

Iowa Economic Development Authority & Iowa Finance Authority



Federal Labor Standards Training – Fundamentals of Labor Compliance

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Iowa Economic Development Authority | Iowa Finance Authority

Purpose of Training

- *Not to be construed as 'busy work', but actual educational value;*
- *Not all Grant Administrators have the same knowledge base;*
- *Not all Grant Administrators work the same project types;*
- *Federal requirements are in a state of flux;*
- *Grant Recipients rely nearly exclusively on the Admins to ensure the projects remain compliant and auditable for HUD;*
- *Administrators assisting in ANY capacity for ACTIVE projects must attend;*
- *Tests will indicate incorrect answers as an update;*
- *Slides will be made available AFTER the presentations/trainings;*

Overview

- ✓ **Federal Statutes**
- ✓ **Applicability Thresholds**
- ✓ **Making Davis Bacon Work**
- ✓ **Enforcement / Compliance**
- ✓ **Potential Problem Areas**
- ✓ **Public Resources**

Acronyms / Terms Used:

- ❖ LCO – Labor Compliance Officer (IEDA)
- ❖ Admin – Grant Administrator for Recipient
- ❖ WD – Wage Decision
- ❖ WR – Wage Rate
- ❖ SR – Status Report (in Iowa Grants)
- ❖ CPR – Certified Payroll

Major Federal Labor Statutes

- **Davis-Bacon and Related Acts (DBRA)**
- **Copeland Act (Anti-Kickback Act)**
- **Contract Work Hours and Safety Standards Act (CWHSSA)**
- **Fair Labor Standards Act (FLSA)**

Davis-Bacon Act (DBA)

- Enacted in 1931, amended in 1935 & 1964
- Applies to Federal construction contracts over \$2,000
- Applies to construction, alteration and/or repair including painting & decorating of public buildings or public works contracts
- Requires pay of prevailing wages to all laborers and mechanics employed on site – regardless of any alleged contractual relationship

Davis-Bacon Act (DBA)

- Requires weekly pay to mechanics and laborers;
- Requires posting of applicable wage decision;
- Defines prevailing wage to include fringe benefits;
- Permits the withholdings of contractors' payments for wages due to workers;
- Also permits payment of wage restitution from withheld amounts

Davis-Bacon Act (DBA)

- Permits contract termination by project owner
 - **Example: If contractor continually underpays mechanic and laborers**
- Permits debarment of persons or firms
 - **Occurs as a result of disregard for obligations to employees and subcontractors**
- Usually applied through the other “Related acts”

Davis Bacon and Related Acts (DBRA)

The Davis Bacon Act is applicable to HUD programs by statutory provisions in HUD-related Acts, known as 'Davis Bacon Related Acts' (DBRA)

- **The National Housing Act of 1934;**
- **U.S. Housing Act of 1937, as amended (aka 'Wagner-Steagall Housing Act');**
- **The Housing and Community Development Act of 1974, as amended (CDBG -> threshold was \$2,000);**
- **The National Affordable Housing Act of 1990;**

Copeland Anti-Kickback Act

- Enacted in 1934
- Makes it a criminal offense for contractors to demand workers give up any part of earned wages
- Requires the submission of:
 - **Weekly Certified Payrolls**
 - **Statement of compliance (with each payroll)**
- Allows for civil or criminal prosecution for the “willful” falsification of payrolls
- Regulates payroll deductions from wages

Contract Works Hours and Safety Standards Act (CWHSSA)

- Enacted in 1962
- Applies to contracts of over \$100,000
 - **Contract Amount – Prime Contractor**
- **Overtime provision – work in excess of 40 hours per week for covered project**
- **Liquidated damages – \$25 per day, per worker, per violation**

Fair Labor Standards Act (FLSA)

- » **Sets the Federal minimum wage and additional overtime requirements**
- Overtime applies to mechanical and laborers working more than 40 hours per week.
 - *If CWHSSA does not apply, FLSA does*
 - DOL enforces FLSA and investigates any violations

Applicability

Davis-Bacon Applicability

- Davis-Bacon applies when federal funds are used to pay for construction contracts of more than \$2,000 in whole **or in part;**
- **Residential:** the property has 8 or more units
 - Property is defined as one or more buildings on an undivided lot or contiguous lots / parcels that are commonly owned and operated as one rental, cooperative, or condominium project

Davis-Bacon Applicability

EXCEPTIONS – CDBG

- In certain rare cases, Grantee can pay for non-construction costs without triggering Davis-Bacon
- Demolition, except:
 - If subsequent construction on site is planned as part of the **same contract** OR
 - If subsequent construction is contemplated as part of a future construction project under another eligible activity

*****Cannot phase projects to remain under \$\$ threshold!*****

Davis-Bacon Applicability

EXCEPTIONS - CDBG

- **Volunteer labor**
 - Specific record keeping and tracking required
 - *the name and address of the agency sponsoring the project;*
 - *a description of the project;*
 - *the number of volunteers;*
 - *the names of the volunteers;*
 - *the hours of work they performed;*
 - *the type of work performed by the volunteers;*

Davis-Bacon Applicability

EXCEPTIONS - CDBG

- **Employees of Recipient / Grantee**
(typically a municipality)

Force Account Labor

- Force Account workers must track hours and record them for the project file;
- Utilize the IEDA form found in the Management Guide and upload to the Iowa Grants project file;

CDBG
Iowa Economic Development Authority
Force Account Internal Workforce Summary Page

Subrecipient: IEDA Contract Number:

Date:

Service Period: Work Category:

Part 1: Certification of Construction Completion

Employee Name	Job Title	Total Hours	Hourly Rate/Cost	Total Cost

I certify that the above-named employees were on the City/County payroll for the above listed hours on the IEDA CDBG contract identified. All listed information per employee is correct to the best of my knowledge.

