



ENERGY AND
ENVIRONMENT CABINET

DAVIS-BACON ACT CONTRACTOR GUIDE

Issue Date: November 16, 2022

CONTENTS

- 1. INTRODUCTION TO THE DAVIS-BACON ACT**
- 2. DAVIS-BACON ACT FACT SHEET**
- 3. RESOURCES**
- 4. DAVIS-BACON ACT INFORMATION GUIDE**
 - STATUTES, REGULATIONS, CONTRACT CLAUSES, RESPONSIBILITIES
 - GENERAL WAGE DETERMINATIONS
 - CONTRACTOR COMPLIANCE WITH CONTRACT STANDARDS
 - DAVIS-BACON ACT CERTIFIED PAYROLLS
 - PAYROLL REVIEWS AND CORRECTIONS
- 5. FORMS**
 - COMPLIANCE CHECKLIST FOR CONTRACTORS
 - EMPLOYEE RIGHTS POSTER – FORM WH-1321
 - PAYROLL FORM WH-347 & INSTRUCTIONS
 - FRINGE BENEFIT STATEMENT
 - SUBCONTRACTOR IDENTIFICATION FORM
 - OVERTIME PAYMENT “RATE IN EFFECT” AGREEMENT
 - CONTRACTOR “NO WORK” STATEMENT FORM

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.

DAVIS-BACON ACT FACT SHEET

U.S. Department of Labor
Wage and Hour Division



(March 2022)

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

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, and insurance 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 and subcontractors must pay [laborers and mechanics](#) employed directly upon the [site of the work](#) at least the locally prevailing wages (including fringe benefits), listed in the Davis-Bacon wage determination in 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 contract 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 on all hours worked on the site of the work.

Apprentices or trainees may be employed at less than the rates listed in the contract wage determination only when they are in an apprenticeship program registered with the Department of Labor or with a state apprenticeship agency recognized by the Department.

Contractors and subcontractors 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 with the [Davis-Bacon poster \(WH-1321\)](#) on the job 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 at <https://sam.gov/content/wage-determinations> for contracting agencies to incorporate 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 is provided in All Agency Memoranda Nos. [130](#), [131](#), and [236](#).

FS 66

Penalties/Sanctions and Appeals

Contract payments may be withheld in sufficient amounts to satisfy liabilities for underpayment of 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 contract clauses may be grounds for contract termination, contractor liability for any resulting costs to the government and debarment from future contracts for a period up to three years.

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

Typical Problems

(1) Misclassification of laborers and mechanics. (2) Failure to pay full prevailing wage, including fringe benefits, for all hours worked (including overtime hours). (3) Inadequate recordkeeping, such as not counting all hours worked or not recording hours worked by an individual in two or more classifications during a day. (4) Failure of to maintain a copy of bona fide apprenticeship program and individual registration documents for apprentices. (5) Failure to submit certified payrolls weekly. (6) Failure to post the Davis-Bacon poster and applicable wage determination.

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 he or she is entitled under his or her contract of employment, and requires contractors to submit a weekly statement of the wages paid to each employee 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 work pay requirements under CWHSSA) and the [Fair Labor Standards Act](#) may apply.

Under [Reorganization Plan No. 14 of 1950](#), (5 U.S.C.A. Appendix), 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.wagehour.dol.gov> 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.

U.S. Department of Labor
Frances Perkins Building
200 Constitution Avenue, NW
Washington, DC 20210

1-866-4-USWAGE
[Contact Us](#)

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=wI9ekEHoAvg>

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>

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 (EEC) 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, 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: <http://www.gsa.gov/portal/forms/download/115794>.

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.

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 comprises at least 20% of the total project cost, and/or costs \$1 million or more. 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 \$1 million), the separate schedule is not necessary.

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 180 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/dba>.

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 ($\$20.00 \times 45 \text{ hrs.} = \900.00) to ensure that the worker receives the full DBA rate for all hours worked. Plus, in this example, the worker is owed an additional amount of \$50.00 ($\$10.00 \times 5 \text{ 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 "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.

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/whd/forms/wh347.pdf>. 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 to EECPayrollCert@ky.gov.

Payroll Form and Optional WH-347

DOL’s Form WH-347, “Payroll,” and instructions for completing it, can be found in a fillable PDF format at: <https://www.dol.gov/whd/forms/wh347.pdf>. The second page is used to report information about payment of fringe benefits and contains the “Statement of Compliance.”

Completing Certified Payroll Form WH-347

- a. **Name of Contractor/Subcontractor and Address.** Check the box noting the category (contractor or subcontractor) of the reporting contractor and insert the contractor's complete name and address.
- b. **Payroll Number.** Each payroll report must be numbered, beginning with "#1" as the first payroll submitted by the reporting contractor for the first week in which it employs covered workers on the site.
- c. **For Week Ending.** Each contractor must establish a fixed workweek period of seven consecutive days (*e.g.*, Monday through Sunday; Sunday through Saturday). The hours worked by each laborer and mechanic during that workweek must be reported on each weekly payroll, along with wages and benefits paid for that week.
- d. **Project and Location.** A brief description of the project name and the location where the work is performed (include the county or counties).
- e. **Project or Contract Number.** Prime contractors will report the number of the contract/project awarded to them; subcontractors may use the same number if they have it, or use the number of their subcontract with the named prime contractor.
- f. **Worker Information.**

- (1) Column (1) **Worker name and worker identifying number** (or last four digits of worker's Social Security Number – **do NOT report the worker's full SSN**).

