Main Points for Davis Bacon Act, as relating to ARRA

1) Contractors/subs must comply with DBA payroll rules.

2) Contractor/subcontractor employees (laborers/mechanics on the site of work) must be paid weekly and must be paid at or above prevailing wage rates as determined by DOL (Dept. of Labor). AU is responsible for providing applicable wage determinations (set by DOL). A Wage Determination is a listing of wage rates & fringe rates for each classification of laborers/mechanics determined to be prevailing in a given area.

3) The wage determination sheets and the Davis-Bacon poster (WH-1321) must be posted at the job site for all to see.

4) Contractor must place DBA clauses into any subcontracts and is responsible for subcontractor payroll compliance.

5) Contractor must provide AU with weekly payroll report (preferably form WH-347), and compliance statement (included on WH-347). Contractor is also responsible for submitting reports to AU for any subcontractors.

6) Contractor must keep payroll records relating to the project during the course of the project and for 3 years after work is complete. Records shall contain the employee’s name, address, SSN, classification, hourly rates paid, daily & weekly hours worked, deductions made, and actual wages paid.
Wage and Hour Division (WHD)

Davis-Bacon and Related Acts

Overview

The Davis-Bacon and Related Acts, apply to contractors and subcontractors performing on federally funded or assisted contracts in excess of $2,000 for the construction, alteration, or repair (including painting and decorating) of public buildings or public works. Davis-Bacon Act and Related Act contractors and subcontractors must pay their laborers and mechanics employed under the contract no less than the locally prevailing wages and fringe benefits for corresponding work on similar projects in the area. The Davis-Bacon Act directs the Department of Labor to determine such locally prevailing wage rates. The Davis-Bacon Act applies to contractors and subcontractors performing work on federal or District of Columbia contracts. The Davis-Bacon Act prevailing wage provisions apply to the "Related Acts," under which federal agencies assist construction projects through grants, loans, loan guarantees, and insurance.

For prime contracts in excess of $100,000, contractors and subcontractors must also, under the provisions of the Contract Work Hours and Safety Standards Act, as amended, pay laborers and mechanics, including guards and watchmen, at least one and one-half times their regular rate of pay for all hours worked over 40 in a workweek. The overtime provisions of the Fair Labor Standards Act may also apply to DBA-covered contracts.

Key News

- The U.S. Department of Labor's Wage and Hour Division published a final rule (PDF) revising regulations under the Davis-Bacon and related Acts and the Copeland Anti-Kickback Act to discontinue the weekly reporting of certain employee personal information on certified payrolls. The final rule is effective on January 19, 2006.

General Guidance

- Davis-Bacon Compliance Guide
- All Agency Handbooks (AAA96)
- WHD Menu Guidance

E-Tools

- Wage Determinations Online.gov
- This site provides federal contracting officers and members of the general public with assistance in obtaining appropriate Davis-Bacon Act (DBA) wage determinations and other compliance information.
- Davis-Bacon and Related Act Web Information Service
- This site provides public access to DBA construction information and supports the user in filling out the Report of Construction Contractor's Wage Rates (WD10) Form. The type of information that will find here includes information about the Schedule of Surveys being conducted to make wage determinations; regional office information; and, help. We also provide a WD-10 Form that you can view, print or save.

Fact Sheets

- Government Contracts:
  - Fact Sheet 15 (PDF) — Davis-Bacon Fact Sheet
  - Fact Sheet 21 (PDF) — Service Contract Act Fact Sheet
- Fair Labor Standards Act Relevant Fact Sheet:
  - Fact Sheet 1 (PDF) — The Construction Industry Under the Fair Labor Standards Act
  - Fact Sheet 11 (PDF) — Employment Relationship Under the Fair Labor Standards Act
  - Fact Sheet 14 (PDF) — Coverage Under the Fair Labor Standards Act
  - Fact Sheet 17 (PDF) — Exemption for Executive, Administrative, Professional, Computer & Outside Sales Employees Under the Fair Labor Standards Act
  - Fact Sheet 21 (PDF) — Recordkeeping Under the Fair Labor Standards Act
  - Fact Sheet 22 (PDF) — Hours Worked Under the Fair Labor Standards Act
- Additional Information:
  - Fact Sheet 44 (PDF) — Voids to Employers
  - Additional Fact Sheets

Guides

- Contract Work Hours and Safety Standards Act Guide
- Prevailing Wage Resource Bank
- Apprenticeship Web Info

Posters

- Davis-Bacon Poster (Government Construction)
- Search Version

Forms

- Revised W-382 Form and Instructions
  Applicable to Contracts Entered Into Pursuant to Invitations for Bids Issued or Negotiations Concluded On or After January 18, 2009.
- Legacy W-382 Form and Instructions
  Applicable to Contracts Entered Into Pursuant to Invitations for Bids Issued or Negotiations Concluded On or Before January 18, 2009.

