



**PREVAILING WAGE  
CONFERENCES**



# U.S Department of Labor

## WAGE & HOUR DIVISION

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**U.S. Department of Labor**

**Wage-Hour Division**

**Minneapolis, MN District Office**



**U.S. Department of Labor**  
**Wage and Hour Division**





# Laws Enforced by WHD

- Fair Labor Standards Act
- Family and Medical Leave Act
- **Davis Bacon and Related Acts**
- Service Contract Act
- Polygraph Protection Act
- Wage Garnishment
- Temporary Worker Programs



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# **Davis-Bacon Compliance Principles (\$2,000)**



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# **DBA/DBRA Compliance Principles**

- Laborers and mechanics
- Site of the work
- Truck drivers
- Apprentices Trainees & Helpers
- Fringe Benefits
- Computing overtime pay
- Certified Payrolls





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# Prevailing Wage Resource Book

<https://www.dol.gov/whd/govcontracts/pwrb/toc.htm>



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# Laborers and Mechanics

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





# Working Foremen

- **Does not include:**
  - Timekeepers, inspectors, architects, engineers; or
  - Bona fide executive, administrative, and professional employees as defined under FLSA.
- **Working foremen** are generally non-exempt:
  - Such employees who devote more than 20 percent of their time during a workweek to mechanic or laborer duties are laborers and mechanics for the time so spent, and must be paid at least the appropriate wage rates specified in the wage determination.
  - Must be paid the Davis Bacon (DB) rate for the classification of work performed if not 541 exempt.





## **Site of the Work**

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







# Truck Drivers

- Truck drivers of the contractor or subcontractor are covered by Davis-Bacon for time:
  - Spent driving on the “site of the work,” and
  - Spent loading or unloading materials and supplies on the “site of the work,” if such time is **more than de minimis**

*\*\*Truck drivers whose time spent on the site of the work is de minimis, such as only a few minutes at a time merely to pick up or drop off materials or supplies.*





# Truck Drivers

- Truck drivers are also covered when:
  - Transporting materials and supplies *between a facility that is part of the “site of the work” and the actual construction site*; or
  - Transporting portions of a building or work between a site where a **SIGNIFICANT PORTION OF THE PROJECT IS BEING CONSTRUCTED** and the physical place where the building or work will remain





# Truck Drivers Owner-Operators


- DOL has an enforcement position with respect to **bona fide owner-operators** of trucks who are **independent contractors** (an owner-operator is a person who owns and drives a truck). **Certified payrolls** including the names of such owner-operators do not need to show the hours worked or the rates paid, only the notation “**owner-operator**”.
- This position **does not apply to owner-operators of other equipment such as bulldozers, cranes, etc.**





 **Official U.S. Government Website**  
100% Free

### The Official U.S. Government System for:

- Contract Opportunities**  
(was fbo.gov)
- Contract Data**  
(Reports ONLY from fpds.gov)
- Wage Determinations**  
(was wdol.gov) 
- Federal Hierarchy**  
Departments and Subtiers
- Assistance Listings**  
(was cfda.gov)
- Entity Information**  
Entities, Disaster Response Registry, Exclusions, and Responsibility/Qualification (was fapjis.gov) **NEW**
- Entity Reporting**  
SCR and Bio-Preferred Reporting

Already know what you want to find?

Select Domain...  e.g. 1606N0200Q2



### Announcements

#### Entity Validation Review Time

Entity validation review time will depend on whether we can make a match from your original document submission, or if we need to request additional documentation. Most entities find a match immediately, but in some cases additional documentation and a manual review is required. The overage ...

Mar 21

### Have Questions about SAM.gov?

VIDEO TRAINING:  
Get a Unique Entity ID



  
**UNIQUE ENTITY ID**  
12-character alphanumeric value  
Assigned, managed, and owned  
by the federal government

Superseded General Decision Number: CA20150001

State: California

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

County: San Diego County in California.

BUILDING CONSTRUCTION PROJECTS; DREDGING PROJECTS (does not  
 include hopper dredge work); HEAVY CONSTRUCTION PROJECTS (does  
 not include water well drilling); HIGHWAY CONSTRUCTION  
 PROJECTS; RESIDENTIAL CONSTRUCTION PROJECTS (consisting of  
 single family homes and apartments up to and including 4  
 stories)

Note: Under Executive Order (EO) 13658, an hourly minimum wage  
 of \$10.15 for calendar year 2016 applies to all contracts  
 subject to the Davis-Bacon Act for which the solicitation was  
 issued on or after January 1, 2015. If this contract is covered  
 by the EO, the contractor must pay all workers in any  
 classification listed on this wage determination at least  
 \$10.15 (or the applicable wage rate listed on this wage  
 determination, if it is higher) for all hours spent performing  
 on the contract in calendar year 2016. The EO minimum wage rate  
 will be adjusted annually. Additional information on contractor  
 requirements and worker protections under the EO is available  
 at [www.dol.gov/whd/govcontracts](http://www.dol.gov/whd/govcontracts).

