

# CONTRACTOR GUIDE TO THE DAVIS-BACON ACT



Labor Requirements  
For Naval Facilities  
Engineering Command  
Construction Projects

(August 2007)

## INTRODUCTION

SECNAVINST 4200.36A assigns to the Naval Facilities Engineering Command the responsibility for preparing and maintaining contractor industrial relations policy and procedures on contracts with construction requirements. This document provides compliance guidance to Naval Facilities Engineering Command contractors on various labor requirements, emphasis on the Davis-Bacon Act. It supports the Department of the Navy policy that proper and consistent implementation of labor standards in Department of the Navy contracts promote good business and effective contracting in terms of price, quality, speed of delivery, customer satisfaction and mission success.

The guidance provided in this document does not substitute for full and careful review of the contract and all applicable statutes and regulations, such as the Federal Acquisition Regulation and its Supplements and the Department of Labor regulations related to these issues. If there is any conflict between those requirements and this publication, the statutes and regulations applicable at the time of contract award will apply.

There are three chapters in this Guide. The first chapter provides a brief overview of the statutes and regulations pertaining to Federal labor standards on construction contracts. The second chapter provides guidance on the contractor's responsibilities with regard to compliance with labor standards and payroll reporting requirements. The third chapter discusses procedures for compliance issues that are not resolved with contracting agency administration and enforcement.

Questions pertaining to a solicitation or contract should be directed to the contacting officer.

Questions about the content of this Guide should be directed to the NAVFAC Labor Advisor at [NAVFACLaborAdvisor@navy.mil](mailto:NAVFACLaborAdvisor@navy.mil).

<b>TABLE OF CONTENTS</b>
--------------------------

	<b>Page</b>
<b>INTRODUCTION</b>	1
<b>TABLE OF CONTENTS</b>	2
<b>CHAPTER 1. LAWS, REGULATIONS, CONTRACTS AND RESPONSIBILITIES</b>	
1-1 Davis-Bacon Act and other Labor Laws	5
a. Davis-Bacon Act	5
b. Contract Work Hours and Safety Standards Act	5
c. Copeland Act	5
d. Fair Labor Standards Act	5
1-2 Davis-Bacon Act Regulations	5
1-3 Construction Contract Provisions	6
a. Labor Standards Clauses	6
b. Davis-Bacon Act Wage Determinations	6
1-4 Responsibility of the Prime Contractor	6
1-5 Responsibility of the Contracting Officer	7
<b>CHAPTER 2. COMPLYING WITH LABOR STANDARDS AND PAYROLL REPORTING REQUIREMENTS</b>	
<b>Section I – Definitions and Requirements</b>	
2-1 Davis-Bacon Act Definitions	8
a. Laborer or Mechanic	8
b. Apprentices	8
c. Site of work	8
2-2 Wage Determination/Postings	9
a. The Work Classifications and Rates	9
b. Postings	9
c. EEO Requirements	9
2-3 Basic Compliance Requirements	
a. Basic wage/benefit requirement	10
b. Apprentice Rates	10
c. Prevailing Wages or Wage Rates	11
d. Fringe Benefits	11
e. Site of Work	12
f. Overtime	12
g. Deductions	12
h. Classification of Workers	12
2-4 Additional Job Classifications and Rates	13
a. Additional Classification Rules	13
b. Making the Request	13

	c. Employees' Review	14
	d. NAVFAC Review	14
	e. DOL Decision	14
2-5	Certified Payroll Reports	14
	a. Payroll Formats	14
	b. Payroll Certifications	15
	c. "No Work" Payrolls	15
	d. Payroll Review and Submission	15
	e. Payroll Retention	16
	f. Payroll Inspection	16

## **Section II -- Reporting Requirements**

2-6	Completing a Payroll Report	16
	a. Project and Contractor or Subcontractor Information	16
	b. Employee Information	16
	c. Work Classification	16
	d. Hours Worked	17
	e. Rate of Pay	17
	f. Piecework	17
	g. Gross Wages Earned	17
	h. Deductions	18
	i. Net Pay	18
	j. Statement of Compliance	18
	k. Signature	18

## **Section III -- Payroll Reviews and Corrections**

2-7	Compliance Checks and Investigations	18
	a. Project Payroll Reviews	19
	b. On-Site Interviews	19
2-8	Typical Payroll Errors and Required Corrections	19
	a. Inadequate Payroll Information	19
	b. Missing Addresses and Social Security Numbers	19
	c. Incomplete Payrolls	19
	d. Classifications	19
	e. Wage Rates	20
	f. Apprentices	20
	g. Overtime	20
	h. Deductions	20
	i. Fringe Benefits	20
	j. Signature	20
2-9	Violation Indicators and Other Reviews	21
2-10	Restitution for Underpayment of Wages	21
	a. Notification to the Prime Contractor	21
	b. Computing Restitution	21
	c. Corrected Payrolls	21
	d. Evidence of Receipt	21
	e. Review of Corrected Payroll	22
	f. Unlocated Workers	22

**CHAPTER 3. LABOR STANDARDS DISPUTES, ADMINISTRATIVE REVIEWS,  
WITHHOLDING AND DISPOSITION OF WITHHELD FUNDS AND  
DEBARMENT**

3-1	Introduction	23
3-2	Administrative Review on Labor Standards Disputes	23
	a. Additional Classifications and Rates	23
	b. Findings of Underpayment	23
3-3	Withholding	24
3-4	Disposition of Withheld Funds	24
	a. If the Parties Agree	24
	b. If the Parties Disagree	24
3-5	Debarment	25
3-6	Falsification of Certified Payroll Reports	25
3-7	Contract Termination	25

<b>INDEX</b>		26
--------------	--	----

**ATTACHMENTS**

WH-347, Payroll Form	28-29
WH-347 Instructions	30-31
DD-879, Statement of Compliance	32-33
SF-1413, Statement and Acknowledgment	34
SF-1444, Request For Authorization of Additional Classification and Rate	35
Notice to Employees Poster	36
EEO is The Law Poster	38

## CHAPTER 1. LAWS, REGULATIONS, CONTRACTS AND RESPONSIBILITIES

The following paragraphs briefly outline the contract labor standards statutes and regulations and what they require on Naval Facilities Engineering Command (NAVFAC) contracts:

### 1-1 DAVIS-BACON ACT AND OTHER LABOR LAWS (FAR 22.4).

- a. **Davis-Bacon Act** The Davis-Bacon Act (DBA) requires the payment of prevailing wages and fringe benefits, as determined by the U.S. Department of Labor (DOL), to all laborers and mechanics working on the site of federal government construction projects in excess of \$2,000. Construction includes alteration and/or repair, including painting and decorating, of public buildings or public works.
- b. **Contract Work Hours and Safety Standards Act** The Contract Work Hours and Safety Standards Act (CWHSSA) requires payment at time and one-half of the basic hourly rate of pay for overtime (OT) hours (over 40 hours in any seven day workweek) worked on covered project(s). Violations may result in liquidated damage penalties (\$10/day per violation).
- c. **Copeland Act** The Copeland (Anti-Kickback) Act makes it a crime for anyone to require any laborer or mechanic employed on a federally funded project to pay back any part of his or her wages. In addition, the Act prohibits any deductions from pay other than those specifically listed as permissible. The Copeland Act also requires that contractors and subcontractors at all tiers submit weekly certified payrolls.
- d. **Fair Labor Standards Act** The Fair Labor Standards Act (FLSA) requires payment of the federal minimum wage rates and overtime premium. FLSA applies to most employers in the U.S. These requirements generally apply to any work performed and may be superseded by other federal standards such as DBA prevailing wage requirements and CWHSSA O/T provisions. Only DOL has the authority to administer and enforce FLSA. NAVFAC will refer any indication of FLSA violations that are found on their projects to DOL.

**1-2 DAVIS-BACON ACT REGULATIONS.** DOL has published rules and regulations concerning DBA and other labor laws in the Code of Federal Regulations (CFR). The DBA regulations can be found in **Title 29 CFR Parts 1, 3, 5, 6 and 7.** **Part 1** describes how DOL establishes and publishes DBA wage determinations and provides instructions on how to use them. **Part 3** addresses Copeland Act requirements concerning payroll deductions and the submission of weekly certified payroll reports. **Part 5** covers the labor standards

provisions relating to DBA rates and the responsibilities of contractors and contracting agencies to administer and enforce the provisions. **Part 6** provides for administrative proceedings enforcing federal labor standards on construction and service contracts. **Part 7** sets the procedures for the Administrative Review Board (formerly the Wage Appeals Board). These regulations are the basis for administering and enforcing the laws.

