investment agreements, loans, and loan guarantees authorized by a statute requiring the payment of DBA wages.

### **The Copeland “Anti-Kickback” Act (40 U.S.C. 3145 and 18 U.S.C. 874) (Copeland Act)**

The Copeland Act makes it unlawful to induce any person working on a federal contract or on a federally financed or assisted construction project to give up any part of the compensation to which he or she is entitled under his or her contract of employment. The Copeland Act and its regulations require contractors and subcontractors to submit weekly to EEC, a copy of all payrolls, along with a weekly “Statement of Compliance” certifying that the contractor has paid the full wages and benefits due the covered workers.

### **The Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.) (FLSA)**

FLSA covers most workers employed throughout the United States, including non-exempt workers employed on federal contracts. FLSA requires employers to pay their workers no less than the federal minimum wage (\$7.25/hour as of April 5, 2017), and to pay overtime compensation for hours worked in excess of 40 per week. FLSA also restricts the employment of children less than 18 years of age.

### **The Contract Work Hours and Safety Standards Act (40 U.S.C. 3701 et seq.) (CWHSSA)**

CWHSSA applies to certain federal contracts (including contracts for services, construction, or supply) that are in excess of \$100,000 and which requires or involves the employment of laborers or mechanics on a public work. CWHSSA also applies to federally financed and assisted contracts in excess of \$100,000, where a federal law provides wage standards for the work. CWHSSA does not apply to such contracts where the federal assistance is solely in the nature of a loan guarantee or insurance. CWHSSA requires covered contractors to pay overtime compensation to laborers and mechanics (including watchmen and guards). Similar to the provisions in FLSA, CWHSSA requires overtime compensation to be paid at no less than one and one-half times the worker’s basic hourly rate of pay for hours worked in excess of 40 per week. Failure to comply with the overtime requirements under CWHSSA can result in the contracting agency assessing the contractor liquidated damages computed at \$25 per day for each violation. CWHSSA also requires covered contractors to ensure that their workers are performing in a safe environment.

## **RELATED FEDERAL REGULATIONS**

### **Procedures for Predetermination of Wage Rates (29 CFR Part 1)**

Department of Labor (DOL) regulations that govern the determination of prevailing wage and benefit rates under DBA, the publication of DBA wage determinations, and the procedures for obtaining and using timely DBA wage determinations.

### **Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States (29 CFR Part 3)**

DOL regulations that govern the application and enforcement of DBA, DBRA, and the Copeland Act, and detail the requirements under the Copeland Act for weekly payrolls, statements of compliance, and restrictions on payroll deductions.

### **Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction and Labor Standards Provisions Applicable to Non-Construction Contracts Subject to the CWHSSA (29 CFR Part 5)**

DOL regulations governing the responsibilities of federal agencies to administer and enforce the provisions of DBA and DBRA, including applicable contract provisions and definitions of terms such as construction, public buildings and public works, site of work, laborers and mechanics, apprentices and trainees, wages, and bona fide benefits. These regulations outline federal agency responsibilities and

procedures for enforcement of DBA and CWHSSA provisions and procedures for resolving disputes concerning payment of wages.

## **RESPONSIBILITIES**

### **Energy and Environment Cabinet - State Contracting Agency**

(1) As the contracting agency directly awarding a contract or providing federal funding assistance for a construction project, Energy and Environment Cabinet (EEC) must determine whether DBA or DBRA applies to a project and, if applicable, to ensure that the appropriate DBA clauses and wage determination(s) are incorporated into the contract or financial assistance agreement. These standard DBA clauses are found at 29 CFR § 5.5.

(2) As the contracting agency, EEC has primary responsibility for the enforcement of construction labor standards for the contracts, financial assistance, and other agreements it awards. The person designated as the contracting officer, as defined in 29 CFR 5.2, through the assistance of the EEC Davis-Bacon Act Compliance Reviewer is responsible for ensuring that contractors and subcontractors submit timely certified payrolls consistent with contract terms, and for monitoring labor standards compliance by reviewing pay records and conducting worker interviews. DBA and DBRA covered contracts resulting from grants, cooperative agreements, technology investment agreements, loans, or loan guarantees, will specifically identify the responsibilities of recipients, sub-recipients, local agencies, guaranteed parties, and contractors to administer and enforce the provisions of DBA, including reporting and recordkeeping requirements; obtaining, maintaining, monitoring, and reviewing payrolls; and assisting EEC in its DBA enforcement responsibilities.

### **Prime Contractor**

(1) The prime contractor (may be referred to as the principal or general contractor) is responsible for applying the appropriate DBA and CWHSSA labor standards and DBA wage determinations to all subcontracts for work performed by laborers and mechanics on the site of the work for the project. The prime contractor is also responsible for the labor standards compliance of all subcontractors on the project, at any level. EEC, as the contracting agency, may withhold on its own action, and shall withhold upon written request of DOL, sufficient monies from payments due to the prime contractor to cover any underpayment of wages, fringe benefits, or overtime compensation resulting from violations of DBA and CWHSSA provisions. (Reference 29 CFR § 5.5.)

(2) Under a statute providing loans, grants, or other Federal assistance – a DBRA “contractor” does NOT include a unit of a state, local government entity, or tribal government where the construction activities are performed by its own employees. Any contracts awarded under a DBRA by a state, local government entity, or tribal government must include DBA provisions and the contractors’ laborers and mechanics will be covered by the DBA requirements.

(3) Many contracts and financial assistance agreements will require the prime contractor to report all subcontracts awarded by the prime contractor. Within 14-days of a subcontract award, the prime contractor must submit a completed SF-1413, Statement and Acknowledgment, to the Contracting Officer, for each subcontract on covered projects. The prime contractor must execute a statement on this form that it has inserted all appropriate labor requirements into its subcontracts, and must include a statement signed by the subcontractor acknowledging that the appropriate clauses have been included in its subcontract. A copy of SF-1413 is available at: <https://www.gsa.gov/reference/forms/statement-and-acknowledgment>.

It has been found that depending upon the nature of the work many prime contractors do not enter into a formal contractual agreement with subcontractors. For these circumstances prime contractors are asked to complete the “Subcontractor Identification Form” provided by EEC. A copy of this form can be found in the “Forms” section of this desk guide.

**U. S. Department of Labor (DOL)**

DOL has authority under Reorganization Plan No. 14 of 1950 to issue regulations, interpretations and opinions, and prevailing wage determinations under DBA/DBRA. DOL will also conduct investigations and take further steps to enforce the provisions of DBA/DBRA, such as withholding of contract funds and conducting hearings to consider debarment of contractors found to be in violation.

## 5. GENERAL WAGE DETERMINATIONS

### Description of Davis-Bacon Act General Wage Determinations

General wage determinations are issued not only by locality, but for certain types of construction within a locality, often referred to as “schedules.” For example, DOL will issue wage determinations for building construction (construction of sheltered enclosures with walk-in access, including multi-unit residential buildings five stories or more); highway construction (includes construction of roads, sidewalks, runways, alleyways, trails, paths, parking areas, etc.); residential construction (construction of single family homes and up to four-story apartment buildings); and heavy construction (construction of other public works that do not fit within the other schedules). Some localities also have separate DBA wage determinations for projects involving dredging, water and sewer line construction, dams, major bridges, or flood control.

NOTE: Guidance on the appropriate use of wage determinations in each schedule is discussed in DOL’s “All Agency Memoranda #130 and Addendum #131” found on DOL.gov at:

<https://www.dol.gov/agencies/whd/government-contracts/construction/all-agency-memorandum>

### Projects Involving Multiple Types of Construction

When a project requires different types of construction (*e.g.*, building construction and highway construction), EEC, as the contracting agency, must incorporate the DBA wage determination for each schedule or type of construction, providing the separate type of construction exceeds either \$2.5 million or 20% of the total construction costs. If the separate type of construction comprises work that is only incidental to the total project (*i.e.*, less than 20% and costs less than \$2.5 million), the separate schedule cannot be used.

### Project Wage Determinations

If the DBA general wage determinations database does not contain an appropriate DBA wage determination schedule for the particular type of construction to be performed in a specific locality, the contracting agency, must submit a request to DOL on **SF-308, Request for Wage Determination**, for a **project-specific wage determination**.

If virtually all of the work on a contract will be performed by a classification that is not listed on a general wage determination that would otherwise apply, the contracting agency may submit a SF-308 request to DOL for a project-specific wage determination, or may attach the applicable wage determination to the contract and require the contractor, through the assistance of EEC, to submit to **DOL an SF-1444, Request for Authorization of Additional Classification and Rate**, for the missing classification. DOL will issue a wage determination applicable only for that specific project. Project wage determinations are effective for 90 days from date of issuance, and, if the Contracting Officer has not incorporated it into an awarded contract prior to expiration, the contracting agency must request a new project wage determination. It is EEC’s responsibility, as the contracting agency, to determine the need for, and to request, a project wage determination from DOL, and to incorporate it into the project’s requirements.

### Timely Application of DBA Wage Determinations

The timely applicability of a DBA wage determination, and any modification issued by DOL for that wage determination, to any particular contract action is addressed in 29 CFR § 1.6. It is the responsibility of EEC, as the contracting agency, to ensure that the most current DBA wage determinations are applied in accordance with these requirements. Generally, a DBA wage determination selected for a particular

construction project is effective for the life of the project, unless there is a substantial change in the scope of work. If, however, the contract contains options to extend the term of the contract, the contracting officer must incorporate the most current DBA wage determination in effect on the exercise of that option.