Modification Number	Publication Date
0	01/08/2016
1	02/12/2016
2	02/19/2016
3	02/26/2016
4	03/04/2016
5	03/18/2016
6	07/01/2016
7	07/08/2016
8	07/22/2016

Rates Fringes

ASBESTOS WORKERS/INSULATOR (Includes the application of all insulating materials, protective coverings, coatings, and finishes to all types of mechanical systems).....	\$ 36.74	19.49
Fire Stop Technician (Application of Firestopping Materials for wall openings and penetrations in walls, floors, ceilings and curtain walls).....	\$ 25.38	16.81
ASBE0005-004 06/29/2015		
Rates		Fringes

Asbestos Removal worker/hazardous material handler (Includes preparation, wetting, stripping, removal, scrapping, vacuuming, bagging and disposing of all insulation materials from mechanical systems, whether they contain asbestos or not).....	\$ 18.06	10.57
BOLL0092-003 10/01/2012		
Rates		Fringes



# Selecting Proper WD (29 CFR 1.5)

- Location of the construction project
- Type of construction
- Current Wage Determination

***\*\*Contracting Agency is responsible for insuring that only the appropriate WD (General Wage Determination) is incorporated in bid solicitations and contract specifications***





# Selecting & Incorporating Proper WD (Construction Type - AAM 130)

- Residential
- Building
- Highway
- Heavy





# Fringe Benefits

- Under DBA, FB's are a component “prevailing wage”
- The WD obligation may be satisfied by:
  - Paying the BHR and FB in cash
  - Contributing payments to a bona fide plan
  - Any combination of the two







# Discharging DB Prevailing Wage Obligation

- If W/D requires a prevailing wage of \$14.50 (\$12.00 BHR plus \$2.50 in FB's), the contractor can comply by paying:
  - \$14.50 in cash wages; or
  - \$12.00 plus \$2.50 in bona fide FB; or
  - \$11.00 plus \$3.50 in bona fide FBs





# Examples of Fringe Benefits

- Life Insurance
- Health Insurance
- Pension
- Vacation
- Holiday
- Sick Leave





# Annualization Example Medical Insurance

- Employer provides medical insurance at \$200 per month to electrician on Davis-Bacon project. WD requires \$12.00 plus \$2.50 in FB's, or \$14.50 an hour. Employee works 160 hours a month
  - \$200/160 hours = \$1.25 (credit per hour)
  - No other benefit provided
  - Electrician is due: \$13.25 an hour  
( $\$14.50 - \$1.25 = 13.25$ , is remaining balance of applicable prevailing wage)





## **Fringe Benefits**

- Must be paid weekly for **all** hours worked
- Cash wages paid in excess of BHR may **count to offset or satisfy** the FB obligation (unlike under SCA)





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# Computing Overtime Pay (CWHSSA Earnings)

An employee worked 44 hours as electrician,  
where WD BHR is \$12.00 plus \$2.50 in FB's:

44 hours	X	\$ 2.50	= \$110.00	FB's
44 hours	X	\$12.00	= \$528.00	BHR
4 hours	X	\$12.00/2	= \$ 24.00	OT
			<u>        </u>	
			\$662.00	



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# Overtime Computation where Employee Employed at Two Rates

During a workweek an employee works 20 hours as an Electrician at \$12.00 BHR plus \$2.50 in FB's and as a Painter for 24 hours at \$10.00 BHR plus \$3.00 in FB's.

The regular rate for determining the Overtime rate is:

$$20 \times \$12.00 = \$240.00 \text{ (as Electrician)}$$

$$24 \times \$10.00 = \underline{\$240.00} \text{ (as Painter)}$$

$$\$480.00/44 = \$10.91$$

$$\text{Overtime due: } \$10.91 \times 1/2 \times 4 \text{ hours} = \$21.82$$



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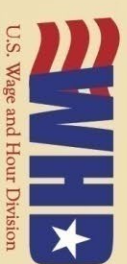


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# Apprentices, Trainees, and Helpers..