NOTE: 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.

- (2) Column (2) **Number of withholding exemptions.** This information may be reported for the contractor's convenience in computing withholding taxes, or the column may be left blank.
- (3) Column (3) **Worker classification(s).** List the classification of work actually performed by each laborer and mechanic. If a worker works at more than one classification within a single week, show each classification separately for that worker, along with the hours worked and hourly rate of pay for each classification.
- (4) Column (4) **Workweek.**
 - (a) At the head of the column each contractor must note the **days of the week** that constitute the established seven-day **workweek** (*e.g.*, "S-M-T-W-T-F-S" or "T- W-T-F-S-S-M," *etc.*). In the box below the day of the week, note the **date** for each day reported (*e.g.*, 25th, 26th, 27th, *etc.*). A workweek is a fixed and regularly recurring period of seven consecutive 24-hour periods. It need not coincide with the calendar week. (Reference 29 CFR § 778.105.)

- (b) In the boxes below the dates, report **only** the hours worked each day **on this covered project**, noting in the boxes marked “S” the straight-time hours worked and in the boxes marked “O” the overtime hours worked. **Do not include hours worked on any other project.**
- (c) Overtime hours reported in Column 4 (and totaled in Column 5) on the WH-347 are those hours worked on the covered project in excess of 40 hours in any workweek.

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

- (5) Column (5) **Total hours** worked for the week **on this project.**
- (6) Column (6) **Rate of Pay.**
Show the straight-time rate of pay on the “S” line in this column, and show the overtime rate of pay on the “O” line in this column. If the contractor pays cash in lieu of providing a fringe benefit plan to meet the benefit requirements on the DBA wage determination, show both the regular wage rate and the fringe benefit rate paid in cash in Column 6 “S” box, in the following manner:

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 (6) “S” (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 (6) “O” 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 (6) of the WH-347 “\$21.00” as rate of pay. The rate of pay reported in Column (6) for overtime (“O” hours) 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 (6) of the WH-347 “\$25.00” as the worker’s straight-time rate of pay. The rate of pay reported in Column (6) for overtime (“O” hours) will be “\$37.50/hour” (time and one-half the worker’s regular rate of pay).

- (7) Column (7) **Gross amount earned**. Each box has a diagonal line permitting the contractor to report each worker’s total gross wages paid. The gross amount for work **specifically performed on the project** reported by this particular payroll is set forth in the **upper portion of the box**, and the workers total gross wages earned for the entire week is set forth in the **lower portion of the box**. The total gross wages reported in the lower portion of the box would include the project work and also any and all work performed by the worker on other DBA projects and work performed on non-DBA projects.

NOTE: For workers **working at more than one classification** on the project, the contractor must report for each worker the hours worked, total hours, rate of pay for each classification, and total gross wages (in columns (3), (4), (5), (6), and (7)).

- (8) Column (8) **Deductions**. Five columns are provided for reporting all deductions from each worker’s gross wages, and a sixth column for the total of all deductions. Each deduction must be identified. If more columns are necessary, the contractor may provide this information on a separate, attached sheet. The total of the deductions on the separate attachment can be reported in the column headed “Other.” The total amount of all deductions is reported in the last (6th) deduction column, “Total Deductions.” When reporting a worker who has worked on a covered project as well as on non-project work in the same week, the entry in Column (8)’s “Total Deductions” should reflect the amount of deductions taken from the worker’s total wages for that week.

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.

- (9) Column (9) **Net wages paid for week**. Net wages paid is the total gross amount earned for all of the work performed that week (reported in the lower section of Column (7)) less total deductions (reported in the last section of Column (8)).

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 report payments made to comply with the DBA fringe benefit requirement and the manner in which these payments were made – either cash paid in lieu of providing a fringe benefit plan and/or payments made to a plan that provides benefits to the worker. Section (4) on the second page of the WH-347 serves the purpose of reporting the manner of payment of DBA benefits. Contractors should attach to a certified payroll report any additional information concerning payment of fringe benefits.

NOTE: Contractors are asked to submit a copy of the “Fringe Benefit Statement” form along with the first certified payroll. A copy of this form can be found in the “Forms” section of this Desk Guide.

b. If the contractor pays all workers the required DBA **fringe benefits in cash, in lieu of providing a benefit plan**, the contractor must report the payment on the first page of the WH-347, in Column (6) “Rate of Pay” and in Column (7) “Gross Amount Earned.” The contractor must also check **Box (4)(b)** on the second page of the WH-347 indicating payment of cash in lieu of providing benefits.

c. If a contractor **pays the required DBA fringe benefit rate into a bona fide fringe benefit plan** for a majority or all workers, the contractor must check the box in **Box (4)(a)** on the second page of the WH-347. It is not necessary to show the amount paid into these plans on the first page of the WH-347 in Column (6). It will be necessary, of course, to maintain supporting documents for the benefit plan(s), and documents that evidence the contractor’s contributions for those plans. A compliance review or investigation will include a review of these documents.

d. If a contractor **pays some of the workers cash in lieu** of providing a benefit plan, **and provides other workers benefit plans** to meet the DBA fringe benefit requirement, or pays a portion of the fringe benefit requirement in cash and a portion of the requirement into a bona fide benefit plan, the contractor must check whichever box in Section (4) represents the most-used payment method, and note in Section 4(c) the exceptions and the details of the payment method.