Interpretive Guidance

- Field Operations Handbook:
  - Chapter 15 (PDF) — Davis-Bacon and Related Acts and Contract Work Hours and Safety Standards Act

Applicable Laws, Executive Orders, and Regulations

- Laws:
  - The Davis-Bacon Act — 40 U.S.C. 3141 et seq.
  - Fair Labor Standards Act of 1938, as Amended (PDF) — 29 U.S.C. 201 et seq.
  - Contract Work Hours and Safety Standards Act, as Amended (PDF) — 40 U.S.C. 3701 et seq.

http://www.dol.gov/whd/contracts/dbra.htm

* 3/22/2010
Wage and Hour Division (WHD)

Instructions For Completing Payroll Form, WH-347

- WH-347 (PDF)
- OMB Control No. 1215-0149, Expires 12/31/2011.

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

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 subcontractors 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 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 (29 U.S.C. § 185) 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)(1)(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 rates for the work performed. DOL and Federal contracting agencies receiving this information will 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 determined by the Department of Labor. The contractor's obligation to pay these 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 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 Locations: 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. As individual may be shown as having worked in more than one classification provided an accurate breakdown or 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 hour 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, $12.35/40 would reflect a $12.35 basic hourly rate plus $0.40 for fringe benefits. This is 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 one-half the basic or regular rate paid is required for overtime under the Contract Work Hours Standard Act of 1992 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/$200.00 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 for showing deductions made. If more than five deductions 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 29 U.S.C. § 185, namely, a fine, possible imprisonment of not more than 5 years, or both. Accordingly, the party signing the 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 those determined in the applicable wage decision of the Secretary of Labor, show the basic cash hour 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(a).

Contractor 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(c) 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(c) 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 7 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, ESA, U.S. Department of Labor, Room S3603, 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/readstep.html. To save the completed forms on your workstation, you need to use the “Save As” method to save the file.

For example, move your mouse cursor over the PDF link and click on your "RIGHT" mouse button. This will cause a menu to be displayed, from which you will select the proper save option — depending upon which browser you are using:

- For Microsoft IE users, select “Save Target As”
- For Netscape Navigator users, select “Save Link As”

Once you've selected the proper save option for your browser, and have saved the file to a location you specified, go to your program menu and start the Adobe Acrobat® Reader. Once open, locate the PDF file you saved and open it directly in Acrobat®.

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.

U.S. Department of Labor
Wage and Hour Division

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

<table>
<thead>
<tr>
<th>NAME AND INDIVIDUAL IDENTIFYING NUMBER (e.g., LAST FOUR DIGITS OF SOCIAL SECURITY NUMBER OR WORKER)</th>
<th>NO. OF HOURS WORKED EACH DAY</th>
<th>(4) DAY AND DATE</th>
<th>(5)</th>
<th>(6)</th>
<th>(7)</th>
<th>(8) DEDUCTIONS</th>
<th>NET WAGES PAID FOR WEEK</th>
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While completion of Form WH-347 is optional, it is mandatory for covered contractors and subcontractors performing work on Federally financed or assisted construction contracts to respond to the information collection contained in 29 C.F.R. §§ 3.3, 5.59. 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. §§ 5.59(a)(2)(i) 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 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

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(Name of Signatory Party)  

(Title)  

I, ____________________________, do hereby state:  

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

(Contractor or Subcontractor)  

(Building or Work)  

; that during the payroll period commencing on the  

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  

(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. 105, 72 Stat. 957; 76 Stat. 357; 40 U.S.C. § 3145), and described below:  

(2) That any payroll 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 WILFUL 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 251 OF TITLE 31 OF THE UNITED STATES CODE.