



Essential **Workers** Essential **Protections**



WAGE AND HOUR DIVISION
UNITED STATES DEPARTMENT OF LABOR

dol.gov/agencies/whd
1-866-487-9243

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Wage and Hour Division



Who we are



WAGE AND HOUR DIVISION
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Essential Protections



- Payment of minimum wages and overtime
- Youth employment standards
- Job protections for time taken for the birth of a child or caring for sick family members
- Housing and transportation standards for farm workers
- Payment of prevailing wage rates for federally funded construction and service contract work
- Standards for hiring and paying workers temporarily in the U.S under H-2A, H-1B and H-2B visas



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Fair Labor Standards Act (FLSA)



Essential Protections:

- Minimum wage: \$7.25 per hour
- Overtime at “time and one-half” for hours worked over forty in a workweek
- Recordkeeping requirements
- Prohibited youth employment
- Anti-retaliation provisions



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Hours Worked



An employee must be paid for all of the time considered to be “hours worked” under the FLSA. This may include time spent engaged to wait, on-call, in training, or traveling. Work not requested but **“suffered or permitted”** is work time.

[View Fact Sheet# 22: Hours Worked](#)



PREVAILING WAGE SEMINARS



WAGE AND HOUR DIVISION
UNITED STATES DEPARTMENT OF LABOR



Davis-Bacon Coverage

DBA

- Enacted in 1931
- Amended in 1935 and 1964
- Protects communities and workers from non-local contractors underbidding local wage levels

Davis-Bacon Act Coverage

Applies to contracts in excess of \$2,000 to which the Federal Government or the District of Columbia is a party for construction, alteration, and/or repair, including painting and decorating, of public buildings or public works.

Davis-Bacon Related Acts

Davis-Bacon (DB) requirements extended to numerous “related Acts” that provide federal assistance by

- Grants
- Loans
- Loan guarantees
- Insurance

Bipartisan Infrastructure Law

The Bipartisan Infrastructure Law will:

- Create an estimated 800,000 good-paying jobs that will expand the middle class
- Revitalize our nation's transportation, communications and utilities systems
- Build a more resilient, reliable, and environmentally sound future

DBRA Coverage of Bipartisan Infrastructure Law Construction Projects

The Bipartisan Infrastructure Law (BIL) applies Davis-Bacon labor standards to federally funded or assisted construction projects in three different ways

- Adding funding to programs previously authorized by an existing Davis-Bacon Related Act
- Adding new programs under the umbrella of an existing Davis-Bacon Related Act
- Including provisions which expressly provide that Davis-Bacon labor standards apply to all construction projects receiving funding under particular programs created by or funded through BIL

