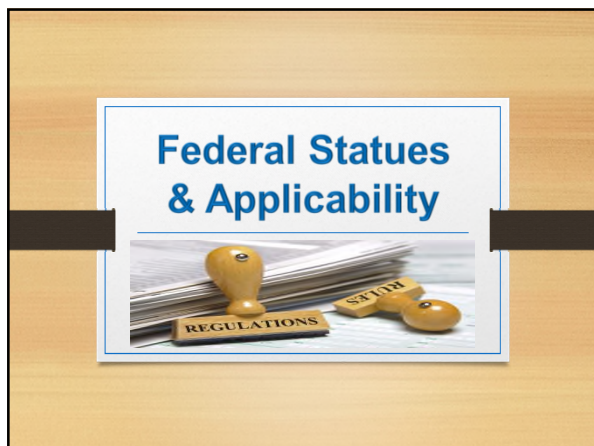



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2



3




The Davis-Bacon Act

- Requires the payment of prevailing wage rates to all laborers and mechanics on Federal government construction projects in excess of \$2,000.
- Construction includes alteration and/or repair, including, painting and decorating of public buildings or works.

4

The Davis-Bacon Act


- Passed by Congress and signed into law by President Herbert Hoover on March 3, 1931.
- The act is named after, James J. Davis, Senator from Pennsylvania and Representative Robert L. Bacon of Long Island, New York.




5

Copeland Act

- Passed by Congress June 13, 1934, to supplement the Davis-Bacon Act. Named after Senator Royal S. Copeland.
- Prohibits contractor's from making an employee give up any part their entitled pay.
- Requires that workers be paid weekly.
- Requires contractors to submit weekly certified payroll with a signed "statement of compliance".




6



Contract Work Hours and Safety Standards Act

- Also known as **CWHSSA**, passed in 1962.
- Applies to federally assisted construction contracts **over \$100,000**.
- Requires contractors on covered contracts to pay laborers and mechanics overtime pay for all hours worked over 40 hours in a work week.**
- Violations under this act carry a liquidated damages penalty of **\$26** per day, per violation, on or before 1/23/2019 and **\$27** on or before 1/24/2019.


7



Related Acts

- CDBG (UDAG/EDI/BEDI/Sec 108):** Housing and Community Development Act of 1974, as amended (HCDA); Section 110
- HOME:** National Affordable Housing Act of 1990 (NAHA); Section 286
- PHA:** U. S. Housing Act of 1937, as amended (USHA) Section 12
- TDHE:** Native American Housing Assistance and Self-Determination Act of 1996, as amended, Section 104(b)
- FHA:** Multifamily Housing Programs – National Housing Act of 1934, Section 212(a)

8



CDBG


CDBG (UDAG/EDI/BEDI/Sec 108): Housing and Community Development Act of 1974, as amended (HCDA); Section 110

- Construction contracts over \$2,000
- ...construction work financed in whole or in part...
- All laborers and mechanics employed by contractors or subcontractors
- Shall apply to the rehabilitation of residential property only if such property contains not less than 8 units.
- Soft costs generally do not trigger Davis-Bacon

9

Examples of Project Related Soft Costs

- Legal fees, accounting fees, taxes, land acquisition and anything other than non-construction.
- Architectural, engineering or related professional services required to prepare plans, drawings, or specifications of a project.
- Purchase of equipment, furniture, and business licenses.



10

CDBG

Equipment Installation

- Davis-Bacon applies to installation costs over 13% of the total equipment cost.
 - Example: when alterations to property or structural modifications are needed to accommodate the equipment (i.e., widening entrances, relocating walls, or installing wiring)

Force Account Work


- Davis-Bacon requirements do not apply to work done by employees hired directly by the grantee (city or state workers, etc.)

11

HOME

- Affordable housing with 12 or more units assisted with funds made available under this subtitle...
- Any contract for the construction of affordable housing with 12 or more units...
- Standard for applicability is *construction assisted*, not construction financed
- Soft costs will trigger Davis-Bacon

HOME Regulations: 24 CFR §92.354



12



Contract Requirements

Federal Labor Standards Provisions obligate the contractor to comply with the Davis-Bacon Wage Decision, reporting requirements and provide remedies and sanctions should violations occur.

Each covered Davis-Bacon bid package and contract for construction/development must contain:


- Applicable Wage Decision
- Federal Labor Standards Provisions
- HUD-4010

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HUD- 4010

The HUD-4010 must be incorporated in bid specifications and contract documents.