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 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 EECPayrollCert@ky.gov mailbox. 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, it is recommended that the contractor submit a completed “Contractor No Work Statement” to the Davis-Bacon Act Compliance Reviewer, notifying EEC that the contractor will not be working on the project for a specified period of time and providing an approximate date of return.

This statement is usually attached to the last payroll report expected for that time period and 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 pay records for **at least three years AFTER the project is completed**. This includes basic payroll information, time cards, 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).

PAYROLL

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



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

Rev. Dec. 2008

NAME OF CONTRACTOR <input checked="" type="checkbox"/> OR SUBCONTRACTOR <input type="checkbox"/>		ADDRESS		PROJECT AND LOCATION		PROJECT OR CONTRACT NO.															
ACME Well Service, Inc.		123 Any Street, Anytown, KY 40616		Allen #001 KASTOW Orphan Well Package - Permits 104384 & 104385		CT 128-2300000095															
PAYROLL NO. 2		FOR WEEK ENDING 10/01/2022																			
(1) NAME AND INDIVIDUAL IDENTIFYING NUMBER (e.g., LAST FOUR DIGITS OF SOCIAL SECURITY NUMBER) OF WORKER	(2) NO. OF WITHHOLDING EXEMPTIONS	(3) WORK CLASSIFICATION	(4) DAY AND DATE							(5) TOTAL HOURS	(6) RATE OF PAY	(7) GROSS AMOUNT EARNED	(8) DEDUCTIONS				(9) NET WAGES PAID FOR WEEK				
			Sun	Mon	Tues	Wed	Thur	Frid	Satu				FICA	WITH-HOLDING TAX	OTHER	TOTAL DEDUCTIONS					
Ralph Brown - 1345	2	Operator - Bulldozer		8.00	4.00		8.00				20.00	23.14	15.51					\$157.00	\$347.54	\$425.46	
Ralph Brown - 1345	0	Laborer - Comm or General									20.00	20.62	11.32	8.87	\$108.60				\$100.00	\$601.24	\$845.36
Jim Dodge - 1289	1	Laborer - Common or General		8.00	8.00	8.00	8.00	8.00			40.00	20.62	11.32							\$571.09	\$1,077.07
Walter Melon - 9987	0	Power Equipment Operator - Group 2					8.00	8.00			16.00	31.94	17.85		\$126.08	\$445.01				\$571.09	\$1,077.07
Jack Smith - 1782		Owner																			

While completion of Form WH-347 is optional, it is mandatory for covered contractors and subcontractors performing work on Federally financed or assisted construction contracts to respond to the information collection contained in 29 C.F.R. §§ 3.3, 5.5(a). The Copeland Act (40 U.S.C. § 3145) contractors and subcontractors performing work on Federally financed or assisted construction contracts to "furnish weekly a statement with respect to the wages paid each employee during the preceding week." U.S. Department of Labor (DOL) regulations at 29 C.F.R. § 5.5(a)(3)(ii) require contractors to submit weekly a copy of all payrolls to the Federal agency contracting for or financing the construction project, accompanied by a signed "Statement of Compliance" indicating that the payrolls are correct and complete and that each laborer or mechanic has been paid not less than the proper Davis-Bacon prevailing wage rate for the work performed. DOL and federal contracting agencies receiving this information review the information to determine that employees have received legally required wages and fringe benefits.

Public Burden Statement

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

Date **10/7/22**

I, **Beth Atkinson** Vice President, Acme Well Service, Inc.
(Name of Signatory Party) (Title)

do hereby state:

(1) That I pay or supervise the payment of the persons employed by

ACME Well Service, Inc. on the
(Contractor or Subcontractor)

Allen #001 KASTOW Orphan Well Package; that during the payroll period commencing on the
(Building or Work)

25 day of **September**, **2022**, and ending the **1** day of **October**, **2022**

all persons employed on said project have been paid the full weekly wages earned, that no rebates have been or will be made either directly or indirectly to or on behalf of said

ACME Well Service, Inc. from the full
(Contractor or Subcontractor)

weekly wages earned by any person and that no deductions have been made either directly or indirectly from the full wages earned by any person, other than permissible deductions as defined in Regulations, Part 3 (29 C.F.R. Subtitle A), issued by the Secretary of Labor under the Copeland Act, as amended (48 Stat. 948, 63 Stat. 108, 72 Stat. 967; 76 Stat. 357; 40 U.S.C. § 3145), and described below:

FICA, Federal/State Withholding Taxes, Child Support, Court Ordered Garnishments

List All Deductions Which Are Accounted For In Column 8 of the Certified Payroll Form

(2) That any payrolls otherwise under this contract required to be submitted for the above period are correct and complete; that the wage rates for laborers or mechanics contained therein are not less than the applicable wage rates contained in any wage determination incorporated into the contract; that the classifications set forth therein for each laborer or mechanic conform with the work he performed.