Davis-Bacon Labor Standards/Contract Stipulations

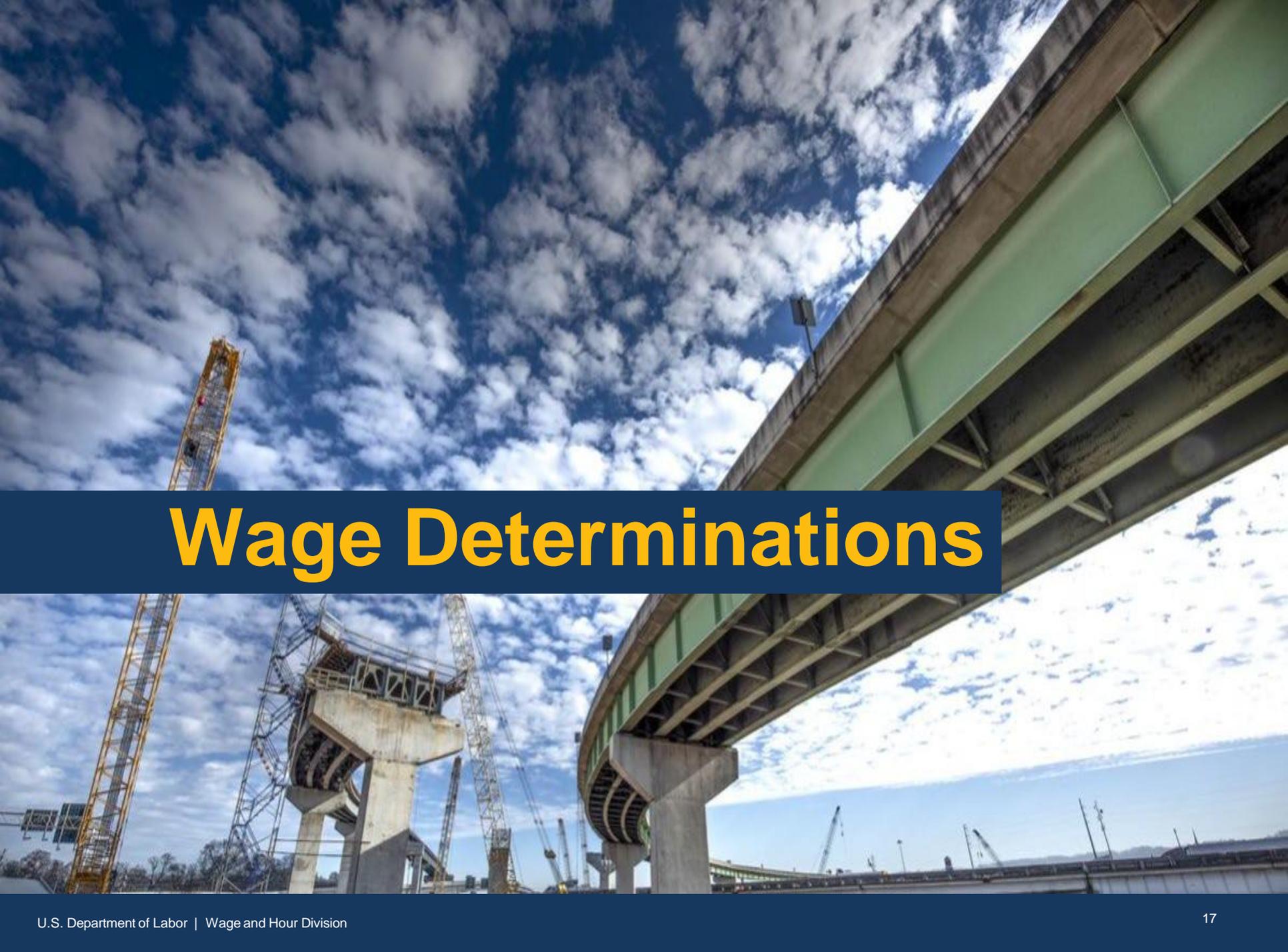
- The term “labor standards” means the requirements of:
 - The Davis-Bacon Act;
 - The Contract Work Hours and Safety Standards Act;
 - The Copeland Act;
 - Prevailing wage provisions of the Davis-Bacon and “related Acts”; and
 - Regulations, 29 CFR 1, 3, and 5.

Davis-Bacon Labor Standards (29 CFR 5.5)

- 5.5(a)(1) - Minimum wages
- 5.5(a)(2) - Withholding
- 5.5(a)(3) - Maintaining basic payroll records
- 5.5(a)(4) – Apprentices and trainees
- 5.5(a)(5) – Copeland Act compliance

Davis-Bacon Labor Standards

- 5.5(a)(6) - Subcontracts
- 5.5(a)(7) - Contract termination and debarment
- 5.5(a)(8) - Rulings and interpretations
- 5.5(a)(9) - Disputes concerning labor standards
- 5.5(a)(10) - Certification of eligibility



Wage Determinations

Wage Determinations (WDs)

Davis-Bacon Wage Determinations (WDs) specify the prevailing wages, including fringe benefits, that prevail for the described classes of laborers and mechanics employed on construction projects of a similar character in the locality.