In October 2003, DOL announced the implementation of the Wage Determinations On Line (WDOL) Program, <http://www.wdol.gov>, which provides access to all DOL regulations and related links to information on government contract labor standards. It also provides contracting agency access and informational access to Davis-Bacon Act wage determinations. **Note:** The effective wage determination for DBA compliance purposes is the wage determination that the contracting officer has selected and incorporated into the individual contract.

**1-3 CONSTRUCTION CONTRACT LABOR PROVISIONS.** Each contract subject to DBA labor standards requirements must contain labor standards clauses and the applicable DBA wage determination(s).

- a. **The Labor Standards Clauses (FAR 22.407).** The labor standards clauses found in FAR 22.407 describe the responsibilities of the contractor concerning DBA wages and obligate the contractor to comply with the labor requirements. The labor standards clauses provide for remedies in the event of violations, including suspension of payments, withholding an amount from payments due the contractor sufficient to ensure the payment of back wages and/or liquidated damages due for violations. In addition, contractors may be suspended or debarred for up to three years for DBA violations.
- b. **Davis-Bacon Act Wage Determinations (FAR 22.404).** The DBA wage determination is a listing of various construction work classifications, such as carpenter, plumber and electrician, and the minimum wage rates (and fringe benefits, where prevailing) that employees performing work in those classifications must be paid.

**1-4 RESPONSIBILITY OF THE PRIME CONTRACTOR.** The prime contractor is responsible for the full compliance of all employers (the contractor and all subcontractors, regardless of tier) with the labor standard provisions applicable to the project. Because of the contractual relationship between a prime contractor and the subcontractors; questions to, from or concerning compliance about subcontractors must always be directed to the prime contractor. The prime contractor must include all applicable labor clauses in all subcontracts and require its subcontractors to include the labor clauses in all lower tier subcontracts. Within 14-days of

the award of a subcontract, regardless of tier, the prime contractor must submit a statement notifying the contracting agency of the subcontract award and acknowledging the inclusion of the labor clauses in the subcontract. A copy of the **SF 1413, Statement and Acknowledgment**, prescribed for this purpose, is included as an attachment to this Guide.

For the purposes of this Guide, the term "**prime contractor**" will mean the principal contractor; "**subcontractor**" will mean all subcontractors including lower-tier subcontractors; and the term "**employer**" will mean all contractors as a group, including the prime contractor and any subcontractors and lower-tier subcontractors.

**1-5 RESPONSIBILITY OF THE CONTRACTING OFFICER (FAR 1.602-1 & 2, FAR 22.406-1 through 22.406-12).** The contracting officer is responsible for the proper administration and enforcement of the federal labor standards provisions on contracts covered by DBA requirements. The contracting officer may assign a person (or persons) who will provide labor standards pre-construction advice and support to the prime contractor. The contracting officer ensures that the proper wage determination and contract clauses are incorporated into the contract. The contracting officer (or representative) also monitors labor standards compliance (**See ¶ 2-7, Compliance Checks**) by conducting interviews with construction workers at the job site and reviewing payroll reports, and oversees any enforcement actions that may be required. DOL also has a role in monitoring DBA administration and enforcement. A DOL investigator may visit DBA construction sites to conduct investigations by interviewing construction workers and reviewing payroll information.



<p style="text-align: center;"><b>CHAPTER 2.    COMPLYING WITH LABOR STANDARDS AND PAYROLL REPORTING REQUIREMENTS</b></p>
---

**SECTION I - DEFINITIONS AND REQUIREMENTS**

**2-1 DBA DEFINITIONS (FAR 22.401).**

a. **Laborer or Mechanic.** "Laborer or mechanic" means those workers whose duties are manual or physical in nature as distinguished from mental or managerial work. Laborer or mechanic includes anyone who is performing construction work on the project site(s) of work, including journeymen skilled and unskilled labor (carpenters, plumbers, sheet metal workers, laborers, etc.) and apprentices. "Laborers" and "mechanics" are the two groups of workers that must be paid not less than DBA rates.

**(1)Working Foremen.** Nonexempt foremen or supervisors who regularly spend **more** than 20% of their time in any workweek performing construction work are covered "laborers" and "mechanics" for labor standards purposes, for the time spent performing construction work and must be paid the appropriate wage rate and shown on the certified payrolls.

**(2)White Collar Employees.** "White collar" employees such as superintendents, project managers, engineers, office staff, timekeepers, messengers, etc., are not laborers or mechanics. Any questions about whether a particular employee is excluded from the labor requirements in the contract should be directed to the Department of Labor.

b. **Apprentices.** A person employed and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Office of Apprenticeship (OA) or with an OA-approved State Apprenticeship Agency. Additional information on approved apprentice programs can be found at the OA website at <http://www.doleta.gov/oa/setprgm.cfm>

c. **Site of Work.** The DBA requirements are limited to work performed on the "site of work". Usually, this means the physical location where the building or work will remain when construction is completed. "Site of work" can include immediately adjacent property used by a contractor or subcontractor in the construction of the project, like a fabrication site or a material lay-down area, provided such site is dedicated exclusively or almost exclusively to the DBA project. It may also include a secondary site of construction 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. "Not included

in the site of work are permanent home offices, branch plant establishments, fabrication plants, tool yards, etc., of a contractor or subcontractor whose location and continuance in operation are determined wholly without regard to a particular Federal or federally assisted contract or project to the extent that such site is established by a supplier of materials for the project before opening of bids and not on the site of the work. Such permanent, previously established facilities are not part of the site of work even where the operations for a period of time may be dedicated exclusively, or nearly so, to the performance of the contract."(29 CFR 5.2(1))

**2-2 WAGE DETERMINATION/POSTINGS.** DBA labor standards stipulate the minimum compensation requirements for carpenters, electricians, plumbers, roofers, laborers, and other construction work classifications that may be needed for the project. The DBA wage determination that applies to the project contains a schedule of work classifications and specifies the minimum wage and fringe benefit rates that must be paid for work on that project.

- a. **The Work Classifications and Rates.** A DBA wage determination is a listing of different work classifications and the minimum rates that must be paid to anyone performing work in those classifications. Misclassification of workers is a common mistake made by contractors on DBA projects. The contractor must understand which classifications are needed to perform the contract and pay no less than the rates contained in the wage determination for any work in each classification. If a required classification is not included in the wage determination, the contractor must add it after award (***See ¶ 2-4, Additional Job Classifications and Rates - Conformances***). Some wage determinations cover several counties and/or types of construction work (for example, residential and commercial work) and can be lengthy and difficult to read. The contractor should contact the contracting officer if there are any questions on how to read the wage determination or finding the proper work classification(s).
- b. **Postings(FAR 22.404-10).** The contractor is responsible for posting a copy of the wage determination and a copy of the DOL posters "Notice to All Employees" and "Equal Employment Opportunity is THE LAW", at the job site in a place that is easily accessible to all of the construction workers employed on the project and where the wage determination and posters will not be destroyed by wind or rain, etc. The *Notice to All Employees and EEO* posters are also available with Spanish text.
- c. **Equal Employment Opportunity(EEO) Requirements.** DOL's Office of Federal Contract Compliance Programs (OFCCP) administers and enforces Executive Order 11246, as amended. The order prohibits covered federal contractors and federally assisted construction

contractors and subcontractors, from discriminating in employment decisions on the basis of race, color, religion, sex, or national origin.

Notice to Employees Poster is available on-line at:

<http://www.dol.gov/esa/regs/compliance/posters/pdf/fedprojc.pdf>

EEO Poster is available on-line at:

<http://www.dol.gov/esa/regs/compliance/posters/pdf/7975epos.pdf>

## 2-3 DBA BASIC COMPLIANCE REQUIREMENTS (FAR 22.406-2).

- a. **Basic wage/benefit requirement.** The contractor must ensure that the worker is paid at least as much as the basic pay rate and the equivalent fringe benefits on the wage determination for the classification of work performed. (See ¶ 2-3 d. **Fringe Benefits.**) Every person who performs on-site laborer or mechanic work is covered, regardless of any contractual relationship that may be alleged to exist between a contractor or subcontractor and such person. This means that even if there is a contract between a contractor and a worker, the contractor must ensure that the worker is paid weekly and paid at least as much as the minimum rates on the wage determination.
- b. **Apprentices Rates.** The only workers who may be paid less than the rate on the wage determination for their work classification are "apprentices" registered in approved apprenticeship programs. See "definitions" above for those who qualify as apprentices. Apprentices are paid rates in accordance with the wage schedule in the approved program. The apprentice wage rate is typically expressed as a series of percentages tied to the amount of time spent in the program; for example, 0-6 months: 50%; 6 months - 1 year: 55%; etc. The percentage is applied to the journeyman's rate. On DBA projects, the percentage must be applied to the journeyman's rate **on the applicable wage determination** for that craft.
  - (1) **Probationary Apprentice.** A "probationary apprentice" can be paid as an apprentice (less than the rate on the wage determination) if OA or the State Apprenticeship Agency has certified that the person is eligible for probationary employment as an apprentice.
  - (2) **Pre-Apprentice.** A "pre-apprentice" is someone who is not registered in a program or has not been OA or State Apprenticeship Agency certified to be a probationary apprentice. These individuals are **not** considered to be "apprentices" and must be paid the full journeyman's rate on

the wage determination for the classification of work they perform on a DBA-covered project.

