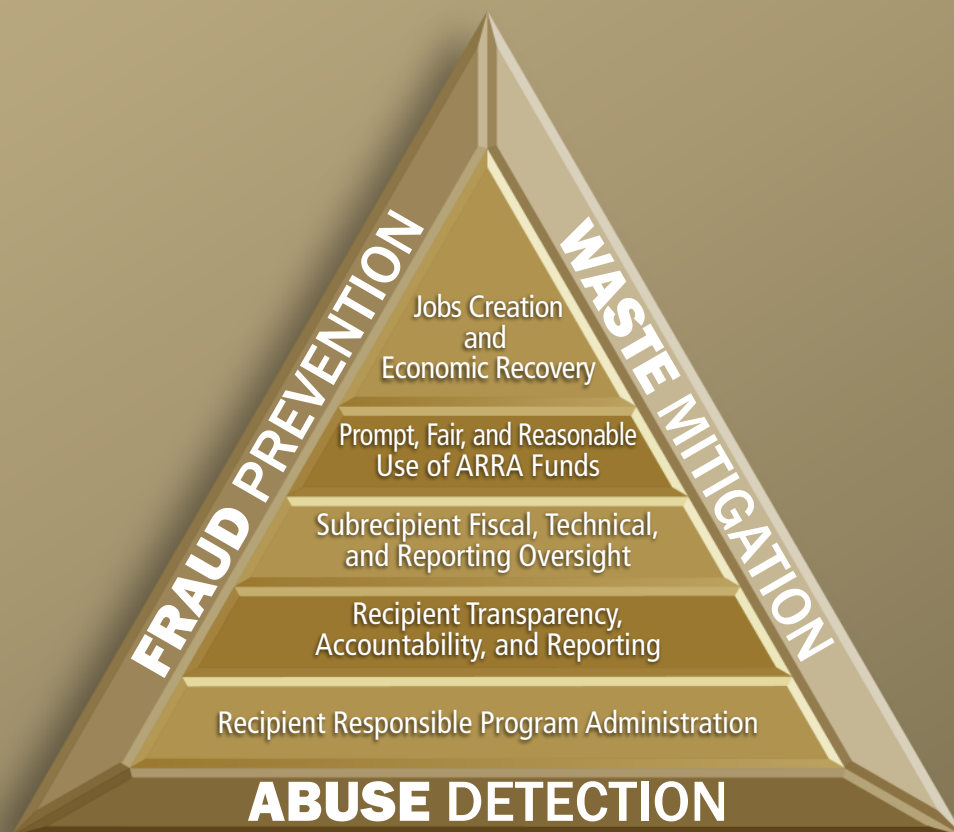


FEDERAL ECONOMIC RECOVERY PROGRAM  
AMERICAN RECOVERY AND  
REINVESTMENT ACT OF 2009  
PROGRAM SUPPORT SERVICES



**Davis-Bacon Act Prevailing Wage and  
Weekly Certified Payrolls Tool Box**



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# Davis-Bacon Act Prevailing Wage and Weekly Certified Payrolls Tool Box

## Table of Contents

### Section

#### **A. Davis-Bacon Act Overview and Flowchart**

1. What is the Davis-Bacon Act (DBA)?
2. Why does DBA apply to the Energy Commission's ARRA Funded Programs?
3. What is the role of the Commission Agreement Manager (CAM)?
4. ..What information is to be submitted to the Labor Compliance ..... Officer for evaluation?
5. .... Who would be best suited or the most knowledgeable individual to complete the required Davis Bacon Act paperwork?
6. The Relationship Between Federal and California Prevailing Wage Rates
7. Wage Determinations – how to determine they are correct?
8. Apprentices and Trainees
9. Conformance Request
10. Fringe Benefits
11. Certified Payroll
12. What happens after the Commission receives all Pertinent Prevailing Wage Information?
13. Davis-Bacon Act Resources

#### **B. Exhibits**

- A-1 EBlast - Obtaining Prevailing Wage Rate Approvals
- A-2 Summary of Requirements
- A-3 DBA FAQ List
- A-4 DBA Desk Guide
- A-5 DOL Prevailing Wage Resource Book 2009
- A-6 Sample Wage Determination – DOL
- A-7 Sample Wage Determination – DIR
- A-8 Conformance Request, Form SF-1444
- A-9 Sample Approval Email
- A-10 Form WH-347, Certified Payroll example



## **Section A**

### **Davis-Bacon Act Prevailing Wage and Weekly Certified Payrolls Tool Box Overview**



## **Davis-Bacon Act Prevailing Wage and Weekly Certified Payrolls Tool Box**

### **What is the Davis-Bacon Act (DBA)?**

The Davis–Bacon Act of 1931 is a United States federal law which established the requirement for paying prevailing wages on public works projects. All federal government construction contracts, and most contracts for federally assisted construction over \$2,000, must include provisions for paying workers on-site no less than the locally prevailing wages and benefits paid on similar projects. The Act was modified again in 1964 to include fringe benefits in the calculation of prevailing wages.

Congress has added Davis-Bacon prevailing wage provisions to approximately 60 laws known as Davis-Bacon related Acts (DBRA). These laws include the American Recovery and Reinvestment Act of 2009 (ARRA). ARRA provides that Davis-Bacon Act prevailing wage requirements broadly apply to construction projects funded with ARRA appropriations.<sup>1</sup>

### **Why does DBA apply to the Energy Commission’s ARRA Funded Programs?**

The Energy Commission (Commission) is the State Administrator of ARRA funds awarded by the United States Department of Energy (DOE). The Commission must comply with Davis-Bacon Act (DBA) and other federal prevailing wage requirements when awarding ARRA funds to its grantees, borrowers, and contractors (collectively referred to below as “recipients”). The Commission has a duty to ensure that the its ARRA fund recipients’ programs comply with all applicable DBA and other federal prevailing wage requirements (collectively referred to below as “federal prevailing wage requirements”).

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<sup>1</sup> Sec. 1606, Division A, Pub. L. No. 111-5, 123 Stat. 303.

## Davis-Bacon Act Prevailing Wage and Weekly Certified Payrolls Tool Box (Continued)



### Why does DBA apply to the Energy Commission's ARRA Funded Programs? (Continued)

Moreover, as neither ARRA nor DBA expressly preempt state prevailing wage requirements, recipients of the Energy Commission's ARRA funded programs are also subject to California prevailing wage requirements.<sup>2</sup> Thus, recipients must apply California prevailing wage rates, when higher, to all projects completed under the Energy Commission's ARRA funded programs.

Therefore, all recipients of ARRA funding under the Commission's Energy Efficiency and Conservation Block Grant (EECBG) Program for small cities and counties and the Commission's State Energy Program (SEP), including the ARRA funded Energy Conservation Assistance Act (ECAA) Loan Program, must comply with all applicable California and federal prevailing wage requirements.

Each of the Energy Commission's ARRA funded grant, loan, and contract agreements state that all ARRA funding recipients entering into subcontracts or providing subsidies for retrofit services<sup>3</sup> to complete the objectives of their agreements must submit each such subcontract and applicable prevailing wage determination(s) to their assigned Commission Agreement Manager (CAM). In addition, recipients must submit other pertinent information to the Energy Commission, including a description of the project and job duties each identified job classification will perform. The Energy Commission will review this information and, where prevailing wage rates apply, approve the recipient to begin work under such subcontracts at specified labor and benefit rates. No work under such subcontracts may begin until the Energy Commission provides this written approval.

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<sup>2</sup> In California, courts have held that because legislation providing for the payment of prevailing wages comes under the historic police powers of the state, absent a contrary intention expressed in a federal statute, the presumption is that such legislation is not superseded. *Reyes v. Van Elk, Ltd.* (Cal.App. 2 Dist. 2007) 148 Cal.App.4th 604, 616. Therefore, absent such an express statement preempting state prevailing wage requirements, whenever federally funded or assisted projects are controlled or carried out by California awarding bodies of any sort, California prevailing wage rates, when higher, must be applied. 8 C.C.R. § 16001(b). Although ARRA provides that federal prevailing wage requirements under the Davis-Bacon Act broadly apply to construction projects funded with ARRA appropriations, neither ARRA nor DBA expressly preempt state prevailing wage requirements.

<sup>3</sup> Retrofit services do not include subcontracts or subsidies for energy audits.

## **Davis-Bacon Act Prevailing Wage and Weekly Certified Payrolls Tool Box (Continued)**



### **Why does DBA apply to the Energy Commission's ARRA Funded Programs? (Continued)**

The Energy Commission's ARRA funded grant, loan, and contract agreements also state that the recipient is required to submit weekly certified payrolls for all lower tier subcontractors performing labor or mechanic work on their projects.

### **What is the role of the Commission Agreement Manager (CAM)?**

The Commission Agreement Manager<sup>4</sup> may work with you and the Energy Commission Labor Compliance Officer in obtaining pertinent and required prevailing wage information.

Representatives from McGladrey are performing a consulting project to assist the Commission in obtaining, assembling, and reviewing prevailing wage information submitted by recipients, as explained above. Thus, recipients may be contacted by a McGladrey representative with additional questions to complete this process.

The Energy Commission's review of weekly certified payrolls is being coordinated by their Payroll Review Officer. Commission Agreement Managers may be contacting you if errors are detected on the weekly certified payrolls or if certified payrolls are not submitted on a timely basis.

### **What information is to be submitted to the Labor Compliance Officer for evaluation?**

Recipients must submit the following prevailing wage information to the Energy Commission:

- DOL wage determination(s) (<http://www.wdol.gov/dba.aspx#0>) (see Exhibit A-6) in electronic format only.
- DIR wage determination(s) (<http://www.dir.ca.gov/dlsr/PWD/index.htm>) (see Exhibit A-7) in electronic format only.
- Summary of Requirements, located on the Energy Commission web page, filled out by recipient.
- City and County in which work is to be performed
- Conformance request, if applicable (see Exhibit A-8)

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<sup>4</sup> The term Commission Agreement Manager is used to broadly refer to Commission Contract Managers and Commission Project Managers.

## **Davis-Bacon Act Prevailing Wage and Weekly Certified Payrolls Tool Box (Continued)**



### **Who would be the best suited or the most knowledgeable individual to complete the required Davis Bacon Act paperwork?**

Because it is mandatory for any covered contractor or subcontractor performing work on Federally financed construction contracts to pay prevailing wages, it is recommended that someone from either the contractor or subcontractor organization assist the local jurisdiction, preferably the Project Manager, with identifying the classifications to be used from both the Department of Labor and the Department of Industrial Relations.

### **The Relationship Between Federal and California Prevailing Wage Rates**

Recipients must pay all workers performing labor or mechanic work on their projects DBA prevailing wage rates. These are the higher of either, the United States Department of Labor (DOL) or California prevailing wage rates, issued by the California Department of Industrial Relations (DIR). For example, if the DBA prevailing wage rate issued by DOL for a particular job classification in a specified county is \$38/hour and the California prevailing wage rate issued by DIR for the same job classification in the county is \$40/hour, a recipient must use the California prevailing wage rate .

### **Wage Determinations- how to determine they are correct?**

Visit the DOL and DIR websites listed above.

**DOL:** Select the *State* (California), select the *County* (where work is performed), and *Construction Type*. Construction Type is the nature of the work performed, and will fall under one of the following types; building, heavy, highway or residential. This should be discussed in the Scope of Work or agreement.

- Building: Includes construction of sheltered enclosures with walk-in access for the purpose of housing persons, machinery, equipment or supplies; all construction of such structures; the installation of utilities and of equipment, both above and below grade levels; as well as incidental grading, utilities and paving
- Heavy: Includes those projects that are not properly classified as either "building," "highway," or "residential."



## Davis-Bacon Act Prevailing Wage and Weekly Certified Payrolls Tool Box (Continued)



### Wage Determinations- how to determine they are correct? (Continued)

Visit the DOL and DIR websites listed above. (Continued)

- Highway: Includes construction, alteration or repair of roads, streets, highways, runways, taxiways, alleys, trails, paths, parking areas, and other similar projects not incidental to building or heavy construction.
- Residential: Includes the construction, alteration or repair of single-family houses, apartment buildings of no more than four stories in height.

**DIR:** California prevailing wages may be determined at the state level, the regional level (Northern vs. Southern), the county level, or at the local jurisdiction level (e.g., San Diego). Select *State*, *Northern California*, *Southern California* or *San Diego*, based on the descriptions provided on the website. If appropriate classification is not listed, then try Step(s) 4-6 on the website.

### Apprentices and Trainees

Subcontractors may use apprentices and/or trainees to perform the work. Apprentices and trainees in a program approved by a State apprenticeship agency or DOL's Office of Employment and Training may be employed on the project in accordance with the hourly wage contained in the approved program. If the DOL or the State has not approved the training program, the subcontractor must pay the apprentices and trainees the full DOL or DIR prevailing wage rate.

### Conformance Request

If the necessary job classifications do not appear in the applicable DOL or DIR wage determinations, the recipient must submit a "**Conformance Request**" to the Energy Commission to obtain approval for using the proposed job classification(s) and prevailing wage rate(s). The Energy Commission will, in turn, forward the conformance request to DOE, which will forward the request to DOL. In order to make a conformance request, the recipient must complete Department of Labor Standard Form 1444 and submit the completed form to the CAM. The CAM will forward the conformance request to The Labor Compliance Officer, who will coordinate with DOE.



## **Davis-Bacon Act Prevailing Wage and Weekly Certified Payrolls Tool Box (Continued)**



### **Fringe Benefits**

Wage determinations have both a basic hourly wage and a fringe benefit rate that must be paid to covered workers. The fringe benefit rate is usually listed as an hourly amount which must be paid for all hours worked each week, including overtime hours. The contractor can opt to pay the fringe benefits separately, but the amount must equate to the fringe benefits specified in the wage determination. Fringe benefits include contractor payments for:

- life and health insurance premiums;
- retirement contributions;
- vacation, holiday, sick, and other paid leave;
- and other bona fide benefit plans; or equivalent payments to the worker in cash.

### **Certified Payroll**

All lower-tier subcontractors performing labor or mechanic work to complete the objectives of the Energy Commission's ARRA funded agreements are required to submit weekly certified payrolls. Although optional, DOL Form WH-347 is highly recommended for the submission of weekly certified payrolls. The payroll information must include a listing of the workers on the project, including work classifications, hours worked, wage rates, benefits, overtime compensation, total wages paid, and information related to payroll deductions. The certification states that the information is correct and complete and that each laborer and mechanic has been paid not less than the DBA prevailing wage and benefit rate for the work performed that week. This information is submitted to the Energy Commission's Payroll Review Officer.

### **What happens after the Commission receives all Pertinent Prevailing Wage Information?**

Recipients provide copies of executed subcontracts, wage determinations, and other pertinent prevailing wage information (collectively referred to as the "prevailing wage consultation package") to the CAM. The CAM checks to see that the package contains appropriate classifications. The CAM then emails the package to the Labor Compliance Officer. The Labor Compliance Officer performs a cursory review to determine whether all necessary information has been included.

## **Davis-Bacon Act Prevailing Wage and Weekly Certified Payrolls Tool Box (Continued)**



### **What happens after the Commission receives all Pertinent Prevailing Wage Information? (Continued)**

If complete, she submits the prevailing wage consultation package is to McGladrey consultants to review and provide feedback to the Energy Commission as to whether identified job classifications and prevailing wage rates appear appropriate. Recipients may be contacted by representatives of McGladrey to clarify information related to their projects in this assessment.

The Energy Commission will review McGladrey's recommendations and, where prevailing wage rates apply and have been correctly identified, approve the recipient to begin work under such subcontracts at specified labor and benefit rates by email. No work under such subcontracts can begin until the Energy Commission provides this written approval.

### **Davis-Bacon Act Resources**

See information included in exhibits:

- Exhibit A-1: E-Blast previously sent by the California Energy Commission to subrecipients
- Exhibit A-2: Summary of Requirements
- Exhibit A-3: DBA FAQ List: Listing of questions related to DBA
- Exhibit A-4: DBA Desk Guide: Provides simple, non-technical guidance to help contractors and subcontractors better understand their obligations under DBA.
- Exhibit A-5: DOL Prevailing Wage Resource Book 2009
- Exhibit A-6: Sample Wage Determination from DOL
- Exhibit A-7: Sample Wage Determination from DIR
- Exhibit A-8: Conformance Request, Form SF-1444
- Exhibit A-9: Sample Approval Email
- Exhibit A-10: Form WH-347, Certified Payroll example

Energy Commission's Labor Compliance Officer (916) 653-9662.



## **Section B**

### **Exhibit A-1**

#### **EBlast Obtaining Prevailing Wage Rate Approvals**

## Obtaining Prevailing Wage Rate Approvals

As stated in the terms and conditions of your American Recovery and Reinvestment Act of 2009 (ARRA) award agreement (agreement), all ARRA funding Recipients (Recipients) entering into subcontracts or providing subsidies for retrofit services<sup>1</sup> to complete the objectives of their agreements must submit each such subcontract and applicable prevailing wage determination(s) to their assigned Commission Agreement Manager (CAM). The Energy Commission will review the information and, where prevailing wage rates apply, approve the Recipient to begin work under such subcontracts at specified labor and benefit rates. No work under such subcontracts can begin until the Energy Commission provides this written approval. In order to expedite the Energy Commission's review and approval, Recipients should submit the following information in electronic format to your CAM:

- A summary of the prevailing wage information necessary for the Energy Commission's review and approval. A summary template containing the required minimum information can be found at <http://www.energy.ca.gov/recovery/documents/index.html#wage>.
- Copies of all lower tier subcontracts for services to complete the objectives of the agreement (subcontracts).
- Copies of any terms and conditions or other documents that create and implement a rebate or subsidy for multi-family or commercial retrofits.
- The applicable federal wage determination issued by the United States Department of Labor (DOL) for the county in which the work is to be performed, which can be located at <http://www.wdol.gov/Index.aspx>.
- The applicable California wage determination issued by the California Department of Industrial Relations (DIR) for the county in which the work is to be performed, which can be located at <http://www.dir.ca.gov/dlsr/DPreWageDetermination.htm>.
- List of applicable job classifications—as issued by DOL and/or DIR—and corresponding rate(s) to be used under each subcontract. Please note that you can either provide separate labor and benefit rates for each listed classification or provide a loaded hourly rate. If you provide a loaded hourly rate, then you must indicate that fringe benefits are included in the stated amount.
- A brief description of your proposed project activities (i.e., the project description that you are providing to subcontractors commonly referred to as the Scope of Work) that indicates the county in which the work is to be performed.

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<sup>1</sup> Retrofit services do not include subcontracts or subsidies for energy audits.

- A brief description of the job duties to be performed by each individual employed under each subcontract, which includes each individual's job title and journeyman status.
- If you are using apprentices or trainees, you must provide documentation that each apprentice or trainee is registered in an approved apprenticeship<sup>2</sup> or training program.<sup>3</sup> In addition, you must include the percentage (%) of the basic hourly rate required or fringe benefits specified in the approved apprenticeship or training program in accordance with the individual's level of progression, and the allowable ratio of apprentices/trainees to journeymen specified in the approved program.
- Copies of any conformance requests that have already been submitted to DOL for proposed job classifications to be used on your project. (Please note that the proper procedure for making a conformance request is for the Recipient or their subcontractor to submit a conformance request to the Energy Commission, which will, in turn, forward the request to DOL.)

If you have any questions regarding the process outlined above, please contact the Energy Commission's DBA Contracting Officer, Michelle Tessier, at (916) 653-9662.

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<sup>2</sup> 29 C.F.R. § 5.2(n)(1) ("Apprentice means (i) a person employed and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Bureau, or (ii) a person in the first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice.").

<sup>3</sup> 29 C.F.R. § 5.2(n)(2) ("Trainee means a person registered and receiving on-the-job training in a construction occupation under a program which has been approved in advance by the U.S. Department of Labor, Employment and Training Administration, as meeting its standards for on-the-job training programs and which has been so certified by that Administration.").



## **Section B**

### **Exhibit A-2 Summary of Requirements**

## Summary of Requirements

[illegible]



***NOTE:* This Summary of Requirements is completed by the subrecipient and forwarded to the CPM accompanied by the Wage Determination support documents outlined in the EBlast.**



## **Section B**

### **Exhibit A-3 DBA FAQ List**

## ANSWERS TO QUESTIONS SUBMITTED DURING THE JUNE 10, 2010 DAVIS-BACON ACT WEBINAR

### Table of Contents

|   |    |
|---|----|
| Applying the Davis-Bacon Act downstream.....                                  | 2  |
| Building Categories (e.g. Residential vs. Commercial, # of Units, etc.) ..... | 5  |
| Contractors Who Own the Business but also Perform Labor .....                 | 7  |
| Dating of Wage Rates and Contract Signing Dates .....                         | 11 |
| Documentation of Davis-Bacon Compliance.....                                  | 14 |
| Federal vs. State/Local Prevailing Wage Rates .....                           | 22 |
| Financial Products (e.g. Loan Loss Reserve, Revolving Loan Fund, etc.) .....  | 24 |
| Form 1413 Questions .....   | 25 |
| Interviewing Contractor Employees for Davis Bacon Compliance .....            | 26 |
| Specific Job Descriptions—does Davis-Bacon apply? .....                       | 27 |
| Minimum Thresholds that Trigger Davis-Bacon .....                             | 32 |
| Projects that Span Multiple Cities and/or Locations.....                      | 33 |
| Notifying Contractors of Davis-Bacon Related Items .....                      | 34 |
| Project-Specific or Technology Specific Questions .....                       | 36 |
| Projects that are only Partially Funded with ARRA Money .....                 | 39 |
| Solar Installations.....  | 41 |
| Grantee and Contractor Classifications (e.g. vendor vs. subrecipient) .....   | 42 |
| Working with DOE .....  | 43 |

## Applying the Davis-Bacon Act downstream

- If a homeowner hires the contractor, does the contractor need to adhere to Davis Bacon Act (DBA)?

Answer: No, the DBA requirements of the Recovery Act do not apply to individual homeowners and their contractors would not need to adhere to the DBA requirements.

- I'm still a bit confused as to whether Davis Bacon applies to our City's Weatherization Program. We are providing assistance to individual homeowners for energy efficient gas furnaces, hot water tanks and/or insulation. All contracts will be between the contractor and homeowner. The City will be putting the contracts out to bid and managing the process. Contracts may be over \$2000 depending what is done. Does Davis Bacon kick in? (I was under the impression that contracts with individual housing units weren't an issue unless there were more than 8 units in the project).

Answer: The Department of Labor (DOL) has indicated the \$2,000 threshold for DBA is based upon the grant the city receives. As a result, the grant is subject to the DBA and all work under the grant is subject to the DBA, unless an exception/exemption applies to the program. The program you have described will be subject to the DBA. The city may develop a list of contractors that the individual homeowners may choose from and allow the homeowner to contact contractors from the list and have two or three bid on the energy upgrades and then choose from those bids. However, if the city puts out the work for bid and manages the process then the city and the contractors will be subject to the Davis-Bacon Act requirements. Individuals are not subject to DBA, but where the recipient or subrecipient becomes involved in the contracting process DBA will attach to the project.

- We're planning to offer rebates for residential home weatherization by home owners (most will be rental properties rather than owner inhabited). How do I determine whether DBA applies?

Answer: Regulations regarding implementation of Recovery Act Section 1606 (Davis-Bacon wage rate requirements) make clear that the requirements discussed therein – particularly the requirements applicable to recipients and subrecipients of Recovery Act funds do not apply to individuals. Therefore, given that individuals cannot be considered either recipients or subrecipients of Recovery Act funds to whom Section 1606 requirements would apply, the individual homeowner would not be subject to DBA requirements when making energy savings improvements to his own house or the houses that he rents to others. Please Note: This answer assumes the entity making the rebate to the individual has determined that the individual owns all the homes in his/her individual name and not as a business entity.

- If Grant money is used to pay incentives to homeowner does DBA apply?

Answer: The DBA requirements applicable to recipients and subrecipients of Recovery Act funds do not apply to individuals; therefore, a program that uses the Recovery Act grant funds to pay incentives to homeowners would not be subject to the DBA.

- If a City will be using some of their EECBG funds to subsidize residential energy audits, are the energy auditors subject to the DBA if the resident chooses the auditor?

Answer: The DBA applies to laborers and mechanics employed at the work site. Energy auditors, inspectors, and other personnel not performing physical or manual work at the site of the work are not covered by DBA.

- My agency is planning to subgrant a portion of its EECBG funds to a local utility that will use those funds to provide rebates to homeowners for energy improvements to their residences. Does DBA apply?

Answer: The DBA requirements applicable to recipients and subrecipients of Recovery Act funds do not apply to individuals; therefore, a program that uses the Recovery Act grant funds to provide rebates through a local utility to homeowners for energy improvements to their residences would not be subject to the DBA.

- We have a rebate program for solar and wind turbines for residential and commercial. The rebate amount is a percentage of the installed cost. Would these rebates be subject to the Davis Bacon Act?

Answer: DBA requirements would not be applicable to a rebate program for solar and wind projects for individuals. However, DBA requirements would be applicable to rebates to commercial entities because the equipment requires installation to complete the project.

- We are a government agency that is using EECBG funding to purchase the materials for energy upgrades at local not for profits. Are we required to provide DBA on the contractors that are being hired directly by the not for profits to install the materials?

Answer: Yes, the government agencies providing Recovery Act EECBG funding to assist projects are responsible for ensuring that the DBA requirements are complied with by the contractors hired by the local not-for-profit entities.

- We (a municipality) will be retrofitting and replacing streetlights for energy efficiency. Our local electric delivery provider owns the actual streetlights and poles. We will be contracting with them. They

will perform the work and provide the new lights. The contract rate they quoted us is per light and is set by our state's Public Utilities Commission. Is this still considered a "public work" and subject to DBA.

Answer: No. See answer below.

- I am concerned that our energy upgrade project may be stymied by the DBA as we are dealing with a monopoly power utility as a partner in a project to upgrade street lighting to LED efficiency. Under the project the utility is a partner in a test to ascertain if LED lights will eventually be offered for use in service by the utility. The EECBG block grant funds, which our Town is receiving as a sub recipient of our County's block grant, will solely and only be used to purchase the LED street light fixtures. The only labor activity involved is the utility installing the lights on the utility poles that they own, there is no choice as to what entity will do the installation as they own the poles. No EECBG block grant funds will be used to install the lights. The entire scope of this project is to obtain the light fixtures. We have a Partnership Agreement with the utility to install the lights, but they are not our contractor as both entities are partners in the pilot project and providing certain components of it. Does the DBA apply under these facts?

Answer: No. See Answer below.

- The City EECBG project is to retrofit and replace mercury vapor streetlights with high-pressure sodium streetlights. The streetlights/poles are owned by the local electric delivery provider. The utility will be purchasing and installing the new lights and bill us for the work. The rate they quoted us for the work is regulated by the Public Utilities Commission. Will payments to the utility by the City be subject to the Davis Bacon Act, regardless of who owns the streetlights/poles and regardless of who sets the rates?

Answer: Public utilities that are regulated by the State Utility Commission have an exemption from DBA. This exemption is available only where the public utility is using its own equipment and employees, the utility is in effect extending or upgrading its own utility system, and ownership of the equipment remains with the utility. In these examples, the municipality is essentially providing a grant to the utility to perform the work of upgrading its own utility system. The lights and poles are the property of the utility and will remain the property of the utility; as such, this work is not subject to the DBA. However, if the utility contracts out such work then the work is covered by DBA.

### Building Categories (e.g., Residential vs. Commercial, # of Units, etc.)

- I'm confused about using residential for the construction type on DOL's site to find the required wage and benefits. Our EECBG projects are not residential. I've noticed that the rates are lower for construction type residential than for construction type building.

Answer: Do not use the residential construction classification unless the building meets the definition of a residential building. For all work on buildings other than residential, the “building construction” classification must be used.

- What if it is a one story office building - do we use "residential"?

Answer: No. A one story office building is not a residential building. The residential construction category is only used for buildings meeting the definition of a residential building. For a one story office building, the proper construction classification is “building construction.”

There are four construction classification types: building, highway, residential and heavy. The following provides a brief overview of each type:

**Building Construction** includes construction of sheltered enclosures with walk-in access for the purpose of housing persons, machinery, equipment or supplies; all construction of such structures; the installation of utilities and of equipment, both above and below grade levels; as well as incidental grading, utilities and paving. Such structures need not be “habitable” to be building construction. Also, the installation of heavy machinery and/or equipment does not generally change the project’s character as a building.

**Highway Construction** includes construction, alteration or repair of roads, streets, highways, runways, taxiways, alleys, trails, paths, parking areas, and other similar projects not incidental to building or heavy construction.

**Residential Construction** includes the construction, alteration or repair of single-family houses, and multi-family apartment or condominium buildings of no more than four stories in height. This includes all incidental items such as site work, parking areas, utilities, streets, and sidewalks. For residential multi-family buildings over 4 stories in height, use the Building Construction classification.



**Heavy Construction** includes those projects that are not properly classified as either “building”, “highway”, or “residential.” Unlike these classifications, heavy construction is not a homogenous classification. Because of this catch-all nature, projects within the heavy classification may sometimes be distinguished on the basis of their particular project characteristics, and separate schedules may be issued for dredging projects, water and sewer line projects, dams, bridges, and other projects.

For additional and more detailed guidance, please refer to DOL All Agency Memorandums (AAM) 130 and 131. All Agency Memorandums may be found at: <http://www.wdol.gov/aam.aspx>.

- The recent guidance about not using the Weatherization Assistance Program wage determinations has confused me. I am administering an EECBG grant for a county. It consists of an energy audit of the County Courthouse, resulting in upgrade to the HVAC and lighting systems. I have been using the Building Davis Bacon wage decision. This is not a WAP project, but I guess it could be “weatherization type” work as mentioned below in the guidance. If I interpret the guidance literally, I should be using the Residential wage rate. I don’t feel this is right though. Can you help me out?

Answer: The guidance you referenced is applicable only when an EECBG program grant is being used for residential weatherization projects that would be identical to the weatherization activities performed under the Weatherization Assistance Program (WAP). When performing work on the county courthouse, you should use the DOL Building Construction wage decision for your county in your state.

- We’re planning to offer rebates to for residential home weatherization by home owners (most will be rental properties rather than owner inhabited). How do I determine whether DBA applies?

Answer: The Office of Management and Budget (OMB) regulations regarding implementation of ARRA Section 1606 (Davis-Bacon wage rate requirements) make clear that the requirements – particularly the requirements applicable to recipients and subrecipients of ARRA funds – do not apply to individuals. Therefore, given that individuals cannot be considered either recipients or subrecipients of ARRA funds to whom Section 1606 requirements would apply, the individual homeowner would not be subject to DBA requirements when making energy savings improvements to his own house or to other houses that he/she owns and rents to others. **Please Note: This answer assumes the entity making the loan to the individual has determined that the individual owns all the homes in his/her individual name and not as a business entity.**

- Does DB apply to second units in an owner-occupied duplex?

Answer: DBA is not applicable to individuals. In this example, the owner is an individual who owns both units of a duplex and rents out one unit. The DBA would not be applicable to the rental unit,

because the individual owner is receiving the grant, rebate, or loan to make the energy saving improvements.

- I'm still a bit confused as to whether Davis Bacon applies to our City's Weatherization Program. We are providing assistance to individual homeowners for energy efficient gas furnaces, hot water tanks and/or insulation. All contracts will be between the contractor and homeowner. The City will be putting the contracts out to bid and managing the process. Contracts may be over \$2000 depending what is done. Does Davis Bacon kick in? (I was under the impression that contracts with individual housing units weren't an issue unless there were more than 8 units in the project).

Answer: The \$2,000 threshold for DBA is based upon the grant the city receives. As a result, the grant is subject to the DBA and all work under the grant is subject to the DBA, unless an exception/exemption applies to the program.

The program you have described will be subject to the DBA, because the City is putting the contracts out to bid and managing the process. The city may develop a list of contractors that the individual homeowners may choose from and allow the homeowner to contact contractors from the list and have two or three bid on the energy equipment and upgrades, and then the individual chooses from those bids who they want to perform the work or provide the equipment. However, if the city puts out the contracts and manages the process then the city and the contractors will be subject to the Davis-Bacon Act requirements. The city could set up a voucher system where the homeowner obtains a voucher from the city and after the work is done signs the voucher over to the contractor. The contractor could then submit the voucher for payment to the city. However, based upon the information provided, it appears the city is doing the contracting rather than the individual. The DBA will be applicable to the program when the recipient or subrecipient enters into a contract to provide installation services.

The only exception/exemption from DBA for contracts with regard to individual housing units is where the individual owner is receiving the rebate, grant, or loan. If a business owns the individual housing units – even where there are less than 8 in a project – the DBA is applicable.

### **Contractors Who Own the Business but also Perform Labor**

- Does a self-employed contractor need to complete and submit DB payroll forms weekly, indicating on them that he has paid himself at least the prevailing wage? If so, what happens when the contractor is

part way through the project and realizes that he under-bid, and his policy is to not change the contracted amount. In other words, he guarantees that he will only charge \$xx for the job, no matter how long it takes him. Now he is not compliant with DB for the remainder of the project.

Please see answer below.

- If the owner of a private company is self-performing labor, on an EECBG project & public building, are they required to pay themselves prevailing wage?

Please see answer below.

- What about a small business owner who owns the business and also does the work.....Do they pay themselves based on the Davis Bacon rates?

Answer: A **business owner** who is the contractor and works with his/her employees, is not required to pay him/herself DBA wages. Bona fide owners who are exempt pursuant to Department of Labor regulations, found at 29 CFR Part 541, are not laborers and mechanics and are not subject to the DBA. DOE recommends that owners of a business who also perform construction work list themselves on the certified payroll and under the column for "Work Classification" insert the word "owner." The owner does not have to put in his/her hours or wage rate.

If the business owner is a **sole proprietor**, the contracting entity must determine that the person they are contracting with is truly a bona fide sole proprietor of a company. The contracting entity must maintain a record of the company Federal Tax ID number and a copy of the business license in the contracting file. Additionally, prior to awarding the contract, ask whether the sole proprietor plans to hire anyone to assist with the work – as those hired workers will be subject to the DBA. If the sole proprietor is not going to hire anyone, the owner is exempt from DBA and there is no requirement for certified payrolls.

Workers classified as **independent contractors or “1099 workers”** are covered by the DBA and must be paid the DBA wages and listed on the contractor’s certified payroll record. **NOTE: If the grantee/subgrantee hires an individual who is “self-employed”, but not a “sole proprietor”, the grantee/subgrantee must pay the independent contractor the DBA wages and complete the certified payroll.**

- Individuals are not subject but a corporation/partnership would be? Since both of these would be considered a legal entity?

Answer: Individuals who receive Recovery Act funding and subsequently contract for energy savings improvements are not subject to the DBA requirements. All other legal entities such as

corporations/partnerships who receive Recovery Act funding are subject to the DBA when they enter into a contract for construction.

- Did you say the 1413 goes out to all sub-recipients and sub-contractors?

**PLEASE NOTE: The requirement to complete the 1413 is not applicable to SEP and EECBG program grants.** DOE required a written assurance from the EECBG applicants that they would comply with Davis Bacon and it was included in all EECBG applications.

- When you say digital signatures are you talking about adding a digital signature in a completed pdf form of WH-347 or the electronic payroll form?

Answer: A digital signature is only available through an electronic payroll system. If you complete the WH-347 on line, it must be printed out and hand signed. Once the Wh-347 is in paper form, then it remains in paper form and the original certified payroll must be sent to the recipient of the grant.

- We are in the process of conducting workshops regarding our SEP/ARRA program's Solar Installation Grants. As you can imagine, we have received numerous questions regarding the application of DBA. We are uncertain of the answers to the following questions: (1) Primary Contractor is a solar company with two owners. Subcontractor is an electrical contractor with two owners. The only labor used on the job is the 4 owners. The owners are not considered employees. Their income level is completely dependent on the profitability of the company. As a result they might not even get a regular paycheck. Since they are not considered employees, it is our understanding that the owners are not required to pay themselves DBA wages. Is that correct? If so, must the company still generate a weekly certified payroll? (2) If a Contractor / Subcontractor does not typically provide his employees fringe benefits, will he/she be in compliance with DBA as long as the cash equivalent of the required fringe benefits is paid? See 29 CFR 5.5 - Contract provisions and related matters.

Answer:

- (1) A business may have more than one owner. When those two owners perform all the work they are not required to pay themselves DBA wages. Bona fide owners who are exempt pursuant to Department of Labor regulations, found at 29 CFR Part 541, are not laborers and mechanics and are not subject to the DBA. Where the two owners perform all the work, there is no requirement for completing the certified payrolls. NOTE: It is the responsibility of the grantee/subgrantee hiring the owners to have information in the file showing that the workers on the project are actually bona fide owners of the business. This can be shown through the Articles of Incorporation or Business Registration documents.

(2) A contractor/subcontractor is not required to offer employees fringe benefits. The fringe benefit requirement is met when the contractor/subcontractor pays the employee the required amount of fringe in cash.

- What if the individual is a farmer and is getting money to upgrade his farm and doing some of the work himself and hiring contractors for the other portion?

Answer: An individual farmer receiving Recovery Act funds to make energy efficiency upgrades to his farm is not subject to the DBA and the contractors the individual farmer hires are not subject to the DBA.

## Dating of Wage Rates and Contract Signing Dates

- You should clarify that if contracts are already in place, that the DBA wage that was applicable at that moment in time may still be used.

Answer: A contract that is currently in effect and subject to the DBA should be using the DBA wage determination that was current on the date the contract was signed.

- What contract date locks in the DOL wage determination? Is it the grantees contract with DOE, the grantees contract with the sub-grantee, or the sub-grantees contract with the contractors? Will all contracts under the grantees contract be held to the same wage or will it constantly be changing with each new job that starts?