Available on-line at:
<https://www.hud.gov/sites/documents/4010.PDF>



14



Methods of Incorporation


The Federal labor standards provisions (HUD-4010) and applicable wage decisions can be incorporated in bid specifications and contracts by one of the following:

- by hard copy
- Incorporated into other documents
- by reference

15

Site of Work

- Davis-Bacon applies only to laborers and mechanics on the "site of work".
- Physical place(s) referenced in the contract or agreement.




16

Demolition

In most cases, demolition is not covered by Davis-Bacon *unless* it will be followed by Davis-Bacon covered construction.

Davis-Bacon coverage is based on knowledge that there will be subsequent construction and that the subsequent construction work will be covered by Davis-Bacon.



17

Wage Decisions



18

Davis-Bacon Wage Decisions

A wage decision is a document listing a minimum wage rate and fringe benefit for each classification of laborers or mechanics DOL has determined prevailing in a specific area based on the type of construction.

- May be modified periodically
- Must be included in bid and contract documents
- Must be incorporated in prime & sub-contracts
- Must be posted at the job site in an area accessible to all workers and protected from the weather.


19

RESIDENTIAL

Wage Decision

The construction, alteration, or repair of single-family houses or apartment buildings of no more than four (4) stories in height. This includes incidental items such as site work, parking areas, utilities, streets and sidewalks.

- Apartment buildings 4 stories or less
- Multi-family houses (8 or more)
- Single family houses (8 or more under one contract)
- Town or row houses






20

BUILDING

Wage Decision

The construction of sheltered enclosures with walk-in access for the purpose of housing persons, machinery, equipment or supplies. This type includes the construction of such structures, the installation of utilities, and the installation of equipment above and below the grade level, as well as incidental grading and paving. Structures need not be habitable to be considered building construction.

- Apartment buildings five (5) stories and up
- Commercial buildings
- Alteration or addition to buildings
- Remodeling, repairing & renovating buildings
- Shelters
- Warehouses
- Fire stations



21

HIGHWAY

Wage Decision

The construction, alteration, or repair of roads, streets, highways, runways, taxiways, alleys, trails, paths, parking areas, and other similar projects that are not incidental to building or heavy construction.

- Curbs
- Sidewalks
- Parking lots
- Street paving
- Street reconstruction

22

HEAVY

Wage Decision

The construction on projects that cannot be classified as building, residential, or highway.

- Water mains
- Water wells
- Water storage tanks
- Sewers (sanitary, storm, etc.)
- Sewer collection and disposal lines
- Parks and playgrounds
- Flood control
- Drainage projects




23

Davis-Bacon Wage Decision

<https://beta.sam.gov/>

Make official website of the United States Government. Here's how you know. This site is in beta and a work in progress.

LOGIN.GOV is now live on Beta.SAM.gov

You will now log in to Beta.SAM.gov using login.gov. Please check out the video for more information: <https://beta.sam.gov/cm/videos/detail?id=231>


More alerts

SAM.GOV You can enter the wage decision number if known or click on the arrow under "All Award Data"

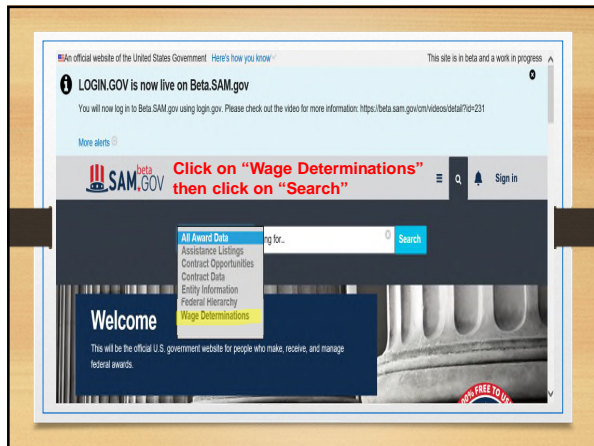
All Award Data

Welcome

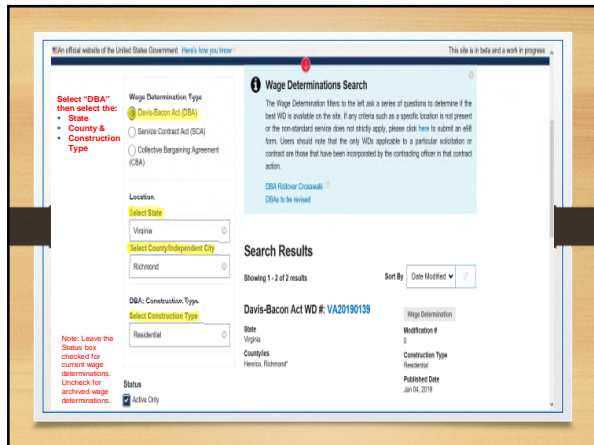
This will be the official U.S. government website for people who make, receive, and manage federal awards.