#### **Posting DBA Wage Determinations**

It is the **responsibility of the prime contractor** to post all applicable DBA wage determinations on the job site in a prominent and accessible location, or to otherwise notify each worker employed on the job site of the wage and benefits due under DBA. DOL Form WH-1321, *Notice to All Employees* poster, is available at: <https://www.dol.gov/agencies/whd/posters/dbra>.

## 6. CONTRACTOR COMPLIANCE WITH CONTRACT LABOR STANDARDS

### WORKER CLASSIFICATIONS UNDER DBA WAGE DETERMINATIONS

#### **Construction.**

DBA applies to contracts for construction, alteration, and/or repair of public buildings or public works, including painting and decorating. Construction also includes activities such as those performed **on the site of the work** in preparation for construction (*e.g.*, demolition, equipment and material set-up, *etc.*), fabrication of materials, installation of materials, and post-construction clean-up. (Reference 29 CFR § 5.2(j))

#### **Site of the Work.**

Under DBA, **laborers and mechanics employed on the site of the work** are covered by the Act. The site of the work is the physical place or places where the building or work called for in the contract will remain, and any other site where a significant portion of the building or work is constructed, provided that such site is established specifically for the performance of the contract or project. Job headquarters, tool yards, batch plants, borrow pits, *etc.*, are part of the site of the work when they are dedicated exclusively, or nearly so, to performance of the contract or project, and adjacent, or virtually adjacent, to the site of the work. (Reference 29 CFR 5.2(l))

#### **Laborers and Mechanics.**

DBA applies to **laborers and mechanics working on the covered site of the work**. Laborers and mechanics are defined as workers whose duties are **manual or physical in nature** as distinguished from mental or managerial work. Mechanics include workers who use tools or who are performing the work of a particular trade (*e.g.*, carpentry, plumbing, sheet metal work). (Reference 29 CFR § 5.2(m)) Laborers and mechanics do not include individuals performing non-manual work such as supervising, engineering, architecture, timekeeping, clerical work, energy audits, electricity usage monitoring, or other administrative functions.

(1) **Guards and Watchmen.** Guards and watchmen who perform no manual duties on the site of the work are not considered to be laborers or mechanics under DBA. Note, however, for purposes of CWHSSA's overtime compensation and safety requirements, the term "laborers and mechanics" includes watchmen and guards.

(2) **Apprentices and Trainees.** Laborers and mechanics include workers who are registered in approved apprenticeship or training programs. Approved programs are those which have been registered with DOL's Employment and Training Administration, Office of Apprenticeship, or registered with a DOL-recognized State Apprenticeship Council. Workers who participate in approved apprenticeship and training programs are provided documentation as evidence of their enrollment. Apprentices and trainees are paid wage rates in accordance with the provisions listed in the approved program. The rates are generally listed as a percentage to be applied to the wage rate listed in the applicable DBA wage determination for journeymen working in a particular classification. (Reference 29 CFR § 5.2(n))

(a) Under DBA, a **contractor must pay no less than the full wages and benefits of the prevailing wage**, as listed on the applicable wage determination, **to any worker who is not registered** in an approved program, **or to any worker for whom the contractor has no documentation** evidencing

the worker's enrollment in an approved program. Contractors and subcontractors are responsible for obtaining proper documentation to support designating a worker as an apprentice or trainee.

(b) The wage rates listed in an apprenticeship and training program are generally expressed as a **percentage of the journeyman wage rate** for a specific period of time, increasing as the worker progresses through the program (for example: 0-6 months 65%; 6 months to 12 months 70%; 12 months to 18 months 75%, *etc.*). Apprenticeship programs also **restrict the ratio of apprentices to journeymen** working on a job site in a specific classification.

(3) **Helpers.** "Helpers" under DBA are permitted only if the helper classification is listed on the contract's DBA wage determination. The duties of a helper are clearly defined by area practice within the locality, and are distinct from the duties of any other classification on the wage determination. If the classification of helper is not listed on the wage determination applicable to the work, the contractor must obtain approval from DOL for the use of that classification. A request for a helper rate will only be approved by DOL if the contractor submitting the request includes information showing that helpers are a separate and distinct classification from other classifications on the wage determination, and that use of helpers is a prevailing practice in the specific construction industry in the locality.

**NOTE:** It is rare for DOL to issue such a classification.

(4) **Working Foremen.** Foremen or supervisors who regularly spend more than 20% of their time performing the duties of a laborer or mechanic on the site of the work, and who do not meet the exemption criteria under 29 CFR Part 541, **are covered by DBA for the hours spent performing the construction work**, and must be paid at no less than the appropriate wage rate for the classification of the work being performed by the working foreman. The other, non-construction hours spent by a supervisor or foreman directing the work of others, or performing other non-manual work such as timekeeping and reporting, are not covered by DBA.

(5) **Suppliers.** The manufacture and delivery to the work site of supply items such as sand, gravel, lumber, concrete, paint, and other materials, when accomplished by regular suppliers to the public in general, are activities not covered by DBA. However, if the material supplier's laborers and mechanics, in the course of delivering the products, perform more than an incidental amount of construction work at the job site, those laborers and mechanics are subject to DBA wages and benefits for the hours performing such work on the job site.

(6) **Self-Employed Subcontractors.** The statutory language of DBA requires that all laborers and mechanics employed directly on the site of the work be paid no less than the predetermined wages **"regardless of any contractual relationship which may be alleged to exist between the contractor or subcontractor and such laborers and mechanics."** (Reference 40 U.S.C. § 3142(c)(1)). Under DBA, the term "employed" is not necessarily limited to "employee" and, therefore, may encompass certain independent contractors or workers. Self-employed "independent contractors" (often referred to as "1099 workers") who perform as laborers or mechanics on a covered project are subject to DBA. The prime contractor must ensure that the "independent contractor" receives no less than the applicable DBA wage rate for the hours worked on the site of the work, and must ensure that such worker is reported on the certified payroll each week.

**NOTE: According to guidance from DOL independent subcontractors who are engaging in work and have NO EMPLOYEES would be subject to the provisions of DBA.**

(7) **Owner/Operators.** An exception to DBA provisions may apply to bona fide business owners – defined as any employee **who owns at least 20% equity interest in the enterprise AND who is actively engaged in its management** – may be considered exempt under 29 CFR § 541, even though they are themselves performing the work of a laborer or mechanic on the covered project.

Contractors are cautioned to consider use of this exemption carefully, and, if they have questions, to seek advice from the nearest DOL Wage and Hour regional office. You may find the nearest office by going to the DOL website: <https://www.dol.gov/agencies/whd/contact/local-offices>.

**NOTE: According to guidance from DOL owner/operators must be engaged in the management of other employees in order to qualify for this exemption from DBA standards.**

### **Area Practice and Worker Classifications**

The DBA wage determination is simply a listing of worker classifications and the basic hourly wage and fringe benefit rates that DOL has determined to be prevailing in the locality for each classification. Those rates must be paid to anyone performing work within those classifications on a covered project in that locality. The classifications are not generally defined by skill level or years of experience. Any worker performing work within the classification must be paid the wages and benefits for that classification, regardless of skill or years of experience.

(1) There are no nationwide standard classification definitions under DBA. The proper classification of work performed by laborers and mechanics is that classification used by firms whose wage rates DOL determined to be prevailing in the area. While the duties of many classifications are usually clear (*e.g.*, plumbers, carpenters, painters, electricians, *etc.*), in some localities the contractor must determine the “prevailing area practice” in order to properly classify a worker. A survey of the firms performing similar construction work in that locality will provide the prevailing definition for each classification.

(2) If the DBA wage determination notes that the wage survey demonstrated that work in a particular construction classification in a locality is primarily performed by individuals represented by labor organizations, DOL will publish as the DBA minimum requirement the wage and benefit requirements found in the union agreements. The union contractors’ area practice would be used to define worker classifications. If a classification within a locality is not union-prevailing, DOL will publish the average resulting from its survey of rates paid to workers in a classification, and the definition of each classification will be determined by the prevailing area practice of firms performing such work within the survey.

(3) **Contractors and subcontractors** performing work on a covered project **are responsible for classifying each worker** properly in accordance with the applicable wage determination. Questions pertaining to classifications within a locality should be addressed to the nearest DOL regional office.

### **Unlisted or Additional Classifications.**

DBA wage determinations reflect the wages and fringe benefits determined to be prevailing in a particular locality, based upon survey information provided to the Secretary of Labor. The survey information may not always be complete, and some wage determinations may not list a classification that is needed in the performance of the contract. If a worker classification needed on the project is not listed on the DBA wage determination, the contractor must request DOL’s approval of an additional classification and the contractor’s proposed wage/benefit rate for that classification. The procedures for obtaining approval of an additional classification are found in DOL regulations 29 CFR § 5.5(a)(1)(ii), and in the contract clauses. The process is also known as a “conformance” because the contractor is required to classify the unlisted

worker classification “in conformance with” the classifications and rates that are listed on the wage determination.