Two types of wage determinations: **General** and **Project**

- In almost all instances, general WDs are available on sam.gov and should be used in bid solicitations and contracts on which the Davis-Bacon labor standards apply.
- Project WDs should only be requested under certain circumstances

SAM.GOV



The Official U.S. Government System for:

Contract Opportunities

(was fbo.gov)

Contract Data

(Reports ONLY from fpds.gov)

Wage Determinations

(was wdol.gov)

Federal Hierarchy

Departments and Subtiers

Assistance Listings

(was cfda.gov)

Entity Information

Entities, Disaster Response Registry,
and Exclusions

Entity Reporting

SCR and Bio-Preferred Reporting

Available Information on Website

- Directory of Occupations
- *E98*
- Agency Labor Advisors
- DOL and FAR regulation cites
- Users guide
- AAMs.

Selecting the Correct WDs-Type

Selecting and incorporating the appropriate general wage determination for the project type. Guidance provided in AAM 130.

- Building
- Residential
- Heavy
- Highway

Multiple wage determinations may apply where there are separate construction types and the different type of construction is at least 20 percent of the project cost or exceeds \$2.5 million – guidance provided in AAM 131 and 236

Contracting Agency Responsibilities

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

Interpreting General WDs

Useful information contained in a general wage determination:

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

Interpreting General WDs – Cover Sheet

General Decision Number: LA170002 01/20/2017 LA2

Superseded General Decision Number: LA20160002

State: Louisiana

Construction Type: Heavy

Counties: Acadia, Ascension, Bossier, Caddo, Calcasieu, East Baton Rouge, Lafayette, Lafourche, Livingston, Ouachita, Rapides, St Landry, St Martin, Terrebonne, Webster and West Baton Rouge Counties in Louisiana.

HEAVY CONSTRUCTION PROJECTS (includes flood control, water & sewer lines, and water wells; excludes elevated storage tanks, industrial construction-chemical processing, power plants, and refineries)

Note: Under Executive Order (EO) 13658, an hourly minimum wage of \$10.20 for calendar year 2017 applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2015. If this contract is covered by the EO, the contractor must pay all workers in any classification listed on this wage determination at least \$10.20 (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in calendar year 2017. The EO minimum wage rate will be adjusted annually. Additional information on contractor requirements and worker protections under the EO is available at www.dol.gov/whd/govcontracts.

Modification Number	Publication Date
0	01/06/2017
1	01/13/2017
2	01/20/2017

Interpreting General WDs – Identifiers

List of classifications and rates.

- Union Identifiers; and
- SU Identifiers.

Interpreting General WDs – Union IDs

Union identifiers - **ELEV0101-001 10/01/2017**

- Elevator Contractors: International Union
- Local 101 – Local union number
- 001 – internal processing number
- 10/01/2017 – Date the rate became effective on the CBA

Interpreting General WDs – Union Example

CARP 0055-001

11/01/2016

	Rates	Fringes
<ul style="list-style-type: none">• Carpenter (Acoustical Ceiling, Installation, and Dry Wall Hanging Only)	\$26.25	\$8.64
<ul style="list-style-type: none">• CBA rates are updated when CBA rates are changed		

Interpreting General WDs – Survey IDs

SU (Non-Union) Identifiers

SUCO2015-015 07/31/2015

SU: Survey Basis of Rate(s)

CO: Colorado

2015: Date of Survey

015: Internal Numbering

*** SU rates remain unchanged until new survey**

Interpreting General WDs – SU Example

SUCO2015-015

07/31/2015

	Rates	Fringes
Bricklayer	\$21.96	\$0.00
Carpenter	\$18.22	\$0.00



Conformances

Conformances

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses

(29 CFR 5.5(a)(1)(ii)).

- The work to be performed by the proposed classification is not performed by a classification already in the wage determination (WD);
- The proposed wage rate must bear a reasonable relationship to WD rates; and
- The proposed classification is utilized in the area by the construction industry.

Unnecessary Conformance Actions

Conformance requests are not needed for bona fide:

- Apprentices
- Trainees
- Welders

Conformances: Contracting Agencies & Contractors

Pre-Bid/Pre-Award

- Review the WD
- Compare the WD with the project work
- Anticipate needed classifications
- Apply key criteria

Conformance Process - Contractor

After-Award:

- Identify needed classes;
 - At the pre-construction conference.
 - From certified payrolls.
- Advise agency of the needed classification;
- Complete Contractor Part of SF-Form 1444.
 - Apply Conformance Key Criteria.
- Forward SF-Form 1444 to agency for review, signature, and submission to DOL.