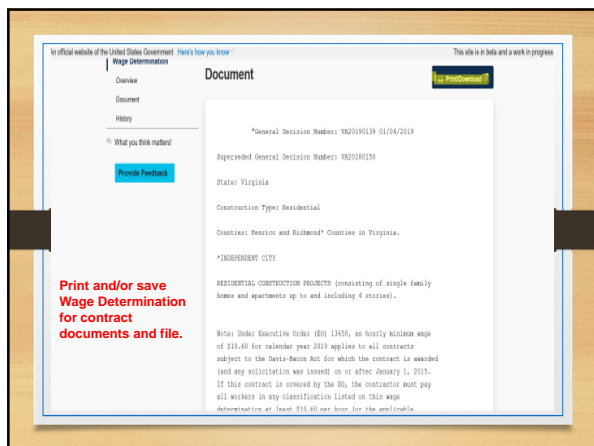
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25



26



27

Additional Classification Request

HUD Form 4230A

If the work classification(s) that you need does not appear on the wage decision, you will need to request an additional classification and wage rate. Also referred to as a "Conformance".

- Review wage decision for missing classifications
- Discuss with contractors early
- Submit requests early, but after contract award
- HUD will respond in writing
- Post new classification & rate
- Make restitution payment if necessary

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HUD-4230A

- Complete numbers 1-10.
- Check any of the boxes that apply under "Check All That Apply".
- Email the form along with the wage decision used for the project to the Office of Davis-Bacon Labor Standards (DBLS).
- DBLS submits the request to DOL and notifies you by email of DOL's approval or exception (could take over 30 days).
- Contractors can pay the employee(s) the rates cited on the request until advised otherwise.
- If the DOL does not approve the request, you will be notified about what wage rate should be used for the work in question.

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Wage Decision "Lock-In"

Competitively Bid Contracts

- Lock-in on bid opening date *provided* contract is awarded within 90 days
- Must update wage decision if contract is awarded more than 90 days after bid opening
- Modifications published less than 10 days before bid opening are not applicable if there is insufficient time to notify bidders

Negotiated Contracts

- Lock-in at contract award date or construction start date, whichever occurs first.

30

Contractor Eligibility

No contract may be awarded to any contractor that is debarred, suspended or otherwise ineligible to participate on Federal or Federally-assisted contracts.

The agency must verify the eligibility of all prime contractors prior to initial closing or contract award on-line at:

System for Award Management (SAM): www.sam.gov

They agency should make a record of the verification in the project files. Any contract awarded to a prime contractor that is found to be ineligible for award must be terminated immediately.

31

www.sam.gov

The screenshot shows the SAM.gov homepage. At the top, there's a navigation bar with links like HOME, SEARCH, MY SAM, DATA, LOGIN, and ABOUT. Below this, there's a large search bar with the text "Enter Prime Contractor name and click SEARCH". To the right of the search bar, there are buttons for "ADVANCED SEARCH" and "REGISTER BUSINESS REGISTRY SEARCH". Below the search bar, there's a section titled "Search Results" with a list of search results. The first result is for "Current Search Terms: M-1000" and it shows a list of search results with columns for Name, Address, and Phone Number.

Enter Prime Contractor name and click SEARCH

32

www.sam.gov

The screenshot shows the SAM.gov search results page. At the top, there's a navigation bar with links like HOME, SEARCH, MY SAM, DATA, LOGIN, and ABOUT. Below this, there's a large search bar with the text "Enter Prime Contractor name and click SEARCH". To the right of the search bar, there are buttons for "ADVANCED SEARCH" and "REGISTER BUSINESS REGISTRY SEARCH". Below the search bar, there's a section titled "Search Results" with a list of search results. The first result is for "Current Search Terms: M-1000" and it shows a list of search results with columns for Name, Address, and Phone Number.

Click on Print

33

Search Results | System for Award Management

Page 1 of 1

A NEW WAY TO SIGN IN - If you already have a SAM account, use your SAM email for login.gov.