**NOTE:** Contractor’s and EEC Contracting Officers should carefully review All Agency Memorandum 213, prior to submitting a request to the DOL.

(1) **SF-1444.** The contractor’s “conformance” request is **submitted in writing** through the EEC to DOL. **Subcontractors must submit their requests through the prime contractor**, who will forward to EEC. Generally, contractors will complete and sign an **SF-1444, “Request for Authorization of Additional Classification and Rate”**, a copy is available at <https://www.gsa.gov/forms-library/request-authorization-additional-classification-and-rate> providing the contractor’s information, contract information, the job title and a full description of duties, any information on “area practice,” the contractor’s proposed wage and benefit rates, and any other information that will support the request. The request for approval must be submitted within 30 days of initial employment of workers in the additional classification.

(2) **Employee signature.** If the contractor has already employed workers in the proposed additional classification, the contractor’s SF-1444 request should include the signature of each worker in that classification, noting whether they concur or disagree with the contractor’s proposed rates. If the contractor’s request is submitted to DOL through the contracting officer prior to employment of the workers in the classification, it would not include employee signatures. If the employees working in that classification are represented by a union, a union representative should sign and note whether the representative agrees or disagrees with the contractor’s proposed rates.

(3) **Submitting SF-1444 Requests.** The completed request is submitted by the contractor to EEC, as the contracting agency. The EEC contact must sign the request, either concurring or disagreeing with the contractor’s proposal. If a worker or the contracting officer disagrees with the contractor’s proposed additional classification or rate, a statement must be attached providing and supporting an alternate recommendation. EEC does not have authority to approve or reject a contractor’s request for approval of an additional classification. Only the Department of Labor has this authority.

(4) **Tips for Obtaining DOL’s Approval of Additional Classifications.** DOL cannot approve a contractor’s request to add a classification to a DBA wage determination applicable to a specific project, unless the contractor submits complete and proper information with the request. Some tips below will help in deciding what information is required.

(a) If a contractor is requesting DOL approval of a “**Helper**” classification, the request should provide sufficient information that the “Helper” classification is the “area practice” for that locality (*i.e.*, that the helper duties are clear and distinct from other classifications and use of the classification is prevailing in the particular locality).

(b) The contractor must ensure that the work to be performed by the additional classification not part of the work routinely performed by another classification already listed on the wage determination. DOL will not approve a request based upon splitting the duties of a classification that is already listed on the wage determination in order to create a classification at a lower wage rate.

(c) The proposed wage and benefit rates for the proposed additional classification should bear a reasonable relationship to the wage rates listed on the wage determination. The proposed rates for a new skilled classification should be no lower than the wage rate of the lowest skilled classification listed on the wage determination. The contractor or subcontractor must pay the worker in the requested classification no less than the wage rate proposed in its conformance request, pending DOL's approval of the rate.

(d) DOL may request additional information before issuing an approval or denial of the contractor's request. Prompt and complete response to DOL's request will help in quickly resolving any questions. Disagreements on the contractor's proposal from either the worker or EEC, as the contracting agency, will be resolved by DOL.

(5) **DOL Response.** DOL will respond to the contractor's request for approval of an additional classification by written notification to the EEC Contact, as the contracting agency. EEC will notify the contractor of DOL's decision. The contractor must pay the worker(s) no less than the approved rate retroactive to their initial work on the job site in that classification. The EEC Davis-Bacon Act Compliance Reviewer, will request written confirmation from the contractor of its full and retroactive compliance with DOL's decision.

## **PAYMENT OF DBA WAGES AND BENEFITS**

### **Weekly Payrolls**

The DBA **statute** and regulations require that all laborers and mechanics employed under DBA "will be **paid unconditionally and not less often than once a week**, and without subsequent deduction or rebate on any account... except as permitted..." by requirements such as taxes or garnishments, or a worker's voluntary agreement. (Reference 29 CFR 5.5(a)).

### **Recordkeeping and Timecards**

It is the **contractor's responsibility to keep and maintain accurate records of the hours worked** and the classification of work performed by each worker. Errors should be corrected promptly, with prompt payment of any back wages or benefits that may be due the worker as a result of the error. Failure to maintain complete and accurate pay, benefit, and time records may result in an investigation to determine the contractor's status of compliance with the contract labor standards.

**NOTE:** It is the responsibility of the prime contractor to ensure that DOL's DBA poster (WH-1321) and applicable DBA wage determinations are posted on the job site in a prominent and accessible place where they can be seen by all the workers.

### **Basic Hourly Wage and Benefit Rates.**

(1) DBA wage determinations list the various classifications of laborers and mechanics and the basic hourly wage rates that are found to be prevailing in each locality as determined by DOL's surveys. Many DBA wage determinations also list hourly fringe benefit rates that must be paid to each worker in addition to the basic hourly wage rate. Contractors must ensure that **each worker receives no less than the sum of the basic hourly wage rate and the hourly fringe benefit rate** listed on the applicable wage determination for the worker's classification.

**NOTE:** If a DBA wage determination lists the wages for a particular classification as "\$20.00" and fringe as "\$3.00 + 3%," the contractor must pay at least the basic wage rate of \$20.00, and the hourly benefit rate

of \$3.00 plus 3% of the basic hourly wage rate (or \$.60). The percentage is always applied to the basic hourly wage rate. The contractor must pay no less than \$23.60/hour for this worker.

(2) A contractor may discharge its obligation to each worker by paying the total wage and fringe benefit requirement in cash, or by providing a combination of wages paid in cash along with providing bona fide fringe benefits paid by the contractor such as health and life insurance premiums, retirement and savings contributions, vacation and other paid leave plans.

(a) **Example:** The DBA wage determination requires \$18.00/hour basic hourly wage rate, and \$3.00/hour fringe benefits, for a total obligation of \$21.00/hour for the worker. The contractor may pay the entire \$21.00/hour in cash to the worker. Or, the contractor may pay \$18.00/hour in cash and provide a bona fide health insurance plan that costs the contractor \$3.00/hour in premiums. Or, the contractor may pay \$20.00/hour in cash and provide \$1.00/hour in benefits. Or, the contractor may pay \$16.00/hour in cash, and provide \$5.00/hour in fringe benefits.

(b) Contractors are obligated to record and report the type of payments made each week to meet their DBA requirement for wages and fringe benefits for each worker – payments made in cash to the worker in lieu of providing a fringe benefit plan; payments made to provide benefit plans (*e.g.*, medical, pension, vacation, or other leave) for each worker; and any combination of cash and benefit plan provided to each worker.

### **Workers Performing at Two or More Classifications**

Contractors are required to maintain complete and accurate records of the hours worked by each worker, including identifying the hours worked by a worker at two or more classifications. The worker must be paid no less than the DBA wage rate for each of the hours worked at each classification. Failure to record the hours worked at each classification will result in DOL requiring the contractor to pay all hours worked during that week at the highest of the multiple wage rates.

### **Payment of Piecework Rates, Salaries, or Other-Than-Hourly Rates**

(1) Some workers may be hired on the basis of “**piecework rates.**” For example, a drywall hanger may be paid based upon the square feet of sheetrock hung, or a roofer may be paid on the basis of the number of square feet of roofing completed; or painters may be paid on the number of units or square feet painted each week. Other workers may be hired on the basis of an hourly rate plus piecework accomplished each week, or even paid on the basis of a **fixed salary** each week.

(2) Under DBA, the piecework or salaried **worker must still receive no less than the DBA** minimum wages and benefits for each covered hour worked each week. Therefore, the contractor must maintain accurate records of hours worked by each worker each week, and ensure that the worker receives no less than the DBA minimum for each hour worked regardless of pay method. **If the piecework or salary is not sufficient** to cover the DBA requirement for all covered hours that week, the **contractor must provide additional pay for that week** to bring the worker’s wages up to the minimum requirement. Each week will stand alone, and any payments to the worker in excess of the DBA requirement in one week cannot be allocated to cover any underpayments of the DBA requirement in another week.

### **Example:**

A laborer on a covered project is subject to \$20.00/hour DBA wage rate. He works a total of 35 hours in Week #1, which would require a DBA minimum of \$700.00 for that week. His pay is computed at a piecework rate that yields a total gross wage of \$1,000.00 for that week. He has, therefore, earned more

than the minimum requirement under DBA. In Week #2, the worker works 45 covered hours and his piecework pay is computed at \$800.00. Total weekly pay for Week #2 is divided by total weekly hours, and equals \$17.78/hour – short of the DBA requirement of \$20.00/hour. The contractor must pay the worker the \$800.00 in piecework pay, plus an additional \$100.00 (\$20.00 x 45 hrs. = \$900.00) to ensure that the worker receives the full DBA rate for all hours worked. Plus, in this example, the worker is owed an additional amount of \$50.00 (\$10.00 x 5 hrs. = \$50.00) to cover the 5 hours the worker worked over 40 in the week. As a result the worker is owed a total of \$950.00 for Week #2. The piecework wages paid in excess of the DBA minimum for Week #1 cannot offset the underpayment in Week #2. Salaried workers are computed the same way, each week.

#### **Payment of DBA Fringe Benefits.**

(1) DBA wage determinations usually list both a basic hourly wage and a fringe benefit rate that must be paid to covered workers. The fringe benefit rate is usually listed as an hourly amount that must be paid for all hours worked each week, including overtime hours.