A photograph of three construction workers on a rooftop at sunset. They are wearing hard hats and safety vests, looking at blueprints. A large crane is visible in the upper right. The sky is a mix of orange and blue. The foreground shows rebar and construction materials.

Compliance Principles

DBA/DBRA Compliance Principles

- Laborers and mechanics
- Site of the work
- Classification of Work
- Fringe Benefits
- Deductions
- Certified Payrolls

Laborers and Mechanics

- Workers whose duties are manual or physical in nature;
- Includes apprentices, trainees and helpers; and
- For CWHSSA, includes guards and watchmen.

Apprentices

- Persons individually registered in a bona fide apprenticeship program registered with DOL's Employment Training Administration (ETA) Office of Apprenticeship (OA) or a State Apprenticeship Agency recognized by OA.
- Individuals in their first 90 days of probationary employment as an apprentice in such a program.
- Regulations: 29 C.F.R. §§ 5.2(n)(1) and 5.5(a)(4)(i).

Trainees

- Persons registered and receiving on-the-job training in a construction occupation under a program approved in advance by DOL's Employment Training Administration (ETA).
- Regulations: 29 C.F.R. §§ 5.2(n)(2) and 5.5(a)(4)(ii).

Apprentices and Trainees

- Are laborers and mechanics; not listed on WDs.
- Permitted to work on covered projects and be paid less than the journey level WD rate when:
 - Individually registered in an approved apprenticeship or training program;
 - Paid the percentage of hourly rate required by the apprenticeship or training program;

Apprentices and Trainees

- Paid the FB's specified in approved program; if the program is silent, the full amount of FB's listed on the WD; and
- Are employed within the allowable ratio specified in approved program for the number of apprentices or trainees to journeymen.
 - Note: ETA apprenticeship regulations were revised in 2008; questions about portability of wages and ratios on DBA/DBRA covered projects may require careful consideration by WHD. See 29 C.F.R. § 29.13(b)(7).

Ratios

- “The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program.” 29 CFR 5.5(a)(4)(i)
- Compliance with the **ratio** is determined on a **daily**, not a weekly basis
- The use of fractions in computing the ratio is not permitted unless specified in the **approved** apprenticeship agreement.

Laborers and Mechanics

- Does not include:
 - Timekeepers, inspectors, architects, engineers; or
 - Bona fide executive, administrative, and professional employees as defined under FLSA.
- Working foremen are generally non-exempt:
 - must be paid the Davis Bacon (DB) rate for the classification of work performed if not 541 exempt.

Site of the Work

- Davis-Bacon applies only to laborers and mechanics employed “directly on the site of the work.”
- A three-part definition applies to determine the scope of the term “site of the work.”

Site of the Work Definition ¶1

- DBA applies only to workers “directly on the site of the work:”
 - The physical place or places where the construction called for in the contract will remain after work has been completed; and
 - Any other site where a **significant** portion of the building or work is constructed, *provided that* such site is established specifically for the contract.

Site of the Work Definition ¶2

- “Site of the work” also includes job headquarters, tool yards, batch plants, borrow pits, etc., *provided* they are:
 - Located adjacent or virtually adjacent to the “site of the work” described in paragraph 1; and
 - Dedicated exclusively or nearly so to the performance of the contract or project.
 - Except if they are excluded – see next slide

Site of the Work Definition ¶3

- “Site of the work” does not include a contractor’s or subcontractor’s:
 - permanent home office, branch locations, fabrication plants, tool yards, etc.;
 - whose location and continuance in operation are determined without regard to a particular covered project.

Definition ¶3 (Cont'd.)

- Also **not included** in the “site of the work” are:
 - Fabrication plants, batch plants, job headquarters, tool yards, etc., of a commercial supplier established by a supplier of materials:
 - **Before** the opening of bids for a project; and
 - **Not** located on the actual site of the work.
 - Such permanent, previously established facilities, are not part of the “site of the work,” even where the operations for a period of time may be dedicated exclusively, or nearly so, to the performance of a contract.