Signature of Authorized Certifying Labor Standards Officer

Making Davis-Bacon Work

Grantee Responsibilities

- Ensure bid documents, contracts and subcontracts contain Federal Labor Standards Provisions (HUD-4010);
- Ensure bid documents, contracts and subcontracts contain applicable wage determination;
- Review CPR's and perform employee field interviews;
- Resolve discrepancies and document remedies;

Making Davis-Bacon Work

Wage Determinations

❖ DOL's detailed guide can be found here:

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

Making Davis-Bacon Work

Wage Determinations

- Each project must have a memo, signed by the Grantee (City) that defines who the grantee's labor compliance point of contact is on the Admin team!
- Wage Rate SR requests must include this document for approval!

Making Davis-Bacon Work

Wage Determinations

- Request prior to bid advertising date
- Submit WD request in Iowa Grants via SR
- Contact IEDA for modifications to wage determination
- **At least 10 days prior** to bid opening
- **Do not submit a request for 10-day check in IowaGrants system**
- Wage determination must be included in all bid documents

Making Davis-Bacon Work

Steps to acquire Wage Determinations

1. Submit Plans & Specifications to your CDBG PM for review first!
 - PM will concur with the project scope and notify the LCO;
 - The LCO will then review the Wage Rate SR;
 - ❖ Types: Residential, Highway, Treatment, Heavy or Building

Making Davis-Bacon Work

Steps to acquire Wage Determinations

❖ According to DOL's All-Agency Memorandums (AAMs) 131 & 236:

When a project has construction items in a different category of construction, multiple wage determinations should be used when the cost of the different category of construction exceeds either \$2.5 million OR 20% of the total project costs.


Making Davis-Bacon Work

Steps to acquire Wage Determinations

2. Search Sam.gov for the active WD for your project type:

❖ https://sam.gov/search/?index=dbra&page=1&pageSize=25&sort=-modifiedDate&sfm%5Bstatus%5D%5Bis_active%5D=true

Making Davis-Bacon Work



HomeSearchData BankData ServicesHelp

Search

Filter By

Location

State

Iowa

County/ Independent City

Polk

DBA Construction Type

Highway

Status

☒ Active

☐ Inactive

Wage Determinations ^

<

By Wage Determination ID

Construction (DBA)

Service Contracts (SCA)

Coll >

Showing 1 - 1 of 1 results

Sort by

Published Date

Davis-Bacon Act WD #: **IA20250081**

State

Iowa

Counties

Adair, Adams, Allamakee, Appanoose, Audubon, Benton, Black Hawk, Boone, Bremer, Buchanan, Buena Vista, Butler, Calhoun, Carroll, Cass, Cedar, Cerro Gordo, Cherokee, Chickasaw, Clarke, Clay, Clayton, Clinton, Crawford, Dallas, Davis, Decatur, Delaware, Des Moines, Dickinson, Dubuque, Emmet, Fayette, Floyd, Franklin, Fremont, Greene, Grundy, Guthrie, Hamilton, Hancock, Hardin, Harrison, Henry, Howard, Humboldt, Ida, Iowa, Jackson, Jasper, Jefferson, Johnson, Jones, Keokuk, Kossuth, Lee, Linn, Louisa, Lucas, Lyon, Madison, Mahaska, Marion, Marshall, Mills, Mitchell, Monona, Monroe, Montgomery, Muscatine, O'Brien, Osceola, Page, Palo Alto, Plymouth, Pocahontas, Polk, Pottawattamie, Poweshiek, Ringgold, Sac, Shelby, Sioux, Story, Tama, Taylor, Union, Van Buren, Wapello, Warren, Washington, Wayne, Webster, Winnebago, Winneshiek, Woodbury, Worth, Wright

DBA Wage Determination

Modification Number

0

Construction Types

Heavy, Highway

Published Date

Jan 2, 2025

Making Davis-Bacon Work

Steps to acquire Wage Determinations

3. Download the WD;
4. Create Wage Status Report in Iowa Grants and enter applicable information for EACH applicable WD;
5. Upload the WD from SAM.gov;
6. Submit the Wage SR;
7. The LCO will review for concurrence;
8. The LCO will approve or comment for correction in Iowa Grants;

Making Davis-Bacon Work

Steps to acquire Wage Determinations

9. The LCO will update the Status Report and include the 10-day check date;

10. The Admin must check that the WD has not been updated with a 'Modification' that has changed and of the effective Wage Rates

11. Upon completion of the 10-day check, notify the LCO and they will update the Status Report for validation;

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Understanding the Wage Determinations

We can spend an entire session JUST on interpreting WD's; IEDA recommends going directly to DOL for reference:

➤ <https://www.dol.gov/agencies/whd/government-contracts/prevailing-wage-resource-book/db-wage-determinations#classifications>