- (3) **Ratio of Apprentices to Journeymen.** The ratio of apprentices to journeymen on the job site cannot exceed the ratio that is stated in the approved program. The contractor must pay journeyman rates to those outside of the permissible ratio. For example, if the ratio is 3 to 1, the contractor would be required for employ at least three journeyman on the job site before using the first apprentice. The contractor can not employ a second apprentice on the site until there are at least 6 journeymen employed there.
- (4) **Fringe Benefits for Apprentices.** Unless the program allows a lesser amount, apprentices must be paid the full (100%) fringe benefit listed on the wage determination.

- c. **Prevailing Wages or Wage Rates.** Prevailing rates are the rates listed on the wage determination for the project. The wage determination will list a minimum basic hourly rate of pay for each work classification. Some wage determinations include fringe benefits, which are usually listed as an hourly fringe rate. If the wage determination includes a fringe benefit rate for a classification, the contractor must pay the fringe benefit rate in addition to the basic hourly rate unless he/she provides bona fide fringe benefits to the employees and the costs to provide those benefits are sufficient to cover the monetary costs required by the wage determination.

**Piecework.** Some employees are hired on a piecework basis; that is, the employee's earnings are determined by the amount of work produced. For example, a drywall hanger's earnings may be calculated based upon the square feet of sheet rock actually installed, a painter's earnings may be based upon the number of units painted, etc. Employers may calculate weekly earnings based upon piece rates **provided** the weekly earnings are sufficient to satisfy the wage rate requirement based upon actual hours, including any overtime, worked. **Accurate time records must be maintained for any piecework employees.** If the weekly piece rate earnings are not sufficient, the employer must pay additional wages to equal the amount required for DBA compliance based on the actual hours worked and the rate on the wage determination for the work classification(s) involved. Regardless of the rate, if overtime hours are worked, any employee paid by the piece must be paid additional  $\frac{1}{2}$  time premium for any hours worked in excess of 40 per workweek.

- d. **Fringe Benefits.** Fringe benefits include contributions to a third party plan for benefits such as health insurance, retirement, life insurance, or vacation. Fringe benefits **do not** include employer payments or contributions required by other

Federal, State or local laws, such as the employer's contribution to Social Security, Medicare, unemployment insurance taxes, state-mandated worker's compensation insurance or similar payments nor do they include reimbursement to workers for company business expenses such as travel reimbursement, temporary lodging, meals allowance, etc.

**Fringe Benefits Expressed as a Percentage.** If fringe benefits are expressed as a percentage, they are usually calculated on the basic hourly rate for the journeyman classification.

**Note** that the **total** hourly rate paid to any laborer or mechanic may be no less than the total rate (wage rate plus fringe benefits) on the wage determination for their craft. If the value of the fringe benefit(s) provided is less than the fringe benefit rate on the wage determination, the contractor must add the balance of the fringe benefit rate to the wage rate paid to the employee.

- e. **Site of Work.** The DBA requirements are limited to work performed on the "site of work". Usually, this means the physical location where the building or work will remain when construction is completed. "Site of work" can also include immediately adjacent property used by a contractor or subcontractor in the construction of the project, like a fabrication site or a material lay-down area, provided such site is dedicated exclusively or almost exclusively to the DBA project. Site of work may also include a secondary site of work as provided in the definitions section of this guide, section 2-1c.
- f. **Overtime.** Overtime hours are defined as all hours worked in excess of 40 hours in any workweek. Overtime hours must be paid at no less than one and one-half times the regular rate or basic pay plus the straight-time rate for any required fringe benefits. Contractors must total the hours worked by employees at multiple projects in the same workweek. DOL rules make overtime pay under CWHSSA necessary if the combined hours on various government DBA/CWHSSA-covered contracts exceed 40 hours. The Fair Labor Standards Act, enforced by DOL, requires that overtime premium be paid if the combined total for all work, both government and private, exceed 40 hours in the workweek.
- g. **Deductions.** Contractors may only make payroll deductions as permitted by DOL Regulations 29 CFR Part 3. Allowable deductions include employee obligations for income taxes, employee Social Security taxes, Medicare taxes, and other legal judgments such as garnishments or child support orders. Other deductions that are agreed to voluntarily by the employee and authorized in writing by the employee such as insurance premiums, retirement

contributions, savings accounts, and pay advances may also be made.

- h. **Proper Classification of Workers.** The contractor must select a work classification from the wage determination for each worker based on the actual type of work performed and must pay each worker no less than the rate on the wage determination for that classification, regardless of the employee's level of skill. In other words, if someone is performing carpentry work on the project, he/she must be paid no less than the rate on the wage determination for carpenters, even if the contractor does not consider him to be fully trained as a carpenter. Only registered apprentices may be paid less than the rate for their craft.

**Employees Performing Work in Multiple Classifications.** If employees perform work in more than one work classification, they must receive the wage rates specified for all hours worked in each classification. The contractor must maintain accurate time records showing the amount of time spent in each classification of work. If the contractor fails to record the actual hours worked by an employee in each of several classifications, the contractor will be required to pay that worker for all hours at the highest rate of pay for any classification of work performed during that workweek.

**2-4 ADDITIONAL JOB CLASSIFICATIONS AND RATES - CONFORMANCES (FAR 22.406-3).** If all work classification(s), including the duties needed to perform the contract, do not appear on the wage determination, the contractor must request additional classification(s) and rate(s). DOL's conformance procedure is described at [http://www.wdol.gov/db\\_confmrnce.html](http://www.wdol.gov/db_confmrnce.html)

The rules are summarized here:

- a. **Additional Classification Rules (FAR 22.406-3).** Additional classifications and wage rates can be approved by DOL if:

(1)The classification is utilized in the area by the construction industry. (The area is usually defined as the **county** where the project is located).

(2)The work that will be performed by the requested classification is not performed by another classification that is already on the wage determination. (For example, in some localities the prevailing practice is that carpenters hang drywall. This would preclude conforming a rate for "drywall hangers".)

(3)The proposed rate, including any fringe benefits, bears a reasonable relationship to the rates in the wage determination in the contract. (For example, the rate proposed for a skilled

classification such as electrician must be at least as much as the lowest rate for other skilled classifications that are already contained in the wage determination.)

- b. **Making the Request (FAR 22.406-3(a))**. A request for additional classification and rate must be made in writing through the contracting officer. A subcontractor request must go through the prime contractor. The request must be submitted on a properly executed SF 1444 identifying the classification that is missing, describing the work and recommending a rate for that classification. A copy of the SF 1444 is included in the back of this Guide and is available online at the WDOL library.
- c. **Employees' Review (FAR 22.406-3(c))**. The workers that will be employed in the added classification (if it is known who the workers are/will be), or the workers' representative (i.e. union business agent, etc.) must sign and indicate if they agree/disagree with the proposed class and rate on the SF 1444. If employees disagree, although not required, it is recommended that they be permitted to include comments on their rationale for disagreeing with the contractor's proposal.
- d. **NAVFAC Review (FAR 22.406-3(b))**. The contracting officer will review the request to determine whether it meets the DOL criteria outlined in ¶ 2-4 a, above. If additional information is needed, the contracting officer will contact the prime contractor. After review, the request will be forwarded to DOL for final action. If the contracting officer concurs with the contractor, the contracting officer will recommend approval. If the contracting officer disagrees with the contractor's proposed conformance; the contracting officer will submit a letter, pertinent documentation, and the contracting officer's recommendation for wages/benefit rates along with the contractor's proposed conformance to DOL for a final decision. DOL has sole authority to approve or deny a contractor's conformance request or establish an appropriate minimum rate.
- e. **DOL Decision (FAR 22.406-3(d))**. DOL will respond to the contracting officer in writing about the additional classification and rate request. The DOL regulations provide that DOL will respond within 30 days. If a timely response is not received, the contracting officer should be requested to follow-up on the request. The contracting officer will notify the prime contractor of the DOL decision. The prime contractor must post DOL's determination at the job site with the wage determination and advise the affected subcontractors. If DOL does not approve the request, the prime contractor will be notified about what classification and rate must be used to perform the work in question.