Answer: **For SEP grants**, the DOE contracting officer has amended the grants with the States and attached a wage determination to those grants. The wage determination attached to the SEP grant with the State is to be used for all contracts and subcontracts awarded under the State's SEP grant. The wage determination should not be changing with each new job start.

**For EECBG program grants**, the date the grantee or sub-grantee contracts with a contractor will be the date that the DOL wage determination is locked in for that contract. The wage determination may change with each new project and contract start."

- If the project lasts for some 'length' of time, is the original WD in effect for the entire project length or are we obligated to update the WD on some periodic basis?

Answer: The Wage Determination (WD) attached to the contract is effective for the entire project length and there is no requirement to update the WD.

- If a new wage determination is issued while out to bid, what is the guidance for issuing an addendum to include the new wage determination? In other words what is the cut off for including a new wage determination in a bid package that is out to bid, how many days? When does the wage determination "lock in"?

Answer: See answer below.

- When it comes to Wage Decisions, a Wage Decision is placed in the Bid Document and the DOL website indicates that as long as the Contract is awarded within 90 days of Bid Opening, then the Wage Decision in the contract is valid. What I heard was that the Wage Decision in effect on the day of Contract Award was the valid one. Please advise.

Please see answer below.

- It was stated yesterday that the wage rates in effect when contracts are awarded shall be used by sub contractors. I had been told previously that the wage rates in effect 10 days prior to the bid opening are the rates that need to be used. These are the rates that I have provided to the subs at our pre-construction meetings. Please confirm. In the County's case, the bids were opened say in March, but were not awarded at a Commissioners meeting until April, and finalized contracts just went out last week.
- Answer: The DOL Regulations provide the following information at 29 CFR 1.6(c)(3):

All actions modifying a general wage determination received by the agency before contract award (or the start of construction where there is no contract award) shall be effective except as follows:

- (i) In the case of contracts entered into pursuant to competitive bidding procedures, a modification, notice of which is published less than 10 days before the opening of bids, shall be effective unless the agency finds that there is not a reasonable time still available before bid opening, to notify bidders of the modification and a report of the finding is inserted in the contract file. A copy of such report shall be made available to the Administrator [of Labor] upon request. No such report shall be required if the modification is received after bid opening.
- (ii) If under paragraph (c)(3)(i) of this section the contract has not been awarded within 90 days after bid opening, . . . any modification, notice of which is published on WDOL prior to award of the contract or the beginning of construction as appropriate, shall be effective with respect to that contract unless the head of the agency or his or her designee requests and obtains an extension of the 90-day period from the Administrator

Therefore, if a modification occurs between the 10 day point and the opening of the bids you will be required to make a determination as to whether there is reasonable time to notify the bidders of the modification so that they may adjust their bids. If a decision is made there is no time, put a report into the contract file. After the bids are opened, the wage determination in the Bid request remains in effect - providing the contract is awarded within 90 days from the date of bid opening.

- If contract was set before ruling that weatherization wages could not be used for EECBG, can weatherization rate be used?



Answer: No. The contractor/subcontractor must retroactively pay the workers the proper wages using the residential building wage determination that was effective at the time the contract was executed. During the time DOE was working with DOL to see if the Weatherization Assistance Program (WAP) Wage Determinations (WD) could be used for SEP and EECBG program weatherization projects, DOE repeatedly told grantees that DOL was continuing to hold onto its position that the WAP WDs could not be used for SEP and EECBG weatherization projects.

- We have contractors that did work within the pre-award period but finished before the award date. Does DBA apply? If so, what date of wage determination should be used and what needs to be done to conform with DBA after the fact?

Answer: The DBA is applicable to the contract. The wage determination in effect on the date the contractor(s) started construction should be used to determine the proper wage rates. The contractors must provide payroll information indicating all the information that would be required on a WH-347. Additionally, the week that the contractors make the adjustment to the wages the employees were paid, the employer must complete a certified payroll showing the adjustments to wages and indicating payment to the employees. If the contractor paid more than was required, so that adjustments are not necessary, the contractor may provide the payroll information, a statement explaining how the employees were paid and what they were paid, along with the DOL required “Certified Statement.”

- When a wage changes, regardless if it is in the middle of a project, the payroll should reflect the rates immediately. Correct?

Answer: No. Once a Wage Determination is incorporated into a contract the wage determination remains effective for the entire length of the contract even when DOL subsequently revises its general wage determinations.

## Documentation of Davis-Bacon Compliance

- Why must the state collect the original certified payrolls--don't those belong to the sub-recipient with the sub-recipient sending a copy to the State?

Answer: The certified payrolls do not belong to the subrecipient. The regulations require the contractor submit certified payrolls to the agency, because the agency is required to enforce the DBA. The DOE has delegated the receipt and maintenance of those payroll records to the State/Recipient through the Recipient Functions clause. The Recipient also has responsibility along with DOE to assure DBA compliance. The DOL has told the DOL that the Recipient must maintain the original for enforcement purposes.

- How aggressive do we need to be about "checking the math"? A lot of times the number of hours of DB work does not easily correlate to gross wages, because the workers have worked on other DB and non-DB jobs in the same week.

Answer: The primary thing is to check the math on the form and make sure there are no errors, that only legal deductions are taken, and that everything computes properly. If the employee worked DB and non-DB covered jobs, look at overtime payments. Look at the number of hours of DB covered work and the gross paid for DB work and subtract that number from the total gross wages, does it appear that the employee is being paid properly or would the amount left be low for an individual working 40 hours? If there are questions, contact the contractor for additional clarification.

- Where has requirement for semi-annual reporting been referenced? Not in DOE guidance or award letter.

Answer: All SEP and EECBG program grants provide the following in the Davis Bacon Act and Contract Work Hours and Safety Standards Act clause:

(8) Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this Contract.

Pursuant to this clause all grantees must comply with all requirements contained within 29 CFR parts 1, 3, and 5.

DOL regulations, 29 CFR 5.7(b) provides:

(b) Semi-annual enforcement reports. To assist the Secretary in fulfilling the responsibilities under Reorganization Plan No. 15 of 1950, Federal agencies shall furnish to the Administrator by April 30 and October 31 of each calendar year semi-annual reports on compliance with and enforcement of the labor standards provisions of the Davis-Bacon Act and its related acts covering the periods of October 1 through March 31 and April 1 through September 30, respectively. Such reports shall be prepared in the manner prescribed in memoranda issued to Federal agencies by the Administrator.

As a result of the requirement in 29 CFR 5.7, made applicable to grantees pursuant to the DBA clause paragraph (8), all SEP and EECBG recipients/grantees must provide the information to the DOE for incorporation into the Agency's Semi-Annual Enforcement Report.

- You mentioned the semi-annual report. Is there a template for this report?

Answer: The template for the report may be found at: <http://www.wdol.gov/aam/AAM189.pdf>. Approximately one-month prior to the date due, project officers will request the information from recipients/grantees. Please note that Recipients will not be required to report the number and amount of contracts and grants awarded during the reporting period. DOE will only request the information in items 1 and 4-10 on this template. The Project Officers will request this information from Recipients beginning approximately 30 days prior to the date due to DOE.

- Is record retention required for 3 years after the "project completion date" or the "grant period completion date"? Some of these projects will only take a few months and will not last for the duration of the grant period.

Answer: Contractors must retain the payroll records and all supporting documentation for a period of 3 years after the project completion date. Grantees must maintain DBA records pursuant to OMB Circular A-110/10 CFR 600.242. Even though the Department of Labor regulations provide the records are to be kept for 3 years from the end of the contract, the DOE grant award terms tell the grantees to follow 10 CFR 600.242 (by reference), which requires the grantee to maintain all supporting documentation for 3 years after the submission of the final cost report - usually 90 days after the end of the Grant Project Period. Since contracts/sub-grants fall within the overall Grant Agreement Project Period, the recipient would need to maintain the DBA payroll records for the potentially longer period of the Grant award and not just 3 years after the contract/subgrant ends.

- Can you explain the Form 1413 a little more? Do we need to have one of these on file for every sub-grantee AND every contractor and sub-contractor that they are using?

**PLEASE NOTE: The requirement to complete the 1413 is not applicable to SEP and EECBG program grants.** DOE required a written assurance from the EECBG applicants that they would comply with Davis Bacon and it was included in all EECBG applications.

- Contact information requested for employees of the DOL please.

Answer: For the local office nearest you, please use this website for contact information:  
<http://www.dol.gov/whd/america2.htm>

- Is documentation required if grantee and contractor determine that D-B wages do not apply to the project?

Answer: The only authorized person to make a determination as to whether DBA applies to a specific project under a Recovery Act-funded grant is the DOE Contracting Officer. The grantee and contractor are not authorized to make such a determination. For a decision as to whether DBA is applicable to a specific project, contact

- It is my understanding that Line 16 on the SF-1444 should be signed by an employee working in the Job Classification that is being requested. Is this your understanding?

Answer: Yes. If present, employees or their designated representative **must sign block 16** noting their concurrence or disagreement with the contractor's proposed wage and benefit rate. If the employee indicates disagreement with the contractor's proposal, he must provide a statement supporting a recommendation for different rates. ("Designated representative" is generally a union. It cannot be the contractor's personnel officer or other contractor representative.)

- If a contract is funded through both State and ARRA funds, does the grantee need to maintain two copies different files on prevailing wages?

Answer: You should be able to use one prevailing wage rate. In most states, but not all, the requirement is that the higher of the two prevailing wages should be used. In some states, the prevailing wage law specifically states that where there is Federal funding, then the DBA should be used. Please review your state prevailing wage law to determine whether to use the DOL or State prevailing wage determination. The DBA requirements are usually followed by the states, so the same records should suffice for both the state prevailing wage and the DOL prevailing wage requirements.

- There is a lot of information here. Much of this was not realized by us. Is your sense that other states are hiring internal people just to manage DBA requirements for EECBG and SEP? Thanks.

Answer: States have hired additional personnel to manage compliance with all the DBA requirements, including review of certified payroll records and contractor employee interviews. DBA compliance costs are allowable costs under the grants. SEP and EECBG program funding may be used for such administrative expenses. Please contact your Project Officer to determine the most appropriate way to charge such costs.

- What do we do if we are conducting labor interviews and several of the workers provide the exact same home address?

Answer: If that situation occurs, please contact the local DOL wage and hour division. To find the closest office of the DOL wage and hour division, please use this website:  
<http://www.dol.gov/whd/america2.htm>.

- Does DOE have a standard employee interview form (like the HUD-11 form)?

Answer: DOE has no standard employee interview form like the HUD-11 form and neither does the DOL. DOE has posted an example of a form on the website with these answers to the webinar questions. The form is in word format, so you may use it or change it to fit your needs. There is no requirement for a form or how the interview should be set up. When completing the employee interview, only ask the employee for the last four digits of his/her Social Security Number.

- Is the subcontractor sufficient to sign for his workers or does it have to be each person individually?

Answer: The subcontractor should sign the certification that the subcontractor paid his/her employees the wages as set forth in the form. are unable to provide an answer, because we do not understand the question.

- On the newest WH-347 block 1 no longer requires the address of the employee. Are the contractors no longer responsible to report employee's addresses?

Answer: Contractors are no longer responsible for reporting the employee's address on the certified payroll. On December 19, 2008, the DOL issued its Final Rule, 73 FR 77504, entitled, *Protecting the Privacy of Workers: Labor standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction*. This Final Rule (the Rule) revised its regulations issued pursuant to the Davis-Bacon and Related Acts and the Copeland Anti-Kickback Act to better protect the personal

privacy of laborers and mechanics employed on covered construction contracts. The effective date of the Rule was January 18, 2009, and changed the regulations at 29 C.F.R 5.5(a)(3)(i), (ii). The DOL decided that weekly certified payrolls no longer require complete social security numbers and home addresses for individual workers and that not including such information would better protect the personal information of the workers.

As a result, 29 CFR 5.5(a)(3)(ii)(A) specifically provides that the submission of the certified payroll "shall set out accurately and completely all information required to be maintained under 29 CFR 5.5(a)(3)(i), **except that full social security numbers and home addresses shall not be included on weekly transmittals.** Instead the payrolls shall only include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number)." However, the contractor must maintain a record with the full social security number and home address, should an audit become necessary, but that information is no longer to be submitted on the weekly certified payroll.

- What about projects that have already been completed (June 2009) before EECBG was awarded...do we need to go back to contractors and get information???

Answer: The DBA is only applicable to Recovery Act-funded EECBG and SEP projects. If work was completed prior to an EECBG award, the DBA is not applicable. If a contract is ongoing and the recipient adds Recovery Act-funded EECBG or SEP grant money, the DBA requirements attaches at time of the award of Recovery Act funds.

- When visiting the sites should we verify the posting of the Davis-Bacon materials on the work site? What if the work site is simply an A/C or lighting install?

Answer: When making a site visit do verify the posting of the DBA required poster and the wage determination. If it is an installation, the contractor may have the information in the company truck. If the poster is in the truck, verify the employees have seen the poster and the wage determination. Contractors may provide each employee with a copy when they begin a job and then maintain one in the company truck.

- My understanding is that the person signing the compliance form is the one who did the payroll. Is there another form to appoint the signer, Fed Form 105 or 106?

Answer: The DOL regulations require that the "Statement of Compliance" be signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the person employed under the contract. The DOL has stated that the authorized agent should be an officer or manager of the company with authority to sign on behalf of the contractor or subcontractor. This signature is the

“certification” because the person signing the report is guaranteeing that the information being reported is accurate and correct.

- So if government agency obtains a grant, then does the agency need to do anything specific for compliance with DBA requirements other than obtaining Certified Payroll from the contractors and does routine random check of the employees of contractor for compliance, etc.?

Answer: The local state government agency that receives an SEP or EECBG program grant must make sure that the Davis-Bacon Act clauses are incorporated into the contracts with the appropriate wage determination for the work that is to be performed. Once the work begins, the contractor will submit the certified payrolls to the local state agency and that agency must make sure that the wages have been paid properly. The local state agency is required to assure that all supporting documentation is submitted by the contractor for fringe benefits or for apprenticeship/trainees. Additionally, the local state agency is expected to perform some site inspections and employee interviews. If the certified payrolls contain mistakes, it is the responsibility of the local state agency to notify the contractors and have the corrections made and any back wages paid to the workers, if necessary. You can find additional information on the EECBG/SEP FAQ website:

[http://www1.eere.energy.gov/eere\\_faq/default.aspx?pid=10&spid=1](http://www1.eere.energy.gov/eere_faq/default.aspx?pid=10&spid=1).

- We have a prevailing wage ordinance, which is based on State DOL. We require all projects to comply. But, we don't collect weekly payrolls. However, with the HVAC installation issue (no building modifications, duct work), how much is 'incidental'? If some duct work, but not a lot, do we still have to collect the certified payrolls?

Answer: Recipients and subrecipients must comply with State and Federal DBA requirements. The contractor/subcontractor must complete weekly certified payrolls and submit them to the recipient/subrecipient. The recipient/subrecipient is required to collect and maintain the weekly payrolls.

Each specific contract/loan/grant must be reviewed on a case-by-case basis for a determination as to whether the installation of equipment is covered by the Davis-Bacon Act. The Davis-Bacon Act includes “altering, remodeling, installation (where appropriate) on the site of the work of items fabricated off-site.” 29 C.F.R. 5.2(j)(1)(i). Where a Recovery Act-funded grant includes funding for both the purchase of equipment and installation, and installation requires substantial amounts of construction, reconstruction, alteration, or repair work (as compared to being incidental to the purchase of equipment), the DBA would be applicable. Factors to be considered in determining whether installation requires substantial amounts of construction include the extent to which structural modifications to buildings are needed to accommodate the equipment (i.e., widening entrances,



relocating walls, or installing electrical wiring), and the cost of the installation work - either in terms of absolute amount or in relation to the cost of the equipment and the total project cost. For a definitive decision on whether the DBA would apply to the installation of the HVAC equipment, please contact the Contracting Officer or Contracting Specialist listed on the recipient's grant.

- In our weatherization program, the homeowner selects the contractor from our approved list, and submits the invoice to us when the work is done. We then pay the invoice. Do we have to collect certified payrolls?

Answer: No, you will not have to collect certified payrolls in this situation. The program is set up such that the individual homeowner contracts with the contractor to perform the work and receives the invoice from the contractor. This program is not subject to DBA, because individuals are exempt from the Recovery Act DBA requirements.

- Is it acceptable for the contractor weekly payroll to be bundled and provided to the grantee on a monthly basis?

Answer: No, it is not acceptable to bundle payrolls. A contractor bundling the weekly payrolls and forwarding on a monthly basis would be in violation of the DBA requirements. The DOL Regulations at 29 CFR § 3.4 specifically state: “(a) Each weekly statement required under § 3.3 shall be delivered by the contractor or subcontractor, within seven days after the regular payment date of the payroll period, to a representative of a Federal or State agency. . .” The DOE through contract clause has designated the Recipient of the grant as the entity to receive the original weekly payrolls.

- Where do we get form 1413? Can't find it on [www.wdol.gov](http://www.wdol.gov).

**PLEASE NOTE: The requirement to complete the 1413 is not applicable to SEP and EECBG program grants.** DOE required a written assurance from the EECBG applicants that they would comply with Davis Bacon and it was included in all EECBG applications.

- It is my understanding that Line 16 on the SF-1444 should be signed by an employee working in the Job Classification that is being requested. Is this your understanding?

Answer: If present, employees or their designated representative **must sign block 16** noting their concurrence or disagreement with the contractor's proposed wage and benefit rate. If the employee indicates disagreement with the contractor's proposal, he must provide a statement supporting a recommendation for different rates. (“Designated representative” is generally a union. It cannot be the contractor's personnel officer or other contractor representative.)

- I am concerned that what was just said about spot checks on payrolls, aren't subgrantees responsible for any infractions therefore would have to verify ALL payrolls are reviewed and found to be correct? Aren't ALL payrolls subject to audit? Also wouldn't regular, for instance monthly, onsite Labor Interview be required to provide sufficient oversight and monitoring as indicated by the requirements?

Answer: Subgrantees are responsible for assuring the contractors and subcontractors properly comply with DBA. Subgrantees should check each payroll for errors. Once checked, the original is forwarded to the recipient/grantee who should spot check the payrolls and keep available for review by the DOL and DOE. There is no requirement to perform employee interviews on a monthly basis. A decision as to how often to perform onsite labor interviews is left to the subgrantee. If the subgrantee believes there is reason to perform monthly interviews, then subgrantee should take the initiative to take such action as the subgrantee believes is needed to fully comply with DBA.

- When a wage changes, regardless if it's in the middle of a project, the payroll should reflect the rates immediately. Correct?

Answer: No, once a Wage Determination is incorporated into a contract the wage determination remains effective for the entire length of the contract even when DOL subsequently revises its general wage determinations.

- Is it a requirement to conduct employee interviews? I saw that it was mentioned in the webinar this morning.

Answer: It is a recommendation, not a requirement. The subgrantee should perform at least one onsite visit per contractor to assure that the contractor/subcontractor is properly complying with the DBA requirements.

- I have been working with the DBA for 14 years and have always been told that OT is paid after 8 hours/day. In today's morning webinar, Eva said OT kicks in after 40 hours/week. Can you get clarification?

Answer: The Department of Labor (DOL) regulations require only that overtime (OT) be paid after 40 hours in a week. State law may require payment of OT after 8 hours in a day, but DBA has no such requirement.

## Federal vs. State/Local Prevailing Wage Rates

- Does the Davis Bacon rate rule over State Prevailing Wages? What if Davis Bacon rates are less than State Prevailing Wage rates?

Answer: See below.

- You mentioned that if the state has a higher prevailing wage rate, that rate should be paid for the work performed under the EECBG. It's always been our understanding that the wage determination is based on the funding source - federal or state.

Answer: The Davis-Bacon Act prevailing wage laws do not preempt State Prevailing wage rates. The recipients/subrecipients must comply with both Federal and State laws. In most states, but not all, the requirement is that the higher of the two prevailing wages should be used. In some states, the prevailing wage law specifically states that where there is Federal funding, then the DBA should be used. Please review your state prevailing wage law to determine whether to use the DOL or State prevailing wage determination. The DBA requirements are usually followed by the states, so the same records should suffice for both the state prevailing wage and the DOL prevailing wage requirements.

- DBA vs. State Prevailing Wage - Example DBA for Millwright in Montgomery County, Ohio, Rates are \$26.95 and Fringes are \$15.39 for a total of \$42.34 while Ohio prevailing wage rate for Carpenter Millwright Rates are \$28.40 and Fringes are \$14.40 for a total of \$42.80. How do we handle this? Does DOL look at total or rates and fringes individually?

Answer: DOL will look at the total; however, Ohio is one of the states where the state prevailing wage law provides that if Federal funding is involved, then the DBA wage rates (as set by the DOL) are to be used.

- As a municipality, we pass a prevailing wage ordinance based on the State determined prevailing wages. All our contracts and specs include prevailing wage clauses. Our grant is for windows replacement and lighting upgrades in Village owned buildings. Nothing residential... will our prevailing wage requirements satisfy DBA?

Answer: The wage ordinance requirements may satisfy the DBA, but a specific answer cannot be provided without reading the municipality's wage ordinance and comparing it to the DOL regulations implementing the DBA. The recipient/subrecipient must comply with the State and Federal prevailing

wage laws. Additionally, the State/Municipality wage rate may not be used unless it is higher than the DBA wage rate set by the DOL.

- If State Prevailing Rates are higher than DBA, are there any reporting requirements?

Answer: The only reporting requirements are those required by the DBA. A statement to that fact may be included in the contract file. The DBA wage rate is a minimum that can be paid to the laborers and mechanics on the construction site, the contractor may pay more than that minimum, but not less.

- Regarding the Conformance request, if a State has a PW rate for a classification can that rate be used or do we still have to submit a conformance request to the DOE.

Answer: A conformance request must be submitted if there is no DBA wage rate for a specific classification. The State wage rate may be suggested as the correct wage rate and until the DOL responds to the conformance request, that wage rate may be used. If, however, the DOL returns the conformance request with a higher wage rate, then an adjustment must be made retroactive to the date the individuals in that classification began work on the project. Always make a comparison between the DBA and the State prevailing wage rates (unless the State prevailing wage law defers to the DBA) to make sure that DBA-covered workers are paid the appropriate wages.

- I understood the presenter to say that if the Davis-Bacon prevailing wage rate is lower than the State's prevailing wage rate for the same classification - that we should be paying the State's prevailing wage. I've worked with grants for more than 20 years and have always been advised that the prevailing wage rate is dependent upon the funding source. Federal funding requires federal prevailing wage rates; state funding requires the federal prevailing wage rates. And, if there is a combination of funding (federal and state funding) - our state has advised that the federal prevailing wage is to be used. In an effort to make sure we have no audit issues, could you provide me with some guidance for this grant?
- If you are in a state where the state prevailing wage law specifically defers to the DBA wage rates when the Davis-Bacon regulations apply to a federally funded project, then the recipient/subrecipient should use the DBA wage rates set by the Department of Labor.

### Financial Products (e.g. Loan Loss Reserve, Revolving Loan Fund, etc.)

- With individual home owners exempted from the DBA, what about businesses that receive a revolving loan for energy efficiency from the grantee?

Answer: A business that receives a revolving loan for energy efficiency improvements is subject to the DBA requirements. The business will be required to flow down the DBA requirements to its contractors/subcontractors that perform the improvement work and to forward the certified payrolls to the grantee/subgrantee.

- If the energy auditors and the retrofit contractors are independent contractors paid by the building owner and NOT ARRA funds - up front - BUT the loans are backed by an ARRA loan loss reserve fund, do DBA requirements apply to the auditors and contractors?

Answer: The DBA applies to laborers and mechanics employed at the work site. Auditors, inspectors, and other personnel not performing physical or manual work at the site of the work are not covered by DBA.

A loan loss reserve fund, where the proceeds are neither loaned nor used to “buy down” interest rates, is not subject to the DBA. The funding for the project is provided by a third party entity. Therefore, in this example the contractors paid by the business/building owner would not be subject to the DBA because the Recovery Act proceeds are not being used to fund or assist the energy savings/renewable energy project.

## Form 1413 Questions

**PLEASE NOTE: The requirement to complete the 1413 is not applicable to SEP and EECBG program grants.** DOE required a written assurance from the EECBG applicants that they would comply with Davis Bacon and it was included in all EECBG applications.

- Do contractors and subcontractors contracted to provide the work have to also sign the 1413 form?
- In the 1413 form, in the case of documenting a sub-sub contractor, which company would be the contractor? The prime or the sub?
- Getting back to the recent question on the Form 1413 - who all needs to sign the form? The State, its contractor, the subcontractor? How far down does this go?
- Can you explain the Form 1413 a little more? Do we need to have one of these on file for every sub-grantee AND every contractor and sub-contractor that they are using?

**PLEASE NOTE: The requirement to complete the 1413 is not applicable to SEP and EECBG program grants.**

- Is a 1413 form required if Davis-Bacon is not applicable such as city staff or professional services contracts?

**PLEASE NOTE: The requirement to complete the 1413 is not applicable to SEP and EECBG program grants. The form would not be required if DBA were not applicable to the contracts.**

## Interviewing Contractor Employees for Davis Bacon Compliance

- Is it a requirement to conduct employee interviews? I saw that it was mentioned in the webinar this morning.

Please see answer below.

- How many interviews should we conduct per contractor and subcontractor and with what frequency?
- Answer: Conducting employee interviews is not an absolute requirement; however, the DOL will conduct site interviews and it is important that recipients/grantees know what is going on before the DOL finds a problem. The subgrantee should perform at least one onsite visit per contractor to assure that the contractor/subcontractor is properly complying with the DBA requirements.
- What happens when several employees indicate the exact same home address when we are conducting labor interviews?

Answer: If this occurs, please contact the local DOL wage and hour office. To find the office nearest your location you may use this website: <http://www.dol.gov/whd/america2.htm>.

- Does DOE have a standard employee interview form (like the HUD-11 form)?

Please see answer below.

- Maybe I'm not looking in the right place but I have searched for an employee interview form that does not say "HUD" on it over the course of the last month or so and have not been successful. It is clear in the EECBG FAQs that use of HUD forms is not allowed. Can you provide me a copy of the acceptable form for the interviews? Or direct me to where on the DOL website I can find one? As I mentioned I have searched their site.

Answer: DOE has no standard employee interview form like the HUD-11 form and neither does the DOL. DOE has posted an example of a form on the website with these answers to the webinar questions. The form is in word format, so you may use it or change it to fit your needs. There is no requirement for a form or how the interview should be set up. When completing the employee interview, only ask the employee for the last four digits of his/her Social Security Number.

### Specific Job Descriptions—does Davis-Bacon apply?

- How is "laborer" defined, and how do we distinguish "laborers" from "non-laborer" workers?

Answer: The DOL defines “Laborer or mechanic” at 29 CFR § 5.2(m) as follows:

“The term *laborer or mechanic* includes at least those workers whose duties are manual or physical in nature (including those workers who use tools or who are performing the work of a trade), as distinguished from mental or managerial. The term *laborer or mechanic* includes apprentices, trainees, helpers, . . . The term does not apply to workers whose duties are primarily administrative, executive, or clerical, rather than manual. Persons employed in a bona fide executive, administrative, or professional capacity as defined in part 541 of this title are not deemed to be laborers or mechanics. Working foremen who devote more than 20 percent of their time during a workweek to mechanic or laborer duties, and who do not meet the criteria of part 541, are laborers and mechanics for the time so spent.”

- How do you get a wage classification if the wage determination doesn't have a particular wage classification, i.e., HVAC technician?

Answer: You must go through the conformance process using Standard Form (SF) -1444. The process is set forth on the DOL website at: [http://www.wdol.gov/db\\_confirmnce.aspx](http://www.wdol.gov/db_confirmnce.aspx).

- Does Davis-Bacon apply to the installation of HVAC that doesn't include any construction or building modifications at all?

Answer: It is possible, where there is no construction or building modifications at all, that the installation would be incidental to the purchase of the HVAC unit. However, a determination of DBA applicability must be made on a case-by-case basis by the Contracting Officer.

- We have lots of grantees doing insulation installation work in municipal buildings and schools, but there is no classification for "insulation installer" within the building construction category in any county in our state. What to do??

Answer: Initially try to find out whether there is a local practice that a particular classification – other than insulation installer – performs this type of work. If not, then you must go through the conformance process using Standard Form (SF) -1444. The process is set forth on the DOL website at: [http://www.wdol.gov/db\\_confirmnce.aspx](http://www.wdol.gov/db_confirmnce.aspx).



- Because I don't see it identified on the Wage Decision, are computer programmers who work on the site making final configurations/adjustments considered a laborers or mechanics?

Answer: Computer programmers are not laborers or mechanics and are not subject to the DBA.

- Just to clarify, DB Act only pertains to labor/mechanics on a construction/renovation work site. It does not pertain to an engineer doing design work before construction begins. Correct?

Answer: Yes, correct. Engineers performing design work whether before or during the construction are not laborers or mechanics and are not subject to the DBA.

- Does prevailing wage pertain to consultants, architects or engineers?

Answer: The DBA does not apply to energy auditors, consultants, architects, or engineers working on a project.

- Do professional and technical expertise vendors or subrecipients fall under Davis Bacon? Ex: A non-construction organization helps implement part of an ARRA funded transportation trip reduction program?

Answer: The DBA does not apply to professional and technical expertise vendors or subrecipients.

- Does DBA apply to non construction work? i.e. subcontractor is developing a plan for an energy efficiency building retrofit program (for all types of buildings – residential, commercial, etc).

- Answer: The DBA does not apply to individuals developing an energy efficiency building retrofit program.

- Does this wage apply to the auditors as well as the weatherization workers?

Answer: The DBA does not apply to energy auditors or other auditors. The DBA does apply to the weatherization workers.

- Is it true that a driver of a contractor's truck delivering equipment to a DBA jobsite is covered under DBA? What if the truck delivering equipment to jobsite is not owned by the contractor?

Answer: The DBA requirements apply to laborers and mechanics employed on the site of work. Time spent at the home office, picking up supplies, traveling to the work site, etc., are not DBA hours. A

truck driver who only delivers equipment to the work site and who spends a minimal/incidental amount of time at the site is not covered by DBA.

Material suppliers are not DBA-covered if they spend only an incidental amount of time performing work at the weatherization site.

- We have a cooling tower that we (City) purchased (with EECBG funds), but we will hire a contractor to install this piece of equipment. Installation will require a crane. Duration of work is about 15 days. Would this selected contractor be required to comply with DBA requirements? Or is this considered “incidental”?

Answer: Installation of a cooling tower would be covered by the DBA and the contractor will be required to comply with all DBA requirements.

- How does the DBA apply to labor performed by local government employees? For example, does the DBA apply if Town or City employees are doing the installation of a solar array?

Answer: Local units of government are not considered by DOL to be contractors or subcontractors, and their workers are not covered by DBA. Any contracts awarded by the local government, however, must include the DBA labor clauses and applicable wage determination(s) for the contractor’s employees.

- If our EECBG grant is for purchase of materials to replace street lights, and we use our own city employees, does Davis-Bacon apply to the city as recipient?

Answer: Local units of government are not considered by DOL to be contractors or subcontractors, and their workers are not covered by DBA. In this example, the work the employees of the Town or City perform replacing the street lights are not subject to the DBA. Any contracts awarded by the local government, however, must include the DBA labor clauses and applicable wage determination(s) for the contractor’s employees.

- If a local government funds a project from a nonprofit organization and acts as an intermediary to hire workers for the project by taking on workers as independent contractors, are these independent contractors then considered employees of the local government and hence exempt from the DBA requirements?

Answer: These independent contractors must actually be employees of the local government, not just “considered” to be employees to be exempt from the DBA. If the “independent contractors” are not

treated as and receive all the benefits of all other local government employee, then the independent contractors would not be employees of the local government and not exempt from the DBA. Contractors of the local government or the nonprofit organization are subject to the DBA.

- In our City in California, we have a Youth Build program and wanted to put the youth (ages 17-24) to work on the DOE Weatherization grant but must we pay the State's Prevailing Wage or DB/DBRA for them? (not YB-TAP) If the State and local cities are exempt from DB if they employ the students does that apply if the stream of \$ is federal? Last question... We also have another pre-apprenticeship program for adults, do the same rules apply?
- Answer: If the Youth program or the adult pre-apprenticeship program is not approved through the State of California or the Department of Labor, the Davis-Bacon wages must be paid. The California prevailing wage must be paid if the California wage is higher than the DOL prevailing wage rate. DOE cannot provide advice to you on City or State employment requirements or whether hiring the students as temporary city employees would be permissible under City or State law. Employees of the city that perform work under the grant are not subject to the DBA requirements.
- Can you address free/volunteer laborers? We've heard subgrantees will be using volunteer laborers in order to get around reporting/applying DB wages. Can you address this?
- Answer: The subgrantee is required to pay the "volunteers" the prevailing wage rate. The Department of Labor states in its Field Operations Handbook (§15e23): "There are no exceptions to Davis-Bacon coverage for volunteer labor unless an exception is specifically provided for in the particular Davis-Bacon Related Act under which the project funds are derived." The Davis-Bacon Related Act in this case is the American Recovery and Reinvestment Act of 2009 (Recovery Act) and it is silent on the subject of an exception for volunteer labor. Therefore, on Recovery Act-funded projects subject to Davis-Bacon coverage, the grantee/subgrantees must pay all workers the prevailing wage.
- I am a sub-recipient of the EECBG program in Pennsylvania. We are a 501 c 3 Non-profit performing arts center. Are there any exceptions to the DBA for Non-profits? I am assuming that if I require contracted services, such as a licensed electrician for minor installation work that his/her company would be subject to DBA. But what about internally? For example, part of my grant is paying for the purchase of energy efficient spiral fluorescent light bulbs that we will use to replace older incandescent ones. This is normal work of my maintenance staff. I don't see how DBA applies here. Does it?

Answer: There are no exceptions from DBA requirements for a 501c3 Non-profit entity. You are correct, if you contract for a licensed electrician for installation/repair work that work would be subject to the DBA. However, in the case where all the work that is required is replacement of incandescent

bulbs and that is normal maintenance work that activity would not be subject to the DBA. The DBA is not applicable to routine servicing and maintenance work.

- Do AmeriCorps volunteers need to have Davis-Bacon wages or be registered as apprentices or should they be exempt as they're government employees?

Answer: The DBA provides that it does not supersede or impair any authority otherwise granted by Federal law to provide for the establishment of specific wage rates. The authorizing statutes for the Youth Conservation Corps, 16 U.S.C. 1703(a)(3), and the Public Land Corps, 16 U.S.C. 1726, for example, specifically require the Secretaries of Interior and Agriculture to set the rates of pay or living allowances for the Corps' participants. Other youth programs, such as the American Conservation and Youth Service Corps (AmeriCorps), 42 U.S.C. 126551, and Volunteers in Service to America (VISTA), 42 U.S.C. 4955, specify in the statutory language the living allowances and other benefits that must be provided to each participant. Therefore, since these Federal youth programs have established specific compensation to be paid to participants, such participants would not be covered by Davis-Bacon labor standards.

To determine whether any other Volunteer Organizations may be exempt, a written request for a determination should be accompanied with appropriate supporting documentation and must be sent to Mr. John L. McKeon, Deputy Administrator, Wage and Hour Division, 200 Constitution Avenue, N.W., Room S-3502, Washington, D.C. 20210.

- Does DBA apply to weatherization programs using trainees as the labor? I represent a non-profit with a contract with a local city government using ARRA funds to subsidize weatherization work on residential buildings. Our employees are trainees in a weatherization training program. It doesn't make sense to pay the trainees DBA wages - they are trainees.

Answer: Under the Recovery Act, the DBA applies to laborers and mechanics employed by contractors and subcontractors at a DBA-covered construction work site. The weatherization program uses Recovery Act funds to subsidize the weatherization work on residential buildings and would be subject to DBA. Students/trainees/ apprentices in a program approved by a State apprenticeship agency or DOL's Office of Employment and Training may be employed on the project in accordance with the hourly wage contained in the approved program, expressed as a percentage of the DBA wage. If the training program is not a DOL or State approved training program, the trainees/students must be paid the full DBA prevailing wage while performing the residential weatherization activities.

## Minimum Thresholds that Trigger Davis-Bacon

- Is there a minimum threshold in project costs that would trigger DBA? For example, state awards a \$35,000 loan for small business energy retrofits. Materials/supplies account for \$33,000; installation labor is \$2,000. Does DBA apply to labor in this case?

Answer: DOL has told DOE that the \$2,000 threshold for DBA is based upon the grant the Recipient receives. As a result, the grant is subject to the DBA and all work under the grant is subject to the DBA, unless an exception/exemption applies to the program.

In the example, the installation is only \$2,000, which at that amount would be considered as incidental to the total cost of the equipment which is \$33,000. For a definitive decision on whether DBA applies to a specific project, please contact the DOE Contracting Officer or Contracting Specialist listed on the Recipient's grant.

- If we are using EECBG funds only for supplies or the labor is less than \$2,000, does Davis Bacon wage rates need to be followed for other funds used in the project for labor?

Answer: DOL has told DOE that the \$2,000 threshold for DBA is based upon the grant the Recipient receives. As a result, the grant is subject to the DBA and all work under the grant is subject to the DBA, unless an exception/exemption applies to the program. Where the labor on a project is less than \$2,000, depending upon the cost of the equipment, it is probably that the construction is only incidental to the purchase of the equipment; however, the overall funding would need to be reviewed and a decision made by the DOE Contracting Officer or Contracting Specialist listed on the Recipient's grant.

### Projects that Span Multiple Cities and/or Locations

- What if the project site is located in various locations? For example replacement for streetlight bulbs.

Answer: Where a project spans various locations, the same wage determination can be used for all locations within a specific county. When filling out the WH-347, the contractor/subcontractor would simply indicate “various locations within xxx county.” If the work location moves to another county, the contractor/subcontractor must pay the applicable wage rates for the county where the work is being performed.