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# Apprentices

- Persons individually **registered in a bona fide apprenticeship program** registered with DOL or a DOL approved State apprenticeship agency
- Include individuals in their first 90 days of probationary employment as an apprentice
- DOL regulations: 29 CFR 5.2(n)(1) and 5.5(a)(4)(i)







# Trainees

- Persons registered and receiving on-the-job training in a construction occupation under a program that has been approved in advance by DOL's Employment Training Administration (ETA)
- DOL regulations: 29 CFR 5.2(n)(2) and 5.5(a)(4)(ii)





# Apprentices and Trainees

- Are laborers and mechanics, but are not listed on the WD
- Permitted to be used on covered projects and paid less than the journeyman rate when:
  - Individually registered in an approved apprenticeship or training program
  - Paid the percentage of hourly rate required by the apprenticeship or training program





# Apprentices and Trainees

- Paid the FB's specified in the approved program, or the full amount of FB's listed on the WD, if the program is silent; and,
- Within the allowable ratio specified in the approved program for the number of apprentices or trainees to journeymen





# Helpers

- May be employed if:
  - Duties are clearly defined and distinct from other classifications on the WD
  - An established prevailing practice in the area,
  - Not employed in an informal training program
- May be added to WD if all above conditions are met; no WD class performs the work
- *Conformance process*





# Conformance

- Conformance is the process used to add additional occupational classes to a contract after it has been awarded.
- SF-1444



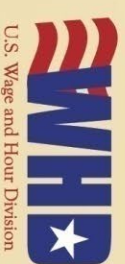


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# **Certified Payroll Reports**



**U.S. Department of Labor**  
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Wage and Hour Division

**PAYROLL**

**(For Contractor's Optional Use; See Instructions at [www.dol.gov/whd/forms/wh347instr.htm](http://www.dol.gov/whd/forms/wh347instr.htm))**



*Persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.*

Rev. Dec. 2008

OMB No.: 1235-0008  
Expires: 01/31/2015

NAME OF CONTRACTOR  OR SUBCONTRACTOR

ADDRESS

PAYROLL NO.

FOR WEEK ENDING

PROJECT AND LOCATION

PROJECT OR CONTRACT NO.

(1) NAME AND INDIVIDUAL IDENTIFYING NUMBER (e.g., LAST FOUR DIGITS OF SOCIAL SECURITY NUMBER) OF WORKER	(2) NO. OF WITHHOLDING EXEMPTIONS	(3) WORK CLASSIFICATION	(4) DAY AND DATE		(5) TOTAL HOURS	(6) RATE OF PAY	(7) GROSS AMOUNT EARNED	(8) DEDUCTIONS				(9) NET WAGES PAID FOR WEEK	
			OT OR ST.	HOURS WORKED EACH DAY				FICA	WITH- HOLDING TAX	OTHER	TOTAL DEDUCTIONS		

While completion of Form WH-347 is optional, it is mandatory for covered contractors and subcontractors performing work on Federally financed or assisted construction contracts to respond to the information collection contained in 29 C.F.R. §§ 3.3, 5.5(a). The Copeland Act (40 U.S.C. § 3145) contractors and subcontractors performing work on Federally financed or assisted construction contracts to "furnish weekly a statement with respect to the wages paid each employee during the preceding week." U.S. Department of Labor (DOL) regulations at 29 C.F.R. § 5.5(a)(3)(i) require contractors to submit weekly a copy of all payrolls to the Federal agency contracting for or financing the construction project, accompanied by a signed "Statement of Compliance" indicating that the payrolls are correct and complete and that each laborer or mechanic has been paid not less than the proper Davis-Bacon prevailing wage rate for the work performed. DOL and federal contracting agencies receiving this information review the information to determine that employees have received legally required wages and fringe benefits.

**Public Burden Statement**

We estimate that it will take an average of 55 minutes to complete this collection, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. If you have any comments regarding these estimates or any other aspect of this collection, including suggestions for reducing this burden, send them to the Administrator, Wage and Hour Division, U.S. Department of Labor, Room 33502, 200 Constitution Avenue, NW, Washington, D.C. 20210

(over)

Date \_\_\_\_\_

I, \_\_\_\_\_ (Name of Signatory Party) \_\_\_\_\_ (Title) do hereby state:

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

(Contractor or Subcontractor) \_\_\_\_\_ on the \_\_\_\_\_

(Building or Work) \_\_\_\_\_; that during the payroll period commencing on the \_\_\_\_\_

day of \_\_\_\_\_, and ending the \_\_\_\_\_ day of \_\_\_\_\_, all persons employed on said project have been paid the full weekly wages earned, that no rebates have been or will be made either directly or indirectly to or on behalf of said \_\_\_\_\_