**2-5 CERTIFIED PAYROLL REPORTS (FAR 22.406-6).** All contractors, regardless of tier, must submit a weekly certified payroll report beginning with the first week the company works on the project and for every week afterward until the firm has completed its work. The payroll reports will be sequentially numbered and the last payroll report for the project clearly marked as "Final".

- a. **Payroll Formats.** The most commonly used form is DOL's WH-347, ***Certified Payroll*** form. A sample copy of the WH-347 is included in the attachments to this Guide. The WH-347 is available on-line at the WDOL library.

Use of the Payroll Form WH-347 is not mandatory. Any other type of payroll, such as computerized formats, may be used as long as it contains all of the information and the certification that is included on the WH-347 and required by FAR Clause 52.222-8 Payrolls and Basic Records.

- b. **Payroll Certifications (FAR 22.406-6(a)).** The weekly payrolls are called ***certified*** because each payroll is signed by an authorized company official and contains language certifying that the information is true and correct. The payroll ***certification*** language is on the reverse side of the WH-347. If another type of payroll format is used, attach the certification from the back of the WH-347, or use form ***DD-879, Statement of Compliance***, which contains the same certification language as the WH-347 (reverse). A copy of form DD-879 is included in the attachments to this Guide. Copies of form DD-879 are also available from the contracting officer.
- c. **"No Work" Payrolls.** "No Work" payrolls may be submitted whenever there is a temporary break in a contractor's work on the project. For example, if a firm is not needed on the project for a period of time, but will be returning to the job later, it may be easier to submit "no work" payrolls for those inactive weeks. However, if it is known that a firm will not be working on the project for an extended period of time, they may wish to submit a written notice to the contracting officer, letting him/her know about the break in work. This notice should also give an approximate date when the firm will return to the project. If the company provides written notice, they do not need to submit "no work" payrolls.
- d. **Payroll Review and Submission (FAR 22.406-6(a)).** The prime contractor should *review* each subcontractor's payroll reports for compliance *prior* to submitting the reports to the contracting officer. The prime contractor is responsible for the full compliance of all subcontractors on the contract, and will be held accountable for any wage restitution that may be found due to any laborer or mechanic that is underpaid ***and*** for any liquidated damages that may be assessed for overtime violations.



All subcontractor payroll reports for any project must be submitted to the contracting officer **through** the prime contractor. Prime contractors may also be required to submit certified payrolls for "independent contractors" who are themselves "laborers or mechanics". If, for example, John Doe is the only electrician employee of John Doe's Electrical Contracting AND John Doe individually performs the electrician duties required by a contract, then the prime contractor would need to submit certified payrolls and assure that John Doe received at least the DBA minimum rate for wages/benefits on a weekly basis (regardless of subcontract terms and conditions).

- e. **Payroll Retention (FAR 22.406-6(d))**. Every contractor (including every subcontractor) must keep a complete set of their own payrolls and other basic records, such as time cards, for a DBA project for at least 3 years after the project is completed. The prime contractor must keep a complete set of all the payrolls (including subcontractor payrolls) for at least 3 years after completion of the project.
- f. **Payroll Inspection (FAR 22.406-6(d))**. In addition to submitting payrolls to the contracting officer, every contractor (including subcontractors) must retain a copy of their payrolls and make them available for review and/or copying by any authorized representative from NAVFAC or DOL.

## SECTION II - REPORTING REQUIREMENTS

**2-6 COMPLETING A PAYROLL REPORT (29 CFR 5.5(a)(3))**. The weekly payroll form does not ask for any information beyond that already required for general wage payment and tax purposes. For example, each employee's **name, address and social security number; his work classification(s), the hours worked during the week, his rate(s) of pay, the gross amount earned, the amounts of any deductions and the net amount paid.**

- a. **Project and Contractor or Subcontractor Information**. Each payroll must include the contractor or subcontractor's name and address, the project name and number, and the week ending date. Record the dates in the spaces provided and consecutively number the payrolls.
- b. **Employee Information**. The first payroll on which each employee appears must contain the employee's name, address and social security number. The employee's address and social security number only need to be reported on subsequent payrolls if there is a change in this information.
- c. **Work Classification**. Each employee must be classified in accordance with the wage determination, based on the type of work they actually perform. If there is no classification listed

on the wage determination covering the work performed, the contractor must seek a conformed work classification; **see ¶ 2-4 of this Guide.**

**(1)Apprentices.** A copy of each apprentice's registration in an approved program must accompany the first payroll on which the apprentice appears. This must include a copy of the portions of the approved program describing the wage and fringe benefit requirements and employment ratios.

**(2)Multiple Classifications.** For employees working in multiple classifications, list the employees once for each classification, record the hours of work in each class, and reflect the rate of pay and gross earnings for each classification. Deductions and net pay are based upon the total gross amount earned for all classifications.

- d. **Hours Worked.** A certified payroll should show only the regular and overtime hours worked on one DBA project. Show both the daily and total weekly hours for each employee. If an employee performs work on multiple DBA projects during a week, the hours worked on each project must be reported on separate certified payrolls. In these cases, you should list the employee's name, classification, and hours for the project, the rate of pay and gross earnings for that project, and the gross earned for **all work** (both government and private) that week. Deductions and net pay are based on the employee's total earnings for the week.
- e. **Rate of Pay.** Show the basic hourly rate of pay for each employee. If the contractor is paying a cash equivalent amount for any portion of the fringe benefit requirements, **add** that amount to the basic hourly rate of pay or show the payment as a separately listed supplemental payment. Also list the overtime rate if overtime hours were worked.
- f. **Piecework.** For any piecework employees, the employer must compute an average hourly rate for each employee each week based upon the employee's piecework earnings for that week. To compute the hourly rate, divide the piecework earnings by the total number of hours worked, including any overtime hours. The hourly rate must be reflected on the certified payroll and the hourly rate may be no less than the rate (including fringe benefits, unless paid into an approved plan) on the wage determination for the classification of work performed. It does not matter that the hourly rate changes from week-to-week, only that the rate is no less than the rate on the wage determination for the classification of work performed. Regardless of the rate, the piecework employee is entitled to overtime premium calculated at  $\frac{1}{2}$  of the rate paid for hours exceeding 40 per workweek.

The overtime rate is computed at one and one-half times the **basic** rate of pay. The fringe benefit requirement does not increase in overtime hours. For example, if the wage determination requires \$10/hour basic hourly rate plus \$5/hour fringe benefits, the overtime rate would be:  $(\$10 \times 1 \frac{1}{2}) + \$5 = \$20/\text{hour}$ .

- g. **Gross Wages Earned.** Show the gross amount of wages earned for work performed on this project. **Note:** For employees with work hours and earnings on other projects, show gross wages for this project over gross earnings for all projects (for example, \$425.40/764.85) and base deductions and net pay on the "all projects" earnings.
- h. **Deductions.** Show the amounts of any deductions from the gross earnings. "Other" deductions must be identified. Any voluntary deduction (those not required by law or by an order of a proper authority) must be voluntary and authorized in writing by the employee.
- i. **Net Pay.** Show the net amount of wages paid.
- j. **Statement of Compliance.** The Statement of Compliance is the payroll certification. It is located on the reverse side of a standard payroll form (WH-347) or on form DD-879. Be sure to complete the identifying information at the top, particularly if attaching the Statement of Compliance to any alternate payroll form, such as a computer payroll. Also, check 4(a), 4(b) or 4(c) if the wage determination contains a fringe benefit requirement. Checking 4(a) indicates that the contractor is paying required fringe benefits to approved plans or programs, checking 4(b) indicates paying any required fringe benefits directly to the employee by adding the fringe benefit rate to the basic hourly rate of pay. Section 4(c) must be used to explain when the contractor is using a combination of payments to funds and to employees.

Only one Statement of Compliance is required for each employer's weekly payroll no matter how many pages are needed to report the data.

- k. **Signature.** The payroll and the Statement of Compliance must be signed with an **original** signature. They must be signed by a principal of the firm (owner or officer such as the president, treasurer, etc.) or by an authorized agent (a person authorized by a principal in writing to sign the payroll reports). Signature authorization (for persons other than a principal) must be submitted with the first payroll signed by such an agent.