Making Davis-Bacon Work

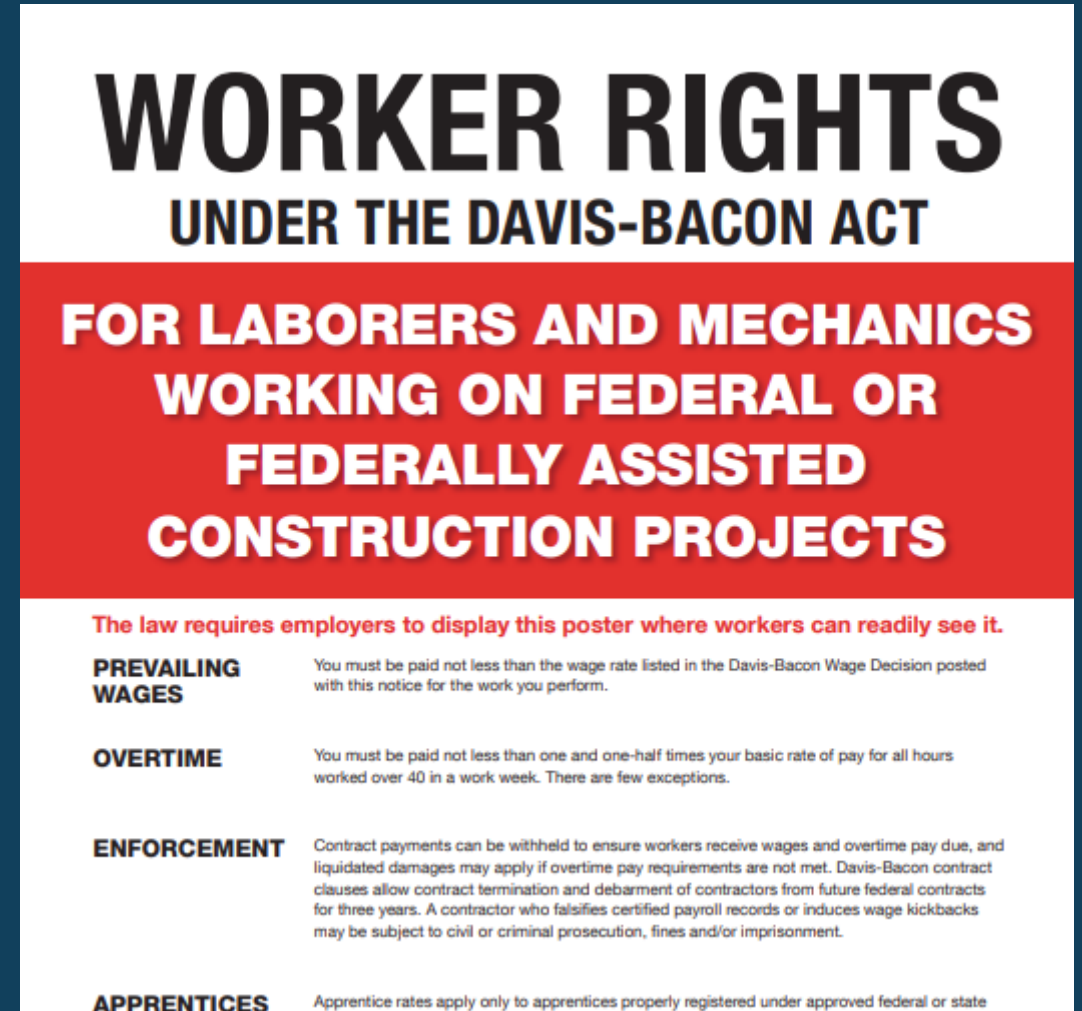
- Helpful items to pay attention to:
 - *MODIFICATION # (subject to changes!)*
 - *PROJECT TYPE (Building, Heavy, Highway, Treatment Works);*
 - *COUNTY the project is in;*
 - *CLASSIFICATIONS for primary trades;*
 - *UNION OR SURVEY identifiers for rates;*
 - *EXECUTIVE ORDERS IN EFFECT;*

Making Davis-Bacon Work

Job Sites – Safety, Required Postings

1) The Davis-Bacon Worker Rights poster WH-1321:

❖ <https://www.dol.gov/sites/dolgov/files/WHD/legacy/files/fedprojc.pdf>

The poster is titled "WORKER RIGHTS UNDER THE DAVIS-BACON ACT" in large, bold, black letters. Below the title, a red banner contains the text "FOR LABORERS AND MECHANICS WORKING ON FEDERAL OR FEDERALLY ASSISTED CONSTRUCTION PROJECTS" in white, bold, sans-serif font. The main body of the poster is white and contains four sections: "PREVAILING WAGES", "OVERTIME", "ENFORCEMENT", and "APPRENTICES". Each section has a bold heading followed by a paragraph of text. A red line of text at the top of the main body states: "The law requires employers to display this poster where workers can readily see it." The poster is designed to be easily readable and informative for workers on federal or federally assisted construction projects.

WORKER RIGHTS
UNDER THE DAVIS-BACON ACT

**FOR LABORERS AND MECHANICS
WORKING ON FEDERAL OR
FEDERALLY ASSISTED
CONSTRUCTION PROJECTS**

The law requires employers to display this poster where workers can readily see it.

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 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

Making Davis-Bacon Work

Job Sites – Safety, Required Postings

- 2) Applicable wage determination(s);
- 3) Approved conformances (if any);

Making Davis-Bacon Work

Review of Certified Payrolls – Receive weekly

❖ New DOL Certified Payroll form WH-347 available, must be used starting 1/1/2026

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

U.S. Department of Labor **Davis-Bacon and Related Acts Weekly Certified Payroll Form**
Wage and Hour Division (For Contractor's Optional Use; See Instructions at www.dol.gov/whd/forms/wh347instr.htm)

Unless otherwise noted, the information requested is specific to the named project below.
Persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