(2) Fringe benefits include contractor payments for life and health insurance premiums; retirement contributions; vacation, holiday, sick, and other paid leave; other **bona fide benefit plans**; or equivalent payments to the worker in cash.

(3) Fringe benefits **do not include** contractor payments required by other federal, state, or local laws such as taxes (*e.g.*, Social Security), workers compensation, or state disability insurance requirements. Fringe benefits also **do not include** payments made to or on behalf of workers for transportation expenses, board and lodging, or required uniforms or tools. These are customarily business expenses of the contractor and not a fringe benefit for the worker.

### **OVERTIME COMPENSATION**

#### **Overtime**

DBA requires a contractor to pay no less than the minimum wage and fringe benefit listed on the applicable wage determination for each covered hour worked each week. DBA has no overtime (OT) compensation requirements. However, most contractors performing work on these projects are **required by FLSA to pay OT compensation at time and one-half the worker's "regular rate of pay" for the hours worked in excess of 40 each week.**

#### **DOL Regulations on Overtime (OT) Compensation**

Refer to 29 CFR § 778 for further guidance on paying overtime compensation, and to DOL's website at, [www.dol.gov/whd](http://www.dol.gov/whd) "Overtime."

#### **Contract Work Hours and Safety Standards Act (CWHSSA)**

CWHSSA is applicable to laborers and mechanics (including guards and watchmen) on covered projects, and also requires contractors to pay OT compensation for hours worked in excess of 40 hours each week, counting only those hours worked on CWHSSA-covered contracts during that week. CWHSSA does not have a site of the work limitation on coverage. All hours worked on covered contracts, including hours worked on the contract at off-site locations, are combined for the purpose of determining CWHSSA obligations.

(1) Overtime compensation under CWHSSA is computed on the basis of time and one-half the employee's basic hourly rate of pay, or the employee's "regular rate of pay" (if an employee works at two or more

classifications with different hourly wage rates or is paid on a basis other than hourly). The basic hourly rate used for computing CWHSSA overtime compensation can never be less than the basic hourly wage rate required by the applicable DBA wage determination, excluding any fringe benefits listed.

(2) Cash payments made to a DBA/CWHSSA worker for the purpose of meeting DBA fringe benefit requirements are not included in determining the basic hourly rate of pay for overtime purposes. See the following examples for explanations of the calculations for CWHSSA fringe benefit requirements for overtime.

### Regular Rate of Pay

A worker's "**regular rate of pay**" is determined by dividing the worker's total weekly compensation by the worker's total number of hours worked that week (including both DBA and non-DBA hours worked, *i.e.*, hours worked under FLSA). Additional information on overtime requirements and regular rate of pay can be found at 29 CFR Part 778.

### Examples:

(1) If a worker works 45 hours in a week and is paid \$20.00/hour for all hours worked that week, the contractor is obligated to pay an additional \$10.00/hour for the five hours worked in excess of 40 that week.

(2) A second worker works only at **piecework** on a contract. The minimum DBA wage rate is \$15.00/hour. In Week #1, the worker works a total of 45 hours in a week, and earns a total of \$1,000 in piecework. His regular rate of pay will be \$1,000.00 divided by 45 hours, or \$22.22/hour for that week. The piecework more than meets the DBA minimum wage for all hours worked. For overtime requirements, the contractor must also pay the worker an additional \$11.11/hour (one-half of the \$22.22 regular rate) for the five hours over 40 that week.

(3) A third worker works **two different classifications in one week** – 25 hours at \$17.00/hour and 20 hours at \$20.00/hour. His straight-time pay will be 25 times \$17.00 or \$425.00, plus 20 times \$20.00 or \$400.00, for a total straight-time pay of \$825.00 that week. His overtime compensation will be computed at \$825.00 total, divided by 45 hours, which equals a regular rate of pay of \$18.33/hour. The contractor must pay this worker an additional \$9.16/hour for the five hours over 40 that week.

(4) A fourth worker works on a **salary basis**, a fixed amount for each week regardless of straight-time hours or work production. He is working as a mechanic, and, therefore, not exempt from the requirements of DBA minimums or FLSA/CWHSSA overtime compensation. In this example, his salary is \$1,000/week. The DBA minimum for his classification is \$20.00/hour. In Week #1, this worker works 50 hours. His regular rate of pay is \$20.00/hour ( $\$1,000/50 \text{ hours} = \$20.00/\text{hour}$ ). The contractor has met the DBA minimum wage requirement. The contractor is now required to pay an additional \$100.00 (one-half of the regular rate of pay =  $\$10.00 \times 10 \text{ OT hours}$ ) in OT compensation, for a total weekly compensation of \$1,100.00. In Week #2, the worker works 60 hours. His regular rate of pay is now only \$16.67/hour ( $\$1,000/60 \text{ hours} = \$16.67/\text{hour}$ ). The contractor is required to bring the worker up to the DBA minimum wage requirement of \$20.00/hour by paying an additional \$3.33/hour (DBA rate of \$20.00/hour less \$16.67/hour paid), times 60 hours worked, or \$199.80. The worker's regular rate of pay is now \$20.00/hour. However, the contractor must also compute the additional OT compensation due, and owes an additional \$200.00 (one-half the regular rate of \$20.00 equals  $\$10.00/\text{hour} \times 20 \text{ OT hours} = \$200.00$ ). Total wages due this worker for this week are the \$1,000.00 salary, plus \$199.80 to bring him to the DBA minimum, plus OT compensation of \$200.00, for a total of \$1,399.80 for this week.

(5) A fifth worker **works in a single classification** that requires \$20.00/hour DBA wage rate and \$3.00/hour DBA fringe benefits. The contractor pays for all of this in cash payments each week (reporting on the WH-347 that he pays \$20.00/\$3.00 in Column (6) of the payroll report). The contractor's obligation for overtime compensation will be time and one-half the basic wage rate on the DBA wage determination (\$20.00), or an additional \$10.00/hour for each of the hours worked in excess of 40 per week. If the worker works 45 hours in Week #1, the contractor is obligated to pay 45 hours times \$20.00/hour DBA basic hourly rate; plus 45 hours times the \$3.00/hour DBA fringe benefits; plus five hours times \$10.00/hour for overtime compensation, for total earnings that week of \$1,085.00.

#### **"Rate In Effect" Overtime Method**

It is possible for contractors to use the "Rate In Effect" method of calculating overtime. Under this method overtime pay is calculated based on the hourly rate that is in effect when overtime is worked. However, if this method is used it makes tracking what work the employee is performing very important, so that for an employee working multiple jobs it is easy to identify one from another. Additionally, there **MUST BE A WRITTEN AGREEMENT** regarding the rate-in-effect overtime payment between the employee and the contractor. This agreement must be signed prior to the work starting and be kept on file by both the contractor and EEC. A copy of the Overtime "Rate In Effect" Agreement form can be found in the "Forms" section of this Desk Guide for reference. This form may be provided to contractors should they wish to utilize the "Rate In Effect" calculation methodology.

**NOTE: When discussed with DOL this was not presented as the preferred calculation method. They expressed that a weighted average was preferred.**

#### **Payroll Deductions**

The Copeland Act, and its related regulations, requires contractors and subcontractors to pay all laborers and mechanics "...**unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account... except as permitted ...**" (Reference 29 CFR Part 3 concerning allowable payroll deductions.) **Allowable deductions** include withholding for income taxes; worker share of Social Security tax; wage garnishments or payments for judgments legally imposed against the worker by an appropriate authority (*e.g.*, a court); and any legally-permissible deduction voluntarily authorized by the worker such as insurance premiums, retirement contributions, savings contributions, and similar payments.

The Copeland Act prohibits contractors from requiring workers to kick-back (*i.e.*, give up) any earnings due them under DBA or CWHSSA. Contractors are cautioned to accurately record any and all deductions from workers' earnings, and to maintain records supporting the authorization of any deductions from a worker's earnings.

## 7. DAVIS-BACON ACT CERTIFIED PAYROLLS

### **WAGE AND FRINGE BENEFIT REPORTING REQUIREMENTS**

#### **Pay on a Weekly Basis**

DBA requires covered contractors to pay their workers not less than the DBA-required wages and fringe benefits, in full, **on a weekly basis**. A week is any consecutive 7-day period set by the contractor. For any given project, once the payroll period is established it cannot be changed for that project. For example, a payroll period may be Sunday through Saturday, or Friday through Thursday, *etc.*

#### **General Payroll Reporting Requirements**

The Copeland Act and DBA regulations require contractors to **provide payroll information** each week to the EEC, listing the workers on the project, including work classifications, hours worked, wage rates, benefits, overtime compensation, total wages paid, and information related to payroll deductions. The basic information required is almost identical to the information already required of contractors by the IRS, DOL, and other federal and state agencies concerned with various taxes, hours worked, wages, and benefits paid, and similar contractor requirements.

#### **Statement of Compliance**

In addition, the Copeland Act requires DBA-covered contractors to provide a signed **“Statement of Compliance”** certifying that the weekly payroll information is correct and complete and that each laborer and mechanic has been paid not less than the DBA prevailing wage and benefit rate for the work performed that week. The required certification statement is set forth on the second page of WH-347, which can be accessed at: <https://www.dol.gov/agencies/whd/forms/wh347>. The WH-347 form and instructions can also be found in the “Forms” section of this Desk Guide.