(3) That any apprentices employed in the above period are duly registered in a bona fide apprenticeship program registered with a State apprenticeship agency recognized by the Bureau of Apprenticeship and Training, United States Department of Labor, or if no such recognized agency exists in a State, are registered with the Bureau of Apprenticeship and Training, United States Department of Labor.

(4) That:

(a) WHERE FRINGE BENEFITS ARE PAID TO APPROVED PLANS, FUNDS, OR PROGRAMS

- in addition to the basic hourly wage rates paid to each laborer or mechanic listed in the above referenced payroll, payments of fringe benefits as listed in the contract have been or will be made to appropriate programs for the benefit of such employees, except as noted in section 4(c) below.

(b) WHERE FRINGE BENEFITS ARE PAID IN CASH

- Each laborer or mechanic listed in the above referenced payroll has been paid, as indicated on the payroll, an amount not less than the sum of the applicable basic hourly wage rate plus the amount of the required fringe benefits as listed in the contract, except as noted in section 4(c) below.

(c) EXCEPTIONS

EXCEPTION (CRAFT)	EXPLANATION

REMARKS:

The Statement of Compliance Must Be Signed By a principal of the firm (e.g. owner, officer or payroll administrator)

Electronic Signatures Are Acceptable; However, They MUST be in an Approved Form (e.g. DocuSign, Acrobat Sign, etc.)

NAME AND TITLE Beth Atkinson Vice President, Acme Well Service	SIGNATURE Beth Atkinson Digitally signed by Beth Atkinson Date: 2022.10.14 07:33:05 -04'00'
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.	

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



ENERGY AND ENVIRONMENT CABINET DAVIS-BACON ACT COMPLIANCE CHECKLIST FOR CONTRACTORS

Bipartisan Infrastructure Law (BIL) funds used for transactions involving contracts exceeding \$2,000 must comply with the prevailing wage requirements of the Davis-Bacon Act. This checklist provides an overview of the requirements established by the Davis-Bacon Act, and is not substitute for the detailed provisions in the U.S. Department of Labor (DOL) regulations implementing Davis-Bacon Act requirements. Contractors should keep the completed checklist for their records, but do not need to submit it to the Energy and Environment Cabinet.

CONTRACTOR/SUBCONTRACTOR:	
AWARD NUMBER:	
PROJECT TITLE:	
DATE:	

QUESTION	EXPLANATION/INSTRUCTION	STATUS		
		YES	NO	N/A
VERIFICATION OF WAGE DETERMINATION (WDs)				
<p>1. Were general wage determinations (WDs) available from the Department of Labor (DOL) for all of the respective counties where construction will take place and did they provide classifications covering all of the labor categories related to the project?</p>	<p>At www.sam.gov, DOL provides WDs on a county-by-county basis. The WDs were also provided in the original project solicitation and reviewed during the pre-construction meeting.</p> <p>You are expected to select the appropriate WD for each construction site. This could mean paying the same laborer different rates for time spent at separate construction sites. Alternatively, you could pay the highest prevailing wage rate at all project work sites, including those with lower wage rates.</p> <p>You should ensure that you have WDs covering each county in which construction occurs, even if you have chosen to pay the highest wage rates at all project work sites.</p> <p>If your project requires additional laborer classifications, a Conformance Request using Standard Form-1444 will need to be submitted by the Energy and Environment Cabinet (EEC).</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

1.a. If EEC submitted a conformance request have they notified you of approval by the DOL?	You must pay the wage and benefit rate proposed in the SF-1444 submitted by the EEC pending a response from DOL. If DOL responds with an approved rate that is higher than the proposed rate, you must pay such rate retroactive to the start of the performance of that labor classification.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. Have the project's WDs and a Davis-Bacon poster (WH-1321) been posted at all construction sites?	The WDs (including any classifications added through the Conformance Process) and a Davis-Bacon poster (WH-1321) must be posted at all times by the contractor and any subcontractors at all work sites in a prominent and accessible place where it can be easily seen. An electronic version of the WH-1321 poster may be obtained at no charge: https://www.dol.gov/sites/dolgov/files/WHD/legacy/files/fedprojc.pdf	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
VERIFICATION OF CERTIFIED PAYROLLS				
3. Are you (and any subcontractors) using form WH-347 to record payroll?	Form WH-347 presents a standardized method of recording payroll, which assists EEC, DOL, and any other entities in verifying Davis-Bacon compliance. The form may be downloaded at: https://www.dol.gov/sites/dolgov/files/WHD/legacy/files/wh347.pdf Instructions for completing WH-347 can be found at: https://www.dol.gov/agencies/whd/forms/wh347	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4. Do your payroll records include the following for each individual laborer:	Form WH-347 can be used to record payroll records. Please ensure that the following information has been included for each individual laborer:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4.a. Name?	Each laborer's full name must be listed on the row in which his or her wages are recorded. In the case of an audit, this allows EEC, DOL, or other auditors to match employees and interviewees with their reported wages.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4.b. Individual identifying number?	Each laborer must also have an individual identifying number. This is often the last 4 digits of that employee's social security number, although awardees and subcontractors will occasionally use unique employee ID numbers.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4.c. Labor classification?	The WD labor classification assigned to each laborer must be included. If, for instance, employee John Smith's work duties correspond to the "Electrician" labor classification in the project's WD, "Electrician" should be listed here. (This is sometimes called "Work Classification" instead of "Labor Classification").	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