(Contractor or Subcontractor) \_\_\_\_\_ from the full \_\_\_\_\_

weekly wages earned by any person and that no deductions have been made either directly or indirectly from the full wages earned by any person, other than permissible deductions as defined in Regulations, Part 3 (29 C.F.R., Subtitle A), issued by the Secretary of Labor under the Copeland Act, as amended (48 Stat. 948, 63 Stat. 108, 72 Stat. 967, 76 Stat. 357, 40 U.S.C. § 3145), and described below: \_\_\_\_\_

(2) That any payrolls otherwise under this contract required to be submitted for the above period are correct and complete; that the wage rates for laborers or mechanics contained therein are not less than the applicable wage rates contained in any wage determination incorporated into the contract; that the classifications set forth therein for each laborer or mechanic conform with the work he performed.

(3) That any apprentices employed in the above period are duly registered in a bona fide apprenticeship program registered with a State apprenticeship agency recognized by the Bureau of Apprenticeship and Training, United States Department of Labor, or if no such recognized agency exists in a State, are registered with the Bureau of Apprenticeship and Training, United States Department of Labor.

(4) That:

(a) WHERE FRINGE BENEFITS ARE PAID TO APPROVED PLANS, FUNDS, OR PROGRAMS

— in addition to the basic hourly wage rates paid to each laborer or mechanic listed in the above referenced payroll, payments of fringe benefits as listed in the contract have been or will be made to appropriate programs for the benefit of such employees, except as noted in section 4(c) below.

(b) WHERE FRINGE BENEFITS ARE PAID IN CASH

— Each laborer or mechanic listed in the above referenced payroll has been paid, as indicated on the payroll, an amount not less than the sum of the applicable basic hourly wage rate plus the amount of the required fringe benefits as listed in the contract, except as noted in section 4(c) below.

(c) EXCEPTIONS

EXCEPTION (CRAFT)	EXPLANATION
REMARKS:	

NAME AND TITLE	SIGNATURE
THE WILLFUL FALSIFICATION OF ANY OF THE ABOVE STATEMENTS MAY SUBJECT THE CONTRACTOR OR SUBCONTRACTOR TO CIVIL OR CRIMINAL PROSECUTION. SEE SECTION 1001 OF TITLE 18 AND SECTION 231 OF TITLE 31 OF THE UNITED STATES CODE.	





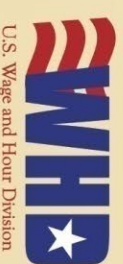
# Hours Worked

- Suffered or Permitted
- Waiting Time
- Meal and Rest Periods
- Training Time
- Travel Time
- Sleep Time (See USDOL-WHD Fact Sheet # 79D)

*\*See USDOL-WHD Fact Sheet #22*



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**Wage and Hour Division**





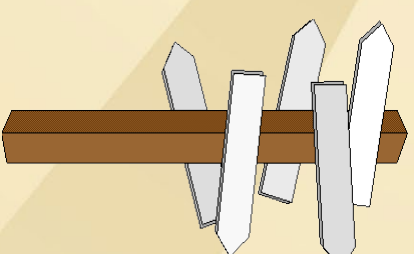
# Disclaimer

- ❖ This presentation is intended as general information only and does not carry the force of legal opinion.
- ❖ The Department of Labor is providing this information as a public service. This information and related materials are presented to give the public access to information on Department of Labor programs. You should be aware that, while we try to keep the information timely and accurate, there will often be a delay between official publications of the materials and the modification of these pages. Therefore, we make no express or implied guarantees. The *Federal Register* and the *Code of Federal Regulations* remain the official source for regulatory information published by the Department of Labor. We will make every effort to keep this information current and to correct errors brought to our attention.





# ADDITIONAL INFORMATION



- Prevailing Wage Resource Book
  - <https://www.dol.gov/agencies/whd/government-contracts/prevailing-wage-resource-book>
- Visit the WHD homepage at: <https://www.dol.gov/agencies/whd>
- Call the WHD toll-free information and help-line at **1-866-487-9243**
- Use the DOL interactive advisor system - **ELAWS**(Employment **L**aws **A**ssistance for **W**orkers and **S**mall **B**usinesses at: [www.dol.gov/elaws](http://www.dol.gov/elaws)
- DOL Fact Sheets: <https://www.dol.gov/agencies/whd/fact-sheets>