#### **Due Date for Certified Payroll Reports**

The contractor must pay employees **no later than 7 calendar days from the end of the payroll period**.

The due date for each certified payroll to be submitted to EEC, as the contracting agency, or to the financial assistance recipient in accordance with the contract, is **no later than one week (7 consecutive calendar days) after each weekly pay date**.

#### **Prime Contractor’s Responsibilities for Subcontractor Reporting**

The prime contractor is responsible for the timely submission to EEC of certified payrolls for all subcontractors. The prime contractor is obligated to notify all subcontractors of the labor provisions of the contract and to ensure that each subcontractor submits timely, accurate, and complete certified payrolls. Payrolls are to be submitted using the e-Communications (eCOMM) system.

#### **Payroll Form and Optional WH-347**

A fillable PDF format of DOL’s Form WH-347, “Payroll,” can be found in the “Forms” section of this Desk Guide. The second page of the form is used to report information about apprentices and payment of fringe benefits and contains the “Statement of Compliance.”

## Completing Certified Payroll Form WH-347

**NOTE:** Complete instruction, with visuals, can be found in the “Forms” section of this Desk Guide.

Contractors are required by DBA, FLSA, and many other statutes to maintain accurate records of worker addresses and full SSNs. The WH-347 certified payroll reports required under DBA/Copeland Act do not require reporting worker addresses and full SSNs. Contractors must provide this information in a separate report if requested to do so during a compliance review.

**Overtime Compensation.** Refer to the applicable section of this Desk Guide for information on meeting the requirements for overtime compensation under FLSA and CWHSSA.

### **Examples:**

**Reporting workers earning hourly wages and cash in lieu of fringe benefits:** A worker earns the DBA basic hourly wage rate of \$18.00/hour, and \$3.00/hour for fringe benefits paid in cash each week. The contractor should report the rate of pay in Column (6A) “ST” (straight-time rate) as \$21.00 (\$18.00/ hr. DBA wage, plus \$3.00/hr. for fringe). If the worker worked overtime hours, the overtime rate of pay reported in Column (6A) “OT” (overtime rate) will be no less than time and one-half the basic hourly wage rate of \$18.00, or \$27.00/hour, plus \$3.00/hour for the cash in lieu of fringe benefit requirement, for a total overtime rate of pay at \$30.00/hour.

**Reporting workers employed at piecework rates:** For a week in which an employer paid piecework instead of an hourly rate of pay, the employer must show on a signed attachment to the WH-347, or equivalent form, the computation for the worker’s basic hourly wage rate and overtime rate of pay.

#### Piecework Example A:

In a week in which a worker worked 40 hours and was paid \$550.00 in piecework, the worker’s hourly wage rate is \$550.00 divided by 40 hours, or \$13.75/hour. If the DBA minimum for the classification is \$18.00/hour plus \$3.00/hour in fringe benefits, the employer must pay an additional \$7.25/hour to the worker to bring him to the total DBA minimum requirement of \$21.00/hour, and then report in Column (6A) “ST” of the WH-347 “\$21.00” as rate of pay. The rate of pay reported in Column (6A) “OT” for overtime will be the same as noted in the example above, “\$30.00/hour” (time and one-half the straight-time rate plus cash in lieu of fringe benefits).

#### Piecework Example B:

In a week in which a worker worked 40 hours and was paid \$1,000.00 in piecework, the worker’s hourly wage rate is \$1,000.00 divided by 40 hours, or \$25.00/hour. If the DBA minimum wage rate for the classification is \$18.00/hour plus \$3.00 in fringe benefits, the employer has met and exceeded the DBA requirement, and must report in Column (6A) “ST” of the WH-347 “\$25.00” as the worker’s straight-time rate of pay. The rate of pay reported in Column (6A) “OT” for overtime will be “\$37.50/hour” (time and one-half the worker’s regular rate of pay).

**NOTE:** Deductions must be identified (*e.g.*, “state income tax,” “loan repayment,” “purchase of equipment”). Any deduction, other than those required by law (such as taxes) or required by order of an appropriate authority (such as wage garnishments or court ordered child support), **must be voluntary and authorized in writing** by the worker. For voluntary deductions, a short note describing the deduction and signed by the worker should be attached to the payroll report on which the deduction first appears.

**NOTE:** The amount entered in Column (9) should be the same amount as reflected in the employee’s paycheck for the week.

### **REPORTING FRINGE BENEFIT PAYMENTS ON FORM WH-347**

- a. Contractors are obligated to check the certification box on the second page, acknowledging the DBA fringe benefit requirement was met – either by paying cash in lieu of providing a fringe benefit plan and/or payments made to a plan that provides benefits to the worker.
- b. If the contractor pays a worker the required DBA **fringe benefits in cash, in lieu of providing a benefit plan**, the contractor must report the total amount of payment on the first page of the WH-347, in Column (6C) “Payment in Lieu of Fringe Benefits.”
- c. If a contractor **pays the required DBA fringe benefit rate into a bona fide fringe benefit plan(s)** for a worker, the contractor must report the total amount paid into the fringe benefit plan(s) on the first page of the WH-347, in Column (6B) “Total Fringe Benefit Credit.” On the second page, the contractor must report the fringe benefit name, fringe benefit type, fringe benefit plan number, whether the fringe benefit is funded or unfunded, and the hourly credit being provided for that worker.
- d. If a contractor pays a worker a portion of the fringe benefit requirement **in cash** and a portion of the requirement **into a bona fide benefit plan(s)**, the contractor must report both (b) and (c), as outlined above.
- e. In reporting fringe benefits on the WH-347, or equivalent form, it is important that the contractor clearly show the method used to comply with DBA. Information that is confusing, incomplete, or inaccurate will generate further inquiries during payroll reviews and may result in a full investigation to ensure contractor compliance.

### **STATEMENT OF COMPLIANCE – CERTIFICATION OF PAYROLL**

- a. The required Statement of Compliance is located on the second page of the WH-347. If a contractor uses any payroll format other than Form WH-347, the same Statement of Compliance must be signed and submitted with each weekly payroll. The **Statement of Compliance must be signed by a principal of the firm** (owner or an officer such as president, treasurer, or payroll administrator/manager). The signature must always be that of a person who has authority to direct the payment of wages and benefits to the workers. A Receptionist or Payroll Clerk is **NOT** acceptable.

**NOTE:** Proper use of electronic signatures on electronic certified payrolls and related compliance statements is permitted, and carries the same legal effect as handwritten signatures. Proper electronic signatures must utilize an approved and official electronic signature format such as Adobe Acrobat Sign or DocuSign.

- b. The **willful falsification of a payroll report or a Statement of Compliance** may subject the contractor to civil and/or criminal prosecution and is cause for debarment.
- c. Inducing any person to “give up any part of the compensation to which he/she is entitled under” DBA and its related Acts (known as “**kickbacks**”) may also subject a contractor to criminal prosecution and/or debarment.

### **“NO WORK” PAYROLLS**

Certified payrolls must be submitted **each week** to the EEC Davis-Bacon Compliance Reviewer via the eCOMM system. If a contractor or subcontractor on a project performs no covered work in a specific week, there is no need to submit a certified payroll.

However, the contractor must submit a completed “Contractor No Work Statement” to the Davis-Bacon Act Compliance Reviewer via the eCOMM system. This will notify EEC that the contractor did not perform work on the project for a specified week or series of weeks.

This statement will help to avoid confusion about interruptions in receipt of weekly payroll reports. For the next week in which work is performed on site, the contractor must then submit a certified payroll numbered sequentially, following the last certified payroll submitted. A copy of the “Contractor No Work Statement” can be found in the “Forms” section of this Desk Guide.

### **RETAINING PAYROLL RECORDS**

Every contractor and subcontractor on DBA/DBRA covered projects must keep a complete set of payroll records for **at least three years AFTER the project is completed**. This includes basic payroll information, timecards, cancelled checks or receipts for cash payments for wages or benefits, apprenticeship documentation, evidence of payments to fringe benefit plans, and information on taxes and other payroll deductions. Careful document preservation is extremely important. Failure to maintain such documentation may result in criminal prosecution and/or administrative penalties (*e.g.*, back pay for employees, fines, and/or debarment).

## 8. PAYROLL REVIEWS AND CORRECTIONS

### COMPLIANCE REVIEWS

#### General

**Contracting agencies, such as EEC, have primary responsibility for the day-to-day enforcement of contract labor standards on a covered construction project.** Generally, the contracting agency will be responsible for ensuring contractors and subcontractors comply with the labor standards requirements. **Prime contractors must also ensure compliance by subcontractors.** Compliance reviews include visits to the job site, worker interviews, review of time and pay records and related information, and discussions with the contractors and subcontractors. In addition, DOL may conduct its own investigation to determine compliance under DBA, FLSA, CWHSSA, and other labor laws applicable to a contractor.