☐ SUBMISSION OF FINAL DBRA CERTIFIED PAYROLL FORM ☐ PRIME CONTRACTOR ☐ SUBCONTRACTOR

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

PROJECT NAME		PROJECT NO. or CONTRACT NO.		CERTIFIED PAYROLL NO.		PRIME CONTRACTOR'S/SUBCONTRACTOR'S BUSINESS NAME													
PROJECT LOCATION		WAGE DETERMINATION NO.		WEEK ENDING DATE		PRIME CONTRACTOR'S/SUBCONTRACTOR'S BUSINESS ADDRESS													
(1A)	(1B)	(1C)	(1D)	(1E)	(2)	(3)	(4)	(5)	(6A)	(6B)	(6C)	(7A)	(7B)	(8)		(9)			
WORKER ENTRY NO.	WORKER LAST NAME	WORKER FIRST NAME	WORKER MIDDLE INITIAL	WORKER IDENTIFYING NO.	(1) JOURNEYWORKER (RA) REGISTERED APPRENTICE	LABOR CLASSIFICATION	ST = STRAIGHT TIME OT = OVERTIME	(TOP) DAYS OF WORK WEEK (BOTTOM) DATES	TOTAL HOURS WORKED FOR WEEK	HOURLY WAGE RATE PAID FOR ST AND OT	TOTAL FRINGE BENEFIT CREDIT	PAYMENT IN LIEU OF FRINGE BENEFITS	GROSS AMT EARNED	GROSS AMT EARNED FOR ALL WORK	TAX WITH- HOLDINGS	FICA	OTHER (MUST SPECIFY, SEE INSTRUCTIONS)	TOTAL DEDUCTIONS	NET PAY TO WORKER FOR ALL WORK
							ST												
							OT												
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While use of Form WH-347 itself is optional, covered contractors and subcontractors performing work on Federal or federally assisted construction contracts are required by the DBRA regulations and the contract clauses to submit payroll information on a weekly basis. The Copeland Act (40 U.S.C. § 3145) requires contractors and subcontractors performing work on Federal or federally financed construction contracts to, on a weekly basis, "furnish a statement on the wages paid each employee during the prior week." U.S. Department of Labor (DOL) Regulations at 29 C.F.R. § 5.5(a)(3)(ii) require contractors and subcontractors to submit weekly certified payrolls to the appropriate Federal agency if the agency is a party to the contract (or, if the agency is not such a party, to the applicant, sponsor, owner, or other entity, as the case may be, that maintains such records, for transmission to the Federal agency). Each certified payroll must be accompanied by a signed "Statement of Compliance" (e.g., page 2 of the WH-347 or another document with identical wording) indicating that the certified payrolls are accurate and complete, and that each laborer or mechanic has been paid not less than the required Davis-Bacon prevailing wage rate(s) (including any fringe benefits) for the work performed. DOL and contracting agencies receiving this information review the information to determine whether workers have received legally required wages and fringe benefits.