Log In

Login.gov FAQs

ALERT - June 11, 2018: Entities registering in SAM must submit a [pastoral letter](#) appointing their authorized Entity Administrator. Read our [pastoral FAQ](#) to learn more about changes to the automated letter review process and other system improvements.

Search Results

Print the results and place in contract file.

Current Search Terms: hh hunt* corporation*

Notice: This printed document represents only the first page of your SAM search results. More results may be available. To print your complete search results, you can download the PDF and print it.

No records found for current search.

GSA

Search Records

Data Access

Check Status

About

Help

Disclaimers

Accessibility

Privacy Policy

FAPIS.gov

GSA.gov/DAE

GSA.gov

USA.gov

34

Provide Contractor Training

Make certain the contractor understands the requirements for Davis-Bacon compliance.

Discuss request for Additional Classifications early.

Refer contractor to *A Contractor's Guide to Prevailing Wage Requirements for Federally-Assisted Construction Projects*.

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Contractors Responsibilities

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Prime Contractor

- Responsible for compliance of all employers
- Sub-contractors communicate through prime
- Include labor provisions & wage decision in all sub-contracts
- Provide sub-contractors with forms and guidance
- Ensures access to employees on site
- Reviews all payrolls for accuracy
- Submits certified payrolls for own employees and sub-contractors timely



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Sub-Contractor

- Prepares & submits certified weekly payrolls to Prime
- Instruct sub-tier of responsibilities
- Request additional classifications through Prime
- Ensures access to employees on site



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Required for all Contractors

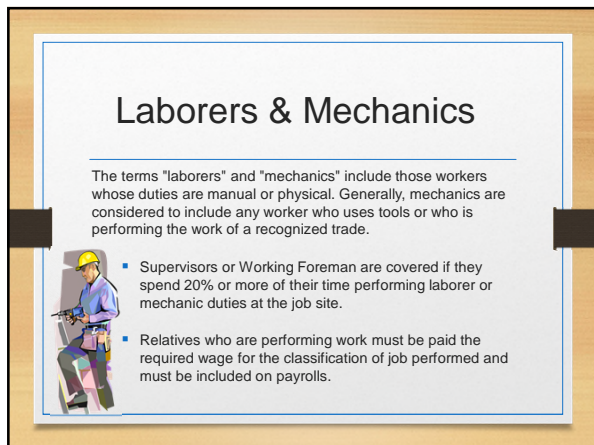
- Pay according to required classifications and rates
- Permit access to employees during work
- Retain records documenting compliance for three years after project completion



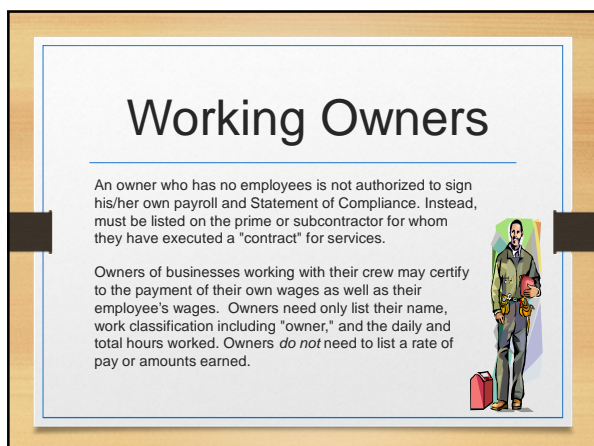
39




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41



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Construction Cleaning

Cleaning performed during construction is subject to prevailing wage provisions.


If a cleaning classification is not list on the wage decision, cleaners must be paid the rate for unskilled laborers.

43

Split Classifications

An employee may perform work in more than one classification **provided**, the employer maintains accurate time records of the time spent in each classification of work performed.

If accurate time records are not maintained, the employee shall be compensated at the highest of all wage rates for the classifications in which work was performed.



44

Apprentices

- Only apprentices registered in an approved program may be paid less than the wage rate listed on the wage decision for their work classification.
- Approved programs are those which have been registered with the Department of Labor (DOL) or DOL recognized State Apprenticeship Agency.
- The first payroll on which any apprentice appears should include:
 - A copy of that apprentice's registration in an approved program.
 - A copy of each apprenticeship agreement.
 - A copy of the portions of the approved program pertaining to the wage rates and ratios.

Note: A worker who is not registered in an approved program must be paid the full journeyman's rate.