#### Worker Interviews

The compliance reviewer **MUST** visit the job site and interview workers concerning their wages, hours, benefits, classifications, payroll deductions, and other related subjects. Contractors are required by law to provide access to their workers for the purpose of interviewing at the job site by either the designated compliance reviewer or a DOL investigator. Every effort will be made to ensure that the interviews cause as little disruption as possible in performance of the work on the job site. It is DOL's policy to protect the identity of workers and other sources during a compliance review or labor investigation. Therefore, such information will not be disclosed without prior consent of the source. On occasion, workers (including former workers) may be contacted off-site, by telephone, or at their place of residence. Contractor and subcontractor cooperation with this task is essential, and any questions pertaining to the process should be addressed to EEC Davis-Bacon Act Compliance Reviewer or the DOL investigator.

#### Payroll Reviews

The compliance reviewer will collect certified payroll reports submitted to EEC via the prime contractor, along with documents supporting the use of apprentices and trainees, documents supporting payroll deductions, written interviews completed at the job site and elsewhere, the applicable DBA wage determination, and other pertinent information such as the daily construction or contract progress reports. These documents will be reviewed to determine the contractor's status of compliance. The contracting officer will notify the prime contractor and subcontractor(s) of any discrepancies found during the review.

**NOTE:** As stated above, EEC, as the contracting agency, may withhold accrued payments or advances as may be necessary to cover any under-payment of wages, fringe benefits, or overtime compensation due as a result of DBA or CWHSSA violations. For this reason, and consistent with the terms of the applicable contract, prime contractors should review each subcontractor's payroll report for compliance issues **prior to submitting the report** to the contracting officer. Systematic and careful review of contractor reports may detect any errors or violations early in the project, and thus avoid costly compliance reviews and underpayments of wages and/or fringe benefits due the workers.

#### Common DBA/CWHSSA Payroll Errors and Corrections

(1) **Incomplete or inadequate payroll information.** If the contractor does not use the optional DOL Form WH-347 to report weekly payrolls, the contractor must provide all the information requested by the WH-347 on the alternate weekly payroll form.

(2) **Missing identifying worker number or disclosing full employee information.** The contractor must report an identification number for each worker or, if the contractor has no worker identification system, the last four digits of the worker's Social Security number. **Do NOT include full Social Security numbers or home addresses** on the weekly certified payrolls. If a certified payroll report is received by the Prime Contractor or the designated reviewer, with the contractor's employee's full Social Security number or address it must be immediately returned to the contractor for correction. Contractor's must maintain such information in its basic pay and employment records, and, if requested, are obligated to provide this information to the Prime Contractor, the compliance reviewer, or the DOL investigator.

(3) **Classifications.** The contractor is not permitted to report a worker classification that is not listed on the DBA wage determination. If the contractor reports a worker classification not listed on the DBA wage determination, the contractor must be asked to either reclassify the worker, in compliance with the classifications listed on the wage determination, or to submit an SF-1444, *Request for Approval of Additional Classifications*. DOL's response to the request will be sent to the EEC Contracting Officer. EEC will notify the prime contractor of DOL's response. If DOL's decision denies the contractor's proposed wage or benefit rate and directs an increase in either rate, the contractor must comply with the decision retroactive to the start of employment of the missing classification. If DOL denies the request for the proposed classification, noting that a classification is already listed on the applicable wage determination is applicable, the contractor must comply with the decision retroactive to the start of employment of that classification. The contractor must submit a certified payroll report setting forth retroactive payment of wages/benefits owed to the worker(s) as a result of DOL's decision.

(4) **Apprentices and Trainees.** The most typical violation involving the use of apprentices and trainees is the **contractor's failure to submit documentation** evidencing the worker's enrollment in an approved program. The second most typical violation involving these workers is the **contractor's failure to comply with the apprenticeship program's ratio of apprentices to journeymen.**

(5) **Overtime Compensation.** When a payroll report shows an individual worked in excess of 40 hours per week, the contractor **MUST** include information regarding the contractor's compliance with the requirement to pay overtime compensation at not less than time and one-half the regular rate of pay. If the contractor failed to pay proper overtime compensation, as required under CWHSSA, the contractor may also be liable to the United States for liquidated damages of \$25.00 per day per violation. If CWHSSA is not applicable to the worker, FLSA overtime violations may be referred to DOL for further investigation.

(6) **Fringe Benefits.** If the contractor or subcontractor fails to report payment of the DBA fringe benefits required by the wage determination, the contractor must confirm compliance with the requirement to pay no less than the total wage and fringe benefit rates per hour, and to submit a corrected payroll report where the contractor has failed to make the required payments.

(7) **Signature.** If the signature is missing or is not in an approved electronic format, the payroll report must be returned for correction.

## **VIOLATIONS AND RESTITUTION OF UNDERPAYMENT OF WAGES**

### **General Information**

If EEC's Davis-Bacon Act Compliance Reviewer **discovers a contractor's failure to pay the appropriate DBA wages and fringe benefits**, the contractor must be notified immediately and **required to pay full restitution to the workers**. Typically, the contractor will be allowed 30-days to correct the

underpayments. **The prime contractor is always responsible for** ensuring the sub-contractors on the project promptly pay the back wages in full.

**NOTE:** The Prime Contractor shall be required to pay the back wages and fringe in full in cases where the Prime's contractors and/or subcontractors fail to pay the workers properly and do not or will not make the appropriate payments.

If a prime contractor or sub-contractor fails to pay, following notification of the underpayment, the EEC Davis-Bacon Act Compliance Reviewer may refer the matter to the Department of Labor.

### **Simple Reporting Errors and Corrections**

Errors resulting from calculations, failure to attach proper documentation, and failure to report proper classifications may be resolved quickly and completely with informal notification by the Davis-Bacon Act Compliance Reviewer to the contractor, and subsequent prompt corrective response from the contractor. Contractors and subcontractors are responsible for knowing the contract's labor standards requirements and they must cooperate completely and promptly with all requests for compliance.

### **Corrected Payrolls**

**A contractor found to be in violation and liable for unpaid wages or benefits must submit a corrected payroll** report to the Davis-Bacon Act Compliance Reviewer showing the computation of back wages and evidence of full payment to the workers.

### **Unlocated Workers Who Are Due Back Wages**

After an investigation discloses a contractor's failure to pay proper DBA wages or benefits, the contractor must make every reasonable effort to locate former workers and to pay back wages. If the contractor fails to locate any of the former workers, the contractor may be asked to provide to the EEC Davis-Bacon Act Compliance Reviewer evidence of its attempts to locate the workers (*e.g.*, returned mailings, *etc.*), and a list of the missing workers, including name, last known address, Social Security number, dates of employment, and gross amount of underpayment due each of the workers. EEC may withhold contract funds in the total amount of underpayment due the missing workers for the purpose of requesting the Department of Labor assist in locating the missing workers. The Department of Labor is specifically authorized to disburse funds withheld for wages found to be due to laborers and mechanics under DBA.

## **LABOR STANDARDS DISPUTES AND SANCTIONS FOR VIOLATIONS OF DBA REQUIREMENTS**

### **Labor Standards Disputes**

It is the responsibility of the contractor and subcontractor to be knowledgeable about their obligations under various contract labor standards. It is EEC's responsibility, as the contracting agency, to enforce the provisions of DBA and CWHSSA. When the compliance reviewer notes violations, such as failure to record hours worked, misclassification of workers, inappropriate use of apprentices or trainees, failure to pay benefits or overtime compensation, or unallowable deduction from wages, EEC will notify the prime contractor of the violations (and the subcontractor, if the violations are the result of the subcontractor's pay practices). If the contractor disagrees with the findings of the compliance reviewer, the prime contractor and/or subcontractor, or any other interested party, may ask DOL's Wage and Hour Administrator for a review and reconsideration of the issue. The Administrator's decision may be appealed to DOL's Administrative Review Board, providing such appeal is timely and in writing. (Refer to 29 CFR Parts 6 and 7 for the appeal process.)

### **Withholding**

The EEC has the responsibility to withhold from payments due to the prime contractor any amounts believed to be due and unpaid to workers because of DBA violations. An authorized representative of DOL may also direct EEC to withhold contract payments due to violations of DBA. If the funds remaining due to the contractor, on the contract under which DBA violations occurred, are insufficient, EEC can withhold funds from other contracts subject to DBA or CWHSSA that are held by the same prime contractor. Prime contractors and subcontractors must be notified in writing of any action to withhold payments due to labor violations.

**NOTE:** The contracting officer must withhold from payments due the contractor an amount equal to the estimated wage underpayment and estimated liquidated damages due under the CWHSSA (48 CFR 22.406-9(a)).

### **Debarment**

Contractors and/or subcontractors found by the Secretary of Labor to be in aggravated or willful violation of DBA will be debarred, and ineligible to participate in any DBA/DBRA contracts for a period of up to three years. Debarment applies to the contractor or subcontractor and any firm, corporation, partnership, or association in which the contractor or subcontractor has a substantial interest. Debarment proceedings can be recommended by the EEC Davis-Bacon Act Compliance Reviewer or may be initiated by DOL. Proceedings are described in 29 CFR § 5.12. Debarment and violations of contract clauses including DBA, CWHSSA, requirements for certified payroll reports, and other contract labor standards can be the basis for EEC to terminate the contract.

### **Falsification of Certified Payroll Reports**

Contractors or subcontractors found to have willfully falsified payroll reports (Statements of Compliance), including a certified payroll report correcting earlier violations, may be subject to civil or criminal prosecution. Penalties up to \$1,000 and/or one year in prison **for each false statement** may be imposed.