4.d. Number of hours worked broken down by day?	The certified payroll must show how many hours each employee worked on each day covered by the certified payroll. You, and any subcontractors, should record all hours in excess of 40 as overtime.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4.e. Hourly rate of pay?	This number must be greater than or equal to the prevailing wage established in the project's WD. When recording the base hourly rate, any cash paid in lieu of fringe benefits may be shown separately from the basic rate. For example, "\$12.25/.40" would reflect a \$12.25 base hourly rate plus \$0.40 for fringe benefits.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4.f. Gross amount of standard overtime, and fringe benefit compensation?	You, and any subcontractors, must record the gross amount earned by each employee prior to deductions for items such as taxes.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4.g. Legally permissible deductions for items such as income taxes and social security?	You, and any subcontractors, must record all deductions made from an employee's compensation for items such as income taxes or social security taxes.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4.h. Net wages paid?	You, and any subcontractors, must record the net amount paid to each employee after deductions.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5. Do your payroll records include a statement of compliance signed by the person authorized to supervise wages?	As an accompaniment to the certified payroll, an authorized representative from your project must sign a statement of compliance that attests to the fact that all laborers were paid the amount reflected on the certified payroll, which was not less than the Davis-Bacon prevailing wage. Any subcontractors must also have an authorized representative sign such a statement for their payrolls. The statement(s) of compliance does not need to be notarized. Required payroll record form WH-347 includes a template version of the statement of compliance and is included on the second page of the form. Signatures on the form must be in an approved electronic signature format (e.g. Acrobat Sign, DocuSign, etc.).	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6. Are certified payrolls being submitted within seven days after the regular payment date of the payroll period?	Each certified weekly payroll statement must be submitted via the EEC payroll certification email (EECPayrollCert@ky.gov) within seven days after the regular payment date of the payroll period.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

7. Did you submit the "Fringe Benefit Statement" along with the first certified payroll?	In order that the proper Fringe Benefit rates can be verified for checking payrolls on the above contract, the hourly rates for Fringe Benefits, subsistence and/or travel on the allowance payment made for employees on the various classes of work are tabulated below. This form must be completed and submitted with the first certified payroll, or when there have been changes.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
8. Are subcontractors being used to assist in construction? If so, did you submit the "Subcontractor Identification Form" along with the first certified payroll?	Subcontractors should have been listed on the required "Subcontractor Identification Form" and certified payroll(s) should be received during the course of a given project from those identified subcontractors.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
9. Are subcontractors being used to assist in construction? If so, are the subcontractor's certified payrolls included in the files?	All laborers working on BIL-funded construction sites, not just those employed by the contractor, must be paid at least Davis-Bacon prevailing wages. The contractor should collect and review certified payrolls from all subcontractors whose laborers assist in construction work.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
10. If "No Work" was completed for a project during a given period of time did you complete and submit a "No Work Statement" to EECPayrollCert@ky.gov to support why no certified payrolls were remitted?	Davis-Bacon Act provisions require that a Certified Payroll be submitted weekly; however, if it is anticipated that a period of no work will occur, please attach a copy of the completed "No Work Statement" to the last payroll stating there is no work anticipated for a given period.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
11. Are you maintaining all certified payrolls for at least three years?	For auditing purposes, maintain all certified payrolls for at least three years after the project is completed. Certification signatures must be original.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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**

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



PAYROLL

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



Rev. Dec. 2008

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

OMB No.:1235-0008
Expires: 07/31/2024

NAME OF CONTRACTOR	OR SUBCONTRACTOR	ADDRESS
--------------------	------------------	---------

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

(1) NAME AND INDIVIDUAL IDENTIFYING NUMBER (e.g., LAST FOUR DIGITS OF SOCIAL SECURITY NUMBER) OF WORKER	(2) NO. OF WITHHOLDING EXEMPTIONS	(3) WORK CLASSIFICATION	OT	OR	ST	(4) DAY AND DATE							(5) TOTAL HOURS	(6) RATE OF PAY	(7) GROSS AMOUNT EARNED	(8) DEDUCTIONS					(9) NET WAGES PAID FOR WEEK
						HOURS WORKED EACH DAY										FICA	WITH- HOLDING TAX	OTHER	TOTAL DEDUCTIONS		
			O																		
			S																		
			O																		
			S																		
			O																		
			S																		
			O																		
			S																		
			O																		
			S																		
			O																		
			S																		
			O																		
			S																		