Public Burden Statement

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

Making Davis-Bacon Work

❖ Statement of Compliance – all fields must be completed on page 2 of the WH-347

PROJECT NAME		PROJECT NO. or CONTRACT NO.		PAYROLL NO.		PRIME CONTRACTOR'S/SUBCONTRACTOR'S BUSINESS NAME							
PROJECT LOCATION		WEEK ENDING DATE		CERTIFYING OFFICIAL'S NAME AND TITLE									
I paid or supervised the payment of the laborers or mechanics working on the above project during the stated time period. I certify the following:													
<input type="checkbox"/>		The payroll information submitted with this statement is correct and complete for the above project during the above period, and the wage and fringe benefit rates paid to the workers, including credit taken for the reasonably anticipated costs of a bona fide fringe benefit plan, fund or program, are not less than the applicable wage and fringe benefits rates for the classification(s) of work actually performed, as specified in the wage determination(s) incorporated into the contract.											
<input type="checkbox"/>		All regular payrolls and all other basic records that the contractor is required to maintain for this payroll period are complete and accurate and will be made available upon request from the agency or the Department of Labor.											
<input type="checkbox"/>		The classifications reported for each laborer or mechanic are the classification(s) of work that each worker actually performed.											
<input type="checkbox"/>		Any workers paid as apprentices during the above period are duly registered in a bona fide apprenticeship program registered with the Office of Apprenticeship, Employment and Training Administration, United States Department of Labor ("OA"), or a State Apprenticeship Agency ("SAA") recognized by Department of Labor. I have verified the registered apprenticeship program information provided below as accurate and applicable to any apprentices identified on page 1 of this form.											
APPRENTICESHIP PROGRAM NAME				REGISTERED		NAME OF LABOR CLASSIFICATION							
				<input type="checkbox"/> OA <input type="checkbox"/> SAA									
				<input type="checkbox"/> OA <input type="checkbox"/> SAA									
				<input type="checkbox"/> OA <input type="checkbox"/> SAA									
<input type="checkbox"/>		Fringe benefits have been paid in cash and/or to bona fide fringe benefit plans, funds, or programs. Where the contractor is claiming an hourly credit for their contributions to or reasonably anticipated costs of a bona fide fringe benefit plan, fund, or program, provide plan information and the hourly credit claimed for each worker listed on the previous page of this form.											
HOURLY CREDIT FOR FRINGE BENEFITS													
If an amount is listed in (58) on the first page of this certified payroll form, enter the hourly credit claimed under each plan name, type and number for each worker and check whether the plan is funded or unfunded.													
NAME OF WORKER	FB NAME		FB NAME		FB NAME		FB NAME		FB NAME		FB NAME		TOTAL HOURLY CREDIT
	FB TYPE		FB TYPE		FB TYPE		FB TYPE		FB TYPE		FB TYPE		
	PLAN NO.		PLAN NO.		PLAN NO.		PLAN NO.		PLAN NO.		PLAN NO.		
	<input type="checkbox"/> Funded <input type="checkbox"/> Unfunded		<input type="checkbox"/> Funded <input type="checkbox"/> Unfunded		<input type="checkbox"/> Funded <input type="checkbox"/> Unfunded		<input type="checkbox"/> Funded <input type="checkbox"/> Unfunded		<input type="checkbox"/> Funded <input type="checkbox"/> Unfunded		<input type="checkbox"/> Funded <input type="checkbox"/> Unfunded		
	Hourly Credit	\$	Hourly Credit	\$	Hourly Credit	\$	Hourly Credit	\$	Hourly Credit	\$	Hourly Credit	\$	\$
	Hourly Credit	\$	Hourly Credit	\$	Hourly Credit	\$	Hourly Credit	\$	Hourly Credit	\$	Hourly Credit	\$	\$
	Hourly Credit	\$	Hourly Credit	\$	Hourly Credit	\$	Hourly Credit	\$	Hourly Credit	\$	Hourly Credit	\$	\$
	Hourly Credit	\$	Hourly Credit	\$	Hourly Credit	\$	Hourly Credit	\$	Hourly Credit	\$	Hourly Credit	\$	\$
	Hourly Credit	\$	Hourly Credit	\$	Hourly Credit	\$	Hourly Credit	\$	Hourly Credit	\$	Hourly Credit	\$	\$
	Hourly Credit	\$	Hourly Credit	\$	Hourly Credit	\$	Hourly Credit	\$	Hourly Credit	\$	Hourly Credit	\$	\$
	Hourly Credit	\$	Hourly Credit	\$	Hourly Credit	\$	Hourly Credit	\$	Hourly Credit	\$	Hourly Credit	\$	\$
	Hourly Credit	\$	Hourly Credit	\$	Hourly Credit	\$	Hourly Credit	\$	Hourly Credit	\$	Hourly Credit	\$	\$
	Hourly Credit	\$	Hourly Credit	\$	Hourly Credit	\$	Hourly Credit	\$	Hourly Credit	\$	Hourly Credit	\$	\$
	Hourly Credit	\$	Hourly Credit	\$	Hourly Credit	\$	Hourly Credit	\$	Hourly Credit	\$	Hourly Credit	\$	\$
<input type="checkbox"/>		All workers on the project have been paid the full weekly wages earned, and no rebates or deductions have been or will be made either directly or indirectly, other than permissible deductions as defined in 29 CFR part 3.											
ADDITIONAL REMARKS													
SIGNATURE OF CERTIFYING OFFICIAL													
DATE													
TELEPHONE NUMBER													
EMAIL ADDRESS													
() - - - - -													
THE WILLFUL FALSIFICATION OF ANY OF THE ABOVE STATEMENTS MAY SUBJECT THE CONTRACTOR OR SUBCONTRACTOR TO CIVIL OR CRIMINAL PROSECUTION (SEE SECTION 1001 OF TITLE 18 AND SECTION 3729 OF TITLE 31 OF THE UNITED STATES CODE), AS WELL AS DEBARMENT FROM FUTURE FEDERAL AND FEDERALLY-ASSISTED CONTRACTS. INFORMATION REPORTED IN CERTIFIED PAYROLLS MAY BE SUBJECT TO DISCLOSURE IN RESPONSE TO A FREEDOM OF INFORMATION ACT REQUEST.													

Making Davis-Bacon Work

Job Site Supervisors / Foremen:

- Under the Davis-Bacon Act, job site supervisors who also perform “laborer or mechanic” duties for *more than 20% of their workweek* are considered laborers and mechanics for that work and must be paid the applicable prevailing wage rate;
- “Laborers & Mechanics” includes:
 - Bricklayers, Carpenters, Electricians, Iron Workers, Laborers, Plumber, PEO’s, Traffic Control / Flaggers & Truck Drivers

Making Davis-Bacon Work

Job Site Supervisors / Foremen:

- This means their pay is subject to the wage determination for the specific work they perform, not just their supervisor role;
- *REFERENCE:*
 - ❖ *<https://www.dol.gov/sites/dolgov/files/WHd/prevailing-wage-presentations/dbra-seminars/Who-Actually-Gets-Paid-Prevailing-Wage-Rates-Anyway.pdf>*

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Apprentices:

- Individually registered in a bona fide apprenticeship program registered with DOL's Employment Training Administration (ETA), Office of Apprenticeship (OA), or a State Apprenticeship Agency recognized by OA, or;
- An individual in their first 90 days of probationary employment as an apprentice in such a program, provided certain requirements are met;
- ***Apprentices must be paid the full prevailing wage rate for the classification of work performed if they are NOT individually registered in and employed pursuant to the terms of a bona fide apprenticeship program***

Making Davis-Bacon Work

- Bona-fide Apprentices can work at a rate of pay lower than the prevailing wage rate, but require the following:
 - Individual registration for the apprentice
 - Relevant pages from DOL approved apprenticeship program
 - *Title page (shows name of the program)*
 - *Page reflecting ratio of apprentices to journeyman*
 - *Page reflecting pay scale for apprentices*
 - *Includes apprenticeship level and percentage of journeyman's rate for each level*

Making Davis-Bacon Work

- Page reflecting fringe benefits
 - *If silent on fringe benefits, pay full amount of fringe benefit stated on the wage decision*
- Signatory page (reflects signatories to agreement)
- ***Absent this information, pay full journeyman's rate***