# FORMS

# Davis-Bacon and Related Acts Weekly Certified Payroll Form

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

Unless otherwise noted, the information requested is specific to the named project below.

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



Rev. January 2025  
OMB No.: 1235-0008  
Expires: 01/31/2028

SUBMISSION OF FINAL DBRA CERTIFIED PAYROLL FORM

PRIME CONTRACTOR

SUBCONTRACTOR

PROJECT NAME		PROJECT NO. or CONTRACT NO.		CERTIFIED PAYROLL NO.		PRIME CONTRACTOR'S/SUBCONTRACTOR'S BUSINESS NAME															
PROJECT LOCATION		WAGE DETERMINATION NO.		WEEK ENDING DATE		PRIME CONTRACTOR'S/SUBCONTRACTOR'S BUSINESS ADDRESS															
(1A)	(1B)	(1C)	(1D)	(1E)	(2)	(3)	(4)				(5)	(6A)	(6B)	(6C)	(7A)	(7B)	(8)			(9)	
WORKER ENTRY NO.	WORKER LAST NAME	WORKER FIRST NAME	WORKER MIDDLE INITIAL	WORKER IDENTIFYING NO.	(J) JOURNEYWORKER (RA) REGISTERED APPRENTICE	LABOR CLASSIFICATION	ST = STRAIGHT TIME OT = OVERTIME	(TOP) DAYS OF WORK WEEK (BOTTOM) DATES				TOTAL HOURS WORKED FOR WEEK	HOURLY WAGE RATE PAID FOR ST AND OT	TOTAL FRINGE BENEFIT CREDIT	PAYMENT IN LIEU OF FRINGE BENEFITS	GROSS AMT EARNED	GROSS AMT EARNED FOR ALL WORK	DEDUCTIONS FOR ALL WORK			NET PAY TO WORKER FOR ALL WORK
																		TAX WITH-HOLDINGS	FICA	OTHER (MUST SPECIFY, SEE INSTRUCTIONS)	
							ST					0.00								\$0.00	
							OT														
							ST					0.00								\$0.00	
							OT														
							ST					0.00								\$0.00	
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							OT														

While use of Form WH-347 itself is optional, covered contractors and subcontractors performing work on Federal or federally assisted construction contracts are required by the DBRA regulations and the contract clauses to submit payroll information on a weekly basis. The Copeland Act (40 U.S.C. § 3145) requires contractors and subcontractors performing work on Federal or federally financed construction contracts to, on a weekly basis, "furnish a statement on the wages paid each employee during the prior week." U.S. Department of Labor (DOL) Regulations at 29 C.F.R. § 5.5(a)(3)(ii) require contractors and subcontractors to submit weekly certified payrolls to the appropriate Federal agency if the agency is a party to the contract (or, if the agency is not such a party, to the applicant, sponsor, owner, or other entity, as the case may be, that maintains such records, for transmission to the Federal agency). Each certified payroll must be accompanied by a signed "Statement of Compliance" (e.g., page 2 of the WH-347 or another document with identical wording) indicating that the certified payrolls are accurate and complete, and that each laborer or mechanic has been paid not less than the required Davis-Bacon prevailing wage rate(s) (including any fringe benefits) for the work performed. DOL and contracting agencies receiving this information review the information to determine whether workers 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, U.S. Department of Labor, Room S3502, 200 Constitution Avenue, N.W. Washington, D.C. 20210 (over)

PROJECT NAME	PROJECT NO. or CONTRACT NO.	PAYROLL NO.	PRIME CONTRACTOR'S/SUBCONTRACTOR'S BUSINESS NAME
PROJECT LOCATION	WEEK ENDING DATE	CERTIFYING OFFICIAL'S NAME AND TITLE	

I paid or supervised the payment of the laborers or mechanics working on the above project during the stated time period. I certify the following:

- The payroll information submitted with this statement is correct and complete for the above project during the above period, and the wage and fringe benefit rates paid to the workers, including credit taken for the reasonably anticipated costs of a bona fide fringe benefit plan, fund or program, are not less than the applicable wage and fringe benefits rates for the classification(s) of work actually performed, as specified in the wage determination(s) incorporated into the contract.
- All regular payrolls and all other basic records that the contractor is required to maintain for this payroll period are complete and accurate and will be made available upon request from the agency or the Department of Labor.
- The classifications reported for each laborer or mechanic are the classification(s) of work that each worker actually performed.
- Any workers paid as apprentices during the above period are duly registered in a bona fide apprenticeship program registered with the Office of Apprenticeship, Employment and Training Administration, United States Department of Labor ("OA"), or a State Apprenticeship Agency ("SAA") recognized by Department of Labor. I have verified the registered apprenticeship program information provided below as accurate and applicable to any apprentices identified on page 1 of this form.

APPRENTICESHIP PROGRAM NAME	REGISTERED	NAME OF LABOR CLASSIFICATION
	<input type="checkbox"/> OA <input type="checkbox"/> SAA	
	<input type="checkbox"/> OA <input type="checkbox"/> SAA	
	<input type="checkbox"/> OA <input type="checkbox"/> SAA	

- Fringe benefits have been paid in cash and/or to bona fide fringe benefit plans, funds, or programs. Where the contractor is claiming an hourly credit for their contributions to or reasonably anticipated costs of a bona fide fringe benefit plan, fund, or program, provide plan information and the hourly credit claimed for each worker listed on the previous page of this form.

**HOURLY CREDIT FOR FRINGE BENEFITS**

*If an amount is listed in (6B) on the first page of this certified payroll form, enter the hourly credit claimed under each plan name, type and number for each worker and check whether the plan is funded or unfunded.*

NAME OF WORKER	FB NAME	TOTAL HOURLY CREDIT	
	FB TYPE		
	PLAN NO.		
	<input type="checkbox"/> Funded <input type="checkbox"/> Unfunded		
	Hourly Credit	\$0.00	
	Hourly Credit	\$0.00	
	Hourly Credit	\$0.00	
	Hourly Credit	\$0.00	
	Hourly Credit	\$0.00	
	Hourly Credit	\$0.00	
	Hourly Credit	\$0.00	
	Hourly Credit	\$0.00	

- All workers on the project have been paid the full weekly wages earned, and no rebates or deductions have been or will be made either directly or indirectly, other than permissible deductions as defined in 29 CFR part 3.

ADDITIONAL REMARKS

SIGNATURE OF CERTIFYING OFFICIAL	DATE	TELEPHONE NUMBER	EMAIL ADDRESS
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THE WILLFUL FALSIFICATION OF ANY OF THE ABOVE STATEMENTS MAY SUBJECT THE CONTRACTOR OR SUBCONTRACTOR TO CIVIL OR CRIMINAL PROSECUTION (SEE SECTION 1001 OF TITLE 18 AND SECTION 3729 OF TITLE 31 OF THE UNITED STATES CODE), AS WELL AS DEBARMENT FROM FUTURE FEDERAL AND FEDERALLY-ASSISTED CONTRACTS. INFORMATION REPORTED IN CERTIFIED PAYROLLS MAY BE SUBJECT TO DISCLOSURE IN RESPONSE TO A FREEDOM OF INFORMATION ACT REQUEST.





**CONTRACTOR "NO WORK" STATEMENT**

There may be instances where a contractor has no workers present on a project for an entire work week or a longer period. A certified payroll report is not required for a week in which a contractor performs no work. **If it is anticipated that a period of no work will occur, please attach a copy of this completed "No Work Statement" to the last payroll stating there is no work anticipated for a given period.**

**CONTRACTOR NAME:** \_\_\_\_\_

**PROJECT NAME:** \_\_\_\_\_

**CONTRACT NUMBER:** \_\_\_\_\_

**NO WORK PLANNED FROM:** \_\_\_\_\_ **TO** \_\_\_\_\_

I do hereby state that I pay or supervise the payment of employees for the above mentioned contractor and that no workers have spent time, or are anticipated to spend time, on the project for the period identified above.

Furthermore, I understand that should work be completed during the above period the contractor is required to pay those laborers and mechanics the required prevailing wage and that a certified payroll will need remitted using the e-Communications (eCOMM) system in order to comply with the provisions of the Davis-Bacon Act.