## Notifying Contractors of Davis-Bacon Related Items

- I was told that 10 days prior to opening bids an addendum to all plan holders needs to be issued advising of which wage determination general decision number will apply to the project. Can you please tell me where I can find this 10 day requirement?
- Answer: The 10 day requirement applies where the wage determination incorporated in the Invitation for Bid or Request for Proposals changes between the time the competitive announcement was made and 10 days prior to the opening of the bids. The DOL Regulations provide the following information at 29 CFR 1.6(c)(3):

All actions modifying a general wage determination received by the agency before contract award (or the start of construction where there is no contract award) shall be effective except as follows:

- (iii) In the case of contracts entered into pursuant to competitive bidding procedures, a modification, notice of which is published less than 10 days before the opening of bids, shall be effective unless the agency finds that there is not a reasonable time still available before bid opening, to notify bidders of the modification and a report of the finding is inserted in the contract file. A copy of such report shall be made available to the Administrator [of Labor] upon request. No such report shall be required if the modification is received after bid opening.
- (iv) If under paragraph (c)(3)(i) of this section the contract has not been awarded within 90 days after bid opening, . . . any modification, notice of which is published on WDOL prior to award of the contract or the beginning of construction as appropriate, shall be effective with respect to that contract unless the head of the agency or his or her designee requests and obtains an extension of the 90-day period from the Administrator

Therefore, if a modification occurs between the 10 day point and the opening of the bids you will be required to make a determination as to whether there is reasonable time to notify the bidders of the modification so that they may adjust their bids. If a decision is made there is no time, put a report into the contract file. After the bids are opened, the wage determination in the Bid request remains in effect - providing the contract is awarded within 90 days from the date of bid opening.

- Does the Public Agency have to post the wage rate in the Invitation for Bid or simply list the link to the DOL? Is it the Public Agency's responsibility or the Contractors?

Answer: The Public Agency must inform the potential bidders that the work will be subject to the DBA and may either attach the wage decision in the bid documents or incorporate it by reference to the appropriate website ([www.wdol.gov](http://www.wdol.gov)).

- Did you say the 1413 goes out to all sub-recipients and sub-contractors?

**PLEASE NOTE: The requirement to complete the 1413 is not applicable to SEP and EECBG program grants.** DOE required a written assurance from the EECBG applicants that they would comply with Davis Bacon and it was included in all EECBG applications.

- When you say digital signatures are you talking about adding a digital signature in a completed pdf form of WH-347 or the electronic payroll form?

Answer: A digital signature is only available through an electronic payroll system. If you complete the WH-347 on line, it must be printed out and hand signed. Once the Wh-347 is in paper form, then it remains in paper form and the original certified payroll must be sent to the recipient of the grant.



## Project-Specific or Technology Specific Questions

- We are installing ground source heat pumps, what classification does that fall under? Heavy? Or building?

Answer: Please contact your local DOL wage and hour division for a construction classification determination. You can find your local wage and hour division at the following website:  
<http://www.dol.gov/whd/america2.htm>.

- If you are exempting homeowners from DB, what about using block grant funds for county buildings?

Answer: The Office of Management and Budget (OMB) Recovery Act implementing regulations exempt individuals from the DBA requirements. The use of a Recovery Act funded EECBG program grant for energy efficiency/energy saving improvement work on a county building is subject to the DBA.

- If your grant is being used for building a public trail how do you determine wage rate?

Answer: For assistance in determining a wage rate, please contact your nearest DOL wage and hour office. To locate the nearest DOL wage and hour office you may access this website:  
<http://www.dol.gov/whd/america2.htm>

- Does DBA apply for Energy Audits - Residential or commercial (NOT RETROFITS).

Answer: DBA is not applicable to energy auditors; therefore, energy audits are not subject to DBA.

- It mentioned that Routine Maintenance is not subject to DB. Are lighting retrofits considered to be routine maintenance?

Answer: In most cases lighting retrofits that require exchanging ballasts or fixtures would not be considered routine maintenance. An exchange of an incandescent bulb for a new energy efficient bulb would be considered routine maintenance. If you have specific questions with regard to whether your project is covered by the DBA, please contact your Contracting Officer or Contracting Specialist listed on the recipient's grant.

- We have two pre-apprenticeship green energy program one designed for Youth (Youth Build ages 17-24) and another similar program for adults. Our programs are not registered as YB-TAP or otherwise. Is there any way around paying them Davis Bacon Wages? Do we need to be certified? Or if we employ our students as City employees but pay them with federal dollars does that nullify our DBRA exemption as a state or local city?

Answer: If the Youth program or the adult pre-apprenticeship program is not approved through the State of California or the Department of Labor, the Davis-Bacon wages must be paid. The California prevailing wage must be paid if the California wage is higher than the DOL prevailing wage rate. DOE cannot provide advice to you on City or State employment requirements or whether hiring the students as temporary city employees would be permissible under City or State law. Employees of the city that perform work under the grant are not subject to the DBA requirements.

- In California, the Wage Determination for WAP on the DOE site expired 3/6/2010. Do we submit a request on form 1444 to reinstate this determination? Or do we have to pay journeyman wages to everybody on the job (none of them are registered apprentices). This is killing us because it will cut in more than half the youth we can put to work now.

Answer: The Weatherization Assistance Program (WAP) wage rates have not expired. **Please note, however, you can use those wage rates only for projects funded through the low income WAP.** The effective and expiration dates that appear on each of the revised WDs are dates established by DOL and only apply to the Dept. of Energy in the case of the project wage determinations for Weatherization. The DOE Contracting Officer (CO) is required to amend the grants by the expiration date on the Wage determination – and for that program the CO did amend California’s grant prior to the expiration date on the WD.

The DBA wage rates are the minimum rate that must be paid to DBA covered employees. If the pre-apprenticeship program is not approved through the State of California or the Department of Labor, the Davis-Bacon wages must be paid. The California prevailing wage must be paid if the California wage is higher than the DOL prevailing wage rate.

- I am an Efficiency Grant recipient, upgrading old incandescent stage lights as well as building lighting. The first part of my question involves the replacement of the stage lighting portable equipment. These arrive ready to use with no installation required. Our unionized stagehands place them as needed for each performance. I do not see where DBA applies to these units. The others need to be electrically installed. For that we are contracting a licensed electrician who will be contractually obligated to meet the DBA. Have I missed anything?

Answer: Your analysis is correct. Where equipment is purchased that needs no installation, DBA is not applicable. Where the equipment is purchased and needs to be installed, the DBA is applicable to the installation and the contractor must comply with the DBA requirements.

- I have a question about the Federal prevailing wage laws: I am working on two residential class projects in Ipswich and Hamilton, both recipients of Federal ARRA funds. Each project is a single family home that has been extensively gutted leaving the exterior shell. We are looking for a definition for the carpenter new construction and the carpenter other class, we believe that our work is classified as new construction because of the extent of new construction involved within, adjacent, or on top of the gutted building shell, are there definitions that would help us clarify our selection. For example, we completely removed 100% of the roof structure and built a new roof with new sheathing and new trusses.

Answer: Please contact the local DOL wage and hour office nearest you. To find the office nearest your location you may use this website: <http://www.dol.gov/whd/america2.htm>.

- HB is pursuing 4 activities under the pending amended assistance agreement.

1. Feasibility study, environmental reviews and design to bridging documents for large-scale municipal solar projects – 100% professional services and city in-house staff time
2. LED Streetlight retrofits – 100% in-house (city) labor
3. GIS streetlight audit – 100% in-house (city) labor
4. Energy efficiency retrofits – performance contract – subject to Davis-Bacon and HB has a plan for compliance.

In the interest of spending the money in a timely manner I have already proceeded on activities 1-3 and am finalizing the contracts on activity 4 this month.

Based on my public works contracting experience activities 1-3 are not subject to Davis-Bacon prevailing wages. Here are my rationales for the 4 activities:

1. Solar feasibility (technical services) – this is a professional services contract for engineering and architecture services and not subject to Davis-Bacon (no mechanics or laborers).
2. LED streetlight retrofits (LED streetlights) – all labor is provided by city staff and not subject to Davis-Bacon.
3. GIS streetlight audit (technical services) – all labor is provided by city staff and not subject to Davis-Bacon.
4. Energy efficiency retrofits performance contract – subject to Davis-Bacon and HB has an existing compliance plan.

However, I am requesting confirmation from DOE that my interpretation of Davis-Bacon certified payroll requirements for HB's activities is appropriate.

Answer: The Contracting Officer has confirmed that your interpretation of the DBA requirements is correct.

### Projects that are only Partially Funded with ARRA Money

- There has been some confusion as to whether a project that is only partially being funded with stimulus money is subject to Davis-Bacon if the grant money is only going to pay for equipment and not labor.

Answer: The Recovery Act provides that "all laborers and mechanics on projects funded directly by or assisted in whole or in part" with Recovery Act funding are subject to the DBA. Where the project includes the assistance of Recovery Act-funded equipment, the DBA will apply to the project. If the project is part of a larger project, the entire project is subject to DBA. This is especially true where the Recovery Act-funded work is done in conjunction with the non-Recovery Act-funded work, so that all the work is ongoing at the same time. If, however, the work can logically be segregated into two separate and distinct projects, the Recovery Act-funded grant provides equipment purchase funding for the one specific project, work is not performed together (i.e., the work using non-Recovery Act funds is completed prior to or after the Recovery Act-funded work and the work crews are not working together) and separate contracts are used for the two separate projects, the non-Recovery Act funded work would not be subject to the DBA.

- For Weatherization programs where partial funds are being subcontracted, how do we apply Davis Bacon for wage determination if the EECBG funds directed to the effort are not directly used to fund wages? In other words, we have subcontracted \$250K to a Weatherization program to enhance the Weatherization efforts. However, the funds will be used to procure materials and supplies that were otherwise limited in the state-funded program. The Weatherization program's wage rates were never part of the initial discussion.

Answer: On projects where the materials and supplies purchased through the EECBG program grant are used, the DBA will apply to those projects.

- For a non-residential project where we are able to isolate the energy grant funded portion, do DBA prevailing wages need to be paid on the entire project or just the energy grant funded portion?

Answer: If the work can logically be segregated into two separate and distinct projects, the Recovery Act-funded portion into one specific project, the work is not performed together (i.e., the work using non-Recovery Act funds is completed prior to or after the Recovery Act-funded work and the work crews are not working together), and separate contracts are used for the two separate projects, the non-Recovery Act funded work would not be subject to the DBA.

- We are doing lighting replacement for our grant and it is combined with a remodel project under one contract. Is the lighting portion only subject to Davis Bacon, or would it be the whole project because it is all in one contract?

Answer: In this case the entire project will be subject to DBA because it is all being performed under one contract.

- If my EECBG grant indicates (or is amended to indicate) that all DOE funding (other than funding for Parish salaries or other local administrative costs) will be used to purchase a product, then I believe the DBA will not apply to locally funded installation costs. Please confirm or address.

Answer: The Recovery Act provides that "all laborers and mechanics on **projects** funded directly by or **assisted in whole or in part**" with Recovery Act funding are subject to the DBA. Where the project includes the assistance of Recovery Act-funded equipment, the DBA will apply to the project. If the project is part of a larger project, the entire project is subject to DBA. This is especially true where the Recovery Act-funded work is done in conjunction with the non-Recovery Act-funded work, so that all the work is ongoing at the same time. If, however, the work can logically be segregated into two separate and distinct projects, the Recovery Act-funded grant provides equipment purchase funding for the one specific project, work is not performed together (i.e., the work using non-Recovery Act funds is completed prior to or after the Recovery Act-funded work and the work crews are not working together) and separate contracts are used for the two separate projects, the non-Recovery Act funded work would not be subject to the DBA.

## Solar Installations

- Does Solar Panel installation fall under DBA?

Answer: Yes, solar panel installation would be subject to the DBA.

- Is DOL planning on releasing wage rates for PV installers?

Answer: DOE has not received any indication from the DOL that it is planning on performing wage surveys for the new classification of PV installer. However, if this becomes a much requested classification through the SF-1444 Conformance process, it may be possible that DOL will update its current classifications to include a PV installer.

- We are having a contractor install Solar PV panels. Is there a special worker classification for Solar PV installer, or is this under the classification of Electrician?

Answer: Currently there is no special worker classification for Solar PV installer. All individuals performing this work should be paid at the most appropriate classification, possibly depending upon local code, as to qualifications for solar installation (carpenter, electrician, etc.), in accordance with the applicable residential or building construction wage determination.

### Grantee and Contractor Classifications (e.g. vendor vs. subrecipient)

- Can the speakers distinguish the difference between a vendor and subrecipient? Is a vendor also a subrecipient? The differences are very confusing. Please give us examples. Thank you!

Answer: A vendor is the entity providing a service or product associated with the project you are undertaking. An example of vendors would be Home Depot® and Lowes® and they provide products for use at the project site. On the other hand, the recipient is the entity who actually receives the Federal grant and is responsible for implementing the agreement and meeting any performance goals associated with the grant.

- In the 1413 form, in the case of documenting a sub-sub contractor, which company would be the contractor? The prime or the sub?

**PLEASE NOTE: The requirement to complete the 1413 is not applicable to SEP and EECBG program grants.** DOE required a written assurance from the EECBG applicants that they would comply with Davis Bacon and it was included in all EECBG applications.

## Working with DOE

- How do we determine who our DOE Contract Officer is?

Answer: Your assigned DOE Project Officer can tell you. Please contact your Project Officer directly or through your grantee.

- You have used a lot of acronyms - can you define these: SEP, WAP, EERE, etc.

Answer: SEP is the DOE State Energy Program; WAP is the DOE Weatherization Assistance Program; EERE is the DOE Office of Energy Efficiency and Renewable Energy; DBA is the Davis-Bacon Act. For additional information, please visit the DOE web site at:  
<http://www1.eere.energy.gov/wip/index.html>

- Who should determine the laborers needed for a project?

Answer: The most appropriate person to make such a determination is the contractor/subcontractor. It is possible that the project planner or project manager could assist with such a determination.

- Please repeat where we can see the payroll seminar.

Answer: Please visit the DOE web link at: [http://www1.eere.energy.gov/wip/davis-bacon\\_act.html](http://www1.eere.energy.gov/wip/davis-bacon_act.html)

- Can teaching contractors how to do proper payrolls and providing technical assistance on how to comply with all of this be considered EECBG Program Costs?

Answer: Yes, this is an allowable cost under all OWIP Programs, WAP, SEP and EECBG. Please contact your respective Project Officer to determine the most appropriate category to charge these cost.

- On the Q&A, can you start putting a date so that we can go on daily and just look up the new Q&A's?

Answer: We will work with our IT personnel to determine the best method of tracking these questions by the date they were answered and posted.

- How can grantees get a hold of more updated "prevailing wage reports" to include in our contractor agreements? I just have the original report included in my grant agreement (from 9/09) and have heard that we are required to use the most recent versions.

Answer: Please go to the DOL website at: [www.wdol.gov](http://www.wdol.gov) to obtain the most recent prevailing wage determination for your state and county.



- Where can grantees find SEP and EECBG terms and conditions to include in solicitations?

Answer: The approved labor standards clauses are located on the DOE web site at:  
[http://www1.eere.energy.gov/wip/davis-bacon\\_act.html](http://www1.eere.energy.gov/wip/davis-bacon_act.html)

- Where will the contractor guide to the DBA be posted? OGC or DOE website?

Answer: The guide is completed and posted at: [http://www1.eere.energy.gov/wip/davis-bacon\\_act.html](http://www1.eere.energy.gov/wip/davis-bacon_act.html)

- Do you have standard language for the labor standards clauses that we can include in our agreements with subgrantees?

Answer: The approved labor standards clauses are located on the DOE web site at:  
[http://www1.eere.energy.gov/wip/davis-bacon\\_act.html](http://www1.eere.energy.gov/wip/davis-bacon_act.html)

- Do you have a sample of a solicitation document and contract for a Design Build project and how it all works with Davis-Bacon?

Answer: Please check with your DOE Project Officer, Contracting Specialist, or Contracting Officer.

- Are there standard contractor rates that we can refer to as a reference when comparing bid submissions from contractors? This would be helpful for organizations that have never been involved in bidding out EECBG residential retrofit projects.

Answer: DOE has no standard contractor rates. The organization should start with the required DBA wage rates as the minimum rates.



## **Section B**

### **Exhibit A-4 DBA Desk Guide**



## **A DESK GUIDE TO THE DAVIS-BACON ACT**

### **Prevailing Wage Requirements for Contractors on Federal Contracts and DBA-Covered Federally Financed or Assisted Construction Projects**

#### **Introduction.**

The U. S. Department of Energy (DOE) has prepared this Desk Guide for the use of contractors and subcontractors performing work on construction projects under a federal contract, or under a statute authorizing federal financial assistance, that requires the application of Davis-Bacon Act (DBA or the Act) prevailing wage requirements. This Desk Guide may also be used by grantees, subgrantees, and federal personnel to administer their respective roles and functions with respect to the DBA.

The objective of this Desk Guide is to provide simple, non-technical guidance to help contractors and subcontractors better understand their obligations under DBA. This objective supports DOE's policy that proper and consistent implementation of contract labor standards, along with full and open compliance by contractors, promotes good business and effective contracting in terms of price, quality of work, speed of delivery, customer satisfaction, and project success.

*The guidance provided in this document does not constitute legal advice or substitute for full and careful review of the contract or agreement requiring application of DBA provisions, and compliance with all applicable statutes and regulations.* Questions pertaining to

the labor standards, including wage determinations, applicable to specific projects, contracts, or agreements must be addressed to the designated DOE contracting officer. Questions pertaining to the general application of DBA and other labor standards compliance issues may be referred to the Department of Labor's (DOL's) nearest regional office. In addition, the answers to many questions may be found on various DOE websites listed in Appendix A. This Desk Guide does not address contractor obligations under any state prevailing wage laws. Questions pertaining to the application of, or compliance with, various state labor laws should be addressed to the cognizant agency within each state.

**The Desk Guide will be updated as further guidance is received from the Department of Labor, or as circumstances change.**



# A DESK GUIDE TO THE DAVIS-BACON ACT

## TABLE OF CONTENTS

| <u>Section</u>   | <u>Title</u>  | <u>Page</u> |
|------------------|---|-------------|
|                  | <b>Introduction</b>   | 1           |
| <b>Chapter 1</b> | <b>Statutes, Regulations, Contract Clauses, Responsibilities</b>  | 7           |
| Sec. 1-1         | Labor Statutes Applicable to Federal Contractors  | 7           |
| a.               | Davis-Bacon Act   | 7           |
| b.               | Davis-Bacon and Related Acts  | 8           |
| c.               | Copeland Act  | 8           |
| d.               | Fair Labor Standards Act  | 9           |
| e.               | Contract Work Hours and Safety Standards Act  | 9           |
| Sec. 1-2         | Related Federal Regulations   | 9           |
| a.               | Procedures for Predetermination of Wage Rates<br>(29 CFR Part 1)  | 9           |
| b.               | Contractors and Subcontracts on Public Building or Public<br>Work Financed in Whole or in Part by Loans or Grants from<br>the United States (29 CFR Part 3) | 10          |
| c.               | Labor Standards Provisions Applicable to Contracts Covering<br>Federally Financed and Assisted Construction (29 CFR Part<br>5)                              | 10          |
| d.               | U. S. Department of Energy Regulations  | 10          |
| Sec. 1-3         | Responsibilities  | 10          |
| a.               | Federal Contracting Agency  | 10          |
| b.               | Prime Contractor  | 11          |
| c.               | U. S. Department of Labor   | 12          |

|                  |  |           |
|------------------|--|-----------|
| <b>Chapter 2</b> | <b>DBA Wage Determinations</b>                             | <b>13</b> |
| Sec. 2-1         | DBA Wage Determinations                                    | 13        |
| Sec. 2-2         | General Wage Determinations                                | 13        |
| Sec. 2-3         | Project Wage Determinations                                | 14        |
| Sec. 2-4         | Timely Application of DBA Wage Determinations              | 14        |
| Sec. 2-5         | Posting DBA Wage Determinations                            | 15        |
| <b>Chapter 3</b> | <b>Contractor Compliance with Contract Labor Standards</b> | <b>15</b> |
| Sec. 3-1         | Worker Classifications under DBA Wage Determinations       | 15        |
| a.               | Construction   | 15        |
| b.               | Site of the Work   | 15        |
| c.               | Laborers and Mechanics                                     | 16        |
| (1)              | Guards and Watchmen  |           |
| (2)              | Apprentices and Trainees                                   |           |
| (3)              | Helpers  |           |
| (4)              | Working Foremen  |           |
| (5)              | Suppliers  |           |
| (6)              | Self-Employed Subcontractors                               |           |
| (7)              | Owner/Operators of Construction Equipment                  |           |
| (8)              | Volunteers   |           |
| d.               | Area Practice and Worker Classifications                   | 20        |
| e.               | Unlisted or Additional Classifications                     | 21        |
| (1)              | SF-1444 Form   |           |
| (2)              | Employee Signature   |           |
| (3)              | Submitting SF-1444 Requests                                |           |
| (4)              | Tips for Obtaining DOL's Approval                          |           |
| (5)              | DOL Response to SF-1444 Request                            |           |
| (6)              | Questions Referred to DOL                                  |           |
| Sec. 3-2         | Payment of DBA Wages and Benefits                          | 23        |
| a.               | Weekly Payrolls  | 23        |
| b.               | Recordkeeping and Timecards                                | 23        |
| c.               | Basic Hourly Wage and Benefit Rates                        | 24        |
| d.               | Workers Performing at Two or More Classifications          | 25        |

|                  |  |    |
|------------------|--|----|
| e.               | Payment of Piecework Rates, Salaries, or Other-Than Hourly Rates | 25 |
| f.               | Payment of DBA Fringe Benefits                                   | 27 |
| Sec. 3-3         | Overtime Compensation  | 27 |
| a.               | Fair Labor Standards Act Overtime                                | 27 |
| b.               | Contract Work Hours and Safety Standards Act                     | 28 |
| c.               | Regular Rate of Pay for Overtime Computation                     | 28 |
| d.               | DOL Regulations on Overtime                                      | 30 |
| Sec. 3-4         | Payroll Deductions   | 30 |
| <b>Chapter 4</b> | <b>DBA Certified Payrolls</b>                                    | 30 |
| Sec. 4-1         | Wage and Fringe Benefit Reporting Requirements                   | 31 |
| a.               | Weekly Basis of Pay  | 31 |
| b.               | General Payroll Reporting Requirements                           | 31 |
| c.               | Statement of Compliance  | 31 |
| d.               | Due Date for Certified Payrolls                                  | 32 |
| e.               | Prime Contractor's Responsibilities for Subcontractor Reporting  | 31 |
| f.               | DOL Form WH-347 "Payroll"  | 32 |
| g.               | General Payroll Reporting Forms                                  | 32 |
| Sec. 4-2         | Completing Certified Payroll Form WH-347                         | 32 |
| Sec. 4-3         | Reporting Fringe Benefit Payments on Form WH-347                 | 37 |
| Sec. 4-4         | Statement of Compliance (Certification of Payroll)               | 38 |
| Sec. 4-5         | "No Work" Payrolls   | 38 |
| Sec. 4-6         | Retaining Payroll Records  | 39 |
| <b>Chapter 5</b> | <b>Payroll Reviews and Corrections</b>                           | 39 |
| Sec. 5-1         | Compliance Reviews   | 39 |
| a.               | General – Federal Contracting Agency Responsibilities            | 39 |
| b.               | Worker Interviews  | 39 |
| c.               | Project Payroll Reviews  | 40 |
| d.               | Common DBA/CWHSSA Payroll Errors and Corrections                 | 40 |

|          |   |    |
|----------|---|----|
| Sec. 5-2 | Violations and Restitution of Underpayment of Wages                       | 42 |
| a.       | General   | 42 |
| b.       | Simple Reporting Errors and Corrections                                   | 42 |
| c.       | Corrected Payrolls  | 43 |
| d.       | Unlocated Workers Due Back Wages  | 43 |
| Sec. 5-3 | Labor Standards Disputes and Sanctions for Violations of DBA Requirements | 43 |
| a.       | Labor Standards Disputes  | 43 |
| b.       | Withholding   | 44 |
| c.       | Debarment   | 44 |
| d.       | Falsification of Certified Payroll Reports                                | 44 |
|          | <b>Web Links for Additional Davis-Bacon Act Information</b>               | 46 |





## **A DESK GUIDE TO THE DAVIS-BACON ACT**

### **Prevailing Wage Requirements for Contractors on Federal Contracts and DBA-Covered Federally Financed or Assisted Construction Projects**

#### **Chapter 1 Statutes, Regulations, Contract Clauses, Responsibilities.**

##### **Section 1-1 Labor Statutes Applicable to Federal Contractors.**

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

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

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

b. Davis-Bacon and Related Acts (DBRA).

(1) The Davis-Bacon “Related Acts” are numerous statutes that authorize federal assistance such as contributions, grants, loans, insurance, or guarantees for various programs involving construction, alteration and/or repair of hospitals, housing, sewage and water treatment plants, highways, airports, and similar structures. A DBRA will often include language further defining work that must be covered by the DBA prevailing wage requirements. The American Recovery and Reinvestment Act (Public Law 111-5 February 17, 2009) (Recovery Act) is an example of a DBRA statute. The Recovery Act states, “Notwithstanding any other provision of law and in a manner consistent with other provisions in this Act, all laborers and mechanics employed by contractors and subcontractors on projects funded directly by or assisted in whole or in part by and through the Federal Government pursuant to this Act shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor....” In order to implement this Recovery Act requirement, the federal agency awarding the contract or providing the funding assistance must first make the determination that DBA applies to the project under the Recovery Act, and must then ensure that DBA clauses and wage determinations are made applicable to the performance of the work.

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

c. The Copeland “Anti-Kickback” Act (40 U.S.C. 3145 and 18 U.S.C. 874) (Copeland Act). The Copeland Act makes it unlawful to induce any person working on a federal contract or on a

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

d. The Fair Labor Standards Act of 1938 (29 U.S.C. 201 *et seq*) (FLSA). FLSA covers most workers employed throughout the United States, including non-exempt workers employed on federal contracts. FLSA requires employers to pay their workers no less than the federal minimum wage (\$7.25/hour as of July 24, 2009), and to pay overtime compensation for hours worked in excess of 40 per week. (See Section 3-3 in this Desk Guide for guidance on overtime requirements.) FLSA also restricts the employment of children less than 18 years of age.

e. The Contract Work Hours and Safety Standards Act (40 U.S.C. 3701 *et seq*) (CWHSSA). CWHSSA applies to certain federal contracts (including contracts for services, construction, or supply) that are in excess of \$100,000 and which may require or involve the employment of laborers or mechanics upon a public work. CWHSSA also applies to federally financed and assisted contracts in excess of \$100,000, where a federal law provides wage standards for the work. CWHSSA does not apply to such contracts where the federal assistance is solely in the nature of a loan guarantee or insurance. CWHSSA requires covered contractors to pay overtime compensation to laborers and mechanics (including watchmen and guards). Similar to the provisions in FLSA, CWHSSA requires overtime compensation to be paid at no less than one and one-half times the worker’s basic hourly rate of pay for hours worked in excess of 40 per week. Failure to comply with the overtime requirements under CWHSSA can result in the contracting agency assessing the contractor liquidated damages computed at \$10/day per violation. CWHSSA also requires covered contractors to ensure that their workers are performing in a safe environment.

## **Section 1-2 Related Federal Regulations.**

- a. “Procedures for Predetermination of Wage Rates” (29 CFR Part 1). DOL regulations that govern the determination of prevailing wage and benefit rates under DBA, the publication of DBA wage determinations, and the procedures for obtaining and using timely DBA wage determinations.
  
- b. “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States” (29 CFR Part 3). DOL regulations that govern the application and enforcement of DBA, DBRA, and the Copeland Act, and detail the requirements under the Copeland Act for weekly payrolls, statements of compliance, and restrictions on payroll deductions.
  
- c. “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (Also Labor Standards Provisions Applicable to Nonconstruction Contracts Subject to the Contract Work Hours and Safety Standards Act)” (29 CFR Part 5). DOL regulations governing the responsibilities of federal agencies to administer and enforce the provisions of DBA and DBRA, including applicable contract provisions and definitions of terms such as construction, public buildings and public works, site of work, laborers and mechanics, apprentices and trainees, wages, and bona fide benefits. These regulations outline federal agency responsibilities and procedures for enforcement of DBA and CWHSSA provisions and procedures for resolving disputes concerning payment of wages.
  
- d. U. S. Department of Energy Regulations. Regulations concerning DBA provisions that are specific to contractors who are party to a direct contract with DOE may be found at 48 CFR Part 970-2204-1-1.

## Section 1-3 Responsibilities.

### a. Federal Contracting Agency.

(1) As the federal contracting agency directly awarding a contract or providing federal funding assistance for a construction project, **DOE must determine whether DBA or DBRA applies** to a project and, if applicable, to ensure that the appropriate DBA clauses and wage determination(s) are incorporated into the requirements of the project. These standard DBA clauses may be found at 29 CFR 5.5. Clauses modified with DOL approval for DOE-specific programs may be found as follows:

(a) Weatherization Assistance Program –

[http://www2.eere.energy.gov/wip/pdfs/dba\\_clauses\\_weatherization.pdf](http://www2.eere.energy.gov/wip/pdfs/dba_clauses_weatherization.pdf)

(b) Non-Weatherization Assistance Program (these clauses do not apply to direct federal contracts, loans under the Advanced Technologies Vehicles Manufacturing Program, or Title XVII loan guarantee programs) –

[http://www1.eere.energy.gov/wip/pdfs/dba\\_clauses\\_non\\_wap.pdf](http://www1.eere.energy.gov/wip/pdfs/dba_clauses_non_wap.pdf)

(2) As the contracting agency, DOE has **primary responsibility for the enforcement of construction labor standards** for the contracts, financial assistance, and other agreements it awards. The person designated as the contracting officer, as defined in 29 CFR 5.2, is responsible for ensuring that contractors and subcontractors submit timely certified payrolls consistent with contract terms, and for monitoring labor standards compliance by reviewing pay records and conducting worker interviews. (See Section 5-1 of this Desk Guide concerning Compliance Reviews.) DBA- and DBRA-covered contracts resulting from grants, cooperative agreements, technology investment agreements, loans, or loan guarantees, will specifically identify the responsibilities of recipients, subrecipients, local agencies, guaranteed parties, and contractors to administer and enforce the provisions of DBA, including reporting and recordkeeping requirements; obtaining, maintaining, monitoring, and reviewing payrolls; and assisting DOE in its DBA enforcement responsibilities.

**b. Prime Contractor.**

(1) The **prime contractor** (often referred to as the **principal** or **general** contractor) is responsible for applying the appropriate DBA and CWHSSA labor standards and DBA wage determinations to all subcontracts for work performed by laborers and mechanics on the site of the work for the project. The prime contractor is also responsible for the labor standards compliance of all contractors on the project, including subcontractors at any level. DOE, as the contracting agency, may withhold on its own action, and shall withhold upon written request of DOL, sufficient monies from accrued payments or advances due the prime contractor as may be necessary to cover any underpayment of wages, fringe benefits, or overtime compensation resulting from violations of DBA and CWHSSA provisions. (Reference 29 CFR 5.5.) Financial assistance recipients must ensure contractor and subcontractor compliance with DBA and CWHSSA provisions as set forth in the applicable financial assistance agreement, and may also withhold sufficient monies from accrued payments or advances as may be necessary to cover any underpayment of wages, fringe benefits, or overtime compensation due as a result of DBA or CWHSSA violations.

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

(3) Many contracts and financial assistance agreements will require the prime contractor to report all subcontracts awarded by the prime contractor. The prime contractor must submit to the contracting officer a completed SF-1413 Statement and Acknowledgment for each subcontract on covered projects within 14 days of the subcontract award. The prime contractor must execute a statement on this form that it has inserted all appropriate labor requirements into its subcontracts, and must include a statement signed by the subcontractor acknowledging that the appropriate clauses have been included in its subcontract. A copy of SF-1413 is included in

the Appendices of this Desk Guide, and is also available at [http://contacts.gsa.gov/webforms.nsf/0/70B4872D16EE95A785256A26004F7EA8/\\$file/SF%201413.pdf](http://contacts.gsa.gov/webforms.nsf/0/70B4872D16EE95A785256A26004F7EA8/$file/SF%201413.pdf).

c. **U. S. Department of Labor. DOL** has authority under Reorganization Plan No. 14 of 1950 to issue regulations, interpretations and opinions, and prevailing wage determinations under DBA/DBRA. DOL will also conduct investigations and take further steps to enforce the provisions of DBA/DBRA such as withholding of contract funds and conducting hearings to consider debarment of contractors found to be in violation. (See Section 5-3 of this Desk Guide concerning the penalties for violation of contract labor standards.)

## **Chapter 2     DBA Wage Determinations.**

**Section 2-1     DBA Wage Determinations.** As noted above, when a federal contracting agency such as DOE determines that DBA/DBRA are applicable to a construction project, the agency is responsible for ensuring that DBA clauses are incorporated into the contract, along with the applicable **DBA wage determination(s)**. DBA wage determinations are issued by DOL and reflect the wages and benefits found to be prevailing for various classifications of workers in the locality (usually a county or group of counties) covered by each wage determination. Contracting agencies access DOL-published **general wage determinations** on [www.wdol.gov](http://www.wdol.gov) and select the appropriate DBA general wage determination for each contract action. The contract or agreement for a covered project will contain clauses that direct the prime contractor and all subcontractors to comply with specific wage determination(s). **Any questions concerning which DBA wage determination is applicable to specific work must be addressed to the DOE contracting officer.**

**NOTE:** As more fully described below in Section 3-1, a DBA wage determination is selected based upon the location where the work will be performed (“site of the work”) and the nature of the construction project. If a project involves work at multiple sites, each with a different DBA wage determination, the contracting officer must insert the DBA wage determination appropriate for each locality. If work is to be performed in a locality not

previously identified, the contracting officer must modify the contract and incorporate the DBA wage determination appropriate for that locality.

## **Section 2-2    General Wage Determinations.**

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

**NOTE: Guidance** on the appropriate use of wage determinations in each schedule is noted in DOL’s “All Agency Memoranda #130 and #131” found on the WDOL.gov “Library” at <http://www.wdol.gov/aam.aspx>.

**b. Projects Involving Multiple Types of Construction.** When a project requires different types of construction, *e.g.*, building construction and highway construction, DOE, as the contracting agency, must incorporate the DBA wage determination for each schedule or type of construction if the separate type of construction comprises at least 20% of the total project cost, and/or costs \$1 million or more. If the separate type of construction comprises work that is only incidental to the total project (*i.e.*, less than 20% and costs less than \$1 million), the separate schedule will not be necessary.

**Section 2-3    Project Wage Determinations.** If the database for DBA general wage determinations does not contain an appropriate DBA wage determination schedule for the particular type of construction to be performed in a specific locality, the contracting agency,



must submit a request to DOL (on **SF-308**, “Request for Wage Determination”) for a **project-specific wage determination**. If virtually all of the work on a contract will be performed by a classification that is not listed on a general wage determination that would otherwise apply, the contracting agency may submit a SF-308 request to DOL for a project-specific wage determination, or may attach the applicable wage determination to the contract and require the contractor to submit to DOL an SF-1444 “Request for Authorization of Additional Classification and Rate” for the missing classification. See Section 3-1 e, of this Desk Guide on “conformances.” DOL will issue a wage determination applicable only for that specific project. Project wage determinations are effective for 180 days from date of issuance, and, if not incorporated into an awarded contract prior to expiration, the contracting agency must request a new project wage determination. DOL has issued project wage determinations uniquely applicable to work performed under DOE’s Weatherization Assistance Program which is funded under the Recovery Act and covered by DBA. As with the application of DBA general wage determinations, it is DOE’s responsibility as the contracting agency to determine the need for and to request a project wage determination from DOL, and to incorporate it into the project’s requirements.

**Section 2-4 Timely Application of DBA Wage Determinations.** The timely applicability of a DBA wage determination, and any modification issued by DOL for that wage determination, to any particular contract action is addressed in 29 CFR 1.6. It is the responsibility of DOE, as the contracting agency, to ensure that the most current DBA wage determinations are applied in accordance with these requirements. Generally, a DBA wage determination selected for a particular construction project is effective for the life of the project unless there is a substantial change in the scope of work. If, however, the contract contains options to extend the term of the contract, the contracting officer must incorporate the most current DBA wage determination in effect on the exercise of that option.

**Section 2-5 Posting DBA Wage Determinations.** It is the **responsibility of the prime contractor** to post all applicable DBA wage determinations on the job site in a prominent and accessible location, or to otherwise notify each worker employed on the job site of the wage and

benefits due under DBA. DOL Form WH-1321, “Notice to All Employees,” is available at <http://www.dol.gov/whd/programs/dbra/wh1321.htm>.

## **Chapter 3 Contractor Compliance with Contract Labor Standards.**

### **Section 3-1 Worker Classifications under DBA Wage Determinations.**

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

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

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

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

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

(a) Under DBA, a **contractor must pay no less than the full wages and benefits of a journeyman**, as listed on the applicable wage determination, **to any worker who is not registered** in an approved program, **or to any worker for whom the contractor has no documentation** evidencing the worker's enrollment in an approved program. Contractors and subcontractors are responsible for obtaining proper documentation to support designating a worker as an apprentice or trainee.