Making Davis-Bacon Work

Force Account Labor

- The Davis-Bacon Act generally requires that contractors and subcontractors on federally funded construction projects pay their laborers and mechanics the prevailing wage rates and fringe benefits for similar work in the area;
 - However, "force account labor," where a grantee uses its own employees to perform construction work, is often exempt from Davis-Bacon requirements under statutes that specifically apply to contractors and subcontractors;
- <https://www.dol.gov/agencies/whd/field-operations-handbook/Chapter-15#B15b06>

Making Davis-Bacon Work

Requesting Additional Wage Rates:

If the contractor(s) notify the admin that there is a trade not represented or that there is a requested variance to an existing trade's rate, then a request for Additional Wage Rate can be submitted;

- 1) Check the effective WD and validate that the wage rate is not present;
- 2) Confirm that the requested rate is ACTUALLY a distinct trade and requires a unique designation and rate;
- 3) Confirm that the proposed trade aligns with the other tangentially related trades and rates;

Making Davis-Bacon Work

Requesting Additional Wage Rates:

- The previous HUD form 4230A is no longer in use – must use the DOL SF-1444 form:

<https://www.gsa.gov/reference/forms/request-for-authorization-of-additional-classification-and-rate>

Request For Authorization Of Additional Classification And Rate		Check Appropriate Box <input type="checkbox"/> Service Contract <input type="checkbox"/> Construction Contract		OMB Control Number: 9000-0066 Expiration Date: 5/31/2025	
Instructions: The Contractor shall complete items 3 through 16, keep a pending copy, and submit the request, in quadruplicate, to the Contracting Officer.					
1. To: Administrator, Wage And Hour Division U.S. Department Of Labor Washington, DC 20210			2. From: (Reporting Office)		
3. Contractor				4. Date Of Request	
5. Contract Number	6. Date Bid Opened (Sealed Bidding)	7. Date Of Award	8. Date Contract Work Started	9. Date Option Exercised (If Applicable) (Service Contract Only)	
10. Subcontractor (If Any)					
11. Project And Description Of Work (Attach Additional Sheet If Needed)					
12. Location (City, County, And State)					
13. In Order To Complete The Work Provided For Under The Above Contract, It Is Necessary To Establish The Following Rate(s) For The Indicated Classification(s) Not Included In The Department Of Labor Determination					
Number:		Dated:			
a. List In Order: Proposed Classification Title(s); Job Description(s); Duties; And Rationale For Proposed Classifications (Service contracts only) (Use reverse or attach additional sheets, if necessary)			b. Wage Rate(s)		c. Fringe Benefits Payments

Making Davis-Bacon Work

Requesting Additional Wage Rates:

- 4) After the request data is updated in the DOL SF1444, add that data to the Iowa Grants Status Report 'Additional Wage Request';
- 5) Once populated, which will help track the submission/approval status, the LCO will receive and review;
- 6) Upon review, the LCO will coordinate with DOL for concurrence and provide response to grantee;

Making Davis-Bacon Work

Requesting Additional Wage Rates:

7) The LCO will update the Iowa Grants SR;

8) The LCO will also update the originating WR Status Report to indicate the additional trade + wages associated with the project;

Making Davis-Bacon Work

❖ Interviews for on-site workers —
HUD Form 11

❖ On the IEDA website &
Management Guide:

➤ <https://www.hud.gov/sites/dfiles/OCHCO/documents/11.pdf>

Record of Employee Interview			U.S. Department of Housing and Urban Development Office of Davis-Bacon and Labor Standards		OMB Approval No. 2501-0009 (exp. 03/31/2028)	
<small>Public reporting burden for this collection of information is estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid OMB control number. The information is collected to ensure compliance with the Federal labor standards by recording interviews with construction workers. The information collected will assist HUD in the conduct of compliance monitoring; the information will be used to test the veracity of certified payroll reports submitted by the employer. Sensitive Information. The information collected on this form is considered sensitive and is protected by the Privacy Act. The Privacy Act requires that these records be maintained with appropriate administrative, technical, and physical safeguards to ensure their security and confidentiality. In addition, these records should be protected against any anticipated threats or hazards to their security or integrity that could result in substantial harm, embarrassment, inconvenience, or unfairness to any individual on whom the information is maintained. The information collected herein is voluntary, and any information provided shall be kept confidential.</small>						
Note: Please ensure responses are legible and easy to read.						
1a. Project Name			2a. Employee's Full Name			
1b. Project Number			2b. Employee's Phone Number (including area code) and Email Address			
1c. Contractor or Subcontractor (Employer—not individual's name or supervisor's name)			2c. Employee's Home Address & Zip Code			
			2d. Verification of identification? Yes <input type="checkbox"/> No <input type="checkbox"/>			
3a. How long on this job and average weekly hours worked?	3b. Last date on this job before today?	3c. Number of hours last day on this job?	4a. Hourly Rate of Pay	4b. Fringe benefits? Medical Yes <input type="checkbox"/> No <input type="checkbox"/> Pension Yes <input type="checkbox"/> No <input type="checkbox"/>	4c. Frequency of Pay: Weekly <input type="checkbox"/> Biweekly <input type="checkbox"/> Semi-monthly <input type="checkbox"/> Other <input type="checkbox"/>	
5. Your Job Classification(s) (list all and continue on a separate sheet if necessary):						
6. Your Duties:						
7. Tools or Equipment Used:						
8. Are you an apprentice or trainee?	Y <input type="checkbox"/> N <input type="checkbox"/>	10. Are you paid at least time and 1/2 (1.5x regular hourly rate) for all hours worked in excess of 40 in a week?		Y <input type="checkbox"/> N <input type="checkbox"/>		
8a. Have you provided a copy of your apprenticeship certificate?	<input type="checkbox"/> <input type="checkbox"/>					
9. Are you paid for all hours worked?	<input type="checkbox"/> <input type="checkbox"/>	11. Have you ever been threatened or coerced into giving up any part of your pay?		<input type="checkbox"/> <input type="checkbox"/>		
12a. Employee Signature			12b. Date			
13. Duties Observed by the Interviewer (Please be specific):						