While completion of Form WH-347 is optional, it is mandatory for covered contractors and subcontractors performing work on Federally financed or assisted construction contracts to respond to the information collection contained in 29 C.F.R. §§ 3.3, 5.5(a). The Copeland Act (40 U.S.C. § 3145) contractors and subcontractors performing work on Federally financed or assisted construction contracts to "furnish weekly a statement with respect to the wages paid each employee during the preceding week." U.S. Department of Labor (DOL) regulations at 29 C.F.R. § 5.5(a)(3)(ii) require contractors to submit weekly a copy of all payrolls to the Federal agency contracting for or financing the construction project, accompanied by a signed "Statement of Compliance" indicating that the payrolls are correct and complete and that each laborer or mechanic has been paid not less than the proper Davis-Bacon prevailing wage rate for the work performed. DOL and federal contracting agencies receiving this information review the information to determine that employees have received legally required wages and fringe benefits.

Public Burden Statement

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

Date _____

I, _____
 _____ (Name of Signatory Party) _____ (Title)

do hereby state:

(1) That I pay or supervise the payment of the persons employed by

_____ on the
 _____ (Contractor or Subcontractor)

_____ ; that during the payroll period commencing on the
 _____ (Building or Work)

_____ day of _____, _____, and ending the _____ day of _____, _____,
 all persons employed on said project have been paid the full weekly wages earned, that no rebates have
 been or will be made either directly or indirectly to or on behalf of said

_____ from the full
 _____ (Contractor or Subcontractor)

weekly wages earned by any person and that no deductions have been made either directly or indirectly
 from the full wages earned by any person, other than permissible deductions as defined in Regulations, Part
 3 (29 C.F.R. Subtitle A), issued by the Secretary of Labor under the Copeland Act, as amended (48 Stat. 948,
 63 Stat. 108, 72 Stat. 967; 76 Stat. 357; 40 U.S.C. § 3145), and described below:

(2) That any payrolls otherwise under this contract required to be submitted for the above period are
 correct and complete; that the wage rates for laborers or mechanics contained therein are not less than the
 applicable wage rates contained in any wage determination incorporated into the contract; that the classifications
 set forth therein for each laborer or mechanic conform with the work he performed.

(3) That any apprentices employed in the above period are duly registered in a bona fide apprenticeship
 program registered with a State apprenticeship agency recognized by the Bureau of Apprenticeship and
 Training, United States Department of Labor, or if no such recognized agency exists in a State, are registered
 with the Bureau of Apprenticeship and Training, United States Department of Labor.

(4) That:

(a) WHERE FRINGE BENEFITS ARE PAID TO APPROVED PLANS, FUNDS, OR PROGRAMS

— in addition to the basic hourly wage rates paid to each laborer or mechanic listed in
 the above referenced payroll, payments of fringe benefits as listed in the contract
 have been or will be made to appropriate programs for the benefit of such employees,
 except as noted in section 4(c) below.

(b) WHERE FRINGE BENEFITS ARE PAID IN CASH

— Each laborer or mechanic listed in the above referenced payroll has been paid,
 as indicated on the payroll, an amount not less than the sum of the applicable
 basic hourly wage rate plus the amount of the required fringe benefits as listed
 in the contract, except as noted in section 4(c) below.

(c) EXCEPTIONS

EXCEPTION (CRAFT)	EXPLANATION

REMARKS:

NAME AND TITLE	SIGNATURE
----------------	-----------

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.

Wage and Hour Division

Instructions For Completing Payroll Form, WH-347

- - [WH-347](#) (PDF)
OMB Control No. 1235-0008, Expires 07/31/2024.

General: Form WH-347 has been made available for the convenience of contractors and subcontractors required by their Federal or Federally-aided construction-type contracts and subcontracts to submit weekly payrolls. Properly filled out, this form will satisfy the requirements of Regulations, Parts 3 and 5 (29 C.F.R., Subtitle A), as to payrolls submitted in connection with contracts subject to the Davis-Bacon and related Acts.

While completion of Form WH-347 is optional, it is mandatory for covered contractors and subcontractors performing work on Federally financed or assisted construction contracts to respond to the information collection contained in 29 C.F.R. §§ 3.3, 5.5(a). The Copeland Act (40 U.S.C. § 3145) requires contractors and subcontractors performing work on Federally financed or assisted construction contracts to "furnish weekly a statement with respect to the wages paid each employee during the preceding week." U.S. Department of Labor (DOL) Regulations at 29 C.F.R. § 5.5(a)(3)(ii) require contractors to submit weekly a copy of all payrolls to the Federal agency contracting for or financing the construction project, accompanied by a signed "Statement of Compliance" indicating that the payrolls are correct and complete and that each laborer or mechanic has been paid not less than the proper Davis-Bacon prevailing wage rate for the work performed. DOL and federal contracting agencies receiving this information review the information to determine that employees have received legally required wages and fringe benefits.

Under the Davis-Bacon and related Acts, the contractor is required to pay not less than prevailing wage, including fringe benefits, as predetermined by the Department of Labor. The contractor's obligation to pay fringe benefits may be met either by payment of the fringe benefits to bona fide benefit plans, funds or programs or by making payments to the covered workers (laborers and mechanics) as cash in lieu of fringe benefits.