(b) The wage rates listed in an apprenticeship and training program are generally expressed as a **percentage of the journeyman wage rate** for a specific period of time, increasing as the worker progresses through the program (example: 0-6 months 65%; 6 months to 1 year 70%). Apprenticeship programs also **restrict the ratio of apprentices to journeymen** working on a job site in a specific classification. Example: An approved program permits no more than three apprentice plumbers for each journeyman plumber working on the job site. If a contractor or subcontractor employs apprentices in excess of the ratio, all apprentices employed in excess of the ratio are not considered apprentices and are subject to the full journeyman wage requirements. As a practical enforcement policy, DOL will consider the first three apprentices (in

this example) employed within the ratio, and workers that are employed subsequent to reaching the ratio will be due back wages to bring them to the DBA-required wage rate. (Reference DOL's *Field Operations Handbook*, Chapter 15, 15e01, at [www.wdol.gov](http://www.wdol.gov), "Library.")

(3) **Helpers.** "Helpers" under DBA are permitted only if the helper classification is listed on the contract's DBA wage determination. The duties of a helper are clearly defined by area practice within the locality, and are distinct from the duties of any other classification on the wage determination. If the classification of helper is not listed on the wage determination applicable to the work, the contractor must obtain approval from DOL for the use of that classification through the conformance process described in Section 3-1e of this Desk Guide on "Unlisted or Additional Classifications." A conformance request for a helper rate will only be approved by DOL if the contractor submitting the request includes information showing that helpers are a separate and distinct classification from other classifications on the wage determination, and that use of helpers is a prevailing practice in the specific construction industry in the locality.

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

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

(6) **Self-Employed Subcontractors.** The statutory language of DBA requires that all laborers and mechanics employed directly on the site of the work be paid no less than the predetermined wages “**regardless of any contractual relationship which may be alleged to exist between the contractor or subcontractor and such laborers and mechanics.**” (Reference 40 U.S.C. 3142(c)(1).) Under DBA, the term “employed” is not necessarily limited to “employee” and, therefore, may encompass certain independent contractors or workers. Self-employed “independent contractors” (often referred to as “1099 workers”) who perform as laborers or mechanics on a covered project are subject to DBA. The prime contractor must ensure that the “independent contractor” receives no less than the applicable DBA wage rate for the hours worked on the site of the work, and must ensure that such worker is reported on the certified payroll each week. However, an exception may apply to bona fide business owners – defined as any employee who owns at least 20% equity interest in the enterprise and who is actively engaged in its management – may be considered exempt under 29 CFR 541 even though they are themselves performing the work of a laborer or mechanic on the covered project. DBA would, therefore, not apply to these workers. Prime contractors are cautioned to consider use of this exemption carefully, and to seek advice from the nearest DOL Wage and Hour regional office (listed at <http://www.dol.gov/whd/whdkey.htm>) if they have questions. (See subparagraph 1-3b.(3) of this Desk Guide on the requirement to report subcontractors.)

(7) **Owner/Operators of Construction Equipment.** Except as noted below, owner-operators of equipment employed on the site of the work by covered construction contractors or subcontractors must be recognized as DBA-covered laborers or mechanics and must be paid in accordance with the applicable DBA wage determination for the hours worked on the job site.

(a) The exception to this rule is DOL’s administrative policy that DBA and CWHSSA do NOT apply to **bona fide owner-operators of trucks** or other hauling equipment who are employed as independent contractors performing such activity on the site of the work. DOL policy requires contractors and subcontractors to note these individuals on the certified payrolls by name, dates of work, and the notation, “Owner-Operator.” It will not be necessary to record the owner-operator’s hours or wages.

**NOTE:** Workers employed as truck drivers (NOT owner-operators of trucks or other hauling equipment) driving on the site of the work are subject to DBA and CWHSSA. For further information concerning the application of DBA and CWHSSA to truck drivers, contact the nearest DOL Wage and Hour regional office (<http://www.dol.gov/whd/whdkey.htm>).

(b) The exception does NOT apply to owner-operators of equipment other than “hauling.” Therefore, owner-operators of equipment such as bulldozers, backhoes, drilling rigs, welding machines, and similar equipment are covered by DBA provisions. (Reference DOL’s “Significant All Agency Memoranda from the Administrator,” and *Field Operations Handbook*, Chapter 15, Section 15e, [www.wdol.gov](http://www.wdol.gov) “Library.”)

(8) **Volunteers.** There are no exceptions to DBA coverage for volunteer labor unless an exception is provided for in a specific DBRA. The Recovery Act, one of the DBRA statutes applied to various projects funded or assisted through DOE, does NOT have any exception from DBA requirements for volunteer labor. Therefore, a Recovery Act-funded project requires that **all workers on the job site receive no less than full DBA wages and fringe benefits.** Questions concerning the use of volunteer labor on a Recovery Act-funded project must be addressed to the contracting officer.

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

(1) There are no nationwide standard classification definitions under DBA. The proper classification of work performed by laborers and mechanics is that classification used by firms whose wage rates DOL determined to be prevailing in the area. While the duties of many classifications are usually clear (*e.g.*, plumbers, carpenters, painters, *etc.*), in some localities the

contractor must determine the “prevailing area practice” in order to properly classify a worker. A survey of the firms performing similar construction work in that locality will provide the prevailing definition for each classification.

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

(3) **Prime contractors and subcontractors** performing work on a covered project **are responsible for classifying each worker** properly in accordance with the applicable wage determination. Questions pertaining to classifications within a locality should be addressed to the nearest DOL regional office (listed at [www.dol.gov/whd](http://www.dol.gov/whd)).

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

(1) The contractor's "conformance" request is **submitted in writing** through the contracting officer to DOL. **Subcontractors must submit their requests through the prime contractor** to the contracting officer. Generally, contractors will complete and sign an **SF-1444, "Request for Authorization of Additional Classification and Rate"** (copy included in this Desk Guide and available at [www.wdol.gov/library.aspx](http://www.wdol.gov/library.aspx)), providing the contractor's information, contract information, the job title and a full description of duties, any information on "area practice," the contractor's proposed wage and benefit rates, and any other information that will support the request. The contractor is not obligated to use the SF-1444 form, but must provide the same information that is requested in that form. The request for approval must be submitted within 30 days of initial employment of workers in the additional classification.

(2) If the contractor has already employed workers in the proposed additional classification, the contractor's SF-1444 request should include the signature of each worker in that classification, noting whether they concur or disagree with the contractor's proposed rates. If the contractor's request is submitted to DOL through the contracting officer prior to employment of the workers in the classification, it would not include employee signatures.

(3) The completed request is then submitted by the contractor to DOE, as the contracting agency. The contracting officer must sign the request, either concurring or disagreeing with the contractor's proposal. If a worker or the contracting officer disagrees with the contractor's proposed additional classification or rate, a statement must be attached providing and supporting an alternate recommendation. DOE does not have authority to approve or reject a contractor's request for approval of an additional classification. Only DOL has this authority.

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

(a) If a contractor is requesting DOL approval of a **"Helper"** classification, the request should provide sufficient information that the "Helper" classification is the "area



practice” for that locality (*i.e.*, that the helper duties are clear and distinct from other classifications and use of the classification is prevailing in the particular locality).

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

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

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

**(5) DOL will respond to the contractor’s request for approval of an additional classification** by written notification to DOE, as the contracting agency. DOE will then notify the contractor of DOL’s decision. If DOL denies the contractor’s proposed wage or benefit rate, and directs rates in excess of the initial proposal, the contractor must pay the worker(s) no less than the approved rate retroactive to their initial work on the job site in that classification. The DOE contracting officer, either directly or through the financial assistance recipient, will request written confirmation from the contractor of its full and retroactive compliance with DOL’s decision.

(6) Questions concerning the use of unlisted or additional DBA classifications should be referred to the nearest DOL regional office.

### **Section 3-2 Payment of DBA Wages and Benefits.**

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

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

**NOTE:** It is the responsibility of the prime contractor or the financial assistance recipient to ensure that DOL’s DBA poster (WH-1321) and applicable DBA wage determinations are posted on the job site in a prominent and accessible place where they can be seen by the workers. The poster can be downloaded from DOL’s website at [www.dol.gov/whd/regs/compliance/posters/davis.htm](http://www.dol.gov/whd/regs/compliance/posters/davis.htm).

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

(1) DBA wage determinations list the various classifications of laborers and mechanics and the basic hourly wage rates that are found to be prevailing in each locality as determined by DOL’s surveys. Many DBA wage determinations also list hourly fringe benefit rates that must be paid to each worker in addition to the basic hourly wage rate. Contractors must ensure that **each**

**worker receives no less than the sum of the basic hourly wage rate and the hourly fringe benefit rate** listed on the applicable wage determination for the worker's classification.

**NOTE:** If a DBA wage determination lists the wages and benefits for a particular classification as "\$20.00" and "\$3.00 + 3%," the contractor must pay at least the basic wage rate of \$20.00, and the hourly benefit rate of \$3.00 plus 3% of the basic hourly wage rate (or \$.60). The percentage is always applied to the basic hourly wage rate. The contractor must pay no less than \$23.60/hour for this worker.

(2) A contractor may discharge its obligation to each worker by paying the total wage and fringe benefit requirement in cash, or by providing a combination of wages paid in cash along with providing bona fide fringe benefits paid by the contractor such as health and life insurance premiums, retirement and savings contributions, vacation and other paid leave plans. (See Section 3-2f of this Desk Guide, "Payment of DBA Fringe Benefits," for references pertaining to "bona fide fringe benefits.")

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

(b) Contractors are obligated to record and report the type of payments made each week to meet their DBA requirement for wages and fringe benefits for each worker – payments made in cash to the worker in lieu of providing a fringe benefit plan; payments made to provide plans for each worker; and any combination of cash and benefit plan provided to each worker. (See Section 3-2f of this Desk Guide on payment of DBA fringe benefits, and Chapter 4 on preparing certified payrolls.)

d. **Workers Performing at Two or More Classifications.** Contractors are required to maintain complete and accurate records of the hours worked by each worker, including identifying the hours worked by a worker at two or more classifications. The worker must be paid no less than the DBA wage rate for each of the hours worked at each classification. Failure to record the hours worked at each classification will result in DOL requiring the contractor to pay all hours worked that week at the highest of the multiple wage rates. (See Section 3-3c of this Desk Guide on the proper computation of overtime compensation for a worker working at multiple wage rates.)

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

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

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

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

week. He has, therefore, earned more than the minimum requirement under DBA. In Week #2, the worker works 45 covered hours and his piecework pay is computed at \$800.00. Total weekly pay for Week #2 is divided by total weekly hours, and equals \$17.78/hour – short of the DBA requirement of \$20.00/hour. The contractor must then pay the worker the \$800.00 in piecework pay, plus an additional \$100.00 to ensure that the worker receives the full DBA rate for all hours worked. The piecework wages paid in excess of the DBA minimum for Week #1 cannot offset the underpayment in Week #2. Salaried workers are computed the same way, each week.

**NOTE:** See Section 3-3c in this Desk Guide for information on computing proper FLSA and CWHSSA overtime compensation for workers employed at other than hourly wage rates.

**f. Payment of DBA Fringe Benefits.**

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

(2) Fringe benefits include contractor payments for life and health insurance premiums; retirement contributions; vacation, holiday, sick, and other paid leave; and other **bona fide benefit plans**; or equivalent payments to the worker in cash. The criteria used to determine whether a fringe benefit is bona fide under DBA are described in detail at 29 CFR 5.20 through 5.29, and in the DBA statute itself at Section 3141, Definitions. DOL's *Field Operations Handbook*, Chapter 15, Section 15f, also provides details on defining bona fide fringe benefits (<http://www.dol.gov/whd/FOH/index.htm>).

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

(Reference 29 CFR Part 5, Subpart B, for guidance on providing bona fide fringe benefits under DBA.)

### **Section 3-3 Overtime Compensation.**

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

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

(1) Overtime compensation under CWHSSA is computed on the basis of time and one-half the employee's basic hourly rate of pay, or the employee's "regular rate of pay" (if he works at two or more classifications with different hourly wage rates or is paid on a basis other than hourly). The basic hourly rate used for computing CWHSSA overtime compensation can never be less than the basic hourly wage rate required by the applicable DBA wage determination excluding any fringe benefits listed.

(2) Cash payments made to a DBA/CWHSSA worker for the purpose of meeting DBA fringe benefit requirements are not included in determining the basic hourly rate of pay for overtime purposes. See the example at paragraph c. (5) below.

c. A worker's "**regular rate of pay**" is determined by dividing the worker's total compensation each week by the worker's total number of hours worked that week (including both DBA-

covered hours and non-DBA hours worked, *i.e.*, hours worked under FLSA). Additional information on overtime requirements and regular rate of pay can be found at 29 CFR Part 778.

Examples:

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

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

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

(4) A fourth worker works on a **salary basis**, a fixed amount for each week regardless of straight-time hours or work production. He is a mechanic and therefore not exempt from the requirements of DBA minimums or FLSA/CWHSSA overtime compensation. The salary is \$1,000/week. The DBA minimum for his classification is \$20.00/hour. In Week #1, this worker works 50 hours. His regular rate of pay is \$20.00/hour ( $\$1,000 / 50 \text{ hours} = \$20.00/\text{hour}$ ). The contractor has met the DBA minimum wage requirement. The contractor is now required to pay an additional \$100.00 (one-half of the regular rate of pay =  $\$10.00 \times 10 \text{ OT hours}$ ) in OT compensation, for a total weekly compensation of \$1,100.00. In Week #2, the worker works 60

hours. His regular rate of pay is now \$16.67/hour ( $\$1,000 / 60 \text{ hours} = \$16.67/\text{hour}$ ). The contractor is therefore required to bring the worker up to the DBA minimum wage requirement of \$20.00/hour by paying an additional \$3.33/hour (DBA rate of \$20.00/hour less \$16.67/hour paid), times 60 hours worked, or \$199.80. The worker's regular rate of pay is now \$20.00/hour, and the contractor must now compute the additional OT compensation due. He owes an additional \$200.00 (one-half the regular rate of \$20.00 equals \$10.00/hour, times 20 OT hours, or \$200.00). Total wages due this worker for this week are the \$1,000.00 salary, plus \$199.80 to bring him to the DBA minimum, plus OT compensation of \$200.00, or a total of \$1,399.80 for this week.

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

d. Reference 29 CFR 778 for further guidance on paying OT compensation, and reference DOL's website at [www.dol.gov/whd](http://www.dol.gov/whd), "Overtime." Questions may also be addressed to DOL's nearest regional office.

**Section 3-4 Payroll Deductions.** DBA, Copeland Act, and related regulations require contractors and subcontractors to pay all laborers and mechanics ". . . **unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account . . . except as permitted . . .**" (Reference 29 CFR Part 3 concerning allowable payroll deductions.) **Allowable deductions** include withholding for income taxes, worker share of Social Security tax, wage garnishments or payments for judgments legally imposed against the worker by an appropriate authority (*e.g.*, a court), and any legally-permissible deduction voluntarily



authorized by the worker such as insurance premiums, retirement contributions, savings contributions, and similar payments. The Copeland Act prohibits contractors from requiring workers to kick-back (*i.e.*, give up) any earnings due them under DBA or CWHSSA. Contractors are cautioned to accurately record any and all deductions from workers' earnings, and to maintain records supporting the authorization of any deductions from a worker's earnings. (See Section 4-2f of this Desk Guide on reporting deductions.)

## **Chapter 4     DBA Certified Payrolls.**

### **Section 4-1     Wage and Fringe Benefit Reporting Requirements.**

a. DBA requires covered contractors to pay their workers not less than DBA-required wages and fringe benefits, in full, **on a weekly basis**.

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

**NOTE:** Contractors performing covered work with financial assistance funds through grants, loans, *etc.*, must submit certified payroll information to the financial assistance recipient in accordance with the terms of the applicable contract.

c. In addition, the Copeland Act requires DBA-covered contractors to provide a signed **“Statement of Compliance”** (or **“certified payroll”**) certifying that the weekly payroll information is correct and complete and that each laborer and mechanic has been paid not less than the DBA prevailing wage and benefit rate for the work performed that week.

d. The **due date** for each certified payroll to be submitted to DOE, as the contracting agency, or to the financial assistance recipient in accordance with the contract, is **no later than one week after each weekly pay date**. (For information regarding penalties for failure to submit certified payrolls or for falsification of payroll information, see Section 4-4b of this Desk Guide.)

e. The **prime contractor is responsible for the timely submission to DOE of certified payrolls for all subcontractors**. The prime contractor is obligated to notify all subcontractors of the labor provisions of the contract and to ensure that each subcontractor submits timely, accurate and complete certified payrolls.

**NOTE:** Financial assistance recipients must provide DOE certified payrolls consistent with the terms of the applicable contract.

f. DOL's Form WH-347, "Payroll," and instructions for completing it, can be found in a fillable PDF format at [www.dol.gov/whd/forms/index.htm](http://www.dol.gov/whd/forms/index.htm). The second page is used to report information about payment of fringe benefits and contains the "Statement of Compliance."

g. Form WH-347 is recommended for contractor use. Contractors may, however, provide another payroll reporting format as long as the payroll information is identical to that required by WH-347, and the "Statement of Compliance" contains the same certification language. Each separate page and attachment to a report must include the contractor's name, the project number, the week-ending date for the report, and the sequential payroll number.

## **Section 4-2    Completing Certified Payroll Form WH-347.**

a. Name of Contractor/Subcontractor and Address. Check the box noting the category (contractor or subcontractor) of the reporting contractor and insert the contractor's complete name and address.

b. Payroll No. Each payroll report must be numbered, beginning with “#1” as the first payroll submitted by the reporting contractor for the first week in which it employs covered workers on the site.

c. For Week Ending. Each contractor must establish a fixed workweek period of seven consecutive days (*e.g.*, Monday through Sunday; Sunday through Saturday). The hours worked by each laborer and mechanic during that workweek must be reported on each weekly payroll, along with wages and benefits paid for that week.

d. Project and Location. A brief description of the project name and the location where the work is performed (include the county or counties).

e. Project or Contract No. Prime contractors will report the number of the contract/project awarded to them; subcontractors may use the same number if they have it, or use the number of their subcontract with the named prime contractor.

f. Worker Information.

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

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

Column (2) **Number of withholding exemptions.** This information may be reported for the contractor’s convenience in computing withholding taxes, or the column may be left blank.

Column (3) **Worker classification(s)**. List the classification of work actually performed by each laborer and mechanic. If a worker works at more than one classification within a single week, show each classification separately for that worker, along with the hours worked and hourly rate of pay for each classification.

**NOTE:** Workers properly documented and employed as **apprentices** or **trainees** must be reported as such with the classification in which they work (example: “Plumber/Apprentice”), and supporting documentation evidencing the worker’s enrollment in an approved program must be attached to the first certified payroll reporting their hours worked on the project. (See Section 3-1 on Apprentices and Trainees.)

Column (4) **Workweek**.

(a) At the head of the column each contractor must note the **days of the week** that constitute the established seven-day **workweek** (*e.g.*, “S-M-T-W-T-F-S” or “T-W-T-F-S-S-M,” *etc.*). In the box below the day of the week, note the **date** for each day reported (*e.g.*, 25<sup>th</sup>, 26<sup>th</sup>, 27<sup>th</sup>, *etc.*). A workweek is a fixed and regularly recurring period of seven consecutive 24-hour periods. It need not coincide with the calendar week. (Reference 29 CFR 778.105.)

(b) In the boxes below the dates, report **only** the hours worked each day **on this covered project**, noting in the boxes marked “S” the straight-time hours worked, and in the boxes marked “O” the overtime hours worked. Do not include hours worked on any other project.

(c) Overtime hours reported in Column 4 (and totaled in Column 5) on the WH-347 are those hours worked on the covered project in excess of 40 hours in any workweek.

**NOTE: Overtime Compensation.** Reference Section 3-3 of this Desk Guide for information on meeting the requirements for overtime compensation under FLSA and CWHSSA.

Column (5) **Total hours** worked for the week **on this project**.

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

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

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

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

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

(Reference Section 3-2 of this Desk Guide on piecework pay under DBA.)

Column (7) **Gross amount earned.** Each box has a diagonal line permitting the contractor to report each worker's total gross wages paid **specifically for work on the project** reported by this particular payroll (noted in the **upper portion of the box**), and total gross wages earned for the entire week (noted in the **lower portion of the box**). The total gross wages reported in the lower portion of the box would include not only the project work, but also any and all work performed by the worker on other DBA projects and work performed on non-DBA projects.

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

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

“Total Deductions” should reflect the amount of deductions taken from the worker’s total wages for that week.

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

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

#### **Section 4-3 Reporting Fringe Benefit Payments on Form WH-347.**

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

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

c. If a contractor **pays the required DBA fringe benefit rate into a bona fide fringe benefit plan** for all workers, the contractor should check the box in **Box (4)(a)** on the second page of the

WH-347. It is not necessary to show the amount paid into these plans on the first page of the WH-347 in Column (6). It will be necessary, of course, to maintain supporting documents for the benefit plan(s), and documents that evidence the contractor's contributions for those plans. A compliance review or investigation will include a review of these documents.

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

e. In reporting fringe benefits on the WH-347 or equivalent form, it is important that the contractor clearly show the method used to comply with DBA. Information that is confusing, incomplete, or inaccurate will generate further inquiries during payroll reviews and may result in a full investigation to ensure contractor compliance.

#### **Section 4-4 Statement of Compliance (or Certification of Payroll).**

a. The required Statement of Compliance is located on the second page of the WH-347. If a contractor uses any payroll format other than Form WH-347, the same Statement of Compliance must be signed and submitted with each weekly payroll. The **Statement of Compliance must be signed by a principal of the firm** (owner or an officer such as president, treasurer, or payroll administrator). The signature must always be that of a person who has authority to direct the payment of wages and benefits to the workers.

**NOTE:** Proper use of electronic signatures on certified payrolls and related compliance statements is permitted, and carries the same legal effect as handwritten signatures.

**NOTE:** In completing DOL's fillable pdf form, note that the Statement's "payroll period" dates require entries to be made numerically (example: instead of entering "14 day of June, 2010," enter "14 day of **06**, 2010."



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

**Section 4-5 “No Work” Payrolls.** Certified payrolls must be submitted each week to the designated agency for the project. If a contractor or subcontractor on a project performs no covered work in a specific week, there is no need to submit a certified payroll. If the contractor does not expect to be on the job site for several weeks, it is recommended that the contractor submit a statement to DOE, as the contracting agency, or to the financial assistance recipient, notifying it that the contractor will not be working on the project for an extended period of time, and providing an approximate date of return. For the next week in which work is performed on site by that contractor’s laborers or mechanics, the contractor must submit a certified payroll numbered sequentially following the last certified payroll submitted. This will help to avoid confusion about interruptions in receipt of weekly payroll reports.

**Section 4-6 Retaining Payroll Records.** Every contractor and subcontractor on covered projects must keep a complete set of pay records for **at least three years** after the project is completed. This includes basic payroll information, time cards, cancelled checks or receipts for cash payments for wages or benefits, apprenticeship documentation, evidence of payments to fringe benefit plans, and information on taxes and other payroll deductions.

## **Chapter 5 Payroll Reviews and Corrections.**

### **Section 5-1 Compliance Reviews.**

a. **General. Federal contracting agencies, including DOE,** have primary responsibility for the day-to-day enforcement of contract labor standards on a covered construction project. Generally, the contracting agency will be responsible for ensuring that contractors and subcontractors

comply with the labor standards requirements. Prime contractors and first-tier financial assistance recipients must also ensure compliance by subcontractors. Compliance reviews include visits to the job site, worker interviews, review of time and pay records and related information, and discussions with the contractors and subcontractors. In addition, DOL may conduct its own investigation to determine compliance under DBA, FLSA, CWHSSA, and other labor laws applicable to a contractor. (See Section 5-3 concerning DOL's enforcement sanctions under these contract labor standards.)

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

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

**NOTE:** As noted before, DOE, as the contracting agency, and financial assistance recipients may withhold accrued payments or advances as may be necessary to cover any

underpayment of wages, fringe benefits, or overtime compensation due as a result of DBA or CWHSSA violations. For this reason, prime contractors and financial assistance recipients should review each contractor's payroll report for compliance issues **prior to submitting the report** to the contracting officer, consistent with the terms of the applicable contract. Systematic and careful review of contractor reports may detect any errors or violations early in the project, and thus avoid costly compliance reviews and underpayments of wages and/or fringe benefits due the workers.

**d. Common DBA/CWHSSA Payroll Errors and Corrections.**

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

(2) **Missing addresses and identifying worker number.** The contractor must report an identification number for each worker (or the last four digits of the worker's Social Security number if there is no other worker identification system in use). **Do NOT include full Social Security numbers or home addresses** on the weekly certified payrolls. Contractors must maintain such information in its basic pay and employment records and are obligated to provide this information, if requested, to the compliance reviewer or the DOL investigator.

(3) **Classifications.** If a contractor reports worker classifications that are not listed on the DBA wage determination, the contractor will be asked to either reclassify the worker in compliance with the classifications listed on the wage determination, or submit with the certified payroll report a copy of the SF-1444 "Request for Approval of Additional Classifications" that was submitted to DOL for approval. DOL's response will be sent to DOE, as the contracting agency. DOE will notify the prime contractor of DOL's response. If DOL's decision denies the contractor's proposed wage or benefit rate and directs an increase in either rate, the contractor must comply with the decision retroactive to the start of employment of the missing classification. If DOL denies the request for conformance of a proposed classification, noting that a classification already listed on the applicable wage determination is applicable, the

contractor must comply with the decision retroactive to the start of employment of that classification. The contractor must submit a certified payroll reporting any retroactive payment of wages/benefits to the worker(s) as a result of DOL's decision.

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

(5) **Overtime Compensation.** Payroll reports that indicate a worker worked in excess of 40 hours per week MUST include information regarding the contractor's compliance with the requirement to pay overtime compensation at not less than time and one-half the regular rate of pay. If the contractor failed to pay proper overtime compensation under CWHSSA, the contractor may also be liable to the United States for liquidated damages of \$10.00 per day per violation. If CWHSSA is not applicable to the worker, FLSA overtime violations may be referred to DOL for further investigation.

(6) **Fringe Benefits.** If the contractor or subcontractor fails to report payment of DBA fringe benefits that are required by the wage determination, the contractor will be asked to confirm compliance with the requirement to pay no less than the total wage and fringe benefit rates per hour, and to submit a corrected payroll report.

(7) **Signature.** If the signature is missing or does not have the level of authority required by the Act, the payroll report will be returned for correction.

## **Section 5-2 Violations and Restitution of Underpayment of Wages.**

a. If DOE's compliance reviewer **discovers a contractor's failure to pay the appropriate DBA wages and fringe benefits**, the contractor will be notified immediately and the **contractor will be required to pay full restitution to the workers.** Typically, the contractor will be allowed 30

days to correct the underpayments. The prime contractor is always responsible to the DOE contracting officer to ensure that subcontractors on the project pay the back wages in full and promptly.

**b. Simple Reporting Errors and Corrections.** Errors resulting from calculation errors, failure to attach proper documentation, and failure to report proper classifications may be resolved quickly and completely with informal notification to the prime contractor and subcontractor from the compliance reviewer, and prompt corrective response from the contractor. Contractors and subcontractors are responsible for knowing the contract's labor standards requirements and they must cooperate completely and promptly with all requests for compliance.

**c. The contractor found to be in violation and liable for unpaid wages or benefits must also submit a corrected payroll** report to the contracting officer showing the computation of back wages and evidence of full payment to the workers.

**d. Unlocated Workers Who Are Due Back Wages.** After an investigation discloses a contractor's failure to pay proper DBA wages or benefits, the contractor must make every reasonable effort to locate former workers and to pay back wages. If the contractor fails to locate any of the former workers, the contractor may be asked to provide to the DOE contracting officer evidence of its attempts to locate the workers (*e.g.*, returned mailings, *etc.*), and a list of the missing workers including name, last known address, Social Security number, dates of employment, and gross amount of underpayment due each of the workers. The contracting officer may withhold contract funds in the total amount of underpayment due the missing workers (or the contractor may be asked to provide payment by check to DOE as the contracting agency) for the purpose of asking the Comptroller General's office for assistance in locating the missing workers. The Act specifically authorizes the Comptroller General to disburse funds withheld for wages found to be due to laborers and mechanics under DBA. (Reference 40 U.S.C. Sec. 3144.)

### **Section 5-3 Labor Standards Disputes and Sanctions for Violations of DBA Requirements.**

a. **Labor Standards Disputes.** It is the responsibility of the contractor and subcontractor to be knowledgeable about their obligations under the several contract labor standards. It is DOE's responsibility as the contracting agency to enforce the provisions of DBA and CWHSSA. When the compliance reviewer notes violations such as failure to record hours worked, misclassification of workers, inappropriate use of apprentices and trainees, failure to pay benefits or overtime compensation, or unallowable deduction from wages, DOE will notify the prime contractor of the violations (and the subcontractor, if the violations are the result of the subcontractor's pay practices). If the contractor disagrees with the findings of the compliance reviewer, the prime contractor and/or subcontractor, or any other interested party, may ask DOL's Wage and Hour Administrator for a review and reconsideration of the issue. The Administrator's decision may then be appealed to DOL's Administrative Review Board. The requests must be timely and in writing. (Reference 29 CFR Part 1 for the procedures.)

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

c. **Debarment.** Contractors and/or subcontractors that are found by the Secretary of Labor to be in aggravated or willful violation of DBA will be debarred – ineligible to participate in any DBA/DBRA contracts – for up to three years. Debarment applies to the contractor or subcontractor and any firm, corporation, partnership, or association in which the contractor or subcontractor has a substantial interest. Debarment proceedings can be recommended by the DOE contracting officer or may be initiated by DOL. Proceedings are described in 29 CFR 5.12.

Debarment under DBA and violations of contract clauses including DBA, CWHSSA, requirements for certified payroll reports, and other contract labor standards, can be the basis for DOE to terminate the contract.

**d. Falsification of Certified Payroll Reports.** Contractors or subcontractors found to have willfully falsified payroll reports (Statements of Compliance), including payrolls reporting correction of earlier violations, may be subject to civil or criminal prosecution. Penalties up to \$1,000 and/or one year in prison for each false statement may be imposed. (Reference 18 U.S.C. 1001 and 31 U.S.C. 231.).

## **A DESK GUIDE TO THE DAVIS-BACON ACT**

### **WEB LINKS FOR ADDITIONAL DAVIS-BACON ACT INFORMATION**

- **Frequently Asked Questions:**

- [http://www.gc.energy.gov/GCHotlineFAQ%20.htm#Davis\\_Bacon](http://www.gc.energy.gov/GCHotlineFAQ%20.htm#Davis_Bacon)
- [http://www1.eere.energy.gov/eere\\_faq/default.aspx?pid=10&spid=1](http://www1.eere.energy.gov/eere_faq/default.aspx?pid=10&spid=1) (EECBG)
- [http://www1.eere.energy.gov/eere\\_faq/default.aspx?pid=10&spid=2](http://www1.eere.energy.gov/eere_faq/default.aspx?pid=10&spid=2) (WAP)
- [http://www1.eere.energy.gov/eere\\_faq/default.aspx?pid=10&spid=3](http://www1.eere.energy.gov/eere_faq/default.aspx?pid=10&spid=3) (SEP)

- **Davis-Bacon Act Clauses:**

- Weatherization Assistance Program:  
[http://www1.eere.energy.gov/wip/pdfs/dba\\_clauses\\_weatherization.pdf](http://www1.eere.energy.gov/wip/pdfs/dba_clauses_weatherization.pdf)
- Other Recovery Act Programs:  
[http://www1.eere.energy.gov/wip/pdfs/dba\\_clauses\\_non\\_wap.pdf](http://www1.eere.energy.gov/wip/pdfs/dba_clauses_non_wap.pdf)

- **U. S. Department of Labor, Wage and Hour Division:**

- <http://www.dol.gov/whd/programs/dbra/wh1321.htm> - DBA Poster
- <http://www.dol.gov/whd/whdkeyp.htm> - DOL WHD Key Personnel and Regional Office Addresses
- <http://www.dol.gov/whd/recovery/pwr/toc.htm> - DBA Area Practice Surveys
- <http://www.dol.gov/whd/FOH/index.htm> - DBA policies, including definitions of bona fide benefits
- <http://www.wdol.gov> – Website containing DBA general wage determinations, policy statements (“All Agency Memoranda”), and links to federal agency labor advisors, federal labor regulations, and forms





## **Section B**

### **Exhibit A-5**

#### **DOL Prevailing Wage Resource Book 2009**

**DAVIS-BACON**

**WAGE DETERMINATIONS**

**DAVIS-BACON ACT, AS AMENDED (EXCERPT FROM 40 U.S.C. § 3142)**

**PHYSICAL INCLUSION OF WAGE DETERMINATION(S) IN  
BID SPECIFICATIONS AND CONTRACT**

**GENERAL AND PROJECT WAGE DETERMINATIONS**

**MODIFICATIONS AND SUPERSEDEAS DECISIONS**

**WAGE DETERMINATION EXTENSIONS AND CLERICAL ERROR  
CORRECTIONS**

**SELECTING THE PROPER WAGE DETERMINATION(S)**

**LOCATION**

**TYPE OF CONSTRUCTION**

**PROJECTS OF A SIMILAR CHARACTER**

**MULTIPLE TYPES OF CONSTRUCTION VERSUS INCIDENTAL  
CONSTRUCTION**

**CURRENT WAGE DETERMINATION(S)**

**GENERAL WAGE DETERMINATIONS (GWDs)**

**HOW TO LOCATE A GWDs**

**HOW TO INTERPRET A GWD**

**CLASSIFICATIONS, BASIC HOURLY RATES & FRINGE  
BENEFITS**

**CLASSIFICATION IDENTIFIERS (UNION AND NON-UNION RATES**

**SAMPLE GWDs**

**SAMPLE PROJECT WAGE DETERMINATION REQUEST FORM,  
SF-308**

**WAGE APPEALS BOARD DECISION – INADVERTENT CLERICAL  
ERRORS**

**DAVIS-BACON ACT, AS AMENDED**  
(Excerpts from 40 U.S.C. § 3142)

The advertised specifications for **every [covered] contract** in excess of \$2,000 . . . **shall contain**

**a provision stating the minimum wages** to be paid various classes of laborers and mechanics.

. . . The minimum wages shall be based on the wages that **the Secretary of Labor determines to be prevailing** for the corresponding classes of laborers and mechanics

employed on **projects of a character similar** to the contract work in the **civil subdivision of the State in which the work is to be performed**, or in the District of Columbia if the work is to be performed there.

(Emphasis added.)

## PHYSICAL INCLUSION OF WAGE DETERMINATION(S) IN BID SPECIFICATIONS AND CONTRACT

DOL regulations, at 29 C.F.R. Part 1, establish the procedures for predetermining the **wage rates required to be included in bid specifications/contracts** for construction projects to which the Davis-Bacon and related Acts apply. (See excerpts, above, from the Davis-Bacon Act.) The Federal Acquisition Regulations (FAR) also discuss the application of proper wage determinations in 48 C.F.R. Subpart 22.4 -- “Labor Standards for Contracts Involving Construction.”

It is important for the actual wage determination(s) to be physically included in the bid specifications/contract. Contractors need to see the minimum wages they will be required to pay while they develop their cost estimates for work to be performed.

It is generally the responsibility of the **federal agency** that funds or assists Davis-Bacon covered construction:

- ◇ To **ensure that the proper Davis-Bacon wage determination(s) is/are applied** to such construction contract(s). (See 29 C.F.R. § 1.5, and 1.6(b)),
- ◇ To **advise contractors which schedule of prevailing wages applies to various construction items** if a contract includes multiple wage schedules.
- ◇ To be able/ready to advise contractors regarding the duties performed by the various crafts in the wage determination, if they inquire. If two or more classifications in the applicable wage determination may perform the work in question, an area practice survey may be required. Where the classifications are from a single sector of the industry (union or non-union), data needs to be collected only from that sector of the construction industry (for the type of construction involved). Where union and non-union-based classifications are involved, the data should be obtained from both segments. (See the “area practice” section of the materials under the “DB/DBRA Compliance Principles” tab, below, for a detailed discussion of area practice surveys.)

Questions and disputes regarding the application of the proper Davis-Bacon wage determination(s) to covered construction projects should be referred to the WH Branch of Construction Wage Determinations.

It can be disruptive and costly for an agency to correct a situation where a covered contract is awarded without a wage determination, or with the wrong wage determination (i.e., a wage determination that by its terms or according to the requirements of 29 C.F.R. Part 1, further discussed below, clearly does not apply to the contract). When this happens, **corrective action** is required:

**U.S. DEPARTMENT OF LABOR  
PREVAILING WAGE RESOURCE BOOK 2009**

*DB WAGE DETERMINATIONS*

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The agency shall terminate and resolicit the contract with the valid wage determination, or incorporate the valid wage determination retroactive to the beginning of construction through supplemental agreement or through change order provided that the contractor is compensated for any increases in wages resulting from such change. The method of incorporation of the valid wage determination and adjustment in contract price, where appropriate, should be in accordance with applicable procurement law. [29 C.F.R. § 1.6(f)].

## GENERAL AND PROJECT WAGE DETERMINATIONS

The WHD issues two types of Davis-Bacon wage determinations: general determinations, also known as area determinations, and project determinations.

The term “wage determination” includes not only the original decision but any subsequent decisions modifying, superseding, correcting, or otherwise changing the rates and/or scope of the original decision.

### **General Wage Determinations (GWDs)**

- ◇ GWDs are now in effect nationwide for most counties for each general type of construction – building, residential, highway, and heavy. In many areas separate schedules are also issued for sewer and water line construction, for dredging, and for certain other types of projects which would otherwise be categorized as “heavy” construction.
- ◇ New **annual editions** of this publication are issued in the first quarter of each calendar year. Each annual edition supersedes the previous GWDs, and the wage decision numbers reflect the year of a new edition.
- ◇ Any changes in rates (modifications are made in weekly updates (usually on Friday) to the GWDs and this is reflected in modification record on the determination.
- ◇ On September 26, 2005, the Wage Determinations On Line website (<http://www.wdol.gov>) became the official site for all Davis-Bacon GWDs. This is a free on-line service. The hard copy publication previously available through the Government Printing Office of the Superintendent of Documents is no longer published.