Making Davis-Bacon Work

❖ Interviews (on-site workers) – HUD Form 11

When and Where Interviews are Conducted:

- Periodically throughout the project: (At minimum, twice)
- When New Subcontractors Start:
- When Issues or Discrepancies Arise:
- On the Job Site:
- Alternative Locations:

Making Davis-Bacon Work

❖ Interviews (on-site workers) – HUD Form 11

Purpose of DBRA Interviews:

- Verify Hours Worked and Scope of Work:
- Validate Certified Payrolls:
- Prevent Misclassification and Underpayment:
- Ensure Worker Confidentiality:

Making Davis-Bacon Work

Information Collected During Interviews:

- Worker details: Name, contact information, employment status, period of employment.
- Apprentice information: Age, date of birth, and registration status if applicable.
- **Wage and Hour Data: Cross-Check rate(s) of pay, wages received, hours worked, and how time and work are recorded with Wage Decision!**
- Job Classification and Actual Work Performed: Details regarding specific duties, tools used, and the amount of time spent in each classification.

Making Davis-Bacon Work

Information Collected During Interviews:

- Corroborating Information: Identification of other workers doing the same work, as well as descriptions of work performed by other workers.
- Allegations of Violations: Covering any potential issues or violations of DBRA requirements.
- Information related to Contractor Records: Any details indicating the accuracy or inaccuracy of the contractor's records.
- Identification of Supervisors and Management: Their roles and interactions with workers.

Making Davis-Bacon Work

Red Flags during Interviews:

- Employees refuse to participate.
- Job classification differs from observed work.
- Employees not listed on certified payrolls.
- Discrepancies between stated wages and payroll records.

Recordkeeping:

- Certified payroll records and labor interviews should be retained for three years after project completion.

Making Davis-Bacon Work

Wage Restitutions:

- If upon Site Interviews or during CPR reviews there are pay discrepancies are noticed, the contractor must be notified and valid restitution must be paid to the worker and proof of payment provided to the grantee labor compliance specialist;
- Upon receipt of the restitution payment, enter the data in Iowa Grants Status Report:
 - Marked up original CPR;
 - Revised / Corrected CPR;
 - Proof of payment to worker;

Enforcement & Compliance

Review for Compliance

Be aware of DOL All Agency Memorandums:

- **AAM 213:**
 - *Proposed rate must bear a reasonable relationship to all wage rates in the decision*
- **AAM 130:**
 - *Determination of "projects of a character similar to the contract work" four general types or categories of construction - building, residential, heavy, and highway*
- **AAM 131 / 236:**
 - *If the total cost of all the work in a category exceeds either 20% of the total project cost or \$2.5 million, then multiple wage determinations will generally apply.*

Review for Compliance

- Establish enforceable procedures/processes;
 - **Share with applicable entities**
- Identify and document, document, document violations;
- Notify the contractor in writing, retain these correspondence;
- Establish a date for expected completion of remedies;

Review for Compliance

- **Look for common payroll red flags**
 - Mis-classifications (e.g., Apprentices);
 - Laborers v. skilled workers;
 - Cement mason/concrete finishers
 - Plumbers
 - Not enough employees;
 - Ghost employees;
 - Same hours, same rate of pay, same gross, same net;
 - Non-allowable deductions;
 - “Other” deductions listed but no authorization;

Review for Compliance

- **Investigate and resolve complaints;**
- **Ensure restitution, if any, is paid timely;**
- **Pursue debarment, if necessary;**
- **Determine other action, if necessary;**

Review for Compliance

- **Debarment Criteria:**

- Submitted falsified certified payrolls;
- Required kickbacks of wages or back wages;
- Committed repeat DBRA violations;
- Misclassified covered workers in clear disregard of proper classification of actual work performed; or
- As a prime contractor, failed to ensure DBRA compliance by subcontractors;

Potential Problem Areas

Self-employed Owners

- Definition: Owners of a subcontractor firm who are themselves performing work of laborers and mechanics are entitled to the applicable prevailing wage rate for the classification of the work performed;
- Include in the sub-contract:
 - **the total hourly prevailing wage rate for the trade, and**
 - **The estimated number of hours for job completion**

Self-employed Owners

- HUD Office of Labor Relations Letter (LR-96-01)
 - <https://www.hud.gov/sites/dfiles/OCHCO/documents/LR-1996-01.pdf>
 - *“...The DBA and DBRA implementing regulations (29 CFR Part 5) specifically stipulate that these protections are provided regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. Additionally, all laborers and mechanics must be paid unconditionally and not less often than once per week...”*

Self-employed Owners

- **Owners working by themselves**
 - Carried on the responsible employer's weekly payroll
 - Payroll report must include:
 - *name*
 - *work classification*
 - *actual hours of work*
 - *effective hourly rate*
 - *amount paid*

Self-employed Owners

- **Owners working with their crew**
 - Can certify payroll report
 - Payroll report must include:
 - *name*
 - *work classification including “owner”*
 - *daily and total hours worked*
 - Do not need to list a rate of pay or amounts earned

Self-employed Owners

- **Truck Drivers**

- Independent contractors can certify payroll reports;
- Payroll report must include:
 - *name*
 - *work classification including “owner/operator”*
 - *daily and total hours worked*
- Do not need to list a rate of pay or amounts earned