45

Truck Drivers

- Covered if driving on the "site of the work"
- Covered if working exclusively on the "site of the work"
- Not covered if **only** loading/unloading on the "site of the work"
- Not covered if driving off the "site of the work" between Davis-Bacon site and commercial facilities
- Truck "owner-operators" must be reported on the prime's (responsible employer's) weekly payrolls but unlike other classifications, do not need to show the hours worked or rates, only the notation 'Owner-operator'.

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Material Delivery

- Material delivery truck drivers who come onto the site of work merely to drop off or pick up construction materials are not covered if the time spent on the site of work is not more than de minimis.
- De Minimis Rule: If the driver is not working exclusively on the site of work, to be covered by Davis-Bacon, the time spent working on site must be more than de minimis (20% or more of the work week).
- It is highly recommended that drivers keep track of their time in a manner that will assist in determining if 20% of their work week is spent on the 'site of work' (de minimis).

47

Construction Site

This type of work is covered while on the "site of work".



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Construction Site

Loading from a 'Stockpile' while on the 'site of work' can exceed the de minimis (20% or more of the work week).



49

Construction Site

Trucks 'lined up' waiting to be loaded, can exceed the de minimis (20% or more of the work week).



50

Material Supply Delivery

Dumping material alone, more than likely will NOT exceed de minimis (20% or more of the work week).



51

Volunteers

- Perform services voluntarily
- Do not receive compensation
- May receive expenses, or a nominal fee
- Not otherwise employed on the project
- Note the project file, have volunteer sign



52



Pay Administration

53

Pay

- The wage decision will list a minimum basic wage or basic wage plus fringe benefits.
- Pay wage rates at or above those on wage decision for classification of work performed.
- For example, if the wage decision requires \$10 per hour + \$5 per hour fringe benefits, you must pay no less than \$15 per hour.
- You can meet this obligation in several ways, as long as you meet the total amount:
 - \$10 basic plus + \$5 fringe benefits.
 - \$12 basic plus + \$3 fringe benefits.
 - \$9 basic plus + \$6 fringe benefits



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Fringe Benefits

- Can include employer contributions to health insurance premiums, retirement contributions, life insurance, vacation & sick leave, etc.
- Bona fide funded plans: common to the industry, may be paid directly to worker or into a fund, plan or program on the employee's behalf
- Unfunded plans: Contractor must obtain DOL approval
- Contractor must identify on Statement of Compliance if fringe benefits are paid or are not paid

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NOT Fringe Benefits

- Workers compensation
- Unemployment compensation
- Social Security
- Employer payments or contributions required by Federal, State or local laws
- Use of company truck
- Holiday bonus



56

Overtime


- For all hours worked over 40 per week
- Paid at 1½ times the regular rate of basic pay plus the straight-time rate of fringe benefits
- Applies to hours worked on covered project




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Piece Work

- Convert to hourly wage rate
- $$\text{Total weekly wages} \div \text{hours worked} = \text{effective hourly wage rate}$$
 - $\$1000 \div 40\text{hrs} = \25 per hour
- It is important that contractors keep good records of hours worked



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Pay Deductions

Allowable deductions include employee obligations for:

- Income taxes and Social Security payments
- Insurance premiums
- Retirement and savings accounts
- Any other legally-permissible deduction authorized by the employee.
- Those deemed permissible by 29 Code of Federal Regulations (CFR) Part 3. Deductions not provided must be approved by the DOL

59

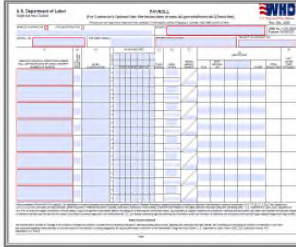
Certified Payroll Basics

- Contractors are required to submit weekly certified payrolls to document compliance with prevailing wage requirements.
- The Statement of Compliance is required for each employer's weekly certified payroll. It is located on the reverse side of a standard payroll form (WH-347).
- Make sure the payroll is signed with an original signature. Must be signed by a principal of the firm or by an authorized agent (authorized by a principal in writing to sign the payroll reports).

60

WH-347

You are not required to use Payroll form WH-347. You can use any other type of payroll, such as computerized formats, as long as it contains all of the information required on the WH-347.

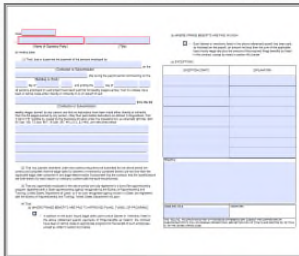


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The Statement of Compliance

The Statement of Compliance is the certification. It is located on the reverse side of a standard payroll form (WH-347).