### **Project Wage Determinations**

Project Wage Determinations are obtained on a case-by-case basis for individual projects where:

- ◇ There is no GWD in effect for a county/type of construction needed for an upcoming project, or
- ◇ Virtually all the work on a contract will be performed by a classification that is not listed in the GWD that would otherwise apply **and** bid opening/award has not yet taken place.

**U.S. DEPARTMENT OF LABOR  
PREVAILING WAGE RESOURCE BOOK 2009**

*DB WAGE DETERMINATIONS*

To request a project wage determination, a **Standard Form 308 (SF-308)** “Request for Determination and Response to Request” should be used by the agency (normally a federal agency).

- ◇ If the project involves multiple types of construction, the requesting agency should attach information indicating the expected cost breakdown by type of construction.
- ◇ The time required for processing requests for a wage determination varies according to the facts and circumstances in each case. An agency should anticipate that such processing will take at least 30 days.
- ◇ The completed SF-308 should be sent to:  
     U.S. Department of Labor, Employment Standards Administration,  
     Wage and Hour Division, Branch of Construction Wage Determinations,  
     Washington, D.C. 20210
- ◇ SF-308's can be downloaded from the “Library” section of the WDOL website (<http://www.wdol.gov>). The SF-308 is also available at FAR 48 C.F.R. § 53.301-330.

Project decisions are applicable **only to the particular project** for which they are issued and are **effective for 180 days**. If a project decision is not used in the period of its effectiveness, it is void.

- ◇ Accordingly, if it appears that a wage determination may expire between bid opening and contract award, the agency should request a new project wage determination sufficiently in advance of the bid opening to assure receipt prior thereto.
- ◇ However, when due to unavoidable circumstances a project wage determination expires before award but after bid opening (or other date specified in 29 C.F.R. § 1.6(a)(1) for certain HUD programs), an extension of the project wage determination expiration date may be requested from and granted by the WHD Administrator if certain conditions are met. ( See “Wage Determination Extensions,” below.)

**“Special” Project Wage Determinations** are issued for retroactive application to covered contracts let without a Davis-Bacon wage determination, or with a wage determination which by its terms or the provisions of 29 C.F.R. Part 1 clearly does not apply to the contract -- for example, if a wage determination for the wrong county or an out-of-date wage decision has been included in an awarded contract, and there was no GWD in effect for the given county and type of construction at the time of contract award. 29 C.F.R. § 1.6(f).



## **MODIFICATIONS AND SUPERSEDEAS DECISIONS**

Both GWDs and project wage determinations may be modified or superseded from time to time.

- ◇ Wage determinations are normally updated either:
  - ◇◇ to apply the results of a new survey, or
  - ◇◇ to update union rates to reflect collectively bargained changes in wage and fringe benefit rates (escalators) for classifications for which negotiated rates have been determined to be prevailing (for a given type of construction in the given geographic area).
- ◇ “Supersedeas wage decisions” replace the prior GWDs, and carry wage decision numbers that reflect the new year. Supersedeas decisions have a modification number of “0” followed by the date of issuance
- ◇ ”Modifications” are listed numerically on the wage determination modification record for that year’s edition. The date of issuance of the modification follows the modification number. A modification to a GWD replaces the entire GWD that it modifies.

## **WAGE DETERMINATION EXTENSIONS AND CLERICAL ERROR CORRECTIONS**

### **Extensions**

Bid solicitation documents must be amended to include modifications to a GWD or a new project wage determination (if the project wage determination expired), unless the contracting/assisting agency requests an extension from and the WHD Administrator grants the extension. An agency may request an extension after bid opening if:

- ◇ GWD: Award does not take place within 90 days after the bid opening,
- or
- ◇ Project wage determination: The determination expires prior to award.

For certain HUD-assisted projects, different dates apply to when an extension may be requested. 29 C.F.R. §§ 1.6(c)(2)(iv) and 1.6(a)(1), respectively.

A request for an extension must be supported by a written finding, including factual support that the extension is necessary and proper in the public interest to prevent injustice or undue hardship or to avoid serious impairment in the conduct of government business.

Example: A public commission must review bid documents after bid opening and before award, and the prospective bidders have agreed to continue their bids in effect during the review period.

### **Correction Of Inadvertent Clerical Errors**

Upon his or her own initiative, or at the request of an agency, the WHD Administrator may correct any wage determination if she/he finds that the determination contains an inadvertent clerical error. Such corrections shall be included in any on-going contracts containing the wage determination in question, retroactively to the start of construction, and also in any bid specifications containing the wage determination (for example, after bid opening). 29 C.F.R. § 1.6(d), reiterated in the FAR at 48 C.F.R. § 22.404-7. A WAB decision regarding inadvertent clerical errors may be found at the end of this chapter.

## SELECTING THE PROPER WAGE DETERMINATION(S)

As stated in the DBA (see excerpt quoted on page 1, above), the Act requires the DOL to determine prevailing wage rates for inclusion in covered contracts based upon those paid to “corresponding classes of laborers and mechanics employed on **projects of a character similar to the contract work** in the **civil subdivision of the State in which the work is to be performed**, or in the District of Columbia if the work is to be performed there. . . .” (Emphasis added.)

A “wage determination” is the listing of wage rates and fringe benefit rates for each classification of laborers and mechanics which the WHD Administrator has determined to be prevailing in a given area (usually a county) for a particular type of construction.

Consider these three basic factors in selecting Davis-Bacon wage determinations:

1. Location
2. Type of Construction
3. Current Wage Determination(s)

### **Location**

It is a longstanding practice that Davis-Bacon wage determinations are made on a county-by-county basis. Identify the **State and county** where the construction work will be performed. In some cases a project may be located in **more than one county and/or State**. In such cases include the proper wage determinations for each county/State where work is to be performed under the contract. The bid specifications must also include instructions specifying the contract work to which each wage determination applies.

### **Type Of Construction**

#### **“Projects Of A Similar Character”**

As a matter of longstanding policy, DOL has distinguished four general types of construction for purposes of making prevailing wage determinations: building construction, residential construction, heavy construction, and highway construction. All Agency Memoranda Nos. 130 and 131 provide guidance in the application of this policy. Generally, for wage determination purposes, a project consists of all construction necessary to complete a facility regardless of the number of contracts involved, so long as all contracts awarded are closely related in purpose, time, and place.

**U.S. DEPARTMENT OF LABOR  
PREVAILING WAGE RESOURCE BOOK 2009**

*DB WAGE DETERMINATIONS*

**All Agency Memorandum No. 130 -- “Application Of The Standard Of Comparison ‘Projects of a Character Similar’ Under the Davis-Bacon And Related Acts”** provides general descriptions of each general type of construction and includes lists of examples in each general category. In brief:

**Building Construction** includes the construction, rehabilitation and repair of sheltered enclosures with walk-in access for the purpose of housing persons, machinery, equipment, or supplies.

**Residential Construction** includes the construction, rehabilitation, and repair of single family houses, townhouses, and apartment buildings of no more than four (4) stories in height.

**Highway Construction** includes the construction, alteration or repair of roads, streets, highways, runways, parking areas and most other paving work not incidental to building or heavy construction.

**Heavy Construction** is a “catch-all” category which includes those projects which cannot be classified as Building, Residential or Highway. Heavy construction is often further distinguished on the basis of the characteristics of particular projects, such as dredging, water and sewer line, dams, major bridges and flood control projects.

Any questions or disputes regarding the appropriate classification of a project with regard to type of construction should be referred to the WHD for resolution prior to bid opening (or other appropriate wage determination lock-in date; a discussion of “lock-in-dates” may be found in the “Area Practice” section of the “DBA/DBRA Compliance Principles: section of this Resource Book.) A request for a ruling should include a complete description of the project and other relevant information, such as wage payment data from similar construction projects in the local area, documentation of the views of parties in dispute, and other material interested parties wish to have considered. This may be appropriate where questions arise concerning the proper categorization of an entire project or particular portions of a project. (See discussion, below, of when multiple wage schedules should be applied, as compared to when lesser portions of a project will be considered incidental to the main type of construction to be performed.)

## **Type Of Construction**

### **“Multiple Types Of Construction” Versus “Incidental Construction”**

**All Agency Memorandum No. 131** provides further guidance, particularly on the application of multiple wage determinations for projects that involve more than one type of construction.

- ◇ Where a project includes construction items that in themselves would be classified differently with regard to type of construction, **multiple classification as to type of construction may be justified if such items are a substantial part of the project.**

**U.S. DEPARTMENT OF LABOR  
PREVAILING WAGE RESOURCE BOOK 2009**

*DB WAGE DETERMINATIONS*

- ◇ The application of wage schedules/determinations for more than one type of construction is appropriate if such items that fall in a separate type of construction will comprise at least 20% of the total project cost and/or \$1 million dollars cost.
- ◇ Generally, if such items that in themselves would be classified as a separate type of construction will be less than 20% of the total project cost and will cost less than \$1 million dollars, they are considered **incidental** to the primary type of construction involved on the project, and a separate wage determination is not applicable, unless there is an established local area practice to the contrary.
- ◇ Where multiple wage determinations are incorporated into the bid specifications/contract it is very important also to **provide instructions specifying the contract work to which each wage determination applies**. 29 C.F.R. § 1.6(b), reiterated in the FAR at 48 C.F.R. § 22.404-2.
  - ◇◇ Such instructions are needed, not only when the wage determinations for different types of construction (and/or locations) are in separate “Wage Decisions” but also where wage determinations for various types of construction (and/or counties) have been consolidated into a single “Wage Decision.” (This has often been done for administrative convenience in issuing wage determinations.)
  - ◇◇ Because of the complexities in the application of multiple schedules, the contracting agency should consult with the WHD Branch of Construction Wage Determinations to resolve any questions.

### **Current Wage Determination(s)**

It is the **responsibility of the federal agency** to ensure that the appropriate **up-to-date** wage determination is included in the bid/RFP or grant documents, and that **modifications** are included up to the time of award, or other applicable wage determination lock-in date.

Section 1.6 of Regulations, 29 C.F.R. Part 1 sets forth, in detail, the requirements regarding inclusion of **up-to-date** wage determinations in bid/contract documents:

- ◇ As a **general rule**, which particularly affects negotiated contracts (RFP's), the most up-to-date wage determination(s) issued at the time of **contract award** must be incorporated into Davis-Bacon covered contracts. 29 C.F.R. § 1.6(c)(2)(i).
- ◇ For contracts entered into pursuant to competitive bidding procedures, an **exception** provides that wage determination updates issued less than **10 days** before the opening of bids shall be effective unless there is not a reasonable time still available before bid opening to notify bidders of the up-date, and a report of the finding to that effect is inserted in the contract file. 29 C.F.R. § 1.6(a)(2)(i)(A).

**U.S. DEPARTMENT OF LABOR  
PREVAILING WAGE RESOURCE BOOK 2009**

**DB WAGE DETERMINATIONS**

- ◇◇ However where a GWD applies, if the contract is not awarded within **90 days** after bid opening, modifications to the wage determination(s) must be incorporated into the contract up to award, unless the contracting/assisting agency requests and obtains an extension of the 90-day period. 29 C.F.R. § 1.6(c)(3)(iv).

Similarly, if, due to unavoidable circumstances, a **project wage decision** expires between bid opening and contract award (or other applicable dates for certain HUD projects), the contracting/assisting agency may request an extension instead of a new project wage determination. 29 C.F.R. § 1.6(a)(1).

- ◇◇ Note: For further guidance in the application of other dates to HUD-assisted projects, it is appropriate to contact a HUD labor advisor. See <http://www.hud.gov/offices/olr/laborrelstf.cfm>.
- ◇ “Modifications” to Davis-Bacon wage determinations and “Supersedes” wage determinations issued after award of a contract do not apply to a contract. 29 C.F.R. § 1.6(c)(2)(ii). A Davis-Bacon wage determination that is appropriately applied to a covered contract normally establishes the minimum wage rates and fringe benefits which must be paid for the entire term of the contract.
  - ◇◇ After bid opening/award of a contract, properly applied Davis-Bacon wage determinations will not be modified, except rarely, such as where a correction of an inadvertent clerical error is issued. 29 C.F.R. § 1.6(b) and (c), reiterated in the FAR at 48 C.F.R. §§ 22.404-2 and 22.404-7. See also 29 C.F.R. § 1.6(b)(e), (f) and (g), and FAR at 48 C.F.R. § 22.404-9.
  - ◇◇ With regard to multi-year term contracts, such as are common at military installations, see All Agency Memorandum No. 157. (Also, FAR guidance at 48 C.F.R. § 22.404-12 applies to federal agencies.)
- ◇ **In pre-bid conferences, contractors should be advised/encouraged to review the Davis-Bacon wage determinations in the bid documents, and to raise any questions/complaints they have during the advertising period.** Often, out-of-date rates, errors, and wrong assumptions regarding the application of Davis-Bacon wage determinations can be corrected prior to bid opening/award, which, if not corrected then, and brought to light later will be deemed **untimely complaints**. (For example, see United Association of Journeymen and Apprentices of the Plumbing and Pipefitting Industry, Local 469, WAB Case No. 90-40, dated March 29, 1991, which is included at the end of the material under the “DB Wage Determinations” tab for your convenient reference.)

## GENERAL WAGE DETERMINATIONS (GWDs)

### How to Locate GWDs

The WDOL web site (<http://www.wdol.gov>) contains all current wage determinations as well as previous modifications to the wage determinations (archived wage determinations) and a listing of the wage determinations to be modified in the next publication cycle.

Current, archived or due to be revised Davis-Bacon wage determinations can be found by selecting one of these options from the “Davis Bacon Act” main menu:

- Selecting DBA WDs
- Archived WDs
- WDs to be revised

### Current GWDs

A current wage determination can be obtained by choosing “**Selecting DB WDs**” from the Davis Bacon Act Main Menu (illustrated below) and then by:

- ◇ Entering the wage decision number, if known,

OR

- ◇ Entering selection criteria, which will automatically select the applicable wage determination by:

- State
- County
- Type of Construction

OR

- ◇ Browsing by state/territory

Each of these methods is illustrated on the following sample screen.

**U.S. DEPARTMENT OF LABOR  
PREVAILING WAGE RESOURCE BOOK 2009**

*DB WAGE DETERMINATIONS*

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**By WHD Number**

Select DBA WD by number:

*(Enter WD number in the following format: two letter abbreviation for the state and the number of the WD. For example, VA3, NOT VA030003 or MD150 NOT MD030150.)*

Search

**OR**

**By Selection criteria**

State:

County:

Construction Type:

[\(Types of Construction Under DBA\)](#)

WD Number:

Search

**OR**

**By State**

**Browse by state/territory.**

Search



**U.S. DEPARTMENT OF LABOR  
PREVAILING WAGE RESOURCE BOOK 2009**

**DB WAGE DETERMINATIONS**

Previous (Archived) GWDs

A previous modification of a wage determination can be obtained by choosing “**Archived WDs**” from the “Davis Bacon Act” Main Menu and entering the publication year of the wage determination and the wage determination number as illustrated in the sample screen below).

***Archived Davis-Bacon Act Wage Determinations***

**When DBA WDs are revised, the current revision is available on WDOL.gov (Selecting DBA WDs). The old WD is archived on this page.(Archived WDs are for Information Purposes Only: WDOL User's Guide: Sec. C.4.e)**

Search:

Enter a DBA WD Number:   *(Enter DBA WD numbers in the following format: two-letter abbreviation for the state, and the number of the WD. For example, DBA WD "VA030003" is entered "VA3"; DBA WD "MD030150" is entered "MD150")*

Future GWDs (to be revised)

A listing of the wage determinations scheduled to be modified in the next publication cycle can be obtained by choosing “WDs due to be revised” from the “Davis Bacon Act” Main Menu as illustrated below in the sample screen.

**Davis-Bacon Act Wage Determinations Due To Be Revised**

The following DBA General Wage Determinations have been revised or created new and will be available at WDOL.gov on or after October 12, 2007

AL070056    WITHDRAWN  
CA070001  
CA070002  
CA070004  
CA070009  
CA070013

**U.S. DEPARTMENT OF LABOR  
PREVAILING WAGE RESOURCE BOOK 2009**

*DB WAGE DETERMINATIONS*

**How to Interpret a GWD**

Each wage determination begins with a **cover sheet** that defines its applicability by:

- ◇ The decision number.
- ◇ The number of the decision superseded, if applicable.
- ◇ State(s) covered.
- ◇ Type of construction (building, heavy, highway, and/or residential).
- ◇ County(ies), parishes, and/or city(ies) covered.
- ◇ Description of the construction to which the wage determination applies and/or construction excluded from its application.
- ◇ Record of modifications, including the initial publication date, modification numbers and dates.

The cover sheet is illustrated in the sample screen below.

```

-----
General Decision Number: LA070012 08/17/2007 LA12

Superseded General Decision Number: LA20030012

State: Louisiana

Construction Type: Heavy

Counties: Jefferson, Orleans, Plaquemines, St Bernard, St Charles, St
James, St John the Baptist and St Tammany 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)

Modification Number      Publication Date
          0              02/09/2007
          1              07/06/2007
          2              08/17/2007
-----

```

**U.S. DEPARTMENT OF LABOR  
PREVAILING WAGE RESOURCE BOOK 2009**

**DB WAGE DETERMINATIONS**

**Classifications, Basic Hourly Rates, And Fringe Benefits**

In the body of each wage determination is the **listing of classifications (laborers and mechanics) and accompanying basic hourly wage rates and fringe benefit rates** that have been determined to be prevailing for the specified type(s) of construction in the geographic area(s) covered by the wage determination.

- ◇ Classification listings may also include classification groupings, fringe benefit footnotes, descriptions of the geographic areas to which sub-classifications and different wage rates apply, and/or certain classification definitions.
- ◇ Above each classification (or group of classifications) listed, an alphanumeric “identifier” and date provide information about the source of the classification(s) and wage rate(s) listed for it. The discussion of “Classification Identifiers,” below, focuses on information about the source of a rate (union or non-union).

In wage determination modifications, an **asterisk (“\*”)** is used to indicate that the item marked is changed by that modification.

An example of this information is illustrated below:

-----  
\* PLUM0060-002 06/01/2007

JEFFERSON, ORLEANS, PLAQUEMINES, ST. BERNARD, ST. CHARLES, ST.  
JAMES (Southeastern Portion), ST. JOHN THE BAPTIST, and ST.  
TAMMANY PARISHES

|  | Rates    | Fringes |
|--|----------|---------|
| PLUMBER/PIPEFITTER (excluding<br>pipe laying)..... | \$ 24.27 | 7.18    |

-----

\* PLUM0198-005 07/01/2007

ST. JAMES PARISH (Northwestern Portion):

|   | Rates    | Fringes |
|---|----------|---------|
| PLUMBER (excluding pipe<br>laying)..... | \$ 21.64 | 6.88    |

-----

SULA2004-007 05/13/2004

|   | Rates    | Fringes |
|---|----------|---------|
| CARPENTER (all other work).....           | \$ 13.75 | 2.60    |
| Laborers:                                 |          |         |
| Common/Landscape.....                     | \$ 9.88  | 0.00    |
| Fence.....                                | \$ 11.24 | 0.00    |
| Flagger.....                              | \$ 8.58  | 0.00    |
| Mason Tender.....                         | \$ 7.00  | 0.00    |
| Pipelayer.....                            | \$ 9.84  | 0.00    |
| PIPEFITTER (excluding<br>pipelaying)..... | \$ 17.52 | 4.51    |

-----

**U.S. DEPARTMENT OF LABOR  
PREVAILING WAGE RESOURCE BOOK 2009**

*DB WAGE DETERMINATIONS*

**Classification Identifiers (Union and Non-Union)**

The body of each wage determination lists the classifications and wage rates that have been found prevailing for the cited type(s) of construction in the area covered by the wage determination. The classifications are listed in alphabetical order of “**identifiers**” that indicate whether particular rates are union or non-union rates.

Many wage determinations contain only non-union wage rates, some contain only union-negotiated wage rates, and others contain both union and non-union wage rates that have been found prevailing in the area for the type of construction covered by the wage determination.

**Union Identifiers**

- ◇ An identifier beginning with characters **other than SU** denotes that the **union** classification(s) and wage rate(s) have been found prevailing. The first four letters indicate the international union for the local union that negotiated the wage rates listed under that identifier (see listing below). The four-digit number that follows indicates the local union number.

**Example:**

```

-----
PLUM0198-005 07/01/2007
ST. JAMES PARISH (Northwestern Portion):
                                     Rates          Fringes
PLUMBER (excluding pipe
laying).....$ 21.64                6.88
-----

```

The identifier is PLUM0198-005 07/01/2007. PLUM = Plumbers; 0198 = the local union number (district council number where applicable); and 005 = internal number used in processing the wage determination. The date following these characters is the effective date of the most current negotiated rate.

- ◇ Special identifiers are necessary for two trades because the same local union number(s) is accompanied by different wage rates in different states. Bricklayers local union numbers are not unique nationwide, but are unique within each State. Similarly, Sprinkler Fitters Local Union No. 699 has negotiated different wage rates in each State within its territorial jurisdiction. Therefore, the identifiers for the Bricklayers unions are in the format “BR + state abbreviation,” (referenced below as BRXX), and the identifier “SF + state abbreviation” is used for Sprinkler Fitter Local No. 669’s rates.
- ◇ It is common for many local unions to negotiate wage rates for more than one classification. Where this is done, all the classifications for which that union’s

**U.S. DEPARTMENT OF LABOR  
PREVAILING WAGE RESOURCE BOOK 2009**

*DB WAGE DETERMINATIONS*

wage rates are determined to be prevailing will appear under the identifier for that union.

**Example:**

The same union may negotiate wage and fringe benefits for painters and glaziers. In such a case, the wage rate for the glazier, as well as that for the painter will be found under an identifier beginning with “PAIN”(if both the union rates were found prevailing for both glaziers and painters). Similarly, users may need to look under an identifier beginning with “CARP” to find not only rates for carpenters, but also those for millwrights, piledrivermen and (marine) divers.

Union Identifier Code Abbreviations

Following are the **identifier codes** used to reference the various craft unions. Examples of classifications for which their local unions commonly negotiate wage and fringe benefit rates are shown in parentheses.

|        |  |
|--------|--|
| ASBE = | International Association of Heat and Frost Insulators and Asbestos Workers  |
| BOIL = | International Brotherhood of Boiler Makers, Iron Shipbuilders, Blacksmiths, Forgers and Helpers  |
| BRXX = | International Union of Bricklayers, and Allied Craftsmen<br>(bricklayers, cement masons, stone masons, tile, marble and terrazzo workers)    |
| CARP = | United Brotherhood of Carpenters and Joiners of America<br>(carpenters, millwrights, piledrivermen, soft floor layers, divers)               |
| ELEC = | International Brotherhood of Electrical Workers<br>(electricians, communication systems installers, and other low voltage specialty workers) |
| ELEV = | International Union of Elevator Constructors   |
| ENGI = | International Union of Operating Engineers<br>(operators of various types of power equipment)  |
| IRON = | International Association of Bridge, Structural and Ornamental Iron Workers  |
| LABO = | Laborers’ International Union of North America   |

**U.S. DEPARTMENT OF LABOR  
PREVAILING WAGE RESOURCE BOOK 2009**

*DB WAGE DETERMINATIONS*

|        |   |
|--------|---|
| PAIN = | International Brotherhood of Painters and Allied Trades<br>(painters, drywall finishers, glaziers, soft floor layers)   |
| PLAS = | Operative Plasterers' and Cement Masons' International Association<br>of the United States and Canada<br>(cement masons, plasterers)  |
| PLUM = | United Association of Journeymen and Apprentices of the Plumbing<br>and Pipe Fitting Industry of the United States and Canada<br>(plumbers, pipefitters, steamfitters, sprinkler fitters) |
| ROOF = | United Union of Roofers, Waterproofers and Allied Workers   |
| SHEE = | Sheet Metal Workers International Association   |
| TEAM = | International Brotherhood of Teamsters  |

Non-Union Identifiers

Classification(s) for which the union rate(s) were not determined to be prevailing are listed under an "SU" identifier. **SU** means the rates listed under that identifier were derived from survey data by computing average rates and are not union rates. (The data reported for such a classification and used in computing the prevailing rate may include both union and non-union data. Note that various classifications, for which non-union rates have been determined to be prevailing, may be listed in alphabetical order under this identifier.

**Example:**

SULA2004-007 05/13/2004

|                                 | Rates    | Fringes |
|---------------------------------|----------|---------|
| CARPENTER (all other work)..... | \$ 13.75 | 2.60    |
| Laborers:                       |          |         |
| Common/Landscape.....           | \$ 9.88  | 0.00    |
| Fence.....                      | \$ 11.24 | 0.00    |
| Flagger.....                    | \$ 8.58  | 0.00    |
| Mason Tender.....               | \$ 7.00  | 0.00    |
| Pipelayer.....                  | \$ 9.84  | 0.00    |

The identifier is SULA2004-007 05/13/2004. **SU** indicates rates that are not union rates; LA indicates the state of Louisiana; 2004 is the year of the survey and 007 is an internal number used in producing the wage determination.

A 1993 or later date indicate the classification(s) and wage rate(s) under that identifier were issued in the GWD on that date.

**SAMPLE GENERAL WAGE DECISIONS**

NV 070010 – Building construction, Carson County, Nevada

&

NV 070026 – Residential construction, Carson County, Nevada

**U.S. DEPARTMENT OF LABOR  
PREVAILING WAGE RESOURCE BOOK 2009**

***DB WAGE DETERMINATIONS***

General Decision Number: NV070010 09/21/2007 NV10

State: Nevada

Construction Type: Building

County: Carson City County in Nevada.

BUILDING CONSTRUCTION PROJECTS (does not include single family homes or apartments up to and including 4 stories).

|                     |                  |
|---------------------|------------------|
| Modification Number | Publication Date |
| 0                   | 09/21/2007       |

BRNV0013-001 03/01/2006

|                 | Rates    | Fringes |
|-----------------|----------|---------|
| BRICKLAYER..... | \$ 25.71 | 8.60    |

BRNV0013-003 07/01/2007

|                  | Rates    | Fringes |
|------------------|----------|---------|
| TILE SETTER..... | \$ 21.99 | 9.08    |

CARP0971-001 07/01/2007

|  | Rates    | Fringes |
|--|----------|---------|
| CARPENTER (Including Drywall<br>Hanging, Form Worker, and Metal<br>Stud Installation)..... | \$ 26.11 | 10.24   |

Zone Pay:

Area 1- All work falling within 50 road miles of either the Carson City Courthouse or the Washoe County Courthouse shall be considered a free area.

Area 2- All work Falling between 50 and 150 road miles of the Washoe County Courthouse shall be compensated at an additional \$2.00 per hour.

Area 3 - All work falling between 150 and 300 road miles of the Washoe County Courthouse shall be compensated at an additional \$3.00 per hour.

Area 4 - Any work performed in excess of 300 road miles of the Washoe County Courthouse shall be compensated at \$4.00 per hour.



**U.S. DEPARTMENT OF LABOR  
PREVAILING WAGE RESOURCE BOOK 2009**

**DB WAGE DETERMINATIONS**

ELEC0401-001 12/01/2006

|                  | Rates    | Fringes  |
|------------------|----------|----------|
| ELECTRICIAN..... | \$ 27.60 | 3%+12.77 |

ENGI0003-006 07/01/2007

|                              | Rates    | Fringes |
|------------------------------|----------|---------|
| POWER EQUIPMENT OPERATOR     |          |         |
| Base Roller (Ride Along)     |          |         |
| and Paver (Incl. Asphalt)... | \$ 28.34 | 13.65   |
| Bulldozer, Loader (up to     |          |         |
| and including two and one-   |          |         |
| half [2-1/2] cu. yds.) and   |          |         |
| Scraper.....                 | \$ 28.93 | 13.65   |
| Excavator and Grader         |          |         |
| (Finishing and Non-          |          |         |
| Finishing).....              | \$ 29.79 | 13.65   |
| Forklift (20 ft and over)... | \$ 27.62 | 13.65   |
| Forklift (under 20 ft) and   |          |         |
| Skid Loader/Bobcat.....      | \$ 26.88 | 13.65   |
| Loader (over four [4] cu.    |          |         |
| yds. up to and including     |          |         |
| twelve [12] cu. yds.).....   | \$ 30.03 | 13.65   |
| Loader (over twelve [12]     |          |         |
| cu.yds.).....                | \$ 31.67 | 13.65   |
| Loader (over two and one-    |          |         |
| half [2-/12] cu. yds. up     |          |         |
| to and including four [4]    |          |         |
| cu. yds).....                | \$ 29.60 | 13.65   |
| Mechanic.....                | \$ 29.25 | 13.65   |

AREA PAY (Free Area and Remote Area Rates)

AREA 1 PAY SCALE: All that area falling within fifty (50) road miles of either the Carson City Courthouse or the Washoe County Courthouse shall be considered a free area for the purpose of this agreement.

AREA 2 PAY SCALE: All work falling between fifty (50) and one hundred and fifty (150) road miles of the Washoe County Courthouse shall be computed at an additional \$2.00 per hour.

AREA 3 PAY SCALE: All work falling between one hundred and fifty (150) and three hundred (300) miles of the Washoe County Courthouse shall be computed at an additional \$4.00 per hour.

AREA 4 PAY SCALE: Any work performed in excess of three hundred (300) road miles of the Washoe County Courthouse shall be computed at an additional \$4.00 per hour.

IRON0118-002 07/01/2007

**U.S. DEPARTMENT OF LABOR  
PREVAILING WAGE RESOURCE BOOK 2009**

**DB WAGE DETERMINATIONS**

|  | Rates    | Fringes |
|--|----------|---------|
| IRONWORKER (Ornamental,<br>Reinforcing, and Structural)..... | \$ 30.51 | 20.92   |
| -----  |          |         |
| LABO0169-005 10/01/2006                                      |          |         |

|  | Rates    | Fringes |
|--|----------|---------|
| LABORER  |          |         |
| (1) Common or General,<br>Cone Setter.....   | \$ 21.25 | 6.87    |
| (1A) Flagger.....  | \$ 18.38 | 6.87    |
| (3) Asphalt Shoveler,<br>Concrete Saw, Concrete<br>Vibrator, Form Stripping,<br>Jackhammer, Mason Tender -<br>Cement/Concrete, Plaster<br>Tender, Trencher-hand<br>guided..... | \$ 21.50 | 6.87    |
| (4) Asphalt Dumpman,<br>Pipelayer.....   | \$ 21.75 | 6.87    |
| (5) Asbestos Removal<br>(Floor, Wall, & Ceiling)....   | \$ 22.05 | 6.87    |
| -----  |          |         |
| PAIN0567-013 07/01/2007  |          |         |

|                          | Rates    | Fringes |
|--------------------------|----------|---------|
| PAINTER                  |          |         |
| Drywall Finishing.....   | \$ 24.69 | 7.80    |
| Paperhanger, Spray.....  | \$ 24.29 | 7.80    |
| Prep, Brush, Roller..... | \$ 23.44 | 7.80    |
| -----                    |          |         |
| PLAS0797-003 10/01/2006  |          |         |

|                                   | Rates    | Fringes |
|-----------------------------------|----------|---------|
| CEMENT MASON/CONCRETE FINISHER... | \$ 19.76 | 10.99   |
| -----                             |          |         |
| PLAS0797-006 07/01/2007           |          |         |

|                         | Rates    | Fringes |
|-------------------------|----------|---------|
| PLASTERER.....          | \$ 21.16 | 10.11   |
| -----                   |          |         |
| PLUM0350-004 08/01/2007 |          |         |

|   | Rates    | Fringes |
|---|----------|---------|
| PIPEFITTER (Including HVAC<br>Pipe Installation)..... | \$ 27.28 | 15.02   |
| -----   |          |         |
| SHEE0026-001 08/01/2007                               |          |         |

|  | Rates | Fringes |
|--|-------|---------|
|--|-------|---------|

**U.S. DEPARTMENT OF LABOR  
PREVAILING WAGE RESOURCE BOOK 2009**

**DB WAGE DETERMINATIONS**

SHEETMETAL WORKER (Including  
HVAC Duct Installation and  
Metal Roof).....\$ 27.57                      13.28

-----  
SUNV2007-001 08/01/2007

|  | Rates    | Fringes |
|--|----------|---------|
| LABORER: Landscape.....                                  | \$ 9.85  | 0.00    |
| LABORER: Mason Tender - Brick...                         | \$ 15.96 | 0.00    |
| OPERATOR: Backhoe.....                                   | \$ 16.67 | 0.00    |
| OPERATOR: Trencher,<br>Excluding Hand Guided Trencher... | \$ 27.96 | 0.00    |
| PLUMBER, Excluding HVAC Pipe.....                        | \$ 23.31 | 6.20    |
| ROOFER, Excluding Metal Roof.....                        | \$ 14.23 | 3.03    |
| TRUCK DRIVER: Dump Truck.....                            | \$ 16.90 | 0.00    |
| TRUCK DRIVER: Water Truck.....                           | \$ 17.22 | 2.45    |

-----  
TEAM0533-003 07/01/2006

|                              | Rates    | Fringes |
|------------------------------|----------|---------|
| TRUCK DRIVER<br>Flatbed..... | \$ 21.48 | 11.64   |

-----  
WELDERS - Receive rate prescribed for craft performing  
operation to which welding is incidental.  
=====

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)).

-----  
In the listing above, the "SU" designation means that rates  
listed under the identifier do not reflect collectively bargained  
wage and fringe benefit rates. Other designations indicate unions  
whose rates have been determined to be prevailing.  
-----

WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can  
be:

- \* an existing published wage determination
- \* a survey underlying a wage determination

**U.S. DEPARTMENT OF LABOR  
PREVAILING WAGE RESOURCE BOOK 2009**

***DB WAGE DETERMINATIONS***

- \* a Wage and Hour Division letter setting forth a position on a wage determination matter
- \* a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour Regional Office for the area in which the survey was conducted because those Regional Offices have responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

With regard to any other matter not yet ripe for the formal Process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

Branch of Construction Wage Determinations  
Wage and Hour Division  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7).  
Write to:

Wage and Hour Administrator  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210

The request should be accompanied by a full statement of the Interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an Interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210

4.) All decisions by the Administrative Review Board are final.

END OF GENERAL DECISION

**U.S. DEPARTMENT OF LABOR  
PREVAILING WAGE RESOURCE BOOK 2009**

**DB WAGE DETERMINATIONS**

Decision Number: NV070026 10/05/2007 NV26

State: Nevada

Construction Type: Residential

County: Carson City County in Nevada.

RESIDENTIAL CONSTRUCTION PROJECTS (consisting of single family homes and apartments up to and including 4 stories).

Modification Number      Publication Date  
0                              10/05/2007

CARP0971-002 07/01/2007

|                | Rates    | Fringes |
|----------------|----------|---------|
| CARPENTER..... | \$ 22.89 | 8.24    |

ELEC0401-009 12/01/2006

|                  | Rates    | Fringes  |
|------------------|----------|----------|
| ELECTRICIAN..... | \$ 27.60 | 12.77+3% |

ENGI0003-025 07/01/2007

|  | Rates    | Fringes |
|--|----------|---------|
| POWER EQUIPMENT OPERATOR   |          |         |
| (1) Paver (including Asphalt), Roller (including Base Finishing/Asphalt Ride Along)..... | \$ 28.34 | 13.65   |
| (2) Bulldozer, Loader 2-1/2 cu. yds.....   | \$ 28.93 | 13.65   |
| (3) Excavator.....   | \$ 29.79 | 13.65   |
| (4) Forklift 20 ft and over..  | \$ 27.62 | 13.65   |
| (5) Forklift under 20 ft....   | \$ 26.88 | 13.65   |
| (6) Loader over 4 cu. yds. up to and including 12 cu. yds.....                           | \$ 30.03 | 13.65   |
| (7) Loader over 12 cu.yds...   | \$ 31.67 | 13.65   |
| (8) Loader 2-/12 cu. yds. up to and including 4 cu. yds.....                             | \$ 29.60 | 13.65   |

LABO0169-006 10/01/2006

|  | Rates    | Fringes |
|--|----------|---------|
| LABORER                                      |          |         |
| (3) Cement Mason Tender, Form-Stripping..... | \$ 21.50 | 6.87    |
| (4) Asphalt Dumpman, Pipelayer.....          | \$ 21.75 | 6.87    |

**U.S. DEPARTMENT OF LABOR  
PREVAILING WAGE RESOURCE BOOK 2009**

***DB WAGE DETERMINATIONS***

PLAS0797-003 10/01/2007

|                                   | Rates    | Fringes |
|-----------------------------------|----------|---------|
| CEMENT MASON/CONCRETE FINISHER... | \$ 20.82 | 11.43   |

ROOF0162-003 08/01/2006

|             | Rates    | Fringes |
|-------------|----------|---------|
| ROOFER..... | \$ 20.52 | 5.91    |

SUNV2007-016 09/14/2007

|  | Rates    | Fringes |
|--|----------|---------|
| LABORER: Common or General.....                          | \$ 12.38 | 2.26    |
| LABORER: Landscape.....                                  | \$ 7.00  | 0.00    |
| OPERATOR: Backhoe.....                                   | \$ 13.96 | 0.00    |
| OPERATOR: Grader/Blade.....                              | \$ 25.79 | 6.34    |
| OPERATOR: Scraper.....                                   | \$ 21.53 | 7.33    |
| OPERATOR: Trencher,<br>Excluding Hand Guided Trencher... | \$ 16.35 | 0.00    |
| TRUCK DRIVER: Dump Truck.....                            | \$ 17.77 | 2.42    |
| TRUCK DRIVER: Water Truck.....                           | \$ 17.40 | 1.98    |

WELDERS - Receive rate prescribed for craft performing  
operation to which welding is incidental.