This payroll provides for the contractor to show on the face of the payroll all monies to each worker, whether as basic rates or as cash in lieu of fringe benefits, and provides for the contractor's representation in the statement of compliance on the payroll (as shown on page 2) that he/she is paying for fringe benefits required by the contract and not paid as cash in lieu of fringe benefits. Detailed instructions concerning the preparation of the payroll follow:

Contractor or Subcontractor: Fill in your firm's name and check appropriate box.

Address: Fill in your firm's address.

Payroll No.: Beginning with the number "1", list the payroll number for the submission.

For Week Ending: List the workweek ending date.

Project and Location: Self-explanatory.

Project or Contract No.: Self-explanatory.

Column 1 - Name and Individual Identifying Number of Worker: Enter each worker's full name and an individual identifying number (e.g., last four digits of worker's social security number) on each weekly payroll submitted.

Column 2 - No. of Withholding Exemptions: This column is merely inserted for the employer's convenience and is not a requirement of Regulations, Part 3 and 5.

Column 3 - Work Classifications: List classification descriptive of work actually performed by each laborer or mechanic. Consult classification and minimum wage schedule set forth in contract specifications. If additional classifications are deemed necessary, see Contracting Officer or Agency representative. An individual may be shown as having worked in more than one classification provided an accurate breakdown of hours worked in each classification is maintained and shown on the submitted payroll by use of separate entries.

Column 4 - Hours worked: List the day and date and straight time and overtime hours worked in the applicable boxes. On all contracts subject to the Contract Work Hours Standard Act, enter hours worked in excess of 40 hours a week as "overtime".

Column 5 - Total: Self-explanatory

Column 6 - Rate of Pay (Including Fringe Benefits): In the "straight time" box for each worker, list the actual hourly rate paid for straight time worked, plus cash paid in lieu of fringe benefits paid. When recording the straight time hourly rate, any cash paid in lieu of fringe benefits may be shown separately from the basic rate. For example, "\$12.25/.40" would reflect a \$12.25 base hourly rate plus \$0.40 for fringe benefits. This is of assistance in correctly computing overtime. See "Fringe Benefits" below. When overtime is worked, show the overtime hourly rate paid plus any cash in lieu of fringe benefits paid in the "overtime" box for each worker; otherwise, you may skip this box. See "Fringe Benefits" below. Payment of not less than time and one-half the basic or regular rate paid is required for overtime under the Contract Work Hours Standard Act of 1962 if the prime contract exceeds \$100,000. In addition to paying no less than the predetermined rate for the classification which an individual works, the contractor must pay amounts predetermined as fringe benefits in the wage decision made part of the contract to approved fringe benefit plans, funds or programs or shall pay as cash in lieu of fringe benefits. See "FRINGE BENEFITS" below.

Column 7 - Gross Amount Earned: Enter gross amount earned on this project. If part of a worker's weekly wage was earned on projects other than the project described on this payroll, enter in column 7 first the amount earned on the Federal or Federally assisted project and then the gross amount earned during the week on all projects, thus "\$163.00/\$420.00" would reflect the earnings of a worker who earned \$163.00 on a Federally assisted construction project during a week in which \$420.00 was earned on all work.

Column 8 - Deductions: Five columns are provided for showing deductions made. If more than five deduction are involved, use the first four columns and show the balance deductions under "Other" column; show actual total under "Total Deductions" column; and in the attachment to the payroll describe the deduction(s) contained in the "Other" column. All deductions must be in accordance with the provisions of the Copeland Act Regulations, 29 C.F.R., Part 3. If an individual worked on other jobs in addition to this project, show actual deductions from his/her weekly gross wage, and indicate that deductions are based on his gross wages.

Column 9 - Net Wages Paid for Week: Self-explanatory.

Totals - Space has been left at the bottom of the columns so that totals may be shown if the contractor so desires.

Statement Required by Regulations, Parts 3 and 5: While the "statement of compliance" need not be notarized, the statement (on page 2 of the payroll form) is subject to the penalties provided by 18 U.S.C. § 1001, namely, a fine, possible imprisonment of not more than 5 years, or both. Accordingly, the party signing this statement should have knowledge of the facts represented as true.

Items 1 and 2: Space has been provided between items (1) and (2) of the statement for describing any deductions made. If all deductions made are adequately described in the "Deductions" column above, state "See Deductions column in this payroll." See "FRINGE BENEFITS" below for instructions concerning filling out paragraph 4 of the statement.

Item 4 FRINGE BENEFITS - Contractors who pay all required fringe benefits: If paying all fringe benefits to approved plans, funds, or programs in amounts not less than were determined in the applicable wage decision of the Secretary of Labor, show the basic cash hourly rate and overtime rate paid to each worker on the face of the payroll and check paragraph 4(a) of the statement on page 2 of the WH-347 payroll form to indicate the payment. Note any exceptions in section 4(c).