Use of Apprentices

- **Potential red flags / errors to resolve:**
 - One worker's beginning date is after the start of his work on the prevailing wage project;
 - Another worker's ending date is before the start of his work on the prevailing wage project;
 - No information submitted for one apprentice;

Payroll Report Issues

- **Contractor failed to include all required information**
 - No employee identifier number;
 - Classification missing ;
 - Classification Group letter not included (as required);
 - Hours shown in OT hour row instead of Standard hour row ;
 - Other deductions listed, but no employee authorizations provided;

Statement of Compliance

- **Contractor failed to include all required information**
 - No information in block 1;
 - No sub-block of fringe benefit payment checked, or wrong block checked;
 - No original signature;
 - Payroll Clerk signed the statement of compliance, no letter of authorization provided;



Resources

Labor Standards Compliance Resources

○CDBG Management Guide

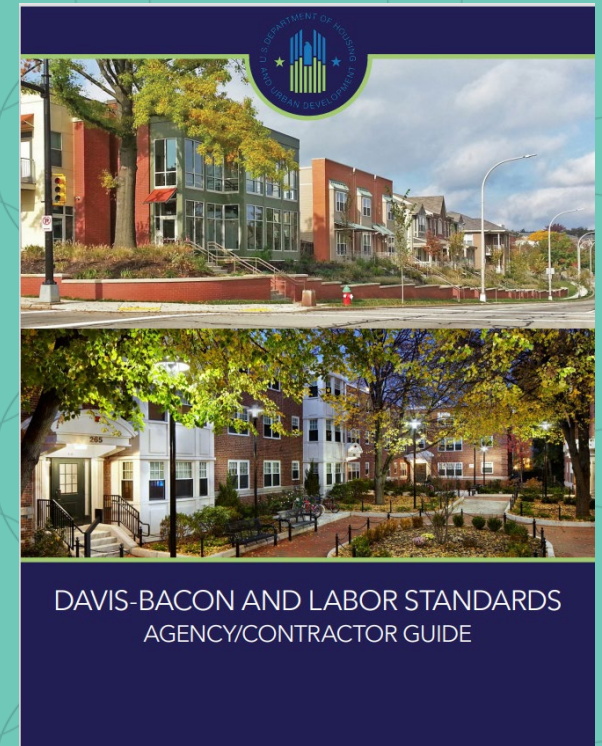
- <https://opportunityiowa.gov/community/community-infrastructure/cdbg-resources/management-guide>
- **Chapter 2**
 - **Appendix 2**
 - **Required contract language**

Resources

Labor Standards Compliance Resources

- Davis-Bacon and Labor Standards Agency/Contractor Guide

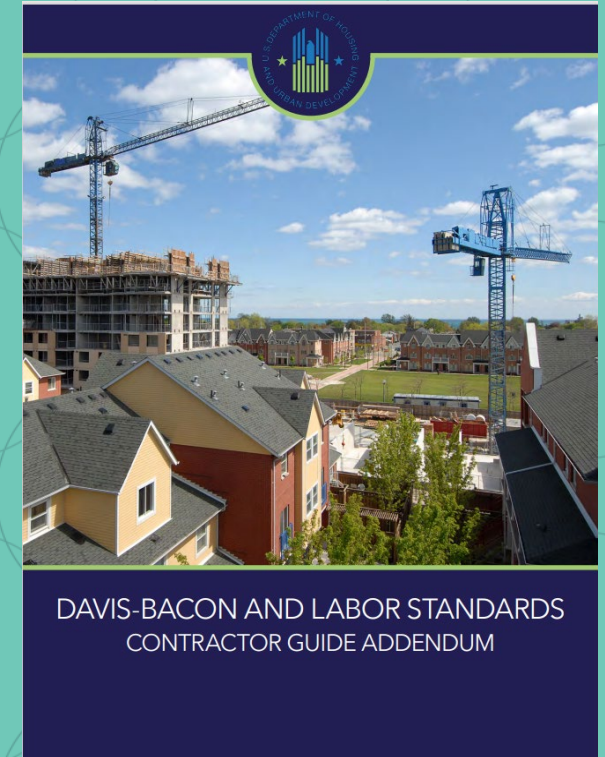
<https://files.hudexchange.info/resources/documents/Davis-Bacon-and-Labor-Standards-Agency-and-Contractor-Guide.pdf>



Resources

- **Davis-Bacon and Labor Standards Contractor Guide Addendum**

<https://files.hudexchange.info/resources/documents/Davis-Bacon-and-Labor-Standards-Contractor-Guide-Addendum.pdf>



Resources

○ HUD Handbook 1344.1 Rev.3

www.hud.gov/program_offices/administration/hudclips/handbooks/sech/13441



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-0050

OFFICE OF DAVIS-BACON
AND LABOR STANDARDS

Special Attention of:
HUD Office of Davis-Bacon
and Labor Standards Staff
HUD Program Participants

Handbook 1344.1 REV-3

Issued: January 2023
Cross References: Davis-Bacon Act; Davis-Bacon Related Acts; All HUD Labor Relations Letters; DOL Regulations 29 CFR Parts 1, 3, 5, 6, and 7; DOL All Agency Memoranda 71, 96, 130, 131, 213, and 236;

Federal Labor Standards Requirements in Housing and Urban Development Programs

Resources

DOL Field Operations Handbook – Chapter 15

www.dol.gov/agencies/whd/field-operations-handbook/Chapter-15#B15b06

Any Questions?





THANK YOU

Rob Wick | CDBG – Disaster Recovery Team Lead
Iowa Economic Development Authority