### SECTION III - PAYROLL REVIEWS AND CORRECTIONS

**2-7 COMPLIANCE CHECKS AND INVESTIGATIONS (FAR 22.406-7).** The contracting officer or other authorized Navy personnel may visit the project site and interview workers concerning their employment on the project. In addition, the Navy will periodically review payrolls and related submissions, comparing the interview information to the payrolls, to ensure that the labor standards requirements have been met. The contracting officer will advise the prime contractor if these reviews reveal any discrepancies or errors. The contractor will be given instructions about what steps must be taken to correct any problems.

- a. **Project Payroll Reviews.** The contracting officer will compare the information on the interview forms to the corresponding payrolls and Daily Reports to Inspector, to ensure that the workers are properly listed on the payrolls for the days, work classification and rate of pay. The contracting officer will also review the payroll submissions to make certain that the payrolls are complete and signed; that employees are paid no less than the rate for the work classification shown; that apprentice certifications are submitted (where needed); and that fringe benefit requirements are met.
- b. **On-Site Interviews.** By the terms of the DBA contract clause 52.222-8(c), every employer (contractor, subcontractor at any tier) must make their employees available for interview at the job site by the contracting officer, other designated agency representatives, or DOL representatives. The interviews are confidential, and the employee will be asked about the duties performed, hours worked and compensation paid. Every effort will be made to ensure that these interviews cause as little disruption as possible to the on-going work. The information in the interview statement will not be made available to the contractor.

**2-8 TYPICAL PAYROLL ERRORS AND REQUIRED CORRECTIONS.** The following paragraphs describe common payroll errors.

- a. **Inadequate Payroll Information.** If an alternate certified payroll report (such as a computer payroll) does not contain all of the information that would be on form WH-347, the employer must resubmit corrected payroll reports with all of the required information included.
- b. **Missing Addresses and Social Security Numbers.** If the first payroll on which an employee appears does not contain the

employee's address and social security number, the employer must supply the missing information.

- c. **Incomplete Payrolls.** If the information on the payroll is not complete, for example, if work classifications or rates of pay are missing, the employer must submit a complete corrected payroll.
- d. **Classifications.** If the payrolls show work classifications that do not appear on the wage determination, the employer must classify the employees in accordance with the wage determination **or** the employer must request an **additional classification and rate (see ¶ 2-4)**. If reclassification results in underpayment (i.e., the rate paid on the payroll is less than the rate required for the new classification), the employer must pay **wage restitution** to all affected reclassified employees. The contractor must then submit a corrected or supplemental payroll documenting the restitution. **(See ¶ 2-10 for instructions about wage restitution.)**
- e. **Wage Rates.** If the rates shown on the payroll are less than the rates on the wage determination for the work classification reported, the employer will be required to pay restitution to all affected employees, submit corrected payrolls and provide evidence of restitution.
- f. **Apprentices.** If a copy of the apprentice's certification or approved program ratio and wage schedule is not submitted with the first payroll on which the apprentice appears, the employer must submit that documentation. If the ratio of apprentices to journeymen on the payroll is greater than the ratio in the approved program, the employer must pay restitution to any excess apprentices. Also, any apprentice that is **not** registered in an approved program must receive the journeyman's rate for the classification of work he performed. Corrected payrolls must then be submitted.
- g. **Overtime.** If the employees did not receive at least time and one-half for any overtime hours worked on the project, the following will occur:
  - (1) If the project is subject to **CWHSSA overtime** requirements, the employer must pay restitution for all overtime hours worked on the project. The employer may also be liable to the United States for liquidated damages computed at \$10 per day per violation. Or,
  - (2) If the project is **not** subject to CWHSSA, the employer will be notified of the possible **FLSA overtime** violations. The contracting officer or Labor Advisor will refer the matter to DOL for further action.

- h. **Deductions.** If there are any "Other" deductions that are not identified or if there is any unusual (very high, or large number) deduction activity, the employer must identify or explain the unusual deductions, as necessary. If any of the deductions are determined to violate the Copeland Act provisions, the contractor must make appropriate restitution to the affected employees and submit corrected certified payrolls to resolve the underpayments.
- i. **Fringe Benefits.** If the wage determination contains fringe benefits, but the **Statement of Compliance** does not indicate how fringe benefits were paid (**See ¶ 2-6 j.**), the employer must submit corrected payrolls **and** will be required to pay restitution if underpayments occurred. **However**, if the hourly rates for the employees are at least as much as the total rate on the wage determination (basic hourly rate plus fringe benefits), no correction is necessary.
- j. **Signature.** If the payroll **Statement of Compliance** is not signed or is signed by an unauthorized person the employer must submit a signed **Statement of Compliance** for each payroll affected.

**2-9 Violation Indicators and Other Reviews.** The comparison of employee interviews, inspector's reports, contractor's daily reports, etc., to the certified payrolls may indicate other problems. For example, if the employee interviewed does not appear on the payroll for the date of the interview or if the work being performed by the employee during the interview is not correctly reported on the certified payroll, a violation is apparent. This or other information, such as employee complaints, may indicate systemic violations that require further investigation of employer pay practices.

#### **2-10 RESTITUTION FOR UNDERPAYMENT OF WAGES.**

- a. **Notification to the Prime Contractor (FAR 22.406-8(c)).** The contracting officer will notify the prime contractor in writing of any underpayments that are found during payroll or other reviews. The notice will describe the underpayments and provide instructions for computing and documenting the restitution to be paid. The restitution must be paid promptly in the full amounts due, less permissible and authorized deductions. The prime contractor is responsible to the contracting officer for ensuring that restitution is paid. If the employer is a subcontractor, the subcontractor will usually make the computations and restitution payments and furnish the required documentation through the prime contractor.
- b. **Computing Restitution.** Restitution is the difference between the rate paid to each affected employee and the rate required on

the wage determination for all hours worked where underpayments occurred. The difference in the rates is called the adjustment rate. The adjustment rate times the number of hours involved equals the gross amount of restitution due. If overtime is involved, any calculation will also include an adjustment of the overtime premium owed.

- c. **Corrected Payrolls.** The employer must report the restitution paid on a corrected certified payroll. The corrected payroll will reflect the period of time for which restitution is due (for example, Payrolls #1 through #6; or a beginning date and an ending date). The corrected payroll will list each employee to whom restitution is due and their work classification; the total number of hours involved (daily hours are usually not applicable for restitution); the adjustment rate (the difference between the required rate and the rate paid); the adjusted overtime premium, if any; the gross amount of restitution due; deductions; and the net amount to be paid. A signed **Statement of Compliance** must be attached to the corrected payroll report.
- d. **Evidence of Receipt.** A restitution receipt signed by the employee, and/or a copy of both sides of the cancelled check is required as evidence of receipt of payment.
- e. **Review of Corrected Payroll.** The contracting officer will review the corrected payroll and evidence of payments to ensure that full restitution was paid. The prime contractor will be notified in writing of any discrepancies and will be required to promptly make additional payments, if needed, documented on a supplemental payroll.
- f. **Unlocated Workers.** Sometimes, restitution cannot be paid to underpaid employee(s) because the employee(s) cannot be located. In these cases, the prime contractor will be required to submit to the contracting officer: evidence that the employee(s) could not be located (i.e. returned envelope(s), etc.) a list of their name(s), last known address(s), social security number(s), and the **gross** amount of restitution due each employee. This amount will be deducted from monies owed the contractor and forwarded to the General Accountability Office (GAO) for direct disbursement to these employees or retention by the government, if the workers cannot be found.

**CHAPTER 3. LABOR STANDARDS DISPUTES, ADMINISTRATIVE REVIEWS, WITHHOLDING, DISPOSITION OF WITHHELD FUNDS, CONTRACT TERMINATION AND DEBARMENT**

**3-1 INTRODUCTION.** Generally, questions on compliance will be settled administratively at the project level by the contracting agency. If they are not resolved, these differences will be referred to the Department of Labor for adjudication.

