

Subcontractors: Davis Bacon Compliance Fact Sheet



What is the Davis Bacon Act?

The Davis Bacon Act is administered by the U.S. Department of Labor (DOL) and was established in 1931 to assure that local workers are paid prevailing wage rates. Applicable projects including all those involving the United States or District of Columbia in the construction, alteration, and/or repair of public buildings or public works. **Davis Bacon applies to prime contractors and is a pass-through requirement for all construction-related subcontractors.**

In general Davis Bacon applies to all Federal-aid infrastructure and public works projects over \$2,000. When public owners advertise projects, they include a reference to the applicability of Davis Bacon. A Wage Determination is provided along with Form 1273 (required attachment for all contracts and subcontracts) which includes required contractual clauses as follows:

- Minimum Wages
- Withholdings
- Payrolls and Basic Records
- Apprenticeships and Trainees
- Compliance with Copeland Act Requirements
- Subcontracts
- Contract Termination; Debarment
- Compliance with Davis Bacon Act Requirements
- Disputes Concerning Labor Standards
- Certification of Eligibility

What is the Copeland Act?

The Copeland “Anti-Kickback” Act prohibits federal contractors or subcontractors engaged in building construction or repair from inducing an employee to give up any part of the compensation to which he or she is entitled under his or her employment contract and requires such contractors and subcontractors to submit weekly statements of compliance.

What is a Wage Determination?

A wage determination contains a comprehensive listing of the various job classifications that are likely to be found on a particular project based on the nature and scope of the work. The wage determination provides the minimum “prevailing” wages and fringe benefits rates to be applied to various classifications of laborers and mechanics employed under the contract.

How is Davis Bacon Compliance Monitored?

Davis Bacon compliance is monitored through the collection of weekly payroll data. A public owner may elect to use USDOL Form WH-347 or they may provide their own form and statement of compliance.

Basic payroll information includes:

- Name
- Address
- Full Social Security Number
- Worker Classification
- Regular hourly rate of pay, including rates of contributions or costs anticipated for fringe benefits or their cash equivalent
- Daily and weekly numbers of hours worked
- Deductions
- Actual wages paid
- If applicable, detailed information regarding fringe benefit plans/programs, including records that show that the plan/program has been communicated in writing to the affected laborers and mechanics
- If applicable, detailed information regarding approved apprenticeship or trainee programs

By signing a “statement of compliance” a contractor or subcontractor is “certifying” that the following statements for the pay period are correct:

- The required information is being maintained and is correct and complete;
- Each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in 29 CFR Part 3; and
- Each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification(s) of work performed, as specified by the applicable wage determination incorporated into the contract.

What has to be included in Payroll Submissions?

Weekly payroll statement must include the following information:

- Name of each worker
- Employee identification number (i.e. the last four digits of the employee’s social security number)
- Worker classification(s) (note: workers may perform in multiple classifications and must be paid accordingly)
- Hourly rates of wages paid
- Daily and weekly number of hours worked
- Deductions (fringe benefits, etc.)
- Actual wages paid (may include non-project work)

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Are Electronic Signatures Acceptable?

Yes. USDOL permits the use of electronic submittals and electronic signatures for the contractor’s and subcontractors’ weekly payroll. For more information, refer to guidance issued by USDOL on November 12, 2004 titled, “Electronic Signatures and the Copeland Act.”

How is “Certified” Payroll Information Collected?

Currently, Webber verifies subcontractor compliance in one of three ways depending on the subcontractor; subcontractors submit the information directly to the owner (i.e. online with TxDOT), subcontractors send certified payrolls directly to Webber administrative personnel, or subcontractors report certified payroll data via web-based labor compliance software (currently being piloted). Subcontract provisions identify submission requirements.

How long do Employee Records have to be Retained?

Whether hardcopy or electronically, employee records including payroll records must be retained for the **duration** of the contract work and **three years** after final payment and all other pending matters are closed.

Resources:

Webber takes its compliance obligations seriously and expects that subcontractors participating on its federal aid and public works projects do the same.

Assistance to subcontractors unfamiliar with Davis Bacon requirements is available. The Contracting Authority for assistance with:

- Understanding and applying the wage determination
- Completing certified payroll information
- Submitting certified payroll information

Why this matters to Webber Subcontractors:

- Subcontractor payments will not be released unless all certified payroll information for the affected period has been submitted
- Failure to submit certified payroll is the top reason for delayed subcontractor payments
- Compliance with U.S. Department of Labor requirements is a condition of award.
- Subcontractors are responsible for monitoring and accurately certifying that its jobsite personnel are being paid prevailing Davis Bacon wages.
- Subcontractors are responsible for ensuring that Davis Bacon requirements are included in all applicable lower-tier subcontract provisions.
- Sanctions may be applied to Webber and its subcontractors at the owner’s discretion for failure to meet Davis Bacon requirements *or* failure to ensure that lower-tier subcontractors are compliant.
- Sanctions include fines and repeat or egregious violations could result in debarment.