Truck Drivers

- **Truck drivers** of the contractor or subcontractor are covered by Davis-Bacon for time:
 - Spent working on the **“site of the work;”**
 - Transporting materials and supplies between a facility that is part of the “site of the work” and the actual construction site; or
 - Transporting portions of a building or work between a site where a significant portion of the project is being constructed and the physical place where the building or work will remain.

Wages & Fringe Benefits

- All laborers and mechanics employed or working upon the **site of work** must be paid at least the applicable prevailing wage rate for the classification of work performed, without regard to skill.

Wages & Fringe Benefits

- Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: **Provided**, That the employer's payroll records **accurately** set forth the time spent in each classification in which work is performed.” 29 CFR 5.5(a)(1)

Wages & Fringe Benefits

- DBA: the terms “wages” and “prevailing wages” include:
 - The basic hourly rate (BHR);
 - Contractor contributions *irrevocably* made to a trustee or third party pursuant to a bona fide fringe benefit (FB) fund, plan, or program; and/or
 - The rate of costs the contractor reasonably anticipates in providing bona fide FB’s where certain conditions are met.

Wage & Fringe Benefits

- Under DBA, FB's are a component of the DBA “prevailing wage.”
- The prevailing wage obligation may be satisfied by:
 - Paying the BHR and FB in cash (including negotiable instruments payable on demand);
 - Contributing payments to a bona fide plan; or
 - **Any** combination of the two.

Wages & Fringe Benefits

- Must be **paid weekly** for all hours worked:
 - Unless the fringe benefits are paid into a bona fide FB plan and then contributions must be paid no less often than quarterly.
- Cash wages paid in excess of BHR may count to offset or satisfy the FB obligation (unlike under SCA).

Prevailing Wage Example

- **BHR** **\$14.00**
- **FB** **\$ 1.00**

- **Total prevailing wage** **\$15.00**

- **The contractor may comply by paying:**
 - **\$15.00 in cash wages**
 - **\$14.00 in cash wages plus \$1.00 for FB**
 - **\$12.00 in cash wages plus \$3.00 for FB**

Prevailing Wage Example

- An employee spent 32 hours working as an electrician, with a BHR of \$22.00 and an FBR of \$3.00, and 8 hours working as a laborer, with a BHR of \$14.00 and a FBR of \$1.00.
- The employee is due \$800.00 for his electrician work (32 hours X (\$22.00 + \$3.00)) and \$120.00 for his laborer work (8 hours X (\$14.00 + \$1.00)), for a total of \$920.00.
- The \$920.00 can be paid in **any** combination of cash wages and fringe benefit contributions.

Examples of Fringe Benefits

- Life Insurance;
- Health Insurance;
- Pension;
- Vacation;
- Holiday; and
- Sick Leave.

Funded Fringe Benefit Plans

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

Unfunded Fringe Benefit Plans

- Costs for an **“unfunded”** FB plan count towards WD obligation if specific criteria are met:
 - The contributions reasonably anticipate the cost to provide a bona fide FB;
 - Contributions are made pursuant to an enforceable commitment;
 - That is carried out under a financially responsible plan; and
 - The plan has been communicated in writing to affected workers.
 - The plan has been approved by WHD

Eligibility and Participation

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

Administrative Expenses

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

Annualization Principle

- Davis-Bacon credit is based on the effective annual rate of contributions for **all hours** worked in a year (both Davis-Bacon and non-Davis-Bacon work).
- Davis-Bacon work may not be used as the exclusive or disproportionate source of funding for a benefit in effect during both covered and non-covered work.

Annualization –

Computing the creditable hourly rate

- Determine the hourly rate of contribution that is creditable towards a contractor's Davis-Bacon prevailing wage obligation by:
 - Dividing the total annual contributions by the total annual hours worked (**both** Davis-Bacon and non-Davis-Bacon work).

Annualization – Exception

Certain Defined Contribution Pension Plans

- An **exception** to annualization applies to:
 - **Defined contribution pension plans** that provide:
 - immediate participation; and
 - essentially immediate vesting (100% vesting after an employee works 500 or fewer hours).
- This exception allows full credit for the amount of contributions made on Davis-Bacon work.