=====

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)).

In the listing above, the "SU" designation means that rates  
listed under the identifier do not reflect collectively bargained  
wage and fringe benefit rates. Other designations indicate unions  
whose rates have been determined to be prevailing.

**SAMPLE PROJECT WAGE DETERMINATION  
REQUEST FORM, SF-308**

# U.S. DEPARTMENT OF LABOR PREVAILING WAGE RESOURCE BOOK 2009

## DB WAGE DETERMINATIONS

Request For Wage Determination And  
Response To Request  
(Davis Bacon Act as Amended and Related Statutes)

U.S. Department of Labor  
Employment Standards Administration  
Wage and Hour Division



|  |   |  |  |
|--|---|--|--|
| <p><b>FOR DEPARTMENT OF LABOR USE</b></p> <p>Response To Request</p> <p><input type="checkbox"/> Use area determination issued for this area</p> <p>_____</p> <p>_____</p> <p><input type="checkbox"/> The attached decision noted below is applicable to this project</p> | <p>Mail Your Request To:</p> <p><b>U.S. Department of Labor<br/>Employment Standards Administration<br/>Wage and Hour Division<br/>Branch of Construction Contract Wage Determinations<br/>Washington, D.C. 20210</b></p> |  | <p>CHECK OR LIST CRAFTS NEEDED<br/>(Attach continuation sheet if needed)</p>   |
| <p>Decision Number</p>   | <p>Requesting Officer (Typed name and signature)</p>  |  | <p>_____ Asbestos workers</p>  |
| <p>Date of Decision</p>  | <p>Department, Agency, or Bureau</p>  | <p>Phone Number</p>  | <p>_____ Boilermakers</p>  |
| <p>Expires</p>   | <p>Date of Request</p>  | <p>Estimated Advertising Date</p>  | <p>Estimated Bid Opening Date</p>  |
| <p>Supersedes Decision Number</p>  | <p>Prior Decision Number (if any)</p>   | <p>Estimated \$ Value of Contract</p> <p><input type="checkbox"/> Under 1/2 Mil <input type="checkbox"/> 1 to 5 Mil</p> <p><input type="checkbox"/> 1/2 to 1 Mil <input type="checkbox"/> Over 5 Mil</p> | <p>Type of Work</p> <p><input type="checkbox"/> Bldg. <input type="checkbox"/> Highway</p> <p><input type="checkbox"/> Resid. <input type="checkbox"/> Heavy</p>   |
| <p>Approved</p>  | <p>Address to which wage determination should be mailed. (Print or type)</p> <div style="border: 1px solid black; height: 100px; width: 100%;"></div>   |  | <p>_____ Laborers (Specify classes)</p> <p>_____ Lathers</p> <p>_____ Marble &amp; tile setters, terrazzo workers</p> <p>_____ Painters</p> <p>_____ Pile drivers</p> <p>_____ Plasterers</p> <p>_____ Plumbers</p> <p>_____ Roofers</p> <p>_____ Sheet metal workers</p> <p>_____ Soft floor layers</p> <p>_____ Steamfitters</p> <p>_____ Welders-rate for craft</p> <p>_____ Truck drivers</p> <p>_____ Power equipment operators (Specify types)</p> |
|  | <p>Location of Project (City, County, State, Zip Code)</p> <p>_____</p> <p>Description of Work (Be specific) (Print or type)</p> <div style="border: 1px solid black; height: 100px; width: 100%;"></div>                 |  | <p>Other Crafts</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p>   |



**WAGE APPEALS BOARD DECISION –  
INADVERTENT CLERICAL ERRORS**

**U.S. DEPARTMENT OF LABOR  
PREVAILING WAGE RESOURCE BOOK 2009**

*DB WAGE DETERMINATIONS*

---

WAGE APPEALS BOARD  
UNITED STATES DEPARTMENT OF LABOR  
WASHINGTON, D. C.

In the Matter of:

UNITED ASSOCIATION OF  
JOURNEYMEN AND APPRENTICES  
OF THE PLUMBING AND  
PIPEFITTING INDUSTRY,  
LOCAL 469

WAB Case No. 90-40

BEFORE: Charles E. Shearer, Jr., Chairman  
Ruth E. Peters, Member  
Patrick J. O'Brien, Member

DATED: March 29, 1991

DECISION OF THE WAGE APPEALS BOARD

This case is before the Wage Appeals Board on the petition of the United Association of Journeymen and Apprentices of the Plumbing and Pipefitting Industry, Local 469 ("Petitioner" or "Local 469"), seeking review of a final ruling by the Acting Administrator, Wage and Hour Division. The matter addresses the question of whether a delay in incorporation of revised collective bargaining pay scales into a wage rate determination constitutes a "clerical error" within the meaning of 29 C.F.R. 1.6(d) and occasions a retroactive wage rate increase. It does not.

On January 13, 1988, Voith Hydro, Inc., was awarded a contract by the Department of the Interior to build, test, and install equipment at the Waddell generating plant in Arizona. The contract contained a wage rate determination containing current collectively bargained rates. Thirty-two days later, on February 14, 1988, the relevant collective bargaining agreement ("CBA") was amended to include a geographic area premium, covering the Waddell site. (FOOTNOTE 1). That amendment was conveyed to Wage and Hour some six months later, on August 25, 1988. On November 6, 1989, and again on January 3, 1990, petitioner requested a letter of inadvertence due to clerical error to increase (both currently and retroactively) the wages and fringe benefits applicable to the Waddell project.

**U.S. DEPARTMENT OF LABOR  
PREVAILING WAGE RESOURCE BOOK 2009**

*DB WAGE DETERMINATIONS*

---

The Acting Administrator responded on August 17, 1990, regretting the delay, informing the petitioner of the installation of an automated wage determination generation system designed to improve the timeliness of updating relevant collectively bargained rates, but denying the existence of a clerical error responsible for the delay in amending the determination applicable to the Waddell project.

Section 1.6(d) of the regulations found at 29 C.F.R., permits a retroactive wage increase where an incorrect rate is contained in an area determination as a result of a clerical error. The petitioner concedes the absence of any affirmative conduct constituting an "error." Accordingly, the petition is dismissed for failure to state a cognizable cause of action. See *Builders, Contractors and Employees Pension and Retirement Trust*, WAB Case No. 90-28 (March 1, 1991).

BY ORDER OF THE BOARD:

Charles E. Shearer, Jr., Chairman

Ruth E. Peters, Member

Patrick J. O'Brien, Member

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Gerald F. Krizan, Esq.

Executive Secretary [2]

( 1) The Solicitor also argues that the wage rates espoused by Local 469 would not apply to the seven southern counties of Arizona, as that area was located outside 469's jurisdiction. This point was not a basis of the Acting Administrator's decision, nor was it raised in the petition for review. Accordingly, although the Board finds this argument highly persuasive, it need not be reached.



## **Section B**

### **Exhibit A-6 Sample Wage Determination - DOL**

General Decision Number: CA100036 09/03/2010 CA36

Superseded General Decision Number: CA20080036

State: California

Construction Types: Building, Heavy (Heavy and Dredging) and Highway

County: Riverside County in California.

BUILDING CONSTRUCTION PROJECTS; DREDGING PROJECTS (does not include hopper dredge work); HEAVY CONSTRUCTION PROJECTS (does not include water well drilling); HIGHWAY CONSTRUCTION PROJECTS

| Modification Number | Publication Date |
|---------------------|------------------|
| 0                   | 03/12/2010       |
| 1                   | 03/26/2010       |
| 2                   | 04/02/2010       |
| 3                   | 04/16/2010       |
| 4                   | 06/25/2010       |
| 5                   | 07/02/2010       |
| 6                   | 07/23/2010       |
| 7                   | 08/06/2010       |
| 8                   | 08/13/2010       |
| 9                   | 08/27/2010       |
| 10                  | 09/03/2010       |

ASBE0005-002 01/01/2010

|  | Rates    | Fringes |
|--|----------|---------|
| Asbestos Workers/Insulator<br>(Includes the application of<br>all insulating materials,<br>protective coverings,<br>coatings, and finishes to all<br>types of mechanical systems)..... | \$ 32.93 | 15.32   |
| Fire Stop Technician<br>(Application of Firestopping<br>Materials for wall openings<br>and penetrations in walls,<br>floors, ceilings and curtain<br>walls).....                       | \$ 24.21 | 13.76   |

ASBE0005-004 01/01/2010

|   | Rates | Fringes |
|---|-------|---------|
| Asbestos Removal<br>worker/hazardous material<br>handler (Includes<br>preparation, wetting,<br>stripping, removal,<br>scrapping, vacuuming, bagging<br>and disposing of all<br>insulation materials from<br>mechanical systems, whether |       |         |

they contain asbestos or not)....\$ 18.85 8.03

-----  
BOIL0092-003 10/01/2009

|                  | Rates    | Fringes |
|------------------|----------|---------|
| BOILERMAKER..... | \$ 40.22 | 22.26   |

-----  
BRCA0004-011 05/01/2010

|                                | Rates    | Fringes |
|--------------------------------|----------|---------|
| BRICKLAYER; MARBLE SETTER..... | \$ 35.25 | 10.62   |

-----  
BRCA0018-004 06/01/2008

|                      | Rates    | Fringes |
|----------------------|----------|---------|
| MARBLE FINISHER..... | \$ 25.52 | 9.08    |
| TILE FINISHER.....   | \$ 21.07 | 7.88    |
| TILE LAYER.....      | \$ 32.05 | 11.99   |

-----  
BRCA0018-010 09/01/2009

|                             | Rates    | Fringes |
|-----------------------------|----------|---------|
| TERRAZZO FINISHER.....      | \$ 26.59 | 9.62    |
| TERRAZZO WORKER/SETTER..... | \$ 33.63 | 10.46   |

-----  
CARP0409-001 07/01/2010

|  | Rates    | Fringes |
|--|----------|---------|
| CARPENTER  |          |         |
| (1) Carpenter, Cabinet<br>Installer, Insulation<br>Installer, Hardwood Floor<br>Worker and acoustical<br>installer.....                                    | \$ 37.35 | 11.08   |
| (2) Millwright.....  | \$ 37.85 | 11.08   |
| (3) Piledriver/Derrick<br>Bargeman, Bridge or Dock<br>Carpenter, Heavy Frammer,<br>Rock Bargeman or Scowman,<br>Rockslinger, Shingler<br>(Commercial)..... | \$ 37.48 | 11.08   |
| (4) Pneumatic Nailer,<br>Power Stapler.....  | \$ 37.60 | 11.08   |
| (5) Sawfiler.....  | \$ 37.44 | 11.08   |
| (6) Scaffold Builder.....  | \$ 28.55 | 11.08   |
| (7) Table Power Saw<br>Operator.....   | \$ 37.45 | 11.08   |

FOOTNOTE: Work of forming in the construction of open cut  
sewers or storm drains, on operations in which horizontal  
lagging is used in conjunction with steel H-Beams driven or  
placed in pre- drilled holes, for that portion of a lagged  
trench against which concrete is poured, namely, as a  
substitute for back forms (which work is performed by  
piledrivers): \$0.13 per hour additional. Certified Welder

- \$1.00 per hour premium.

-----  
CARP0409-002 07/01/2008

|                           | Rates     | Fringes |
|---------------------------|-----------|---------|
| Diver                     |           |         |
| (1) Wet.....              | \$ 663.68 | 9.82    |
| (2) Standby.....          | \$ 331.84 | 9.82    |
| (3) Tender.....           | \$ 323.84 | 9.82    |
| (4) Assistant Tender..... | \$ 299.84 | 9.82    |

Amounts in "Rates" column are per day

-----  
CARP0409-005 07/01/2010

|                              | Rates    | Fringes |
|------------------------------|----------|---------|
| Drywall                      |          |         |
| DRYWALL INSTALLER/LATHER.... | \$ 37.35 | 11.08   |
| STOCKER/SCRAPPER.....        | \$ 10.00 | 6.67    |

-----  
CARP0409-008 07/01/2008

|                                  | Rates    | Fringes |
|----------------------------------|----------|---------|
| Modular Furniture Installer..... | \$ 19.00 | 7.41    |

-----  
ELEC0011-002 02/01/2010

#### COMMUNICATIONS AND SYSTEMS WORK

|                       | Rates    | Fringes |
|-----------------------|----------|---------|
| Communications System |          |         |
| Installer.....        | \$ 26.99 | 3%+8.64 |
| Technician.....       | \$ 28.79 | 3%+8.64 |

#### SCOPE OF WORK:

Installation, testing, service and maintenance of systems utilizing the transmission and/or transference of voice, sound, vision and digital for commercial, educational, security and entertainment purposes for the following: TV monitoring and surveillance, background-foreground music, intercom and telephone interconnect, inventory control systems, microwave transmission, multi-media, multiplex, nurse call systems, radio page, school intercom and sound, burglar alarms, fire alarm (see last paragraph below) and low voltage master clock systems in commercial buildings. Communication Systems that transmit or receive information and/or control systems that are intrinsic to the above listed systems; inclusion or exclusion of terminations and testings of conductors determined by their function; excluding all other data systems or multiple systems which include control function or power supply; excluding installation of raceway systems, conduit systems, line voltage work, and energy management systems. Does not cover work performed at China Lake Naval Ordnance Test Station. Fire alarm work shall be performed at the current inside wireman total cost package.

-----  
ELEC0440-001 06/01/2009

|                                       | Rates    | Fringes  |
|---------------------------------------|----------|----------|
| <b>ELECTRICIAN</b>                    |          |          |
| INSIDE ELECTRICIAN.....               | \$ 35.70 | 3%+15.59 |
| INTELLIGENT TRANSPORTATION<br>SYSTEMS |          |          |
| Electrician.....                      | \$ 35.00 | 3%+15.14 |
| Technician.....                       | \$ 26.25 | 3%+15.14 |

ZONE PAY: Zone A: Free travel zone for all contractors performing work in Zone A.

Zone B: Any work performed in Zone (B) shall add \$8.00 per hour to the current wage scale. Zone (B) shall be the area from the eastern perimeter of Zone (A) to a line which runs north and south beginning at Little Morongo Canyon (San Bernardino/Riverside County Line), Southeast along the Coachella Tunnels, Colorado River Aqueduct and Mecca Tunnels to Pinkham Wash then South to Box Canyon Road, then southwest along Box Canyon Road to Highway 195 west onto 195 south to Highway 86 to Riverside/Imperial County Line.

-----  
ELEC1245-001 06/01/2010

|  | Rates    | Fringes |
|--|----------|---------|
| <b>LINE CONSTRUCTION</b>   |          |         |
| (1) Lineman; Cable splicer..   | \$ 46.14 | 13.41   |
| (2) Equipment specialist<br>(operates crawler<br>tractors, commercial motor<br>vehicles, backhoes,<br>trenchers, cranes (50 tons<br>and below), overhead &<br>underground distribution<br>line equipment)..... | \$ 36.85 | 12.36   |
| (3) Groundman.....   | \$ 28.19 | 12.10   |
| (4) Powderman.....   | \$ 41.20 | 12.53   |

HOLIDAYS: New Year's Day, M.L. King Day, Memorial Day, Independence Day, Labor Day, Veterans Day, Thanksgiving Day and day after Thanksgiving, Christmas Day

-----  
ELEV0018-001 01/01/2010

|                        | Rates    | Fringes |
|------------------------|----------|---------|
| ELEVATOR MECHANIC..... | \$ 45.33 | 20.035  |

FOOTNOTE:

PAID VACATION: Employer contributes 8% of regular hourly rate as vacation pay credit for employees with more than 5 years of service, and 6% for 6 months to 5 years of service.  
PAID HOLIDAYS: New Years Day, Memorial Day, Independence Day, Labor Day, Veterans Day, Thanksgiving Day, Friday after Thanksgiving, and Christmas Day.

-----  
ENGI0012-003 07/01/2009



|                                  | Rates    | Fringes |
|----------------------------------|----------|---------|
| OPERATOR: Power Equipment        |          |         |
| (All Other Work)                 |          |         |
| GROUP 1.....                     | \$ 36.83 | 17.22   |
| GROUP 2.....                     | \$ 37.61 | 17.22   |
| GROUP 3.....                     | \$ 37.90 | 17.22   |
| GROUP 4.....                     | \$ 39.39 | 17.22   |
| GROUP 5.....                     | \$ 40.49 | 17.22   |
| GROUP 6.....                     | \$ 39.61 | 17.22   |
| GROUP 7.....                     | \$ 40.71 | 17.22   |
| GROUP 8.....                     | \$ 39.72 | 17.22   |
| GROUP 9.....                     | \$ 40.82 | 17.22   |
| GROUP 10.....                    | \$ 39.84 | 17.22   |
| GROUP 11.....                    | \$ 40.94 | 17.22   |
| GROUP 12.....                    | \$ 40.01 | 17.22   |
| GROUP 13.....                    | \$ 40.11 | 17.22   |
| GROUP 14.....                    | \$ 40.14 | 17.22   |
| GROUP 15.....                    | \$ 40.22 | 17.22   |
| GROUP 16.....                    | \$ 40.34 | 17.22   |
| GROUP 17.....                    | \$ 40.51 | 17.22   |
| GROUP 18.....                    | \$ 40.61 | 17.22   |
| GROUP 19.....                    | \$ 40.72 | 17.22   |
| GROUP 20.....                    | \$ 40.84 | 17.22   |
| GROUP 21.....                    | \$ 41.01 | 17.22   |
| GROUP 22.....                    | \$ 41.11 | 17.22   |
| GROUP 23.....                    | \$ 41.22 | 17.22   |
| GROUP 24.....                    | \$ 41.34 | 17.22   |
| GROUP 25.....                    | \$ 41.51 | 17.22   |
| OPERATOR: Power Equipment        |          |         |
| (Cranes, Piledriving & Hoisting) |          |         |
| GROUP 1.....                     | \$ 38.18 | 17.22   |
| GROUP 2.....                     | \$ 38.96 | 17.22   |
| GROUP 3.....                     | \$ 39.25 | 17.22   |
| GROUP 4.....                     | \$ 39.39 | 17.22   |
| GROUP 5.....                     | \$ 39.61 | 17.22   |
| GROUP 6.....                     | \$ 39.72 | 17.22   |
| GROUP 7.....                     | \$ 39.84 | 17.22   |
| GROUP 8.....                     | \$ 40.01 | 17.22   |
| GROUP 9.....                     | \$ 40.18 | 17.22   |
| GROUP 10.....                    | \$ 41.18 | 17.22   |
| GROUP 11.....                    | \$ 42.18 | 17.22   |
| GROUP 12.....                    | \$ 43.18 | 17.22   |
| GROUP 13.....                    | \$ 44.18 | 17.22   |
| OPERATOR: Power Equipment        |          |         |
| (Tunnel Work)                    |          |         |
| GROUP 1.....                     | \$ 38.68 | 17.22   |
| GROUP 2.....                     | \$ 39.46 | 17.22   |
| GROUP 3.....                     | \$ 39.75 | 17.22   |
| GROUP 4.....                     | \$ 39.89 | 17.22   |
| GROUP 5.....                     | \$ 40.11 | 17.22   |
| GROUP 6.....                     | \$ 40.22 | 17.22   |
| GROUP 7.....                     | \$ 40.34 | 17.22   |

## PREMIUM PAY:

\$3.75 per hour shall be paid on all Power Equipment Operator work on the following Military Bases: China Lake Naval Reserve, Vandenberg AFB, Point Arguello, Seely Naval Base,

Fort Irwin, Nebo Annex Marine Base, Marine Corp Logistics  
Base Yermo, Edwards AFB, 29 Palms Marine Base and Camp  
Pendleton

Workers required to suit up and work in a hazardous material  
environment: \$2.00 per hour additional. Combination mixer  
and compressor operator on gunite work shall be classified  
as a concrete mobile mixer operator.

SEE ZONE DEFINITIONS AFTER CLASSIFICATIONS

#### POWER EQUIPMENT OPERATORS CLASSIFICATIONS

GROUP 1: Bargeman; Brakeman; Compressor operator; Ditch  
Witch, with seat or similar type equipment; Elevator  
operator-inside; Engineer Oiler; Forklift operator  
(includes loed, lull or similar types under 5 tons;  
Generator operator; Generator, pump or compressor plant  
operator; Pump operator; Signalman; Switchman

GROUP 2: Asphalt-rubber plant operator (nurse tank operator);  
Concrete mixer operator-skip type; Conveyor operator;  
Fireman; Forklift operator (includes loed, lull or similar  
types over 5 tons; Hydrostatic pump operator; oiler crusher  
(asphalt or concrete plant); Petromat laydown machine; PJU  
side dum jack; Screening and conveyor machine operator (or  
similar types); Skiploader (wheel type up to 3/4 yd.  
without attachment); Tar pot fireman; Temporary heating  
plant operator; Trenching machine oiler

GROUP 3: Asphalt-rubber blend operator; Bobcat or similar  
type (Skid steer); Equipment greaser (rack); Ford Ferguson  
(with dragtype attachments); Helicopter radioman (ground);  
Stationary pipe wrapping and cleaning machine operator

GROUP 4: Asphalt plant fireman; Backhoe operator (mini-max or  
similar type); Boring machine operator; Boxman or mixerman  
(asphalt or concrete); Chip spreading machine operator;  
Concrete cleaning decontamination machine operator;  
Concrete Pump Operator (small portable); Drilling machine  
operator, small auger types (Texoma super economatic or  
similar types - Hughes 100 or 200 or similar types -  
drilling depth of 30' maximum); Equipment greaser (grease  
truck); Guard rail post driver operator; Highline cableway  
signalman; Horizontal Directional Drilling Machine;  
Hydra-hammer-aero stomper; Micro Tunneling (above ground  
tunnel); Power concrete curing machine operator; Power  
concrete saw operator; Power-driven jumbo form setter  
operator; Power sweeper operator; Rock Wheel Saw/Trencher;  
Roller operator (compacting); Screed operator (asphalt or  
concrete); Trenching machine operator (up to 6 ft.); Vacuum  
or much truck

GROUP 5: Equipment Greaser (Grease Truck/Multi Shift).

GROUP 6: Articulating material hauler; Asphalt plant  
engineer; Batch plant operator; Bit sharpener; Concrete  
joint machine operator (canal and similar type); Concrete  
planer operator; Dandy digger; Deck engine operator;  
Derrickman (oilfield type); Drilling machine operator,

bucket or auger types (Calweld 100 bucket or similar types - Watson 1000 auger or similar types - Texoma 330, 500 or 600 auger or similar types - drilling depth of 45' maximum); Drilling machine operator; Hydrographic seeder machine operator (straw, pulp or seed), Jackson track maintainer, or similar type; Kalamazoo Switch tamper, or similar type; Machine tool operator; Maginnis internal full slab vibrator, Mechanical berm, curb or gutter (concrete or asphalt); Mechanical finisher operator (concrete, Clary-Johnson-Bidwell or similar); Micro tunnel system (below ground); Pavement breaker operator (truck mounted); Road oil mixing machine operator; Roller operator (asphalt or finish), rubber-tired earth moving equipment (single engine, up to and including 25 yds. struck); Self-propelled tar pipelining machine operator; Skiploader operator (crawler and wheel type, over 3/4 yd. and up to and including 1-1/2 yds.); Slip form pump operator (power driven hydraulic lifting device for concrete forms); Tractor operator-bulldozer, tamper-scraper (single engine, up to 100 h.p. flywheel and similar types, up to and including D-5 and similar types); Tugger hoist operator (1 drum); Ultra high pressure waterjet cutting tool system operator; Vacuum blasting machine operator

#### GROUP 7: Welder - General

GROUP 8: Asphalt or concrete spreading operator (tamping or finishing); Asphalt paving machine operator (Barber Greene or similar type); Asphalt-rubber distribution operator; Backhoe operator (up to and including 3/4 yd.), small ford, Case or similar; Cast-in-place pipe laying machine operator; Combination mixer and compressor operator (gunite work); Compactor operator (self-propelled); Concrete mixer operator (paving); Crushing plant operator; Drill Doctor; Drilling machine operator, Bucket or auger types (Calweld 150 bucket or similar types - Watson 1500, 2000 2500 auger or similar types - Texoma 700, 800 auger or similar types - drilling depth of 60' maximum); Elevating grader operator; Grade checker; Gradall operator; Grouting machine operator; Heavy-duty repairman; Heavy equipment robotics operator; Kalamazoo balliste regulator or similar type; Kolman belt loader and similar type; Le Tourneau blob compactor or similar type; Loader operator (Athey, Euclid, Sierra and similar types); Mobark Chipper or similar; Ozzie padder or similar types; P.C. slot saw; Pneumatic concrete placing machine operator (Hackley-Presswell or similar type); Pumpcrete gun operator; Rock Drill or similar types; Rotary drill operator (excluding caisson type); Rubber-tired earth-moving equipment operator (single engine, caterpillar, Euclid, Athey Wagon and similar types with any and all attachments over 25 yds. up to and including 50 cu. yds. struck); Rubber-tired earth-moving equipment operator (multiple engine up to and including 25 yds. struck); Rubber-tired scraper operator (self-loading paddle wheel type-John Deere, 1040 and similar single unit); Self-propelled curb and gutter machine operator; Shuttle buggy; Skiploader operator (crawler and wheel type over 1-1/2 yds. up to and including 6-1/2 yds.); Soil remediation plant operator; Surface heaters and planer operator; Tractor compressor drill combination operator; Tractor operator

(any type larger than D-5 - 100 flywheel h.p. and over, or similar-bulldozer, tamper, scraper and push tractor single engine); Tractor operator (boom attachments), Traveling pipe wrapping, cleaning and bending machine operator; Trenching machine operator (over 6 ft. depth capacity, manufacturer's rating); trenching Machine with Road Miner attachment (over 6 ft depth capacity): Ultra high pressure waterjet cutting tool system mechanic; Water pull (compaction) operator

GROUP 9: Heavy Duty Repairman

GROUP 10: Drilling machine operator, Bucket or auger types (Calweld 200 B bucket or similar types-Watson 3000 or 5000 auger or similar types-TEXOMA 900 auger or similar types-drilling depth of 105' maximum); Dual drum mixer, dynamic compactor LDC350 (or similar types); Monorail locomotive operator (diesel, gas or electric); Motor patrol-blade operator (single engine); Multiple engine tractor operator (Euclid and similar type-except Quad 9 cat.); Rubber-tired earth-moving equipment operator (single engine, over 50 yds. struck); Pneumatic pipe ramming tool and similar types; Prestressed wrapping machine operator; Rubber-tired earth-moving equipment operator (single engine, over 50 yds. struck); Rubber tired earth moving equipment operator (multiple engine, Euclid, caterpillar and similar over 25 yds. and up to 50 yds. struck), Tower crane repairman; Tractor loader operator (crawler and wheel type over 6-1/2 yds.); Woods mixer operator (and similar Pugmill equipment)

GROUP 11: Heavy Duty Repairman - Welder Combination, Welder - Certified.

GROUP 12: Auto grader operator; Automatic slip form operator; Drilling machine operator, bucket or auger types (Calweld, auger 200 CA or similar types - Watson, auger 6000 or similar types - Hughes Super Duty, auger 200 or similar types - drilling depth of 175' maximum); Hoe ram or similar with compressor; Mass excavator operator less than 750 cu. yards; Mechanical finishing machine operator; Mobile form traveler operator; Motor patrol operator (multi-engine); Pipe mobile machine operator; Rubber-tired earth-moving equipment operator (multiple engine, Euclid, Caterpillar and similar type, over 50 cu. yds. struck); Rubber-tired self-loading scraper operator (paddle-wheel-auger type self-loading - two (2) or more units)

GROUP 13: Rubber-tired earth-moving equipment operator operating equipment with push-pull system (single engine, up to and including 25 yds. struck)

GROUP 14: Canal liner operator; Canal trimmer operator; Remote-control earth-moving equipment operator (operating a second piece of equipment: \$1.00 per hour additional); Wheel excavator operator (over 750 cu. yds.)

GROUP 15: Rubber-tired earth-moving equipment operator, operating equipment with push-pull system (single engine, Caterpillar, Euclid, Athey Wagon and similar types with any

and all attachments over 25 yds. and up to and including 50 yds. struck); Rubber-tired earth-moving equipment operator, operating equipment with push-pull system (multiple engine-up to and including 25 yds. struck)

GROUP 16: Rubber-tired earth-moving equipment operator, operating equipment with push-pull system (single engine, over 50 yds. struck); Rubber-tired earth-moving equipment operator, operating equipment with push-pull system (multiple engine, Euclid, Caterpillar and similar, over 25 yds. and up to 50 yds. struck)

GROUP 17: Rubber-tired earth-moving equipment operator, operating equipment with push-pull system (multiple engine, Euclid, Caterpillar and similar, over 50 cu. yds. struck); Tandem tractor operator (operating crawler type tractors in tandem - Quad 9 and similar type)

GROUP 18: Rubber-tired earth-moving equipment operator, operating in tandem (scrapers, belly dumps and similar types in any combination, excluding compaction units - single engine, up to and including 25 yds. struck)

GROUP 19: Rotex concrete belt operator (or similar types); Rubber-tired earth-moving equipment operator, operating in tandem (scrapers, belly dumps and similar types in any combination, excluding compaction units - single engine, Caterpillar, Euclid, Athey Wagon and similar types with any and all attachments over 25 yds. and up to and including 50 cu. yds. struck); Rubber-tired earth-moving equipment operator, operating in tandem (scrapers, belly dumps and similar types in any combination, excluding compaction units - multiple engine, up to and including 25 yds. struck)

GROUP 20: Rubber-tired earth-moving equipment operator, operating in tandem (scrapers, belly dumps and similar types in any combination, excluding compaction units - single engine, over 50 yds. struck); Rubber-tired earth-moving equipment operator, operating in tandem (scrapers, belly dumps, and similar types in any combination, excluding compaction units - multiple engine, Euclid, Caterpillar and similar, over 25 yds. and up to 50 yds. struck)

GROUP 21: Rubber-tired earth-moving equipment operator, operating in tandem (scrapers, belly dumps and similar types in any combination, excluding compaction units - multiple engine, Euclid, Caterpillar and similar type, over 50 cu. yds. struck)

GROUP 22: Rubber-tired earth-moving equipment operator, operating equipment with the tandem push-pull system (single engine, up to and including 25 yds. struck)

GROUP 23: Rubber-tired earth-moving equipment operator, operating equipment with the tandem push-pull system (single engine, Caterpillar, Euclid, Athey Wagon and similar types with any and all attachments over 25 yds. and up to and including 50 yds. struck); Rubber-tired earth-moving equipment operator, operating with the tandem

push-pull system (multiple engine, up to and including 25 yds. struck)

GROUP 24: Rubber-tired earth-moving equipment operator, operating equipment with the tandem push-pull system (single engine, over 50 yds. struck); Rubber-tired earth-moving equipment operator, operating equipment with the tandem push-pull system (multiple engine, Euclid, Caterpillar and similar, over 25 yds. and up to 50 yds. struck)

GROUP 25: Concrete pump operator-truck mounted; Rubber-tired earth-moving equipment operator, operating equipment with the tandem push-pull system (multiple engine, Euclid, Caterpillar and similar type, over 50 cu. yds. struck)

#### CRANES, PILEDRIVING AND HOISTING EQUIPMENT CLASSIFICATIONS

GROUP 1: Engineer oiler; Fork lift operator (includes loed, lull or similar types)

GROUP 2: Truck crane oiler

GROUP 3: A-frame or winch truck operator; Ross carrier operator (jobsite)

GROUP 4: Bridge-type unloader and turntable operator; Helicopter hoist operator

GROUP 5: Hydraulic boom truck; Stinger crane (Austin-Western or similar type); Tugger hoist operator (1 drum)

GROUP 6: Bridge crane operator; Cretor crane operator; Hoist operator (Chicago boom and similar type); Lift mobile operator; Lift slab machine operator (Vagtborg and similar types); Material hoist and/or manlift operator; Polar gantry crane operator; Self Climbing scaffold (or similar type); Shovel, backhoe, dragline, clamshell operator (over 3/4 yd. and up to 5 cu. yds. mrc); Tugger hoist operator

GROUP 7: Pedestal crane operator; Shovel, backhoe, dragline, clamshell operator (over 5 cu. yds. mrc); Tower crane repair; Tugger hoist operator (3 drum)

GROUP 8: Crane operator (up to and including 25 ton capacity); Crawler transporter operator; Derrick barge operator (up to and including 25 ton capacity); Hoist operator, stiff legs, Guy derrick or similar type (up to and including 25 ton capacity); Shovel, backhoe, dragline, clamshell operator (over 7 cu. yds., M.R.C.)

GROUP 9: Crane operator (over 25 tons and up to and including 50 tons mrc); Derrick barge operator (over 25 tons up to and including 50 tons mrc); Highline cableway operator; Hoist operator, stiff legs, Guy derrick or similar type (over 25 tons up to and including 50 tons mrc); K-crane operator; Polar crane operator; Self erecting tower crane operator maximum lifting capacity ten tons

GROUP 10: Crane operator (over 50 tons and up to and

including 100 tons mrc); Derrick barge operator (over 50 tons up to and including 100 tons mrc); Hoist operator, stiff legs, Guy derrick or similar type (over 50 tons up to and including 100 tons mrc), Mobile tower crane operator (over 50 tons, up to and including 100 tons M.R.C.); Tower crane operator and tower gantry

GROUP 11: Crane operator (over 100 tons and up to and including 200 tons mrc); Derrick barge operator (over 100 tons up to and including 200 tons mrc); Hoist operator, stiff legs, Guy derrick or similar type (over 100 tons up to and including 200 tons mrc); Mobile tower crane operator (over 100 tons up to and including 200 tons mrc)

GROUP 12: Crane operator (over 200 tons up to and including 300 tons mrc); Derrick barge operator (over 200 tons up to and including 300 tons mrc); Hoist operator, stiff legs, Guy derrick or similar type (over 200 tons, up to and including 300 tons mrc); Mobile tower crane operator (over 200 tons, up to and including 300 tons mrc)

GROUP 13: Crane operator (over 300 tons); Derrick barge operator (over 300 tons); Helicopter pilot; Hoist operator, stiff legs, Guy derrick or similar type (over 300 tons); Mobile tower crane operator (over 300 tons)

#### TUNNEL CLASSIFICATIONS

GROUP 1: Skiploader (wheel type up to 3/4 yd. without attachment)

GROUP 2: Power-driven jumbo form setter operator

GROUP 3: Dinkey locomotive or motorperson (up to and including 10 tons)

GROUP 4: Bit sharpener; Equipment greaser (grease truck); Slip form pump operator (power-driven hydraulic lifting device for concrete forms); Tugger hoist operator (1 drum); Tunnel locomotive operator (over 10 and up to and including 30 tons)

GROUP 5: Backhoe operator (up to and including 3/4 yd.); Small Ford, Case or similar; Drill doctor; Grouting machine operator; Heading shield operator; Heavy-duty repairperson; Loader operator (Athey, Euclid, Sierra and similar types); Mucking machine operator (1/4 yd., rubber-tired, rail or track type); Pneumatic concrete placing machine operator (Hackley-Presswell or similar type); Pneumatic heading shield (tunnel); Pumpcrete gun operator; Tractor compressor drill combination operator; Tugger hoist operator (2 drum); Tunnel locomotive operator (over 30 tons)

GROUP 6: Heavy Duty Repairman

GROUP 7: Tunnel mole boring machine operator

#### ENGINEERS ZONES

\$1.00 additional per hour for all of IMPERIAL County and the

portions of KERN, RIVERSIDE & SAN BERNARDINO Counties as defined below:

That area within the following Boundary: Begin in San Bernardino County, approximately 3 miles NE of the intersection of I-15 and the California State line at that point which is the NW corner of Section 1, T17N, R14E, San Bernardino Meridian. Continue W in a straight line to that point which is the SW corner of the northwest quarter of Section 6, T27S, R42E, Mt. Diablo Meridian. Continue North to the intersection with the Inyo County Boundary at that point which is the NE corner of the western half of the northern quarter of Section 6, T25S, R42E, MDM. Continue W along the Inyo and San Bernardino County boundary until the intersection with Kern County, as that point which is the SE corner of Section 34, T24S, R40E, MDM. Continue W along the Inyo and Kern County boundary until the intersection with Tulare County, at that point which is the SW corner of the SE quarter of Section 32, T24S, R37E, MDM. Continue W along the Kern and Tulare County boundary, until that point which is the NW corner of T25S, R32E, MDM. Continue S following R32E lines to the NW corner of T31S, R32E, MDM. Continue W to the NW corner of T31S, R31E, MDM. Continue S to the SW corner of T32S, R31E, MDM. Continue W to SW corner of SE quarter of Section 34, T32S, R30E, MDM. Continue S to SW corner of T11N, R17W, SBM. Continue E along south boundary of T11N, SBM to SW corner of T11N, R7W, SBM. Continue S to SW corner of T9N, R7W, SBM. Continue E along south boundary of T9N, SBM to SW corner of T9N, R1E, SBM. Continue S along west boundary of R1E, SBM to Riverside County line at the SW corner of T1S, R1E, SBM. Continue E along south boundary of T1S, SBM (Riverside County Line) to SW corner of T1S, R10E, SBM. Continue S along west boundary of R10E, SBM to Imperial County line at the SW corner of T8S, R10E, SBM. Continue W along Imperial and Riverside county line to NW corner of T9S, R9E, SBM. Continue S along the boundary between Imperial and San Diego Counties, along the west edge of R9E, SBM to the south boundary of Imperial County/California state line. Follow the California state line west to Arizona state line, then north to Nevada state line, then continuing NW back to start at the point which is the NW corner of Section 1, T17N, R14E, SBM

\$1.00 additional per hour for portions of SAN LUIS OBISPO, KERN, SANTA BARBARA & VENTURA as defined below:

That area within the following Boundary: Begin approximately 5 miles north of the community of Cholame, on the Monterey County and San Luis Obispo County boundary at the NW corner of T25S, R16E, Mt. Diablo Meridian. Continue south along the west side of R16E to the SW corner of T30S, R16E, MDM. Continue E to SW corner of T30S, R17E, MDM. Continue S to SW corner of T31S, R17E, MDM. Continue E to SW corner of T31S, R18E, MDM. Continue S along West side of R18E, MDM as it crosses into San Bernardino Meridian numbering area and becomes R30W. Follow the west side of R30W, SBM to the SW corner of T9N, R30W, SBM. Continue E along the south edge of T9N, SBM to the Santa Barbara County and Ventura County boundary at that point which is the SW corner of Section 34. T9N, R24W, SBM, continue S along the Ventura County line to that point which is the SW corner of the SE quarter of Section 32, T7N, R24W, SBM. Continue E



along the south edge of T7N, SBM to the SE corner to T7N, R21W, SBM. Continue N along East side of R21W, SBM to Ventura County and Kern County boundary at the NE corner of T8N, R21W. Continue W along the Ventura County and Kern County boundary to the SE corner of T9N, R21W. Continue North along the East edge of R21W, SBM to the NE corner of T12N, R21W, SBM. Continue West along the north edge of T12N, SBM to the SE corner of T32S, R21E, MDM. [T12N SBM is a think strip between T11N SBM and T32S MDM]. Continue North along the East side of R21E, MDM to the Kings County and Kern County border at the NE corner of T25S, R21E, MDM, continue West along the Kings County and Kern County Boundary until the intersection of San Luis Obispo County. Continue west along the Kings County and San Luis Obispo County boundary until the intersection with Monterey County. Continue West along the Monterey County and San Luis Obispo County boundary to the beginning point at the NW corner of T25S, R16E, MDM.