Contractors who pay no fringe benefits: If not paying all fringe benefits to approved plans, funds, or programs in amounts of at least those that were determined in the applicable wage decision of the Secretary of Labor, pay any remaining fringe benefit amount to each laborer and mechanic and insert in the "straight time" of the "Rate of Pay" column of the payroll an amount not less than the predetermined rate for each classification plus the amount of fringe benefits determined for each classification in the application wage decision. Inasmuch as it is not necessary to pay time and a half on cash paid in lieu of fringe benefits, the overtime rate shall be not less than the sum of the basic predetermined rate, plus the half time premium on basic or regular rate, plus the required cash in lieu of fringe benefits at the straight time rate. In addition, check paragraph 4(b) of the statement on page 2 the payroll form to indicate the payment of fringe benefits in cash directly to the workers. Note any exceptions in section 4(c).

Use of Section 4(c), Exceptions

Any contractor who is making payment to approved plans, funds, or programs in amounts less than the wage determination requires is obliged to pay the deficiency directly to the covered worker as cash in lieu of fringe benefits. Enter any exceptions to section 4(a) or 4(b) in section 4(c). Enter in the Exception column the craft, and enter in the Explanation column the hourly amount paid each worker as cash in lieu of fringe benefits and the hourly amount paid to plans, funds, or programs as fringe benefits. The contractor must pay an amount not less than the predetermined rate plus cash in lieu of fringe benefits as shown in section 4(c) to

each such individual for all hours worked (unless otherwise provided by applicable wage determination) on the Federal or Federally assisted project. Enter the rate paid and amount of cash paid in lieu of fringe benefits per hour in column 6 on the payroll. See paragraph on "Contractors who pay no fringe benefits" for computation of overtime rate.

Public Burden Statement: We estimate that it will take an average of 55 minutes to complete this collection of information, 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 of information, 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.

Note: In order to view, fill out, and print PDF forms, you need Adobe® Acrobat® Reader® version 5 or later, which you may download for free at www.adobe.com/products/acrobat/readstep2.html.

Topics	Worker Rights	For Employers	Resources	Interpretive Guidance	State Laws	News
-------------------------------	--------------------------------------	--------------------------------------	----------------------------------	--	-----------------------------------	-----------------------------



Wage and Hour Division

An agency within the U.S. Department of Labor

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

FEDERAL GOVERNMENT +	LABOR DEPARTMENT +	WHD PORTALS +
White House	About DOL	YouthRules!
Coronavirus Resources	Guidance Search	Wage Determinations
Disaster Recovery Assistance Español		
DisasterAssistance.gov	Office of Inspector General	
USA.gov	Subscribe to the DOL Newsletter	
Notification of EEO Violations	Read the DOL Newsletter	
No Fear Act Data	Emergency Accountability Status Link	
U.S. Office of Special Counsel	A to Z Index	

Connect With DOL



Fringe Benefit Statement

COMPANY INFORMATION			
Company Name			Date
Street Address		Suite/Unit #	
City	State	Zip	
License Number	Issuing State(s)	Classification	Expiration

CONTRACT INFORMATION	
Project Name/Number	Contract Number

In order that the proper Fringe Benefit rates can be verified for checking payrolls on the above contract, the hourly rates for Fringe Benefits, subsistence and/or travel on the allowance payment made for employees on the various classes of work are tabulated below. **THIS FORM MUST BE COMPLETED AND SUBMITTED WITH THE FIRST CERTIFIED PAYROLL, OR WHEN THERE HAVE BEEN ANY CHANGES.**

IF NO BONA FIDE FRINGE BENEFIT PLAN EXISTS PLEASE COMPLETE WITH "N/A", SIGN AND SUBMIT WITH THE FIRST CERTIFIED PAYROLL

CLASSIFICATION	FRINGE BENEFIT HOURLY AMOUNT	NAME AND ADDRESS OF PLAN, FUND OR PROGRAM
Effective Date <hr/>	Vacation \$ _____ Health & Welfare \$ _____ Pension \$ _____	
Subsistence and/or Travel Pay \$ _____	Apprentice/ Training \$ _____ Other \$ _____	

CLASSIFICATION	FRINGE BENEFIT HOURLY AMOUNT	NAME AND ADDRESS OF PLAN, FUND OR PROGRAM
Effective Date <hr/>	Vacation \$ _____ Health & Welfare \$ _____ Pension \$ _____	
Subsistence and/or Travel Pay \$ _____	Apprentice/ Training \$ _____ Other \$ _____	

SIGNATURE	
I hereby certify that fringe benefits are paid to the approved Plans, Funds, or Programs as listed above.	
Print Name	Title/Position
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.**

Project Name/Number	Contract Number

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

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

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

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

Signature	
<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

_____ Employer Name	_____ Phone Number
_____ Employer Address	_____ Contact Email
_____ Project Name/Contract Number	_____ County of Work

EMPLOYER SIGNATURE

_____ Authorized Signature of Employer	_____ Date
_____ Title	

EMPLOYEE INFORMATION

_____ Employee Name	_____ Phone Number
_____ Employee Address	_____ Date of Birth

EMPLOYEE SIGNATURE

_____ Employee Signature	_____ Date

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 to EECPayrollCert@ky.gov in order to comply with the provisions of the Davis-Bacon Act.

Name

Title

Authorized Signature

Date