Annualization – Example

- A firm's contribution for an employee's pension plan that does not provide for immediate vesting was computed at \$2,000 a year.
 - The employee worked 1,500 hours on a Davis-Bacon project and 500 hours on other jobs not Davis-Bacon covered.

Credit per hour: $\$2,000 / 2000 \text{ (hours)} = \1.00

Computing hourly fringe benefit equivalents creditable for contributions made weekly, monthly, quarterly, etc.

- In determining cash equivalent credit for fringe benefit payments, the period of time to be used is the period **covered** by the contribution.
 - If contributions are made weekly, cash equivalents should be computed weekly.
 - If contributions are made quarterly, cash equivalents should be computed quarterly, etc.

Computing the Hourly Equivalent Fringe Benefit Credit – Medical Insurance

- Employer provides medical insurance at \$200 per month to an electrician on a Davis-Bacon project. The WD requires \$16.00 plus \$2.50 in FB's, or \$18.50 an hour. Employee works 160 hours a month
 - $\$200/160 \text{ hours} = \1.25 credit per hour for the FB
 - No other benefit provided
 - Electrician is due: \$17.25 in cash wages per hour
($\$18.50 - \$1.25 = \$17.25$)

Fringe Benefit Payments in Advance – converting to hourly cash equivalents

- On occasion, a contractor may offset the annual cost of a particular fringe benefit by converting such costs to an hourly cash equivalent
 - Since construction workers often do not work a full year (2,080 hours), if a contractor makes **annual payments in advance** to cover the coming year cost, and actual hours worked will not be determinable until year-end, total hours worked by DB-covered workers in the **preceding** year (or plan year) can be considered representative of a normal work year in the computation.
 - Example: Assume total annual cost of pension program is \$15,000, and that the total working hours (DB and non-DB) for the workers on whose behalf the employer made contributions in the previous year was 15,000. $\$15,000/15,000 \text{ hours} = \$1.00 \text{ per hour cash equivalent}$

Fringe Benefit Payments in Advance – converting to hourly cash equivalents

- Where the contractor **pays** monthly health insurance premiums **in advance** on a lump sum basis, the total hours worked in the previous month or in the same month in the previous year may be used to determine (i.e. estimate) the hourly equivalent credit per employee during the current month.
 - Any **representative period** may be used, provided the period selected is reasonable.
 - However, keep in mind that If the employer contributes at different rates, such as under a health insurance plan for single and family plan members, credit cannot be taken based on an across the board average, but rather must be computed to reflect the cash equivalent to be credited for each individual employee.

Deductions

- 29 CFR 3.5 lists deductions that an employer can make from the prevailing wage rate without the approval of the Secretary of Labor.
- Examples include Social Security and federal or state taxes, certain court-ordered payments, bona fide pre-payments of wages, certain payments of union dues, and voluntary charitable donations.

Deductions

- 29 CFR 3.6 generally provides that the Secretary may approve other deductions whenever all of the following conditions are met:
 - The contractor does not profit directly or indirectly from the deduction
 - The deduction is not otherwise prohibited by law
 - Either the employee voluntarily consented to the deduction in writing in advance of the time that the work was performed or the deduction is under the terms of a collective bargaining agreement
 - The deduction serves the convenience and interest of the employee

Payroll and Basic Records

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

Certified Payrolls

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

Certified Payrolls

- Weekly payrolls must include specific information as required by 29 C.F.R. § 5.5(a)(3)
- Weekly payroll information may be submitted in any form desired
 - **Optional Form WH-347** is available for this purpose
 - The WH-347 form, with instructions, is at:
<http://www.dol.gov/whd/forms/wh347instr.htm>

Requirements of CWHSSA-General

Requires overtime pay for laborers, mechanics, guards, and watchmen at a rate of one and a half times the basic rate of pay for hours worked in excess of 40 in a workweek on covered contracts

- The basic rate of pay under CWHSSA is the straight time hourly rate
- The “basic rate” cannot be less than the basic hourly rate required in an applicable wage determination, not including any required fringe benefit amount.