\_\_\_\_\_  
**Name**

\_\_\_\_\_  
**Title**

\_\_\_\_\_  
**Authorized Signature**

\_\_\_\_\_  
**Date**

## SUBCONTRACTOR IDENTIFICATION FORM

Please identify by name the subcontractors that will perform work on the project. Please also include each subcontractor's address, phone number and a contact email address (if available). Identify the type of work that will be performed by each subcontractor during the project. Use additional pages as necessary. **THIS FORM MUST BE COMPLETED AND SUBMITTED PRIOR TO THE START OF WORK OR WHEN THERE HAVE BEEN ANY CHANGES.**

<b>Project Name/Number</b>	<b>Contract Number</b>

<b>Subcontractor Information</b>			
Subcontractor Name _____		Phone _____	
Address _____	City & State _____	Zip Code _____	
Contact Name _____	Email _____		
Type of Work Performed _____			

<b>Subcontractor Information</b>			
Subcontractor Name _____		Phone _____	
Address _____	City & State _____	Zip Code _____	
Contact Name _____	Email _____		
Type of Work Performed _____			

<b>Subcontractor Information</b>			
Subcontractor Name _____		Phone _____	
Address _____	City & State _____	Zip Code _____	
Contact Name _____	Email _____		
Type of Work Performed _____			

<b>Subcontractor Information</b>			
Subcontractor Name _____		Phone _____	
Address _____	City & State _____	Zip Code _____	
Contact Name _____	Email _____		
Type of Work Performed _____			

<b>Signature</b>			
<p>The contractor is responsible for applying the appropriate labor standards and wage determinations to all subcontracts for work performed by laborers and mechanics on the site of the work for the project. The contracting agency reserves the right to withhold sufficient monies from accrued payments or advances as may be necessary to cover any underpayment of wages, fringe benefits, or overtime compensation due as a result of violations by contractors or subcontractors.</p>			
Print Name _____	Title _____		
Authorized Signature _____			Date _____

**OVERTIME PAYMENT  
"RATE IN EFFECT" AGREEMENT**

This document serves as an agreement between the below referenced employer and employee that "rate in effect" will be used as the calculation basis for overtime hours earned in relation to the below named project. Employees will receive overtime pay at a rate of 1.5 times the rate of pay which is in effect at the time in which the overtime hours occur.

**EMPLOYER INFORMATION**

<b>Employer Name</b>	<b>Phone Number</b>
<b>Employer Address</b>	<b>Contact Email</b>
<b>Project Name/Contract Number</b>	<b>County of Work</b>

**EMPLOYER SIGNATURE**

<b>Authorized Signature of Employer</b>	<b>Date</b>
<b>Title</b>	

**EMPLOYEE INFORMATION**

<b>Employee Name</b>	<b>Phone Number</b>
<b>Employee Address</b>	<b>Date of Birth</b>

**EMPLOYEE SIGNATURE**

<b>Employee Signature</b>	<b>Date</b>

# EMPLOYEE RIGHTS

## UNDER THE DAVIS-BACON ACT

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

#### 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:

**ENERGY AND ENVIRONMENT CABINET  
OFFICE OF ADMINISTRATIVE SERVICES  
ATTN: DAVIS-BACON COMPLIANCE REVIEWER  
PHONE: 502-782-0739  
EMAIL: eecpayrollcert@ky.gov**

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



WAGE AND HOUR DIVISION  
UNITED STATES DEPARTMENT OF LABOR

1-866-487-9243  
TTY: 1-877-889-5627  
[www.dol.gov/whd](http://www.dol.gov/whd)



# DERECHOS DEL EMPLEADO BAJO LA LEY DAVIS-BACON

## PARA OBREROS Y MECÁNICOS EMPLEADOS EN PROYECTOS DE CONSTRUCCIÓN FEDERAL O CON ASISTENCIA FEDERAL

### **SALARIOS PREVALECIENTES**

No se le puede pagar menos de la tasa de pago indicada en la Decisión de Salarios Davis-Bacon fijada con este Aviso para el trabajo que Ud. desempeña.

### **SOBRETIEMPO**

Se le ha de pagar no menos de tiempo y medio de su tasa básica de pago por todas las horas trabajadas en exceso de 40 en una semana laboral. Existen pocas excepciones.

### **CUMPLIMIENTO**

Se pueden retener pagos por contratos para asegurarse que los obreros reciban los salarios y el pago de sobretiempo debidos, y se podría aplicar daños y perjuicios si no se cumple con las exigencias del pago de sobretiempo. Las cláusulas contractuales de Davis-Bacon permiten la terminación y exclusión de contratistas para efectuar futuros contratos federales hasta tres años. El contratista que falsifique los registros certificados de las nóminas de pago o induzca devoluciones de salarios puede ser sujeto a procesamiento civil o criminal, multas y/o encarcelamiento.

### **APRENDICES**

Las tasas de aprendices sólo se aplican a aprendices correctamente inscritos bajo programas federales o estatales aprobados.

### **PAGO APROPIADO**

Si Ud. no recibe el pago apropiado, o precisa de información adicional sobre los salarios aplicables, póngase en contacto con el Contratista Oficial que aparece abajo:

**ENERGY AND ENVIRONMENT CABINET  
OFFICE OF ADMINISTRATIVE SERVICES  
ATTN: DAVIS-BACON COMPLIANCE REVIEWER  
NUMERO DE TELEFONO: 502-782-0739  
CORREO ELECTRÓNICO: eecpayrollcert@ky.gov**

o póngase en contacto con la División de Horas y Salarios del Departamento de Trabajo de los EE.UU.



**DIVISIÓN DE HORAS Y SALARIOS**  
DEPARTAMENTO DE TRABAJO DE LOS EE.UU.

1-866-487-9243  
TTY: 1-877-889-5627  
[www.dol.gov/whd](http://www.dol.gov/whd)



**REQUEST FOR AUTHORIZATION OF  
ADDITIONAL CLASSIFICATION AND RATE**

CHECK APPROPRIATE BOX  
 SERVICE CONTRACT  
 CONSTRUCTION CONTRACT

**OMB Control Number: 9000-0066**  
**Expiration Date: 5/31/2025**

Paperwork Reduction Act Statement - This information collection meets the requirements of 44 U.S.C. § 3507, as amended by section 2 of the Paperwork Reduction Act of 1995. You do not need to answer these questions unless we display a valid Office of Management and Budget (OMB) control number. The OMB control number for this collection is 9000-0066. We estimate that it will take .5 hours to read the instructions, gather the facts, and answer the questions. Send only comments relating to our time estimate, including suggestions for reducing this burden, or any other aspects of this collection of information to: U.S. General Services Administration, Regulatory Secretariat Division (M1V1CB), 1800 F Street, NW, Washington, DC 20405.

**INSTRUCTIONS:** THE CONTRACTOR SHALL COMPLETE ITEMS 3 THROUGH 16, KEEP A PENDING COPY, AND SUBMIT THE REQUEST, IN QUADRUPPLICATE, TO THE CONTRACTING OFFICER.

1. <b>TO:</b> ADMINISTRATOR, WAGE AND HOUR DIVISION U.S. DEPARTMENT OF LABOR WASHINGTON, DC 20210	2. <b>FROM:</b> (REPORTING OFFICE)
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3. CONTRACTOR	4. DATE OF REQUEST
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5. CONTRACT NUMBER	6. DATE BID OPENED (SEALED BIDDING)	7. DATE OF AWARD	8. DATE CONTRACT WORK STARTED	9. DATE OPTION EXERCISED (IF APPLICABLE) (SERVICE CONTRACT ONLY)
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10. SUBCONTRACTOR (IF ANY)

11. PROJECT AND DESCRIPTION OF WORK (ATTACH ADDITIONAL SHEET IF NEEDED)

12. LOCATION (CITY, COUNTY, AND STATE)

13. IN ORDER TO COMPLETE THE WORK PROVIDED FOR UNDER THE ABOVE CONTRACT, IT IS NECESSARY TO ESTABLISH THE FOLLOWING RATE(S) FOR THE INDICATED CLASSIFICATION(S) NOT INCLUDED IN THE DEPARTMENT OF LABOR DETERMINATION

NUMBER: \_\_\_\_\_ DATED: \_\_\_\_\_

a. LIST IN ORDER: PROPOSED CLASSIFICATION TITLE(S); JOB DESCRIPTION(S); DUTIES; AND RATIONALE FOR PROPOSED CLASSIFICATIONS (Service contracts only) <i>(Use reverse or attach additional sheets, if necessary)</i>	b. WAGE RATE(S)	c. FRINGE BENEFITS PAYMENTS

14. SIGNATURE AND TITLE OF SUBCONTRACTOR REPRESENTATIVE (IF ANY)	15. SIGNATURE AND TITLE OF PRIME CONTRACTOR REPRESENTATIVE
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16. SIGNATURE OF EMPLOYEE OR REPRESENTATIVE	TITLE	CHECK APPROPRIATE BOX-REFERENCING BLOCK 13. <input type="checkbox"/> AGREE <input type="checkbox"/> DISAGREE
---	-------	---

**TO BE COMPLETED BY CONTRACTING OFFICER (CHECK AS APPROPRIATE - SEE FAR 22.1019 (SERVICE CONTRACT LABOR STANDARDS) OR FAR 22.406-3 (CONSTRUCTION WAGE RATE REQUIREMENTS))**

- THE INTERESTED PARTIES AGREE AND THE CONTRACTING OFFICER RECOMMENDS APPROVAL BY THE WAGE AND HOUR DIVISION. AVAILABLE INFORMATION AND RECOMMENDATIONS ARE ATTACHED.
- THE INTERESTED PARTIES CANNOT AGREE ON THE PROPOSED CLASSIFICATION AND WAGE RATE. A DETERMINATION OF THE QUESTION BY THE WAGE AND HOUR DIVISION IS THEREFORE REQUESTED. AVAILABLE INFORMATION AND RECOMMENDATIONS ARE ATTACHED.  
*(Send 3 copies to the Department of Labor)*

SIGNATURE OF CONTRACTING OFFICER OR REPRESENTATIVE	TITLE AND COMMERCIAL TELEPHONE NUMBER	DATE SUBMITTED
--	---------------------------------------	----------------