**3-2 ADMINISTRATIVE REVIEW ON LABOR STANDARDS DISPUTES (FAR 22.406-10).**

A dispute about labor standards and compliance can arise for a number of reasons. The labor standards clauses in the contract and DOL regulations provide for administrative review of issues when there is a difference of views between the contracting agency and any employer. Common circumstances include:

- a. **Additional Classifications and Rates.** Additional classification and rate requests are sometimes denied by DOL. An employer that is dissatisfied with the denial can request reconsideration by the Wage and Hour Administrator, DOL. The employer should submit the request for reconsideration directly to DOL (in accordance with the instructions contained in the DOL letter of denial). Additionally, the employer should notify the contracting officer of this action, to avoid confusion, since the employer may continue to pay the rate requested until a final decision is rendered by DOL. When the final decision is known, the employer will be required to retroactively pay any additional wages that may be necessary to bring the company into compliance with the rate that is established by DOL.
- b. **Findings of Underpayment.** Compliance reviews and other investigations may result in findings of underpayment. The primary goal in every case, and at every step in this process, is to reach agreement about the proper actions for future compliance, identify those who may have been underpaid, compute how much restitution may be due and to deliver restitution to any underpaid workers. The contracting officer will initially attempt to work directly with the contractor to reach such agreements. The contractor will have an opportunity to provide additional information to the contracting officer that may explain apparent inconsistencies and/or resolve the discrepancies. If those direct and often informal exchanges do not result in agreement, the final determination and schedule of wages due will be presented to the prime contractor in writing, and he will be required to promptly correct the underpayment(s). If no agreement is reached, the investigation findings will be forwarded to DOL for a final determination on the matter.(FAR 22.406-10)



**DOL Review.** DOL will review the contracting officer's report and the contractor's statement. DOL may affirm or modify the findings, based upon the materials presented, or may conduct further fact finding. The prime contractor and the subcontractor (if the subcontractor is the violator) will be notified in writing by DOL of the results of its review. The employer will be given an opportunity to correct any underpayments, or to continue with a hearing request. (***See DOL Regulations 29 CFR 5.11(b) and 29 CFR Part 6, Rules of Practice for Administrative Proceedings...***)

**Administrative Review Board.** Contractors and/or subcontractors may request a review by the Administrative Review Board of the decision(s) rendered by DOL in the administrative hearing process. (***See DOL Regulations 29 CFR Part 7 for more information about this proceeding.***)

**3-3 WITHHOLDING (FAR 22.406-9).** The contracting officer may cause withholding from payments due the prime contractor to ensure the payment of wages which are believed to be due and unpaid (for example, if wage underpayments or other violations are not promptly corrected after notification to the prime contractor). Withholding is considered to be serious, and is not taken unless warranted. If withholding is deemed necessary, the prime contractor will be notified in writing. Generally, only the amounts necessary to meet the contractor and/or subcontractor's back wage and/or liquidated damage liability shall be withheld. However, all contract payments may be suspended under certain circumstances.

The prime contractor is responsible and will be held liable for any restitution that is due to any worker employed in the construction of the project, including workers employed by subcontractors and any lower-tier subcontractors. ***See ¶ 1-4, Responsibility of the Principal Contractor and ¶ 2-10, Restitution for Underpayment of Wages.***

**3-4 DISPOSITION OF WITHHELD FUNDS (FAR 22.406-9(c)).** In every case, the goal is to complete compliance actions and resolve any disputes before the project is completed and final payments are made. When necessary, funds may be forwarded to the General Accountability Office for disbursement upon final resolution of the matter.

a. **If the Parties Agree.** If the parties agree, and the employer makes restitution to the affected employees, the withheld funds will be released to the prime contractor after receipt of proof of restitution. (***See ¶ 2-10 d.***)

**b. If the Parties Disagree.** The withheld funds will remain at the General Accountability Office until a final decision is rendered by DOL, at which time the funds will be disbursed in accordance with DOL's final decision.

**3-5 DEBARMENT (FAR 22.406-10(f)).** Contractors, subcontractors and/or individuals that are found by the Secretary of Labor to be in aggravated or willful violation of the labor standards provisions of the Davis-Bacon Act or Davis-Bacon and Related Acts (DBRA) will be ineligible (**debarred**) to participate in any DBA or DBRA contracts for up to 3 years. Debarment includes the firm/company and/or any individuals that have a substantial interest in the debarred firm/company. Debarment proceedings can be recommended by the contracting officer or can be initiated by DOL on its motion. Debarment proceedings are described in DOL Regulations 29 CFR 5.12.

**3-6 FALSIFICATION OF CERTIFIED PAYROLL REPORTS (FAR 52-222-8(b)(4)).** Contractors and/or subcontractors that are found to have willfully falsified payroll reports may be subject to civil or criminal prosecution. Penalties of \$1,000 and/or one year in prison may be imposed for **each** false statement (see Section 1001 of Title 18 and Section 231 of Title 31 of the United States Code).

**3-7 CONTRACT TERMINATION (FAR 52.222-12).** Contracting Officers have the authority to terminate government construction contracts as a remedy for violations of the DBA or other contract labor standard provisions.

INDEX
-------

	Pages
Additional Classification and Rate .....	9, 13, 14, 16, 20
Administrative Review Board .....	24
Apprentices .....	10, 11, 17
Classifications .....	9, 13, 16
Conformances .....	9, 13
Contract Termination.....	25
Contract Work Hours and Safety Standards Act (CWHSSA).....	5, 12, 20
Copeland Act.....	5, 12
Davis-Bacon Act .....	5, 6
Debarment .....	25
Deductions .....	5, 12, 18, 21
EEO Requirements .....	9
Employee .....	13, 14, 16
Fair Labor Standards Act .....	5
Falsification of Payrolls .....	25
Foreman/Supervisors .....	8
Fringe Benefits .....	11, 12, 18, 21
Hours Worked .....	17
Labor Standards Interviews .....	7, 19, 21
Laborer or Mechanic .....	8
Overtime .....	5, 12, 18, 20
Payroll Reviews .....	15, 16, 19, 20, 21, 22
Payrolls .....	14, 15, 16, 17, 18, 19, 20, 21, 22, 25
Piecework .....	11, 17
Posters .....	9
Prevailing Wage .....	5, 11

Restitution .....20, 21, 22, 23, 24

Site of Work .....8, 9, 12

Split-Classification .....17

Statement and Acknowledgment.....7

Statement of Compliance .....15, 18, 21

Suspension of Contract Payments.....24

Wage determination/Determinations .....6, 9, 10, 11, 12

Withholding .....24





**INSTRUCTIONS FOR COMPLETING PAYROLL FORM, WH-347  
(As Posted on the Department of Labor web site)**

**General:** The use of the WH-347 payroll form is not mandatory. This form has been made available for the convenience of contractors and subcontractors required by their Federal or Federally aided construction-type contracts and subcontracts to submit weekly payrolls. Properly filled out, this form will satisfy the requirements of Regulations, Parts 3 and 5 (29 CFR, Subtitle A), as to payrolls submitted in connection with contracts subject to the Davis-Bacon and related Acts.

This form meets needs resulting from the amendment of Davis-Bacon Act to include fringe benefits provisions. Under this amended law, the contractor is required to pay not less than fringe benefits as predetermined by the Department of Labor, in addition to payment of not less than the predetermined rates. The contractor's obligation to pay fringe benefits may be met either by payment of the fringes to the various plans, funds or programs or by making these payments to the employees as cash in lieu of fringes.

This payroll provides for the contractor's showing on the face of the payroll all monies to the employees, whether as basic rates or as cash in lieu of fringes and provides for the contractor's representation in the statement of compliance on the rear of the payroll that he is paying to other fringes required by the contract and not paid as cash in lieu of fringes. Detailed instructions concerning the preparation of the payroll follow:

**Contractor or Subcontractor:** Fill in your firm's name and check appropriate box.

**Address:** Fill in your firm's address.

**Column 1 - Name, Address, and Social Security number of Employee:** The employee's full name must be shown on each weekly payroll submitted. The employee's address must also be shown on the payroll covering the first week in which the employee works on the project. The address need not be shown on subsequent weekly payrolls unless his address changes. Although not required by Regulations, Parts 3 and 5, space is available in the name and address section so that Social Security numbers may be listed.

**Column 2 - Withholding Exemptions:** This column is merely inserted for the employer's convenience and is not a requirement of Regulations, Part 3 and 5.

**Column 3 - Work Classifications:** List classification descriptive of work actually performed by employees. Consult classification and minimum wage schedule set forth in contract specifications. If additional classifications are deemed necessary, see Contracting Officer or Agency representative. Employee may be shown as having worked in more than one classification provided accurate breakdown or hours so worked is maintained and shown on submitted payroll by use of separate entries.

**Column 4 - Hours worked:** On all contracts subject to the Contract Work Hours Standard Act enter as overtime hours worked in excess of 8 hours per day and 40 hours a week.