\$2.00 additional per hour for INYO and MONO Counties and the Northern portion of SAN BERNARDINO County as defined below:

That area within the following Boundary: Begin at the intersection of the northern boundary of Mono County and the California state line at the point which is the center of Section 17, T10N, R22E, Mt. Diablo Meridian. Continue S then SE along the entire western boundary of Mono County, until it reaches Inyo County at the point which is the NE corner of the Western half of the NW quarter of Section 2, T8S, R29E, MDM. Continue SSE along the entire western boundary of Inyo County, until the intersection with Kern County at the point which is the SW corner of the SE  $\frac{1}{4}$  of Section 32, T24S, R37E, MDM. Continue E along the Inyo and Kern County boundary until the intersection with San Bernardino County at that point which is the SE corner of section 34, T24S, R40E, MDM. Continue E along the Inyo and San Bernardino County boundary until the point which is the NE corner of the Western half of the NW quarter of Section 6, T25S, R42E, MDM. Continue S to that point which is the SW corner of the NW quarter of Section 6, T27S, R42E, MDM. Continue E in a straight line to the California and Nevada state border at the point which is the NW corner of Section 1, T17N, R14E, San Bernardino Meridian. Then continue NW along the state line to the starting point, which is the center of Section 18, T10N, R22E, MDM.

REMAINING AREA NOT DEFINED ABOVE RECIEVES BASE RATE

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ENGI0012-004 08/01/2009

|                           | Rates    | Fringes |
|---------------------------|----------|---------|
| OPERATOR: Power Equipment |          |         |
| (DREDGING)                |          |         |
| (1) Leverman.....         | \$ 44.83 | 17.22   |
| (2) Dredge dozer.....     | \$ 40.36 | 17.22   |
| (3) Deckmate.....         | \$ 40.25 | 17.22   |
| (4) Winch operator (stern |          |         |
| winch on dredge).....     | \$ 39.70 | 17.22   |
| (5) Fireman-Oiler,        |          |         |

|                     |          |       |
|---------------------|----------|-------|
| Deckhand, Bargeman, |          |       |
| Leveehand.....      | \$ 39.16 | 17.22 |
| (6) Barge Mate..... | \$ 39.77 | 17.22 |

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IRON0002-004 07/01/2010

|                         | Rates    | Fringes |
|-------------------------|----------|---------|
| Ironworkers:            |          |         |
| Fence Erector.....      | \$ 26.58 | 15.26   |
| Ornamental, Reinforcing |          |         |
| and Structural.....     | \$ 33.00 | 23.73   |

PREMIUM PAY:

\$6.00 additional per hour at the following locations:

China Lake Naval Test Station, Chocolate Mountains Naval Reserve-Niland, Edwards AFB, Fort Irwin Military Station, Fort Irwin Training Center-Goldstone, San Clemente Island, San Nicholas Island, Susanville Federal Prison, 29 Palms - Marine Corps, U.S. Marine Base - Barstow, U.S. Naval Air Facility - Sealey, Vandenberg AFB

\$4.00 additional per hour at the following locations:

Army Defense Language Institute - Monterey, Fallon Air Base, Naval Post Graduate School - Monterey, Yermo Marine Corps Logistics Center

\$2.00 additional per hour at the following locations:

Port Hueneme, Port Mugu, U.S. Coast Guard Station - Two Rock

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LABO0300-001 07/01/2008

|                   | Rates    | Fringes |
|-------------------|----------|---------|
| Brick Tender..... | \$ 27.17 | 13.75   |

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LABO0300-003 01/01/2010

|                  | Rates    | Fringes |
|------------------|----------|---------|
| LABORER (GUNITE) |          |         |
| GROUP 1.....     | \$ 30.04 | 17.37   |
| GROUP 2.....     | \$ 29.09 | 17.37   |
| GROUP 3.....     | \$ 25.55 | 17.37   |
| LABORER (TUNNEL) |          |         |
| GROUP 1.....     | \$ 31.24 | 15.04   |
| GROUP 2.....     | \$ 31.56 | 15.04   |
| GROUP 3.....     | \$ 32.02 | 15.04   |
| GROUP 4.....     | \$ 32.71 | 15.04   |
| LABORER          |          |         |
| GROUP 1.....     | \$ 26.33 | 14.75   |
| GROUP 2.....     | \$ 26.88 | 14.75   |
| GROUP 3.....     | \$ 27.43 | 14.75   |
| GROUP 4.....     | \$ 28.98 | 14.75   |
| GROUP 5.....     | \$ 29.33 | 14.75   |

FOOTNOTE: GUNITE PREMIUM PAY: Workers working from a Bosn'n's Chair or suspended from a rope or cable shall receive 40 cents per hour above the foregoing applicable classification rates. Workers doing gunite and/or shotcrete work in a tunnel shall receive 35 cents per hour above the foregoing applicable classification rates, paid on a portal-to-portal basis. Any work performed on, in or above any smoke stack, silo, storage elevator or similar type of structure, when such structure is in excess of 75'-0" above base level and which work must be performed in whole or in part more than 75'-0" above base level, that work performed above the 75'-0" level shall be compensated for at 35 cents per hour above the applicable classification wage rate.

#### LABORER CLASSIFICATIONS

GROUP 1: Cleaning and handling of panel forms; Concrete screeding for rough strike-off; Concrete, water curing; Demolition laborer, the cleaning of brick if performed by a worker performing any other phase of demolition work, and the cleaning of lumber; Fire watcher, limber, brush loader, piler and debris handler; Flag person; Gas, oil and/or water pipeline laborer; Laborer, asphalt-rubber material loader; Laborer, general or construction; Laborer, general clean-up; Laborer, landscaping; Laborer, jetting; Laborer, temporary water and air lines; Material hose operator (walls, slabs, floors and decks); Plugging, filling of shee bolt holes; Dry packing of concrete; Railroad maintenance, repair track person and road beds; Streetcar and railroad construction track laborers; Rigging and signaling; Scaler; Slip form raiser; Tar and mortar; Tool crib or tool house laborer; Traffic control by any method; Window cleaner; Wire mesh pulling - all concrete pouring operations

GROUP 2: Asphalt shoveler; Cement dumper (on 1 yd. or larger mixer and handling bulk cement); Cesspool digger and installer; Chucktender; Chute handler, pouring concrete, the handling of the chute from readymix trucks, such as walls, slabs, decks, floors, foundation, footings, curbs, gutters and sidewalks; Concrete curer, impervious membrane and form oiler; Cutting torch operator (demolition); Fine grader, highways and street paving, airport, runways and similar type heavy construction; Gas, oil and/or water pipeline wrapper - pot tender and form person; Guinea chaser; Headerboard person - asphalt; Laborer, packing rod steel and pans; Membrane vapor barrier installer; Power broom sweeper (small); Riprap stonepaver, placing stone or wet sacked concrete; Roto scraper and tiller; Sandblaster (pot tender); Septic tank digger and installer(lead); Tank scaler and cleaner; Tree climber, faller, chain saw operator, Pittsburgh chipper and similar type brush shredder; Underground laborer, including caisson bellow

GROUP 3: Buggymobile person; Concrete cutting torch; Concrete pile cutter; Driller, jackhammer, 2-1/2 ft. drill steel or longer; Dri-pak-it machine; Gas, oil and/or water pipeline wrapper, 6-in. pipe and over, by any method, inside and out; High scaler (including drilling of same); Hydro seeder

and similar type; Impact wrench multi-plate; Kettle person, pot person and workers applying asphalt, lay-kold, creosote, lime caustic and similar type materials ("applying" means applying, dipping, brushing or handling of such materials for pipe wrapping and waterproofing); Operator of pneumatic, gas, electric tools, vibrating machine, pavement breaker, air blasting, come-alongs, and similar mechanical tools not separately classified herein; Pipelayer's backup person, coating, grouting, making of joints, sealing, caulking, diapering and including rubber gasket joints, pointing and any and all other services; Rock slinger; Rotary scarifier or multiple head concrete chipping scarifier; Steel headerboard and guideline setter; Tamper, Barko, Wacker and similar type; Trenching machine, hand-propelled

GROUP 4: Asphalt raker, lute person, ironer, asphalt dump person, and asphalt spreader boxes (all types); Concrete core cutter (walls, floors or ceilings), grinder or sander; Concrete saw person, cutting walls or flat work, scoring old or new concrete; Cribber, shorer, lagging, sheeting and trench bracing, hand-guided lagging hammer; Head rock slinger; Laborer, asphalt- rubber distributor boot person; Laser beam in connection with laborers' work; Oversize concrete vibrator operator, 70 lbs. and over; Pipelayer performing all services in the laying and installation of pipe from the point of receiving pipe in the ditch until completion of operation, including any and all forms of tubular material, whether pipe, metallic or non-metallic, conduit and any other stationary type of tubular device used for the conveying of any substance or element, whether water, sewage, solid gas, air, or other product whatsoever and without regard to the nature of material from which the tubular material is fabricated; No-joint pipe and stripping of same; Prefabricated manhole installer; Sandblaster (nozzle person), water blasting, Porta Shot-Blast

GROUP 5: Blaster powder, all work of loading holes, placing and blasting of all powder and explosives of whatever type, regardless of method used for such loading and placing; Driller: All power drills, excluding jackhammer, whether core, diamond, wagon, track, multiple unit, and any and all other types of mechanical drills without regard to the form of motive power; Toxic waste removal

#### TUNNEL LABORER CLASSIFICATIONS

GROUP 1: Batch plant laborer; Bull gang mucker, track person; Changehouse person; Concrete crew, including rodder and spreader; Dump person; Dump person (outside); Swamper (brake person and switch person on tunnel work); Tunnel materials handling person

GROUP 2: Chucktender, cabletender; Loading and unloading agitator cars; Nipper; Pot tender, using mastic or other materials (for example, but not by way of limitation, shotcrete, etc.); Vibrator person, jack hammer, pneumatic tools (except driller)

GROUP 3: Blaster, driller, powder person; Chemical grout jet

person; Cherry picker person; Grout gun person; Grout mixer person; Grout pump person; Jackleg miner; Jumbo person; Kemper and other pneumatic concrete placer operator; Miner, tunnel (hand or machine); Nozzle person; Operating of troweling and/or grouting machines; Powder person (primer house); Primer person; Sandblaster; Shotcrete person; Steel form raiser and setter; Timber person, retimber person, wood or steel; Tunnel Concrete finisher

GROUP 4: Diamond driller; Sandblaster; Shaft and raise work

#### GUNITE LABORER CLASSIFICATIONS

GROUP 1: Rodmen, Nozzlemen

GROUP 2: Gunmen

GROUP 3: Reboundmen

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LABO0300-005 08/05/2009

|                              | Rates    | Fringes |
|------------------------------|----------|---------|
| LABORER                      |          |         |
| PLASTER CLEAN-UP LABORER.... | \$ 26.65 | 14.70   |
| PLASTER TENDER.....          | \$ 29.20 | 14.70   |

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LABO0882-002 01/01/2010

|                               | Rates    | Fringes |
|-------------------------------|----------|---------|
| Asbestos Removal Laborer..... | \$ 26.15 | 14.25   |

SCOPE OF WORK: Includes site mobilization, initial site cleanup, site preparation, removal of asbestos-containing material and toxic waste, encapsulation, enclosure and disposal of asbestos- containing materials and toxic waste by hand or with equipment or machinery; scaffolding, fabrication of temporary wooden barriers and assembly of decontamination stations.

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LABO1184-001 07/01/2010

|                              | Rates    | Fringes |
|------------------------------|----------|---------|
| Laborers: (HORIZONTAL        |          |         |
| DIRECTIONAL DRILLING)        |          |         |
| (1) Drilling Crew Laborer... | \$ 27.05 | 11.65   |
| (2) Vehicle Operator/Hauler. | \$ 27.22 | 11.65   |
| (3) Horizontal Directional   |          |         |
| Drill Operator.....          | \$ 29.07 | 11.65   |
| (4) Electronic Tracking      |          |         |
| Locator.....                 | \$ 31.07 | 11.65   |
| Laborers: (STRIPING/SLURRY   |          |         |
| SEAL)                        |          |         |
| GROUP 1.....                 | \$ 28.50 | 14.56   |
| GROUP 2.....                 | \$ 29.80 | 14.56   |
| GROUP 3.....                 | \$ 31.81 | 14.56   |
| GROUP 4.....                 | \$ 33.55 | 14.56   |

## LABORERS - STRIPING CLASSIFICATIONS

GROUP 1: Protective coating, pavement sealing, including repair and filling of cracks by any method on any surface in parking lots, game courts and playgrounds; carstops; operation of all related machinery and equipment; equipment repair technician

GROUP 2: Traffic surface abrasive blaster; pot tender - removal of all traffic lines and markings by any method (sandblasting, waterblasting, grinding, etc.) and preparation of surface for coatings. Traffic control person: controlling and directing traffic through both conventional and moving lane closures; operation of all related machinery and equipment

GROUP 3: Traffic delineating device applicator: Layout and application of pavement markers, delineating signs, rumble and traffic bars, adhesives, guide markers, other traffic delineating devices including traffic control. This category includes all traffic related surface preparation (sandblasting, waterblasting, grinding) as part of the application process. Traffic protective delineating system installer: removes, relocates, installs, permanently affixed roadside and parking delineation barricades, fencing, cable anchor, guard rail, reference signs, monument markers; operation of all related machinery and equipment; power broom sweeper

GROUP 4: Striper: layout and application of traffic stripes and markings; hot thermo plastic; tape traffic stripes and markings, including traffic control; operation of all related machinery and equipment

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\* PAIN0036-001 08/01/2010

|                                      | Rates    | Fringes |
|--------------------------------------|----------|---------|
| Painters: (Including Lead Abatement) |          |         |
| (1) Repaint.....                     | \$ 26.05 | 9.68    |
| (2) All Other Work.....              | \$ 9.68  | 9.41    |

REPAINT of any previously painted structure. Exceptions: work involving the aerospace industry, breweries, commercial recreational facilities, hotels which operate commercial establishments as part of hotel service, and sports facilities.

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PAIN0036-008 01/06/2010

|                             | Rates    | Fringes |
|-----------------------------|----------|---------|
| DRYWALL FINISHER/TAPER..... | \$ 33.22 | 12.19   |

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PAIN0036-015 08/01/2010

|  | Rates | Fringes |
|--|-------|---------|
|--|-------|---------|

GLAZIER.....\$ 36.90 20.53

FOOTNOTE: Additional \$1.25 per hour for work in a condor,  
from the third (3rd) floor and up Additional \$1.25 per  
hour for work on the outside of the building from a swing  
stage or any suspended contrivance, from the ground up

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PAIN1247-002 01/01/2010

|                               | Rates | Fringes |
|-------------------------------|-------|---------|
| SOFT FLOOR LAYER.....\$ 30.85 |       | 10.54   |

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PLAS0200-009 08/04/2010

|                        | Rates | Fringes |
|------------------------|-------|---------|
| PLASTERER.....\$ 30.21 |       | 14.23   |

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PLAS0500-002 07/01/2010

|   | Rates | Fringes |
|---|-------|---------|
| CEMENT MASON/CONCRETE FINISHER...\$ 29.50 |       | 19.85   |

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PLUM0016-001 07/01/2009

|  | Rates | Fringes |
|--|-------|---------|
| PLUMBER/PIPEFITTER   |       |         |
| (1) Work on strip malls,<br>light commercial, tenant<br>improvement and remodel<br>work.....\$ 28.84   |       | 14.47   |
| (2) Work on new additions<br>and remodeling of bars,<br>restaurant, stores and<br>commercial buildings not<br>to exceed 5,000 sq. ft. of<br>floor space.....\$ 35.97 |       | 15.86   |
| (3) All other work.....\$ 37.10  |       | 16.84   |

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PLUM0345-001 07/01/2009

|                                      | Rates | Fringes |
|--------------------------------------|-------|---------|
| PLUMBER                              |       |         |
| Landscape/Irrigation Fitter.\$ 26.70 |       | 13.84   |
| Sewer & Storm Drain Work....\$ 25.18 |       | 15.67   |

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ROOF0036-002 08/01/2010

|                     | Rates | Fringes |
|---------------------|-------|---------|
| ROOFER.....\$ 34.65 |       | 9.07    |

FOOTNOTE: Pitch premium: Work on which employees are exposed  
to pitch fumes or required to handle pitch, pitch base or  
pitch impregnated products, or any material containing coal  
tar pitch, the entire roofing crew shall receive \$1.75 per

hour "pitch premium" pay.

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SFCA0669-002 04/01/2010

|                       | Rates    | Fringes |
|-----------------------|----------|---------|
| SPRINKLER FITTER..... | \$ 33.35 | 17.60   |

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SHEE0105-003 07/01/2010

LOS ANGELES (South of a straight line drawn between Gorman and Big Pines)and Catalina Island, INYO, KERN (Northeast part, East of Hwy 395), MONO ORANGE, RIVERSIDE, AND SAN BERNARDINO COUNTIES

|  | Rates    | Fringes |
|--|----------|---------|
| SHEET METAL WORKER   |          |         |
| (1) Commercial - New Construction and Remodel work.....  | \$ 42.54 | 17.72   |
| (2) Industrial work including air pollution control systems, noise abatement, hand rails, guard rails, excluding aritechtrual sheet metal work, excluding A-C, heating, ventilating systems for human comfort... | \$ 35.56 | 22.90   |

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TEAM0011-002 07/01/2008

|               | Rates    | Fringes |
|---------------|----------|---------|
| TRUCK DRIVER  |          |         |
| GROUP 1.....  | \$ 26.44 | 18.24   |
| GROUP 2.....  | \$ 26.59 | 18.24   |
| GROUP 3.....  | \$ 26.72 | 18.24   |
| GROUP 4.....  | \$ 26.91 | 18.24   |
| GROUP 5.....  | \$ 26.94 | 18.24   |
| GROUP 6.....  | \$ 26.97 | 18.24   |
| GROUP 7.....  | \$ 27.22 | 18.24   |
| GROUP 8.....  | \$ 27.47 | 18.24   |
| GROUP 9.....  | \$ 27.67 | 18.24   |
| GROUP 10..... | \$ 27.97 | 18.24   |
| GROUP 11..... | \$ 28.47 | 18.24   |
| GROUP 12..... | \$ 28.90 | 18.24   |

WORK ON ALL MILITARY BASES:

PREMIUM PAY: \$3.00 per hour additional.

[29 palms Marine Base, Camp Roberts, China Lake, Edwards AFB, El Centro Naval Facility, Fort Irwin, Marine Corps Logistics Base at Nebo & Yermo, Mountain Warfare Training Center, Bridgeport, Point Arguello, Point Conception, Vandenberg AFB]

TRUCK DRIVERS CLASSIFICATIONS



## GROUP 1: Truck driver

GROUP 2: Driver of vehicle or combination of vehicles - 2 axles; Traffic control pilot car excluding moving heavy equipment permit load; Truck mounted broom

GROUP 3: Driver of vehicle or combination of vehicles - 3 axles; Boot person; Cement mason distribution truck; Fuel truck driver; Water truck - 2 axle; Dump truck, less than 16 yds. water level; Erosion control driver

GROUP 4: Driver of transit mix truck, under 3 yds.; Dumpcrete truck, less than 6-1/2 yds. water level

GROUP 5: Water truck, 3 or more axles; Truck greaser and tire person (\$0.50 additional for tire person); Pipeline and utility working truck driver, including winch truck and plastic fusion, limited to pipeline and utility work; Slurry truck driver

GROUP 6: Transit mix truck, 3 yds. or more; Dumpcrete truck, 6-1/2 yds. water level and over; Vehicle or combination of vehicles - 4 or more axles; Oil spreader truck; Dump truck, 16 yds. to 25 yds. water level

GROUP 7: A Frame, Swedish crane or similar; Forklift driver; Ross carrier driver

GROUP 8: Dump truck, 25 yds. to 49 yds. water level; Truck repair person; Water pull - single engine; Welder

GROUP 9: Truck repair person/welder; Low bed driver, 9 axles or over

GROUP 10: Dump truck - 50 yds. or more water level; Water pull - single engine with attachment

GROUP 11: Water pull - twin engine; Water pull - twin engine with attachments; Winch truck driver - \$1.25 additional when operating winch or similar special attachments

## GROUP 12: Boom Truck 17K and above

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WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

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

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In the listing above, the "SU" designation means that rates listed under the identifier do not reflect collectively bargained wage and fringe benefit rates. Other designations indicate unions whose rates have been determined to be

prevailing.

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WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can be:

- \* an existing published wage determination
- \* a survey underlying a wage determination
- \* a Wage and Hour Division letter setting forth a position on a wage determination matter
- \* a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour Regional Office for the area in which the survey was conducted because those Regional Offices have responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

Branch of Construction Wage Determinations  
Wage and Hour Division  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

Wage and Hour Administrator  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210

4.) All decisions by the Administrative Review Board are final.

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END OF GENERAL DECISION



## **Section B**

### **Exhibit A-7**

#### **Sample Wage Determination - DIR**

LOCALITY: RIVERSIDE COUNTY  
DETERMINATION: RIV-2010-1

|                            |           |              |   |        |       |   |       |   |       |   |       |     |        |   |        |   |        |        |
|----------------------------|-----------|--------------|---|--------|-------|---|-------|---|-------|---|-------|-----|--------|---|--------|---|--------|--------|
| INSIDE WIREMAN, TECHNICIAN | 2/22/2010 | 05/30/2010** | K | 35,700 | 5,900 | H | 9,190 | - | 0.750 | L | 0.180 | 8.0 | 53,050 | M | 71,530 | M | 71,530 | 90,000 |
| CABLE SPICER               | 2/22/2010 | 05/30/2010** | K | 36,700 | 5,900 | H | 9,190 | - | 0.750 | L | 0.180 | 8.0 | 54,080 | M | 73,070 | M | 73,070 | 92,060 |

LOCALITY: RIVERSIDE COUNTY  
DETERMINATION: RIV-2010-1

| LOCALITY: RIVERSIDE COUNTY<br>DETERMINATION: RIV-2010-1 |  |            |                 | EMPLOYER PAYMENTS |                    |          |                   |          | STRAIGHT-TIME  |       | OVERTIME HOURLY RATE |           |           |                    |
|---|--|------------|-----------------|-------------------|--------------------|----------|-------------------|----------|----------------|-------|----------------------|-----------|-----------|--------------------|
|   | CRAFT (JOURNEY LEVEL)  | ISSUE DATE | EXPIRATION DATE | BASIC HOURLY RATE | HEALTH AND WELFARE | PENSION  | VACATION/ HOLIDAY | TRAINING | OTHER PAYMENTS | HOURS | TOTAL HOURLY RATE    | DAILY     | SATURDAY  | SUNDAY AND HOLIDAY |
| AR  | LANDSCAPE/IRRIGATION TRADESMAN   | 8/22/2009  | 06/30/2010*     | AP 12.130         | 2,000              | AI 0.810 | -                 | 0.100    | 0.250          | X 8.0 | 15,290               | 21,350    | 21,350    | 27,420             |
|   | FIRE SPRINKLER FITTER (PROTECTION AND CONTROL SYSTEMS, OVERHEAD AND UNDERGROUND) | 2/22/2010  | 03/31/2010*     | 33.750            | 7,600              | AS 9,700 | -                 | 0.300    | 0.250          | 8.0   | 51,600               | 68,470    | 68,470    | 85,350             |
| #   | ROOFER   | 8/22/2009  | 07/31/2010**    | AT 33.150         | 4,500              | AU 3,670 | U -               | 0.300    | 0.350          | 8.0   | 41,970               | AL 56,760 | AL 56,760 | 71,540             |
|   | PITCH WORK   | 8/22/2009  | 07/31/2010**    | AT 34,900         | 4,500              | AU 3,670 | U -               | 0.300    | 0.350          | 8.0   | 43,720               | AL 59,380 | AL 59,380 | 75,040             |
|   | PREPARER   | 8/22/2009  | 07/31/2010**    | AT 34,150         | 4,500              | AU 3,670 | U -               | 0.300    | 0.350          | 8.0   | 42,970               | AL 58,260 | AL 58,260 | 73,540             |
| #   | SHEET METAL WORKER   | 2/22/2010  | 06/30/2010**    | K 40,860          | 6,620              | 9,340    | -                 | 1,370    | 0.370          | 8.0   | 58,560               | 78,990    | X 78,990  | 99,420             |
| #   | TERRAZZO WORKER  | 8/22/2008  | 08/30/2009*     | A 33,630          | 6,860              | 3,150    | B -               | 0.570    | 0.120          | X 8.0 | 44,330               | AV 61,150 | AW 61,150 | AX 77,960          |
|   | TERRAZZO FINISHER  | 8/22/2008  | 08/30/2009*     | A 26,590          | 6,200              | 3,150    | B -               | 0.360    | 0.120          | X 8.0 | 36,420               | AV 49,720 | AW 49,720 | AX 63,010          |
| #   | TILE FINISHER  | 8/22/2009  | 05/31/2010*     | W 22,370          | 6,450              | 1,600    | -                 | 0.250    | 0.350          | X 8.0 | 31,020               | Y 42,210  | Z 42,210  | 53,390             |
| #   | TILE LAYER   | 8/22/2009  | 05/31/2010*     | W 33,550          | 7,110              | 5,300    | -                 | 0.250    | 0.510          | X 8.0 | 46,720               | Y 63,490  | Z 63,490  | 80,270             |

FOOTNOTES



**LOCALITY: RIVERSIDE COUNTY  
DETERMINATION: RIV-2010-1**

- \* EFFECTIVE UNTIL SUPERSEDED BY NEW DETERMINATION ISSUED BY THE DIRECTOR OF INDUSTRIAL RELATIONS. CONTACT DIVISION OF LABOR STATISTICS AND RESEARCH (415) 703-4774 FOR NEW RATES AFTER 10 DAYS FROM THE EXPIRATION DATE IF NO SUBSEQUENT DETERMINATION IS ISSUED.
- \*\* THE RATE TO BE PAID FOR WORK PERFORMED AFTER THIS DATE HAS BEEN DETERMINED. IF WORK WILL EXTEND PAST THIS DATE, THE NEW RATE MUST BE PAID AND SHOULD BE INCORPORATED IN CONTRACTS ENTERED INTO NOW. CONTACT THE DIVISION OF LABOR STATISTICS AND RESEARCH FOR
- # INDICATES AN APPRENTICEABLE CRAFT. EFFECTIVE AS OF JULY 1, 2008, THE ISSUANCE AND PUBLICATION OF THE PREVAILING WAGE APPRENTICE SCHEDULES/APPRENTICE WAGE RATES HAVE BEEN REASSIGNED TO THE DEPARTMENT OF INDUSTRIAL RELATIONS FROM THE DIVISION OF LABOR STATISTICS AND RESEARCH TO THE DIVISION OF APPRENTICESHIP STANDARDS. TO OBTAIN ANY APPRENTICE SCHEDULES/APPRENTICE WAGE RATES, PLEASE CONTACT THE DIVISION OF APPRENTICESHIP STANDARDS OR REFER TO THE DIVISION OF APPRENTICESHIP STANDARDS' WEBSITE AT [HTTP://WWW.DIR.CA.GOV/DAS/DAS.HTML](http://www.dir.ca.gov/DAS/DAS.html)
- & THE BASIC HOURLY RATE AND EMPLOYER PAYMENTS ARE NOT TAKEN FROM A COLLECTIVE BARGAINING AGREEMENT FOR THIS CRAFT OR CLASSIFICATION.
- A INCLUDES AMOUNT WITHHELD FOR DUES CHECK OFF.
- B INCLUDED IN STRAIGHT-TIME HOURLY RATE.
- C SATURDAYS IN THE SAME WORK WEEK MAY BE WORKED AT STRAIGHT-TIME IF JOB IS SHUT DOWN DURING THE NORMAL WORKWEEK DUE TO INCLEMENT WEATHER, OR REASONS BEYOND THE CONTROL OF THE EMPLOYER.
- D RATE APPLIES TO THE FIRST 2 DAILY OVERTIME HOURS AND THE FIRST 8 HOURS ON SATURDAY ONLY; ALL OTHER TIME IS PAID AT THE SUNDAY AND HOLIDAY OVERTIME HOURLY RATE.
- E INCLUDES AN AMOUNT PER HOUR WORKED FOR SUPPLEMENTAL DUES.
- F RATE APPLIES TO THE FIRST 4 DAILY OVERTIME HOURS AND THE FIRST 12 HOURS WORKED ON SATURDAY. ALL OTHER TIME IS PAID AT THE SUNDAY OVERTIME HOURLY RATE.
- G RATE APPLIES TO FIRST 8 HOURS ONLY. DOUBLE TIME THEREAFTER. SATURDAYS IN THE SAME WORK WEEK MAY BE WORKED AT STRAIGHT-TIME IF JOB IS SHUT DOWN DURING THE NORMAL WORK WEEK DUE TO INCLEMENT WEATHER.
- H IN ADDITION, AN AMOUNT EQUAL TO 3% OF THE BASIC HOURLY RATE IS ADDED TO THE TOTAL HOURLY RATE AND OVERTIME HOURLY RATES FOR THE NATIONAL EMPLOYEES BENEFIT BOARD.
- I INCLUDES AN AMOUNT FOR THE NATIONAL LABOR-MANAGEMENT COOPERATION FUND AND THE ADMINISTRATIVE MAINTENANCE FUND.
- J RATE APPLIES TO THE FIRST 4 DAILY OVERTIME HOURS AND THE FIRST 12 HOURS WORKED ON SATURDAY; ALL OTHER TIME IS PAID AT THE SUNDAY AND HOLIDAY OVERTIME HOURLY RATE.
- K INCLUDES AMOUNT WITHHELD FOR WORKING DUES.
- L IN ADDITION TO THE AMOUNT SHOWN, WHICH IS FACTORED AT THE APPLICABLE OVERTIME MULTIPLIER FOR EACH OVERTIME HOUR, \$0.26 IS ADDED TO THE TOTAL HOURLY RATE AND OVERTIME HOURLY RATES FOR THE LABOR MANAGEMENT COOPERATION COMMITTEE FUND.
- M RATE APPLIES TO THE FIRST 3 DAILY OVERTIME HOURS AND THE FIRST 8 HOURS WORKED ON SATURDAY; ALL OTHER TIME IS PAID AT THE SUNDAY AND HOLIDAY OVERTIME HOURLY RATE.
- N DICTIONARY OF OCCUPATIONAL TITLES, FOURTH EDITION, 1977, U.S. DEPARTMENT OF LABOR.
- O EMPLOYEE RECEIVES AN AMOUNT EQUAL TO 2% OF THE PRECEDING YEAR'S STRAIGHT-TIME HOURLY EARNINGS AFTER ONE YEAR OF CONTINUOUS SERVICE FOR THE EMPLOYER; AN AMOUNT EQUAL TO 4% OF THE PRECEDING YEAR'S STRAIGHT-TIME HOURLY EARNINGS IS PAID AFTER 2 YEARS OF CONTINUOUS SERVICE; AN AMOUNT EQUAL TO 6% OF THE PRECEDING YEAR'S STRAIGHT-TIME HOURLY EARNINGS IS PAID AFTER 10 YEARS OF CONTINUOUS SERVICE; AN AMOUNT EQUAL TO 8% OF THE PRECEDING YEAR'S STRAIGHT-TIME HOURLY EARNINGS IS PAID AFTER 15 YEARS OF CONTINUOUS SERVICE. WHEN AN EMPLOYEE IS TERMINATED PRIOR TO HAVING 1 YEAR OF SERVICE, 2% OF HIS ACCUMULATED STRAIGHT-TIME EARNINGS SHALL BE PAID. WORKERS RECEIVE 8 PAID HOLIDAYS PER YEAR.
- P RATE APPLIES TO THE FIRST 4 DAILY OVERTIME HOURS AND THE FIRST 12 HOURS WORKED ON SATURDAY; ALL OTHER TIME IS PAID AT THE SATURDAY OVERTIME HOURLY RATE. RATE DOES NOT INCLUDE VACATION/HOLIDAY PAYMENT. PLEASE SEE FOOTNOTE FOR VACATION/HOLIDAY PAYMENT.
- Q RATE APPLIES AFTER THE 12 HOURS WORKED ON SATURDAY AND ALL HOURS WORKED ON SUNDAY. RATE DOES NOT INCLUDE VACATION/HOLIDAY PAYMENT. PLEASE SEE FOOTNOTE FOR VACATION/HOLIDAY.
- R RATE APPLIES TO WORK ON HOLIDAYS ONLY; SUNDAYS ARE PAID AT THE SATURDAY OVERTIME HOURLY RATE. RATE DOES NOT INCLUDE VACATION/HOLIDAY PAYMENT, PLEASE SEE FOOTNOTE FOR VACATION/HOLIDAY PAYMENT.
- S INCLUDES AMOUNT WITHHELD FOR DUES CHECKOFF, WHICH IS FACTORED IN THE OVERTIME RATES. INCLUDES \$2.00 OF VACATION THAT IS NOT FACTORED IN THE OVERTIME RATES.
- T INCLUDES AN AMOUNT PER HOUR WORKED OR PAID TO DISABILITY FUND.
- U INCLUDED IN STRAIGHT-TIME HOURLY RATE WHICH IS NOT FACTORED IN THE OVERTIME RATES.
- V RATE APPLIES TO THE FIRST 4 OVERTIME HOURS MONDAY THROUGH FRIDAY AND THE FIRST 8 HOURS WORKED ON SATURDAY. ALL OTHER TIME IS PAID AT THE SUNDAY AND HOLIDAY OVERTIME RATE.
- W INCLUDES AMOUNT WITHHELD FOR ADMINISTRATIVE DUES.
- X SATURDAYS IN THE SAME WORK WEEK MAY BE WORKED AT STRAIGHT-TIME IF JOB IS SHUT DOWN DURING THE NORMAL WORKWEEK DUE TO INCLEMENT WEATHER.
- Y RATE APPLIES TO THE FIRST 2 OVERTIME HOURS ONLY; ALL OTHER TIME IS PAID AT THE SUNDAY AND HOLIDAY OVERTIME HOURLY RATE.
- Z RATE APPLIES TO THE FIRST 10 HOURS WORKED OR UP TO 50 HOURS IN A GIVEN WEEK. ALL HOURS IN EXCESS OF 10 HOURS OR 50 HOURS ARE AT THE SUNDAY/HOLIDAY RATE.
- AA DOUBLE TIME SHALL BE PAID FOR ALL HOURS WORKED OVER 12 HOURS IN ANY ONE DAY.
- AB ON REPAINT WAGE WORK ANY 8 HOURS IN A 24 HOUR PERIOD MONDAY THROUGH SUNDAY SHALL BE THE WORK DAY AND ANY 40 HOURS IN A WEEK SHALL BE THE WORK WEEK, PROVIDED THAT THE 40 HOURS IS WORKED IN 5 CONSECUTIVE DAYS (LEGAL HOLIDAYS WILL NOT BE COUNTED IN THE 5 CONSECUTIVE DAYS). FOR ALL WORK UNDER THIS CRAFT/CLASSIFICATION DOUBLE TIME SHALL BE PAID FOR ALL HOURS WORKED OVER 12 HOURS IN ANY ONE DAY.
- AC INCLUDES AN AMOUNT WITHHELD FOR DUES CHECK OFF. EMPLOYEES WORKING ON SCAFFOLDS SUSPENDED BY CABLE OR ROPE SHALL RECEIVE AN ADDITIONAL ONE DOLLAR (\$1.00) PER HOUR.
- AD SATURDAY IN THE SAME WORKWEEK MAY BE WORKED AT THE STRAIGHT-TIME HOURLY RATE IF IT IS NOT POSSIBLE TO COMPLETE FORTY HOURS OF WORK MONDAY THROUGH FRIDAY WHEN THE JOB IS SHUT DOWN DUE TO INCLEMENT WEATHER OR SIMILAR ACT OF GOD, OR BEYOND THE CONTRACTOR'S CONTROL.