Be sure to complete the identifying information at the top, particularly if you are attaching the Statement of Compliance to an alternate payroll form such as a computer payroll.



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Common Payrolls Errors

- Missing documentation for Apprentices and Trainees
- Classification errors
- Copy or fax Statement of Compliance
- Frequent computation errors
- Incomplete payrolls
- Other deductions not identified
- Overtime violations
- Unauthorized signature on Statement of Compliance
- Wage rate errors



63



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Davis-Bacon Posters

The Davis-Bacon poster, and a copy of the applicable Davis-Bacon wage decision, must be displayed at the job site of every project subject to Davis-Bacon wage requirements.

Websites for the English and Spanish versions of poster:

(WH-1321) Davis-Bacon Poster (English):
<https://www.dol.gov/whd/regs/compliance/posters/fedprojc.pdf>


(WH-1321) Davis-Bacon Poster (En Español):
<https://www.dol.gov/whd/regs/compliance/posters/davispan.pdf>



65

Must be displayed at the job site of every project subject to Davis-Bacon.

Also available in Spanish.




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Wage Restitution



When wage underpayment has occurred, the employer will be required to pay wage restitution to all affected employees within 30 days. The prime contractor is responsible for ensuring restitution is paid.


Document restitution on a corrected certified payroll report.

70

Withholding of Funds

If wage underpayments or other violations are not corrected within 30 days after notification to the prime contractor, you have the authority to withhold money.

Withholding of money is considered serious and the prime contractor would be notified in writing.




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DOL Debarment

Debarment is considered when a contractor has willfully:

- Submitted falsified certified payrolls
- Required kickbacks of wages or back wages
- Committed repeat violations

When a contractor is debarred, they are declared ineligible for up to 3 years from receiving Federal contracts.



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Contractors and/or subcontractors that are found to have willfully falsified payroll reports and Statements of Compliance, may be subject to civil or criminal prosecution.



HUD-4710

- All Davis-Bacon covered projects contracts awarded within a 6-month time period submitted to HUD DBLS.

- Wage restitution, complaints, investigations underpayments and violations.

- Oct 1st - Mar 31st (Report Due April 7th)
- Apr 1st - Sep 30th (Report Due October 7th)





Agency Responsibilities

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Agency Responsibilities

- Designate appropriate staff
- Establish contract management system
- Ensure contracts/subcontracts contain:
 - Federal labor standards (HUD- 4010)
 - Applicable wage decision (<https://beta.sam.gov/>)
- Verify contractor eligibility (www.sam.gov)
 - Print out results for contract file

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Agency Responsibilities

- Conduct on-site inspections (HUD-11's):
 - Ensure wage decision and DOL Notice to Employees posters are posted on the job site
- Review payrolls
- Maintain full documentation for 3 years
- Refer investigations to HUD
- Submit DOL enforcement reports
- Comply with all HUD Requirements



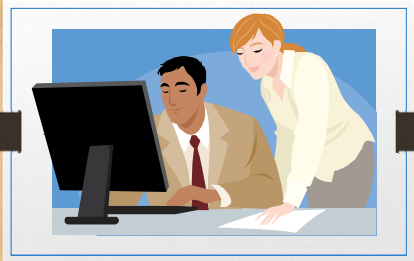
78

Labor Standards Records to be Kept

- Copy of executed contract
- Bid opening /contract award dates
- Verification of contractor eligibility
- Wage decision/additional classifications
- Construction start date
- Certified payrolls
- Apprentice registrations
- Employee interviews & HUD-11s
- Documentation of enforcement
- Preserved no less than three (3) years



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On-line Guidance & Resources

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Davis-Bacon Web Sites

HUD, Office of Davis Bacon & Labor Standards:
https://www.hud.gov/program_offices/davis_bacon_and_labor_standards

Davis-Bacon Wage Decisions: <https://beta.sam.gov/>

Contractor Eligibility: www.sam.gov



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Virginia Apprenticeship Registration

State Office of Apprenticeship website:
<https://www.doleta.gov/oa/stateoffices.cfm>

Virginia Registered Apprenticeship
Virginia Department of Labor and Industry
Main Street Centre
600 East Main Street, Suite 207
Richmond, Virginia 23219

Patricia Morrison, Division Director
Email: Patricia.Morrison@doli.virginia.gov
Phone: 804.786.2382

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Kamaria E. Taylor, Labor Standards Specialist
Email: kamaria.e.taylor@hud.gov
Phone: 804.822.4806

Jurisdictions: Virginia & West Virginia

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