**Column 5 - Total:** Self-explanatory

**Column 6 - Rate of Pay, including Fringe Benefits:** In straight time box, list actual hourly rate paid the employee for straight time worked plus in cash in lieu of fringes paid the employee. When recording the straight time hourly rate, any cash paid in lieu of fringes may be shown separately from the basic rate, thus \$3.25/.40. This is of assistance in correctly computing overtime. See "Fringe Benefits" below. In overtime box shown overtime hourly rate paid, plus any cash in lieu of fringes paid the employee. See "Fringe Benefits" below. Payment of not less than time and one-half the basic or regular rate paid is required for overtime under the Contract Work Hours Standard Act of 1962. In addition to paying no less than the predetermined rate for the classification which the employee works, the contractor shall pay to approved plans, funds or programs or shall pay as cash in lieu of fringes amounts predetermined as fringe benefits in the wage determination made part of the contract. See "FRINGE BENEFITS" below.

**FRINGE BENEFITS - Contractors who pay all required fringe benefits:** A contractor who pays fringe benefits to approved plans, funds, or programs in amounts not less than were determined in the applicable wage determination of the Secretary of labor shall continue to show on the face of the payroll the basic cash hourly rate and overtime rate paid to his employees just as he has always done. Such a contractor shall check paragraph 4(a) of the statement on the reverse of the payroll to indicate that he is also paying to approved plans, funds or programs not less than the amount predetermined as fringe benefits for each craft. Any exceptions shall be noted in section 4(c).

INSTRUCTIONS FOR COMPLETING PAYROLL FORM, WH-347 (Continued)

**Contractors who pay no fringe benefits:** A contractor who pays no fringe benefits shall pay to the employee, and insert in the straight time hourly rate column of the payroll, an amount not less than the predetermined rate for each classification plus the amount of fringe benefits determined for each classification in the applicable wage determination. Inasmuch as it is not necessary to pay time and a half on cash paid in lieu of fringes, the overtime rate shall be not less than the sum of the basic predetermined rate, plus the half time premium on basic or regular rate, plus the required cash in lieu of fringes at the straight time rate. In addition, the contractor shall check paragraph 4(b) of the statement on the reverse of the payroll to indicate that he is paying fringe benefits in cash directly to his employees. Any exceptions shall be noted in Section 4(c).

**Use of Section 4(c), Exceptions**

Any contractor who is making payment to approved plans, funds, or programs in amounts less than the wage determination requires is obliged to pay the deficiency directly to the employees as cash in lieu of fringes. Any exceptions to Section 4(a) or 4(b), whichever the contractor may check, shall be entered in section 4(c). Enter in the Exception column the craft, and enter in the Explanation column the hourly amount paid the employee as cash in lieu of fringes and the hourly amount paid to plans, funds, or programs as fringes. The contractor shall pay, and shall show that he is paying to each such employee for all hours (unless otherwise provided by applicable determination) worked on Federal or Federally assisted project an amount not less than the predetermined rate plus cash in lieu of fringes as shown in Section 4(c). The rate paid and amount of cash paid in lieu of fringe benefits per hour should be entered in column 6 on the payroll. See paragraph on "Contractors who pay no fringe benefits" for computation of overtime rate.

**Column 7 - Gross Amount Earned:** Enter gross amount earned on this project. If part of the employees' weekly wage was earned on projects other than the project described on this payroll, enter in column 7 first the amount earned on the Federal or Federally assisted project and then the gross amount earned during the week on all projects, thus \$63.00/\$120.00.

**Column 8 - Deductions:** Five columns are provided for showing deductions made. If more than five deduction should be involved, use first 4 columns; show the balance deductions under "Other" column; show actual total under "Total Deductions" column; and in the attachment to the payroll describe the deduction contained in the "Other" column. All deductions must be in accordance with the provisions of the Copeland Act Regulations, 29 CFR, Part 3. If the employee worked on other jobs in addition to this project, show actual deductions from his weekly gross wage, but indicate that deductions are based on his gross wages.

**Column 9 - Net Wages Paid for Week:** Self-explanatory

**Totals** - Space has been left at the bottom of the columns so that totals may be shown if the contractor so desires.

**Statement Required by Regulations, Parts 3 and 5:** While this form need not be notarized, the statement on the back of the payroll is subject to the penalties provided by 18 USV 1001, namely, possible imprisonment of 5 years or \$10,000.00 fine or both. Accordingly, the party signing this statement should have knowledge of the facts represented as true.

Space has been provided between item (1) and (2) of the statement for describing any deductions made. If all deductions made are adequately described in the "Deductions" column above, state "See Deductions column in this payroll." See paragraph entitled "FRINGE BENEFITS" above for instructions concerning filling out paragraph 4 of the statement.



**STATEMENT OF COMPLIANCE**

Form Approved  
OMB No. 1215-0149  
Expires June 30, 2000

The public reporting burden for this collection of information is estimated to average 16 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 the burden, to Department of Defense, Washington Headquarters Services, Directorate for Information Operations and Reports (1215 - 0149), 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202-4302. Respondents should be aware that notwithstanding any other provision of law, no person shall be subject to any penalty for failing to comply with a collection of information if it does not display a currently valid OMB control number.

**PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE ABOVE ADDRESS. RETURN THE COMPLETED FORM TO THE CONTRACTING OFFICER.**

<b>1. PAYROLL NUMBER</b>	<b>2. PAYROLL PAYMENT DATE (YYYYMMDD)</b>	<b>3. CONTRACT NUMBER</b>	<b>4. DATE (YYYYMMDD)</b>
--------------------------	---	---------------------------	---------------------------

I, \_\_\_\_\_ do hereby state  
(Name of signatory party) (Title)

(1) That I pay or supervise the payment of the persons employed by \_\_\_\_\_  
(Contractor or subcontractor)

on the \_\_\_\_\_; that during the payroll period commencing on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, and ending the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

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 \_\_\_\_\_ from the full weekly wages earned by any person  
(Contractor or subcontractor)

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 CFR 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. 276c), 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 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

**5. REMARKS**

<b>6. NAME (Last, First, Middle Initial)</b>	<b>7. TITLE</b>	<b>8. SIGNATURE</b>
--	-----------------	---------------------

The willful falsification of any of the above statements may subject the contractor or subcontractor to civil or criminal prosecution. See Section 1001 of Title 18 and Section 3729 of Title 31 of the United States Code.

**INSTRUCTIONS FOR PREPARATION OF DD FORM 879,  
STATEMENT OF COMPLIANCE**

This statement of compliance meets requirements resulting from the Davis-Bacon Act (40 U.S.C. 276a - 276a-7). Under this law, the contractor is required to pay minimum wage rates and fringe benefits as predetermined by the Department of Labor. The contractor's obligation to pay fringe benefits may be met by payment of the fringes to approved plans, funds, or programs or by making these payments to the employees as cash in lieu of fringes.

The contractor should show on the face of its payroll all monies paid to the employees whether as basic rates or as cash in lieu of fringes. The contractor shall represent in the statement of compliance that either it is paying fringes required by the contract to approved plans, funds, or programs, or it is paying employees cash in lieu of fringes. Detailed instructions follow:

**CONTRACTORS THAT PAY ALL REQUIRED  
FRINGE BENEFITS**

A contractor that pays fringe benefits to approved plans, funds, or programs in amounts not less than were determined in the applicable wage decision of the Secretary of Labor shall show on the face of the payroll the basic cash hourly rate and overtime rate paid to employees. Such a contractor shall check Section 4(a) of the statement to indicate that payment is also being made to approved plans, funds, or programs not less than the amount predetermined as fringe benefits for each craft. Any exception shall be noted in Section 4(c).

**CONTRACTORS THAT PAY NO FRINGE  
BENEFITS**

A contractor that pays no fringe benefits shall pay to the employee and insert in the straight time hourly rate column of the payroll an amount not less than the predetermined rate for each classification plus the amount of fringe benefits determined for each classification in the applicable wage decision. Inasmuch as it is not necessary to pay time and a half on cash paid in lieu of fringes, the overtime rate shall be not less than the sum of the basic predetermined rate, plus the half time premium on the basic or regular rate, plus the required cash in lieu of fringes at the straight time rate. To simplify computation of overtime, it is suggested that the straight time basic rate and cash in lieu of fringes be separately stated in the hourly rate column, thus \$X.XX/\$X.XX. In addition, the contractor shall mark Section 4(b) of the statement to indicate that payment of fringe benefits is being made in cash directly to employees. Any exceptions shall be noted in Section 4(c).