**LOCALITY: RIVERSIDE COUNTY  
DETERMINATION: RIV-2010-1**

- AE RATE APPLIES TO THE FIRST 8 HOURS WORKED; ALL OTHER TIME IS PAID AT THE SUNDAY AND HOLIDAY OVERTIME HOURLY RATE.
- AF THE RATIO OF PLASTER TENDERS TO PLASTERERS SHALL BE AS FOLLOWS: FOR INSIDE BROWN COATINGS THERE SHALL BE NOT MORE THAN 3 PLASTERERS TO 2 PLASTER TENDERS; FOR INSIDE FINISH COATINGS THERE SHALL BE NOT MORE THAN 3 PLASTERERS TO 1 PLASTER TENDER; ON OUTSIDE FINISH AND BROWN COATINGS AND FOR ALL OTHER WORK, THERE SHALL BE NOT MORE THAN 2 PLASTERERS TO 1 PLASTER TENDER.
- AG INCLUDES AN AMOUNT PER HOUR WORKED OR PAID FOR SUPPLEMENTAL DUES.
- AH RATE APPLIES TO THE FIRST EIGHT HOURS ON SATURDAY. ALL OTHER TIME IS PAID AT THE SUNDAY AND HOLIDAY OVERTIME RATE. SATURDAY WORK MAY BE PAID AT THE STRAIGHT TIME RATE IF THE JOB IS SHUT DOWN DURING THE NORMAL WORK WEEK DUE TO INCLEMENT WEATHER.
- AI INCLUDES AMOUNT FOR NATIONAL PENSION AND RETIREE'S X-MAS FUND.
- AJ FACTORED AT 1.5 TIMES FOR ALL OVERTIME.
- AK INCLUDES AN AMOUNT FOR THE P.I.P.E. LABOR MANAGEMENT COOPERATION COMMITTEE AND THE CONTRACTOR EDUCATION & DEVELOPMENT FUND.
- AL RATE APPLIES TO THE FIRST 2 DAILY OVERTIME HOURS AND THE FIRST 10 HOURS ON SATURDAY; ALL OTHER TIME IS PAID AT THE SUNDAY AND HOLIDAY OVERTIME HOURLY RATE.
- AM PIPE TRADESMEN SHALL NOT BE PERMITTED ON ANY JOB WITHOUT A JOURNEYMAN.
- AN SATURDAY MAY BE WORKED AT STRAIGHT-TIME RATE, PROVIDED THAT THE HOURS DO NOT EXCEED 8 HOURS PER DAY OR 40 HOURS PER WEEK.
- AO DOUBLE TIME SHALL BE PAID FOR NEW YEAR'S DAY, EASTER SUNDAY, LABOR DAY, THANKSGIVING DAY, AND CHRISTMAS.
- AP INCLUDES AMOUNT WITHHELD FOR DUES CHECK OFF AND ADMINISTRATIVE DUES.
- AQ THE LANDSCAPE/IRRIGATION ASSISTANT JOURNEYMAN MAY BE UTILIZED ONLY AS THE FIFTH WORKER ON THE JOB. ADDITIONAL LANDSCAPE/IRRIGATION ASSISTANT JOURNEYMEN MAY BE ADDED AS THE 10TH WORKER, 15TH WORKER, 20TH WORKER AND SO ON.
- AR TRADESMEN SHALL ONLY BE USED IF THE FIRST WORKER ON THE JOB IS A LANDSCAPE/IRRIGATION FITTER, SECOND WORKER MUST BE A LANDSCAPE/IRRIGATION FITTER OR APPRENTICE LANDSCAPE/IRRIGATION FITTER. THE 3RD AND 4TH WORKER MAY BE A TRADESMAN.
- AS INCLUDES AN AMOUNT FOR SUPPLEMENTAL PENSION FUND.
- AT INCLUDES AN AMOUNT WITHHELD FOR DUES CHECK OFF WHICH IS NOT FACTORED IN OVERTIME AND HOLIDAY WAGE RATES.
- AU INCLUDES AN AMOUNT PER HOUR WORKED FOR ANNUITY TRUST FUND.
- AV RATE APPLIES TO FIRST TWO DAILY OVERTIME HOURS WORKED; ALL OTHER OVERTIME IS PAID AT THE HOLIDAY OVERTIME HOURLY RATE.
- AW RATE APPLIES TO THE FIRST 8 HOURS WORKED ON A SIXTH OR SEVENTH CONSECUTIVE DAY DURING ANY ON CALENDAR WEEK UP TO 50 HOURS IN ANY ON CALENDAR WEEK. ALL OTHER TIME IS PAID AT THE HOLIDAY RATE.
- AX RATE APPLIES TO WORK ON HOLIDAYS ONLY; SUNDAYS ARE PAID AT THE SATURDAY OVERTIME HOURLY RATE.

**RECOGNIZED HOLIDAYS:** HOLIDAYS UPON WHICH THE GENERAL PREVAILING HOURLY WAGE RATE FOR HOLIDAY WORK SHALL BE PAID, SHALL BE ALL HOLIDAYS IN THE COLLECTIVE BARGAINING AGREEMENT, APPLICABLE TO THE PARTICULAR CRAFT, CLASSIFICATION, OR TYPE OF WORKER EMPLOYED ON THE PROJECT, WHICH IS ON FILE WITH THE DIRECTOR OF INDUSTRIAL RELATIONS. IF THE PREVAILING RATE IS NOT BASED ON A COLLECTIVELY BARGAINED RATE, THE HOLIDAYS UPON WHICH THE PREVAILING RATE SHALL BE PAID SHALL BE AS PROVIDED IN SECTION 6700 OF THE GOVERNMENT CODE. YOU MAY OBTAIN THE HOLIDAY PROVISIONS FOR THE CURRENT DETERMINATIONS ON THE INTERNET AT [HTTP://WWW.DIR.CA.GOV/DLSR/PWD](http://www.dir.ca.gov/DLSR/PWD). HOLIDAY PROVISIONS FOR CURRENT OR SUPERSEDED DETERMINATIONS MAY BE OBTAINED BY CONTACTING THE PREVAILING WAGE UNIT AT (415) 703-4774.

**TRAVEL AND/OR SUBSISTENCE PAYMENT:** IN ACCORDANCE WITH LABOR CODE SECTIONS 1773.1 AND 1773.9, CONTRACTORS SHALL MAKE TRAVEL AND/OR SUBSISTENCE PAYMENTS TO EACH WORKER TO EXECUTE THE WORK. TRAVEL AND/OR SUBSISTENCE REQUIREMENTS FOR EACH CRAFT, CLASSIFICATION



LOCALITY: RIVERSIDE COUNTY  
DETERMINATION: RIV-2010-1

[illegible]

GENERAL PREVAILING WAGE DETERMINATION MADE BY THE DIRECTOR OF INDUSTRIAL RELATIONS  
PURSUANT TO CALIFORNIA LABOR CODE PART 7, CHAPTER 1, ARTICLE 2, SECTIONS 1770, 1773 AND 1773.1

**LOCALITY: RIVERSIDE COUNTY**

**DETERMINATION: RIV-2010-1**

THE PREDETERMINED INCREASE SHOWN IS TO BE ALLOCATED TO WAGES AND/OR EMPLOYER PAYMENTS. PLEASE CONTACT THE DIVISION OF LABOR STATISTICS AND RESEARCH AT (415) 703-4774 WHEN THE PREDETERMINED INCREASE BECOMES DUE TO CONFIRM THE DISTRIBUTION. PLEASE ALSO EXAMINE THE IMPORTANT NOTICES TO SEE IF ANY MODIFICATIONS HAVE BEEN ISSUED, AS THERE MAY BE REDUCTIONS TO PREDETERMINED INCREASES.

B \$0.70 TO PENSION

THE PREDETERMINED INCREASE SHOWN IS TO BE ALLOCATED TO WAGES AND/OR EMPLOYER PAYMENTS. IN ADDITION, THERE WILL BE A RE-ALLOCATION OF \$0.65 FROM EMPLOYER PAYMENTS TO THE BASIC HOURLY RATE. PLEASE CONTACT THE DIVISION OF LABOR STATISTICS AND RESEARCH AT (415) 703-4774 WHEN THE PREDETERMINED INCREASE BECOMES DUE TO CONFIRM THE DISTRIBUTION. PLEASE ALSO EXAMINE THE IMPORTANT NOTICES TO SEE IF ANY MODIFICATIONS HAVE BEEN ISSUED, AS THERE MAY BE REDUCTIONS TO PREDETERMINED INCREASES.

D \$1.65 TO BHR, \$0.25 TO H&W AND \$0.12 TO PENSION

E \$1.25 TO PENSION

THE RATIO OF PLASTER TENDERS TO PLASTERERS SHALL BE AS FOLLOWS: FOR INSIDE BROWN COATINGS THERE SHALL BE NOT MORE THAN 3 PLASTERERS TO 2 PLASTER TENDERS; FOR INSIDE FINISH COATINGS THERE SHALL BE NOT MORE THAN 3 PLASTERERS TO 1 PLASTER TENDER; ON OUTSIDE FINISH AND BROWN COATINGS AND FOR ALL OTHER WORK, THERE SHALL BE NOT MORE THAN 2 PLASTERERS TO 1 PLASTER TENDER.

G PIPE TRADESMEN SHALL NOT BE PERMITTED ON ANY JOB WITHOUT A JOURNEYMAN.

THE LANDSCAPE/IRRIGATION ASSISTANT JOURNEYMAN MAY BE UTILIZED ONLY AS THE FIFTH WORKER ON THE JOB. ADDITIONAL LANDSCAPE/IRRIGATION ASSISTANT JOURNEYMEN MAY BE ADDED AS THE 10TH WORKER, 15TH WORKER, 20TH WORKER AND SO ON.

I \$1.50 TO THE BASIC HOURLY RATE, \$0.50 TO HEALTH WELFARE, AND \$0.10 TO PENSION.

J \$0.05 TO PENSION, \$0.10 TO TRAINING AND \$1.85 TO WAGES AND/OR EMPLOYER PAYMENTS.

K \$0.10 TO TRAINING AND \$1.90 TO WAGES AND/OR EMPLOYER PAYMENTS.

RIV-2010-1-INC



## **Section B**

### **Exhibit A-8 Conformance Request Form SF-1444**

# REQUEST FOR AUTHORIZATION OF ADDITIONAL CLASSIFICATION AND RATE

CHECK APPROPRIATE BOX

☐ SERVICE CONTRACT☐ CONSTRUCTION CONTRACT

OMB No.: 9000-0089

Expires: 02/28/96

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. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the FAR Secretariat (VRS), Office of Federal Acquisition Policy, GSA, Washington, DC 20405; and to the Office of Management and Budget, Paperwork Reduction Project (9000-0089), Washington, DC 20503.

**NOTE:** THE CONTRACTOR SHALL COMPLETE ITEMS 3 THROUGH 16 AND SUBMIT THE REQUEST, IN QUADRUPPLICATE, TO THE CONTRACTING OFFICER

|  |                                     |                             |                               |   |
|--|-------------------------------------|-----------------------------|-------------------------------|---|
| 1. TO:<br>ADMINISTRATOR, Employment Standards Administration<br>WAGE AND HOUR DIVISION<br>U.S. DEPARTMENT OF LABOR<br>WASHINGTON, D.C. 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) (SCA 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 TITLES(S); JOB DESCRIPTION(S); DUTIES; AND RATIONALE FOR PROPOSED CLASSIFICATIONS (SCA ONLY)

b. WAGE RATE(S)

c. FRINGE BENEFITS PAYMENTS

*(Use reverse or attach additional sheets, if necessary)*

14. SIGNATURE AND TITLE OF SUBCONTRACTOR REPRESENTATIVE (IF ANY)

15. SIGNATURE AND TITLE OF PRIME CONTRACTOR REPRESENTATIVE

16. SIGNATURE OF EMPLOYEE OR REPRESENTATIVE

TITLE

CHECK APPROPRIATE BOX-REFERENCING BLOCK 13.

☐ AGREE☐ DISAGREE

**TO BE COMPLETED BY CONTRACTING OFFICER (CHECK AS APPROPRIATE - SEE FAR 22.1019 (SCA) OR FAR 22.406-3 (DBA))**

☐ THE INTERESTED PARTIES AGREE AND THE CONTRACTING OFFICER RECOMMENDS APPROVAL BY THE WAGE AND HOUR DIVISION. AVAILABLE INFORMATION AND RECOMMENDATIONS ARE ATTACHED.

☐ THE INTERESTED PARTIES CANNOT AGREE ON THE PROPOSED CLASSIFICATION AND WAGE RATE. A DETERMINATION OF THE QUESTION BY THE WAGE AND HOUR DIVISION IS THEREFORE REQUESTED. AVAILABLE INFORMATION AND RECOMMENDATIONS ARE ATTACHED.

*(Send copies 1, 2, and 3 to Department of Labor)*

SIGNATURE OF CONTRACTING OFFICER OR REPRESENTATIVE

TITLE AND COMMERCIAL TELEPHONE NO.

DATE SUBMITTED

# REQUEST FOR AUTHORIZATION OF ADDITIONAL CLASSIFICATION AND RATE

CHECK APPROPRIATE BOX

☐ SERVICE CONTRACT☐ CONSTRUCTION CONTRACT

OMB No.: 9000-0089

Expires: 02/28/96

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|--|-------------------------------------|-----------------------------|-------------------------------|---|
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| 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) (SCA 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 TITLES(S); JOB DESCRIPTION(S); DUTIES; AND RATIONALE FOR PROPOSED CLASSIFICATIONS (SCA ONLY)

b. WAGE RATE(S)

c. FRINGE BENEFITS PAYMENTS

(Use reverse or attach additional sheets, if necessary)

14. SIGNATURE AND TITLE OF SUBCONTRACTOR REPRESENTATIVE (IF ANY)

15. SIGNATURE AND TITLE OF PRIME CONTRACTOR REPRESENTATIVE

16. SIGNATURE OF EMPLOYEE OR REPRESENTATIVE

TITLE

CHECK APPROPRIATE BOX-REFERENCING BLOCK 13.

☐ AGREE☐ DISAGREE**TO BE COMPLETED BY CONTRACTING OFFICER (CHECK AS APPROPRIATE - SEE FAR 22.1019 (SCA) OR FAR 22.406-3 (DBA))**☐ THE INTERESTED PARTIES AGREE AND THE CONTRACTING OFFICER RECOMMENDS APPROVAL BY THE WAGE AND HOUR DIVISION. AVAILABLE INFORMATION AND RECOMMENDATIONS ARE ATTACHED.☐ THE INTERESTED PARTIES CANNOT AGREE ON THE PROPOSED CLASSIFICATION AND WAGE RATE. A DETERMINATION OF THE QUESTION BY THE WAGE AND HOUR DIVISION IS THEREFORE REQUESTED. AVAILABLE INFORMATION AND RECOMMENDATIONS ARE ATTACHED.

(Send copies 1, 2, and 3 to Department of Labor)

SIGNATURE OF CONTRACTING OFFICER OR REPRESENTATIVE

TITLE AND COMMERCIAL TELEPHONE NO.

DATE SUBMITTED

# REQUEST FOR AUTHORIZATION OF ADDITIONAL CLASSIFICATION AND RATE

CHECK APPROPRIATE BOX

☐ SERVICE CONTRACT☐ CONSTRUCTION CONTRACT

OMB No.: 9000-0089

Expires: 02/28/96

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**NOTE:** THE CONTRACTOR SHALL COMPLETE ITEMS 3 THROUGH 16 AND SUBMIT THE REQUEST, IN QUADRUPLICATE, TO THE CONTRACTING OFFICER

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|--|-------------------------------------|-----------------------------|-------------------------------|---|
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| 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) (SCA 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 TITLES(S); JOB DESCRIPTION(S); DUTIES; AND RATIONALE FOR PROPOSED CLASSIFICATIONS (SCA ONLY)

b. WAGE RATE(S)

c. FRINGE BENEFITS PAYMENTS

(Use reverse or attach additional sheets, if necessary)

14. SIGNATURE AND TITLE OF SUBCONTRACTOR REPRESENTATIVE (IF ANY)

15. SIGNATURE AND TITLE OF PRIME CONTRACTOR REPRESENTATIVE

16. SIGNATURE OF EMPLOYEE OR REPRESENTATIVE

TITLE

CHECK APPROPRIATE BOX-REFERENCING BLOCK 13.

☐ AGREE☐ DISAGREE

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(Send copies 1, 2, and 3 to Department of Labor)

SIGNATURE OF CONTRACTING OFFICER OR REPRESENTATIVE

TITLE AND COMMERCIAL TELEPHONE NO.

DATE SUBMITTED

# REQUEST FOR AUTHORIZATION OF ADDITIONAL CLASSIFICATION AND RATE

CHECK APPROPRIATE BOX

☐ SERVICE CONTRACT☐ CONSTRUCTION CONTRACT

OMB No.: 9000-0089

Expires: 02/28/96

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. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the FAR Secretariat (VRS), Office of Federal Acquisition Policy, GSA, Washington, DC 20405; and to the Office of Management and Budget, Paperwork Reduction Project (9000-0089), Washington, DC 20503.

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| 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) (SCA 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: \_\_\_\_\_

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b. WAGE RATE(S)

c. FRINGE BENEFITS PAYMENTS

*(Use reverse or attach additional sheets, if necessary)*

14. SIGNATURE AND TITLE OF SUBCONTRACTOR REPRESENTATIVE (IF ANY)

15. SIGNATURE AND TITLE OF PRIME CONTRACTOR REPRESENTATIVE

16. SIGNATURE OF EMPLOYEE OR REPRESENTATIVE

TITLE

CHECK APPROPRIATE BOX-REFERENCING BLOCK 13.

☐ AGREE☐ DISAGREE

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☐ THE INTERESTED PARTIES CANNOT AGREE ON THE PROPOSED CLASSIFICATION AND WAGE RATE. A DETERMINATION OF THE QUESTION BY THE WAGE AND HOUR DIVISION IS THEREFORE REQUESTED. AVAILABLE INFORMATION AND RECOMMENDATIONS ARE ATTACHED.

*(Send copies 1, 2, and 3 to Department of Labor)*

SIGNATURE OF CONTRACTING OFFICER OR REPRESENTATIVE

TITLE AND COMMERCIAL TELEPHONE NO.

DATE SUBMITTED

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

CHECK APPROPRIATE BOX

☐ SERVICE CONTRACT

☐ CONSTRUCTION CONTRACT

OMB No.: **9000-0089**

Expires: **02/28/96**

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. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the FAR Secretariat (VRS), Office of Federal Acquisition Policy, GSA, Washington, DC 20405; and to the Office of Management and Budget, Paperwork Reduction Project (9000-0089), Washington, DC 20503.

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| 3. CONTRACTOR  |  |                                    |                               | 4. DATE OF REQUEST   |
| 5. CONTRACT NUMBER   | 6. DATE BID OPENED <i>(SEALED BIDDING)</i> | 7. DATE OF AWARD                   | 8. DATE CONTRACT WORK STARTED | 9. DATE OPTION EXERCISED <i>(IF APPLICABLE) (SCA ONLY)</i> |
| 10. SUBCONTRACTOR <i>(IF ANY)</i>  |  |                                    |                               |  |
| 11. PROJECT AND DESCRIPTION OF WORK <i>(ATTACH ADDITIONAL SHEET IF NEEDED)</i>   |  |                                    |                               |  |

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 TITLES(S); JOB DESCRIPTION(S); DUTIES; AND RATIONALE FOR PROPOSED CLASSIFICATIONS (SCA ONLY) | b. WAGE RATE(S) | c. FRINGE BENEFITS PAYMENTS |
| <i>(Use reverse or attach additional sheets, if necessary)</i>   |                 |                             |

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

**TO BE COMPLETED BY CONTRACTING OFFICER (CHECK AS APPROPRIATE - SEE FAR 22.1019 (SCA) OR FAR 22.406-3 (DBA))**

- ☐ THE INTERESTED PARTIES AGREE AND THE CONTRACTING OFFICER RECOMMENDS APPROVAL BY THE WAGE AND HOUR DIVISION. AVAILABLE INFORMATION AND RECOMMENDATIONS ARE ATTACHED.
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*(Send copies 1, 2, and 3 to Department of Labor)*

|  |                                    |                |
|--|------------------------------------|----------------|
| SIGNATURE OF CONTRACTING OFFICER OR REPRESENTATIVE | TITLE AND COMMERCIAL TELEPHONE NO. | DATE SUBMITTED |
|--|------------------------------------|----------------|





## **Section B**

### **Exhibit A-9 Sample Approval Email**

## \*EXAMPLE ONLY

| Applicable Job Classification                         | Description of Duties to be Performed   | Prevailing Rates |                   | Labor Rates |          |          |
|---|---|------------------|-------------------|-------------|----------|----------|
|   |   | DOL / DIR        | Code              | Base        | Fringe   | Total    |
| Plumber: Steamfitter <sup>1</sup>                     | Remove existing boiler, install new boiler and connect to existing system                       | DIR              | CON-2010-2        | \$ 49.21    | \$ 29.44 | \$ 78.65 |
| Sheet Metal Worker (contract of \$200,000 or less)    | Remove old furnaces and a/c units .<br><br>Install three new HVAC unit<br>Install new duct work | DIR              | CON-2010-2        | \$ 43.20    | \$ 31.10 | \$ 74.30 |
| Carpenter /Insulation installer - Area 1 <sup>2</sup> | Blow in insulation in three building's attic  | DIR              | NC23-31-1-2010-2  | \$ 37.50    | \$ 23.33 | \$ 60.83 |
| Asbestos Removal Labor <sup>3</sup>                   | Remove asbestos insulation on HVAC ductwork   | DIR              | NC102-67-1-2010-1 | \$ 18.68    | \$ 7.50  | \$ 26.18 |
| Asbestos Removal Specialist II <sup>3</sup>           | Oversee the removal of asbestos insulation on HVAC ductwork.                                    | DIR              | NC102-67-1-2010-1 | \$ 24.87    | \$ 11.75 | \$ 36.62 |
| Electrician: Inside Wireman Technician                | Disconnecting and connecting of existing electrical wiring for replacement of new HVAC system.  | DIR              | CON-2010-2        | \$ 46.21    | \$ 21.55 | \$ 67.76 |

<sup>1</sup>Published rates are effective through 6/30/2011. Contact DIR to confirm the distribution of predetermined increase effective as of 7/01/2011.

<sup>2</sup>Published rates are effective through 12/31/2010. However, per discussion with the DIR and review of the published predetermined rate increase, for all Areas except Area 3, the predetermined increase does not go into effect until 7/01/2011. Contact DIR to confirm the distribution of the predetermined increase effective as of 7/01/2011.

<sup>3</sup>Published rates expired on 11/30/2010. Per discussion with the DIR, the revised rates included above are effective until 11/30/2011 allocated as follows: \$0.65 to vacation and \$0.10 to training.

*NOTE: Electrician: Inside Wireman has been included above to provide this option should the size, complexity, number of the HVAC units and/or voltage exceed the allowable limits for the Sheet Metal Worker classification to complete these tasks in compliance with the union and statutory requirements related to the disconnecting and reconnecting of the HVAC units.*

**\*EXAMPLE ONLY**

The California Energy Commission approves city of \_\_\_\_\_ (Recipient) to use the prevailing wage rates stated in the table above in its subcontract with the following \_\_\_\_\_.

To remove existing boiler and install new boiler, remove old furnaces and A/C units and install new ones, blow insulation into 3 building's attics, remove asbestos insulation (project). These subcontracts are utilized to complete the scope of work contained in the Recipient's award under the Energy Efficiency and Conservation Block Grant (EECBG) Program, # \_\_\_\_\_.

This approval is based upon project and personnel information that the Recipient has provided to the Energy Commission. The Recipient is responsible for the accuracy of this information and must notify the Energy Commission in writing of any changes that affect the applicability of the prevailing wage rates identified above. The Recipient is required to obtain the Energy Commission's written approval before employing individuals on the project in job classifications and/or at prevailing wage rates that are not identified in the table above. To the extent that the job classifications or prevailing wage rate rates approved for use in the subcontract(s) identified in the table above differ from the job classifications or prevailing wage rates that you originally identified in your submission to the Energy Commission, you are only approved to use the job classifications included in the table above.

**\*EXAMPLE ONLY**



## **Section B**

**Exhibit A-10**  
**Form WH-347, Certified Payroll example**

**U.S. Department of Labor**  
Employment Standards Administration  
Wage and Hour Division

**PAYROLL**

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



U.S. Wage and Hour Division

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

Rev. Dec. 2008

|  |                               |  |  |   |  |
|--|-------------------------------|--|--|---|--|
| NAME OF CONTRACTOR <input checked="" type="checkbox"/> OR SUBCONTRACTOR <input type="checkbox"/> |                               | ADDRESS  |  | OMB No.: 1215-0149<br>Expires: 12/31/2011 |  |
| Thomas Jones DBA Weatherization R Us   |                               | 100 Jefferson Davis Drive<br>Columbia, Missouri 65202        |  |   |  |
| PAYROLL NO.<br>1   | FOR WEEK ENDING<br>10/30/2009 | PROJECT AND LOCATION<br>Various in Boone and Callaway County |  | PROJECT OR CONTRACT NO.<br>JRB09-633450   |  |

| (1)<br>NAME AND INDIVIDUAL IDENTIFYING NUMBER<br>(e.g., LAST FOUR DIGITS OF SOCIAL SECURITY<br>NUMBER) OF WORKER | (2)<br>NO. OF<br>WITHOLDING<br>EXEMPTIONS | (3)<br>WORK<br>CLASSIFICATION              | OT OR ST. | (4) DAY AND DATE |      |      |      |       |      |     | (5)<br>TOTAL<br>HOURS | (6)<br>RATE<br>OF PAY | (7)<br>GROSS<br>AMOUNT<br>EARNED | (8)<br>DEDUCTIONS |                         |         |          |                     | (9)<br>NET<br>WAGES<br>PAID<br>FOR WEEK |
|--|---|--|-----------|------------------|------|------|------|-------|------|-----|-----------------------|-----------------------|----------------------------------|-------------------|-------------------------|---------|----------|---------------------|---|
|  |   |  |           | Sun              | Mon  | Tues | Wed  | Thurs | Fri  | Sat |                       |                       |                                  | FICA              | WITH-<br>HOLDING<br>TAX | Pension | OTHER    | TOTAL<br>DEDUCTIONS |   |
|  |   |  |           | 25               | 26   | 27   | 28   | 29    | 30   | 31  |                       |                       |                                  |                   |                         |         |          |                     |   |
| James Holmes - 1234  | 1   | Weatherization<br>Worker                   | O         |                  |      |      |      |       |      |     |                       | \$280.35              | \$37.38                          | \$80.10           | \$16.00                 |         | \$133.48 | \$400.52            |   |
|  |   |  | S         |                  | 3.00 | 8.00 | 5.00 | 2.00  | 3.00 |     | 21.00                 | \$13.35               |                                  |                   |                         |         |          |                     | \$534.00                                |
| James Holmes - 1234  | 1   | Doors & Window<br>Weatherization<br>Worker | O         |                  |      |      |      |       |      |     |                       | \$253.65              |                                  |                   |                         |         |          | <del>\$253.65</del> |   |
|  |   |  | S         |                  | 5.00 |      | 3.00 | 6.00  | 5.00 |     | 19.00                 | \$13.35               |                                  |                   |                         |         |          |                     |   |
| William Bryant - 3456  | 3   | HVAC Heating &<br>Cooling Mechanic         | O         |                  |      |      |      |       |      |     |                       | \$559.92              | \$56.00                          | \$85.00           | \$24.00                 |         | \$165.00 | \$634.92            |   |
|  |   |  | S         |                  | 8.00 | 8.00 | 8.00 |       |      |     | 24.00                 | \$23.33               |                                  |                   |                         |         |          |                     | \$799.92                                |
| Roger Barton - 5609  | 2   | Weatherization<br>Worker                   | O         |                  |      |      |      |       |      |     |                       | \$373.80              | \$30.67                          | \$52.91           | \$14.00                 |         | \$97.58  | \$384.22            |   |
|  |   |  | S         |                  | 5.00 | 4.00 | 5.00 | 6.00  | 8.00 |     | 28.00                 | \$13.35               |                                  |                   |                         |         |          |                     | \$481.80                                |
| Christina Flack - 7893   | 1   | HVAC Heating &<br>Cooling Mechanic         | O         |                  |      |      |      |       |      |     |                       | \$326.62              | \$44.38                          | \$94.00           | \$20.00                 |         | \$158.38 | \$475.14            |   |
|  |   |  | S         |                  |      |      |      | 6.00  | 8.00 |     | 14.00                 | \$23.33               |                                  |                   |                         |         |          |                     | \$633.52                                |
| Christina Flack - 7893   | 1   | Weatherization<br>Worker                   | O         |                  |      |      |      |       |      |     |                       | \$186.90              |                                  |                   |                         |         |          | \$186.90            |   |
|  |   |  | S         |                  | 4.00 | 8.00 |      | 2.00  |      |     | 14.00                 | \$13.35               |                                  |                   |                         |         |          |                     |   |
| Thomas Jones   | 2   | OWNER                                      | O         |                  |      |      |      |       |      |     |                       |                       |                                  |                   |                         |         |          |                     |   |
|  |   |  | S         |                  |      |      |      |       |      |     |                       |                       |                                  |                   |                         |         |          |                     |   |
| Andrew Atchison  | 1   | Weatherization<br>Worker                   | O         |                  |      |      |      |       |      |     |                       | \$726.00              | \$37.38                          | \$110.00          |                         |         | \$147.38 | 578.6               |   |
|  |   |  | S         |                  | 8.00 | 8.00 | 8.00 | 8.00  | 8.00 |     | 40.00                 | \$13.35 4.80          |                                  |                   |                         |         |          |                     | \$726.00                                |

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

**Public Burden Statement**

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

Date 11/04/2009

I, Thomas Jones Owner  
(Name of Signatory Party) (Title)

do hereby state:

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

Thomas Jones DBA Weatherization R Us on the  
(Contractor or Subcontractor)

Various sites in Callaway and Boone County; that during the payroll period commencing on the  
(Building or Work)

26 day of 10, 2009, and ending the 30 day of 10, 2009,  
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

Thomas Jones DBA Weatherization R Us from the full  
(Contractor or Subcontractor)

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

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

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

(4) That:

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

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

(b) WHERE FRINGE BENEFITS ARE PAID IN CASH

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

(c) EXCEPTIONS

| EXCEPTION (CRAFT)                | EXPLANATION   |
|----------------------------------|---|
| Atchison - Weatherization Worker | Probationary Employee, not yet qualified for<br>medical and pension benefits. |
|                                  |   |
|                                  |   |
|                                  |   |
|                                  |   |
|                                  |   |
|                                  |   |
|                                  |   |

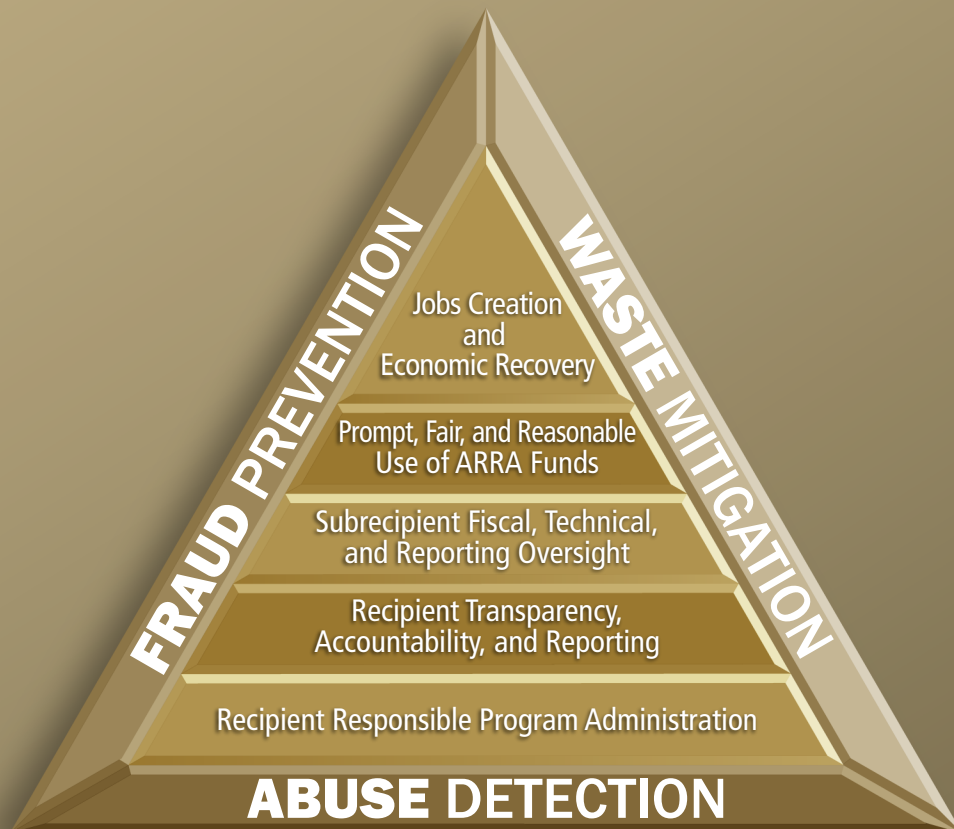
REMARKS:

NAME AND TITLE

Thomas Jones, Owner

SIGNATURE

THE WILLFUL FALSIFICATION OF ANY OF THE ABOVE STATEMENTS MAY SUBJECT THE CONTRACTOR OR  
SUBCONTRACTOR TO CIVIL OR CRIMINAL PROSECUTION. SEE SECTION 1001 OF TITLE 18 AND SECTION 231 OF TITLE  
31 OF THE UNITED STATES CODE.

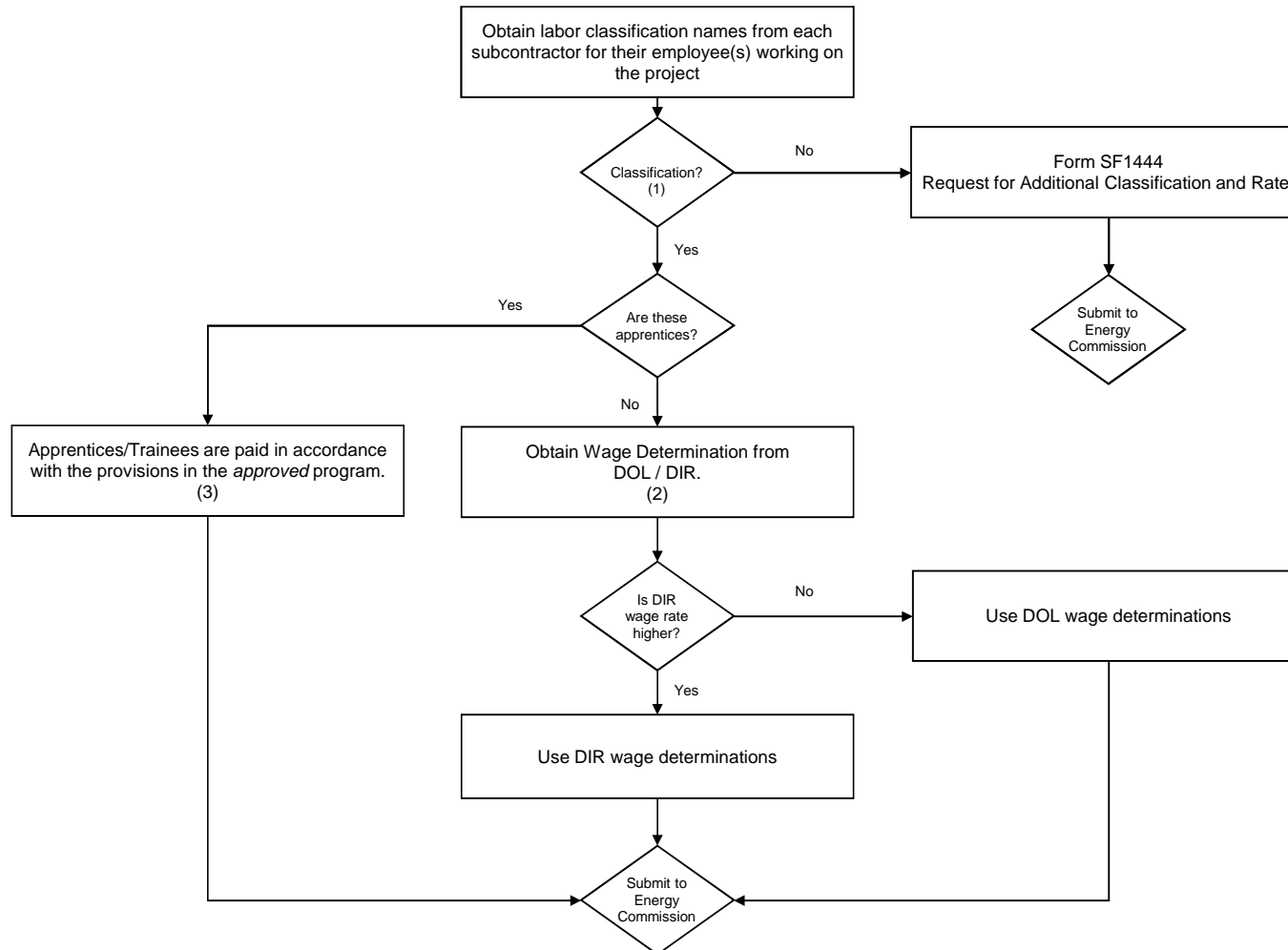


**PERRY-SMITH**

NewPoint Group®  
Management Consultants

McGladrey

## California Energy Commission Subrecipient Wage Determination(s) Process Flowchart



### Footnotes:

- (1) Is the labor classification on the DOL / DIR website?
- (2) DOL wage determination website: <http://www.wdol.gov/dba.aspx#0>.  
DIR wage determination website: <http://www.dir.ca.gov/dlsr/PWD/Index.htm>.
- (3) Programs must have been registered with and approved by the DOL or the State. Rates are usually a percentage of journeyman in that classification.