Requirements of CWHSSA

- If an employee is paid a regular rate above the basic hourly rate (excluding fringe benefits or cash payments in lieu of fringe benefits), that regular rate will be considered the basic rate.
- Amounts paid to fulfill the fringe benefit portion of the prevailing wages listed in the applicable wage determination are excluded in computing overtime obligations under CWHSSA

Application of CWHSSA

CWHSSA applies to laborers, mechanics, guards and watchmen for the time spent **on covered contract work only**

- Total up **all** the time each employee spent working on covered contracts (off-site as well as on-site on DBA/DBRA projects)
- Exclude all commercial, non-government, non-covered work.
- Liquidated damages can be assessed per day for each laborer, mechanic, guard, or watchman not paid proper overtime

WHD Internet Sites

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

Why Are Employers Investigated?

- WHD conducts investigations for a variety of reasons, and generally does not disclose the reason during the investigation
- Many investigations are the result of complaints, but all complaints are confidential, and investigators may not even disclose whether one has been received
- WHD also conducts investigations of business or industries for a variety of other reasons, such as high violation rates, employment of vulnerable workers, or rapid changes in the industry

Compliance

- An investigation will generally identify and examine the following issues:
 - Are the correct contract clauses included in contract?
 - Does the contract have the correct WDs?
 - Are the poster and WD, including any conformance actions, posted at the site or made available to employees?
 - Does the WD contain necessary classifications?

Compliance Issues (cont'd)

■ More investigation issues:

- Is a conformance necessary?
- Are employees properly classified?
- Are fringe benefits being properly paid?
- For DBA/DBRA, have apprenticeship and/or trainee requirements been met?
- Is “overtime” correctly paid under the FLSA or CWHSSA, if appropriate?
- Has employer kept accurate payroll records?

Examine Payroll Records (29 C.F.R. §§ 4.6(g), 4.185,

- The contractor and each subcontractor must maintain adequate records for each employee for **3 years**:
 - Name, address and social security number;
 - Work classification, wages and benefits;
 - Daily/weekly compensation and hours worked, and any payroll deductions;
 - Copies of certified payroll for DBA/DBRA; and
 - Length of service list of the predecessor contractor for SCA.

Employee Interviews – 29 CFR 4.6(g)(4) and 5.5(a)(3)(iii)

- 4.6(g)(4) – “The contractor **shall** permit authorized representatives of the Wage and Hour Division to conduct interviews with employees at the worksite during normal working hours.”
- 5.5(a)(3)(iii) - “The contractor or sub-contractor ... **shall** permit such representatives [of DOL or the contracting agency] to interview employees during working hours on the job.”

Employee Interviews

- Are essential to the investigation.
- Information provided is **confidential**.
- Interview Statement should contain:
 - Place and date of interview;
 - Name and address of employer/employee;
 - Employment status and classification
 - Detailed description of work performed and tools/equipment used
 - Daily and weekly hours worked
 - Pay rates
 - Other information indicating potential violations

DBA/DBRA - Area Practice Surveys

- There are no nationwide standard classification definitions under the DBA
- To determine proper classifications for workers employed on a Davis-Bacon covered project, it may be necessary to examine **local area practice**

Executive Order 13658

Executive Order 13658, Establishing a Minimum Wage for Contractors: Annual Update

Davis-Bacon and Related Acts

Final Rule: Increasing the Minimum Wage for Federal Contractors (Executive Order 14026)

Notice of Proposed Rule: Nondisplacement of Qualified Workers under Service Contracts

On September 15, 2021, the Department of Labor announced a Notice in the Federal Register to announce that, beginning January 1, 2022, the Executive Order 13658 minimum wage rate is increased to \$11.25 per hour ([86 FR 51683](#)). This Executive Order minimum wage rate generally must be paid to workers performing work on or in connection with covered contracts. Additionally, beginning January 1, 2022, tipped employees performing work on or in connection with covered contracts generally must be paid a minimum cash wage of \$7.90 per hour. Covered contracts that are entered into on or after January 30, 2022, or that are renewed or extended (pursuant to an option or otherwise) on or after January 30, 2022, will be generally subject to a higher \$15.00 minimum wage rate established by [Executive Order 14026](#) of April 27, 2021, Increasing the Minimum Wage for Federal Contractors. Questions relating to the Executive Order and/or these wage rates may be directed to the Government Contracts Division at (202) 693-0064.