**USE OF SECTION 4(c), EXCEPTIONS**

Any contractor that is making payment to approved plans, funds, or programs in amounts less than the wage determination required is obliged to pay the deficiency directly to the employees as cash in lieu of fringes. Any exceptions to Section 4(a) or 4(b), whichever the contractor may mark, shall be entered in Section 4(c). Enter in the Exception column the craft, and enter in the Explanation column the hourly amount paid the employees as cash in lieu of fringes, and the hourly amount paid to plans, funds, or programs as fringes.

**STATEMENT AND ACKNOWLEDGMENT**

OMB No.: 9000-0014  
Expires: 01/31/2008

Public reporting burden for this collection of information is estimated to average 30 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, (VIR), Regulatory and Federal Assistance Division, GSA, Washington, DC 20405; and to the Office of Management and Budget, Paperwork Reduction Project (9000-0014), Washington, DC 20503.

**PART I - STATEMENT OF PRIME CONTRACTOR**

1. PRIME CONTRACT NO.		2. DATE SUBCONTRACT AWARDED		3. SUBCONTRACT NUMBER	
4. PRIME CONTRACTOR			5. SUBCONTRACTOR		
a. NAME			a. NAME		
b. STREET ADDRESS			b. STREET ADDRESS		
c. CITY		d. STATE	e. ZIP CODE	c. CITY	
				d. STATE	
				e. ZIP CODE	
6. The prime contract <input type="checkbox"/> does, <input type="checkbox"/> does not contain the clause entitled "Contract Work Hours and Safety Standards Act -- Overtime Compensation."					
7. The prime contractor states that under the contract shown in Item 1, a subcontract was awarded on the date shown in Item 2 to the subcontractor identified in item 5 by the following firm:					
a. NAME OF AWARDING FIRM					
b. DESCRIPTION OF WORK BY SUBCONTRACTOR					

8. PROJECT		9. LOCATION	
10a. NAME OF PERSON SIGNING		11. BY (Signature)	
10b. TITLE OF PERSON SIGNING		12. DATE SIGNED	

**PART II - ACKNOWLEDGMENT OF SUBCONTRACTOR**

13. The subcontractor acknowledges that the following clauses of the contract shown in Item 1 are included in this subcontract:

Contract Work Hours and Safety Standards Act - Overtime Compensation - (If included in prime contract see Block 6) Payrolls and Basic Records Withholding of Funds Disputes Concerning Labor Standards Compliance with Davis-Bacon and Related Act Regulations	Davis-Bacon Act Apprentices and Trainees Compliance with Copeland Act Requirements Subcontracts (Labor Standards) Contract Termination - Debarment Certification of Eligibility
--	--

14. NAME(S) OF ANY INTERMEDIATE SUBCONTRACTORS, IF ANY

A <input style="width:90%;" type="text"/> B <input style="width:90%;" type="text"/>	C <input style="width:90%;" type="text"/> D <input style="width:90%;" type="text"/>				
15a. NAME OF PERSON SIGNING		16. BY (Signature)		17. DATE SIGNED	
15b. TITLE OF PERSON SIGNING					

AUTHORIZED FOR LOCAL REPRODUCTION  
PREVIOUS EDITION IS NOT USABLE

STANDARD FORM 1413 (REV. 7/2005)  
Prescribed by GSA/FAR (48 CFR) 53.222(e)

**REQUEST FOR AUTHORIZATION OF  
ADDITIONAL CLASSIFICATION AND RATE**

CHECK APPROPRIATE BOX  
 SERVICE CONTRACT  
 CONSTRUCTION CONTRACT

OMB No.: 9000-0069  
 Expires: 02/26/96

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 (VRSI), Office of Federal Acquisition Policy, GSA, Washington, DC 20405; and to the Office of Management and Budget, Paperwork Reduction Project (9000-0069), Washington, DC 20503.

NOTE: THE CONTRACTOR SHALL COMPLETE ITEMS 3 THROUGH 15 AND SUBMIT THE REQUEST, IN QUADRUPPLICATE, TO THE CONTRACTING OFFICER

1. TO: ADMINISTRATOR, Employment Standards Administration  
 WAGE AND HOUR DIVISION  
 U.S. DEPARTMENT OF LABOR  
 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 TITLE(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 (IF ANY)

15. SIGNATURE AND TITLE OF PRIME CONTRACTOR REPRESENTATIVE

16. SIGNATURE OF EMPLOYEE OR REPRESENTATIVE

TITLE

CHECK APPROPRIATE BOX REFERRING 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

NSN 7540-01-268-0531  
 Previous edition is usable

DEPARTMENT OF LABOR

STANDARD FORM 1444 (REV. 12-90)  
 Prescribed by GSA-FAR (48 CFR) 53.222(f)

# NOTICE TO ALL EMPLOYEES



## Working on Federal or Federally Financed Construction Projects

---

### **MINIMUM WAGES**

You must be paid not less than the wage rate in the schedule posted with this Notice for the kind of work you perform.

### **OVERTIME**

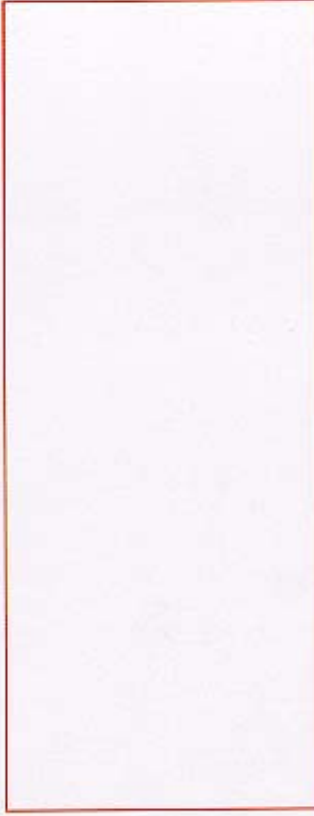
You must be paid not less than one and one-half times your basic rate of pay for all hours worked over 40 a week. There are some exceptions.

# APPRENTICES

## PROPER PAY

Apprentice rates apply only to apprentices properly registered under approved Federal or State apprenticeship programs.

If you do not receive proper pay, contact the Contracting Officer listed below:



or you may contact the nearest office of the Wage and Hour Division, U.S. Department of Labor. The Wage and Hour Division has offices in several hundred communities throughout the country. They are listed in the U.S. Government section of most telephone directories under:

**U.S. Department of Labor**  
**Employment Standards Administration**

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

WH Publication 1321  
Revised January 1986

U.S. GOVERNMENT PRINTING OFFICE: 1988-209-800



with disabilities who, with reasonable accommodation, can perform the essential functions of a job.

### **VIETNAM ERA AND SPECIAL DISABLED VETERANS**

38 U.S.C. 4212 of the Vietnam Era Veterans Readjustment Assistance Act of 1974 prohibits job discrimination and requires affirmative action to employ and advance in employment qualified Vietnam era veterans and qualified special disabled veterans.

Any person who believes a contractor has violated its nondiscrimination or affirmative action obligations under the authorities above should contact immediately:

The Office of Federal Contract Compliance Programs (OFCCP), Employment Standards Administration, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210 or call (202) 219-9430, or an OFCCP regional or district office, listed in most telephone directories under U.S. Government, Department of Labor.

with reasonable accommodations that do not impose undue hardship.

### **AGE**

The Age Discrimination in Employment Act of 1967, as amended, protects applicants and employees 40 years of age or older from discrimination on the basis of age in hiring, promotion, discharge, compensation, terms, conditions or privileges of employment.

### **SEX (WAGES)**

In addition to sex discrimination prohibited by Title VII of the Civil Rights Act (see above), the Equal Pay Act of 1963, as amended, prohibits sex discrimination in payment of wages to women and men performing substantially equal work in the same establishment.

Retaliation against a person who files a charge of discrimination, participates in an investigation, or opposes an unlawful employment practice is prohibited by all these Federal laws.

If you believe that you have been discriminated against under any laws, you immediately should contact:

The U.S. Equal Employment Opportunity Commission (EEOC), 1801 L. Street, N.W., Washington, D.C. 20507 or an EEOC field office by calling toll free (800) 669-4000. For individuals with hearing impairments, EEOC's toll free TDD number is (800) 800-3302.

### **INDIVIDUALS WITH DISABILITIES**

Section 504 of the Rehabilitation Act of 1973, as amended, prohibits employment discrimination on the basis of disabilities in any program or activity which receives Federal financial assistance. Discrimination is prohibited in all aspects of employment against disabled persons who, with reasonable accommodation, can perform the essential functions of a job.

If you believe you have been discriminated against in a program of any institution which receives Federal assistance, you should contact immediately the Federal agency providing such assistance.