WAGE AND HOUR DIVISION
UNITED STATES DEPARTMENT OF LABOR

Executive Order 14026

Final Rule: Increasing the Minimum Wage for Federal Contractors (Executive Order 14026)

Davis-Bacon and Related Acts

**Final Rule: Increasing the Minimum
Wage for Federal Contractors
(Executive Order 14026)**

Notice of Proposed Rule:
Nondisplacement of Qualified
Workers under Service Contracts
(Executive Order 14026)

On November 22, 2021, the Department announced publication of the final rule, “Increasing the Minimum Wage for Federal Contractors.” The Department has finalized regulations to implement Executive Order 14026, “Increasing the Minimum Wage for Federal Contractors,” which was signed by President Joseph R. Biden Jr. on April 27, 2021. Executive Order 14026 states that the Federal Government’s procurement interests in economy and efficiency are promoted when the Federal Government contracts with sources that adequately compensate their workers. The Executive Order raises the minimum wage paid by those contractors to workers performing work on or in connection with covered federal contracts to \$15.00 per hour, beginning January 30, 2022; and beginning January 1, 2023, and annually thereafter, an amount determined by the Secretary of Labor (Secretary). This final rule establishes standards and procedures for implementing and enforcing the minimum wage protections of Executive Order 14026, and is effective on January 30, 2022.

WAGE AND HOUR DIVISION
UNITED STATES DEPARTMENT OF LABOR

Executive Order 13706 Establishing Paid Sick Leave for Federal Contractors



WAGE AND HOUR DIVISION
UNITED STATES DEPARTMENT OF LABOR

Overview of Executive Order 13706: Paid Sick Leave for Federal Contract Workers

- EO 13706 was signed on September 7, 2015.
 - It requires covered contractors to allow employees to accrue **1 hour** of paid sick leave for every **30 hours** worked on or in connection with a covered contract, up to **56 hours** (7 days) per year, and to use accrued leave for certain purposes.
- Regulations for the EO were published on September 30, 2016 (**29 CFR Part 13**).
 - The regulations provide details about coverage, exclusions, the accrual and use of paid sick leave, requirements for contractors and contracting agencies, and enforcement.

Overview of Executive Order 13706: Paid Sick Leave for Federal Contract Workers

- Requirements are effective as of January 1, 2017.
 - The requirements of the EO and regulations are effective as of January 1, 2017, though they only apply to “new contracts” on or after that date.



Coverage:

Which contracts are covered by EO 13706?

EO 13706 applies to **four types of contracts** entered into by the federal government (29 CFR 13.3(a)(1):

- Procurement contracts for construction covered by the Davis-Bacon Act (DBA).
 - This includes prime contracts at the \$2,000 threshold and DBA-covered lower-tier contracts of any monetary value.
- Service contracts covered by the Service Contract Act (SCA).
 - This includes prime contracts at the \$2,500 threshold and SCA-covered lower-tier contracts of any monetary value.

Coverage:

Which contracts are not covered by the EO?

EO 13706 **does not** apply to:

- Contracts for the manufacturing or furnishing of materials, supplies, articles, or equipment to the Federal Government, including those subject to the Walsh-Healey Public Contracts Act (29 CFR 13.3(d));
- Contracts that are subject only to the **Davis-Bacon Related Acts** (81 FR 67613);
- Grants within the meaning of the Federal Grant and Cooperative Agreement Act. (29 CFR 13.4(a))
- Contracts and agreements with and grants to Indian Tribes under the Indian Self-Determination and Education Assistance Act (29 CFR 13.4(b));
or

Coverage:

Which employees does EO 13706 apply to?

EO 13706 covers employees (29 CFR 13.3(a)(2)):

1. Working “on” or “in connection with” a covered contract
2. Whose wages are governed by the DBA, SCA, or FLSA, including employees who qualify for an exemption from the FLSA’s minimum wage and overtime provisions.



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