

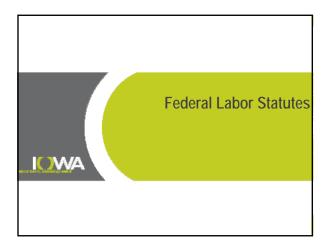
Demographics

- » Contracting Agencies
- » Prime Contractors
- » Compliance Officers
- » Experience Prevailing wage requirements
- » Novices
- » Others

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Overview

- » Basics of Prevailing Wage Requirements
 - Federal Statutes
 - Applicability
 - Making Davis bacon Work
 - Requirements
 - Responsibilities
 - Enforcement/Compliance
- » Panel Discussion
 - HUD Office Labor Relations
 - U.S. Department of Labor



Major Federal Laws

- » Davis-Bacon and Related Acts (DBRA)
- » Copeland Act (Anti-Kickback Act)
- » Contract Work Hours and Safety Standards Act (CWHSSA)
- » Fair Labor Standards Act (FLSA)

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Davis-Bacon Act (DBA)

- » Enacted in 1931, amended in 1935 & 1964
- » Federal construction contracts over \$2,000
- » Applies to construction, alteration and/or repair including painting & decorating of public buildings or public works contracts
- » Requires pay of prevailing wages to all laborers and mechanics employed on site – regardless of any alleged contractual relationship

Davis Bacon Act (DBA)

- » Requires weekly pay to mechanic and laborers
- » Requires posting of applicable wage decision
- » Defines prevailing wage to include fringe benefits
- » Permits withholdings from contractors' payments of wages due

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Davis Bacon Act (DBA)

- » Permits payment of wage restitution from withheld amounts
- » Permits contract termination contractor underpays mechanic and laborers.
- » Permits debarment of persons or firms
 - Disregard for obligations to employees and subcontractors
- » Usually applied through the "Related acts"

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Davis Bacon and Related Acts (DBRA)

- » The Davis Bacon Act is applicable to HUD programs by statutory provisions in HUD related Acts, known as Davis Bacon Related Acts (DBRA)
 - The National Housing Act
 - U.S. Housing Act of 1937, as amended
 - The Housing and Community Development Act of 1974, as amended
 - The National Affordable Housing Act of 1990

Copeland Anti-Kickback Act

- » Enacted in 1934
- » Makes it a criminal offense for contractors to demand workers give up any part of earned wages
- » Requires the submission of:
 - Weekly Certified Payrolls
 - Statement of compliance (with each payroll)
- » Allows for civil or criminal prosecution for the "willful" falsification of payrolls
- » Regulates payroll deductions from wages



Contract Works Hours and Safety Standards Act (CWHSSA)

- » Enacted in 1962
- » Applies to contracts of over \$100,000
 - Contract Amount Prime Contractor
- » Overtime provision work in excess of 40 hours per week for covered project
- Liquidated damages New requirement effective 8/1/16. \$25 per day, per worker, per violation



Fair Labor Standards Act (FLSA)

- » Sets the Federal minimum wage and additional overtime requirements
- » Overtime applies to mechanical and laborers working in excess of 40 hours per week.
 - If CWHSSA does not apply, FLSA does
 - DOL enforces FLSA and investigates any violations

Implementing the Basics Developing and/or implementing strategies and programs to avoid payment of prevailing wages is prohibited. I()WA **Applicability IOWA Davis-Bacon Applicability** » Davis Bacon Applicability to CDBG through Related Acts - Housing and Community Development Act of 1974, Section » Davis-Bacon applies when federal funds are used to pay for construction contracts of more than \$2,000 in whole or in part

Davis-Bacon Applicability

- » Residential: the property has 8 or more units
 - Property is defined as one or more buildings on an undivided lot or contiguous lots or parcels that are commonly owned and operated as one rental, cooperative, or condominium project

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Davis-Bacon Applicability

- » Residential examples CDBG, NSP, Disaster Recovery
 - Multi-family property has 8 units
 - Davis-Bacon applies to rehabilitation contracts of \$2,000 or more
 - If windows were being installed in only 3 units for a total of \$2,000 or less, then Davis-Bacon would not apply

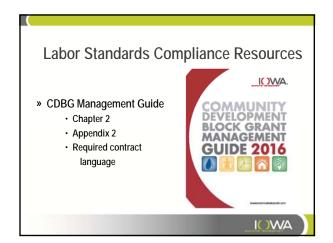
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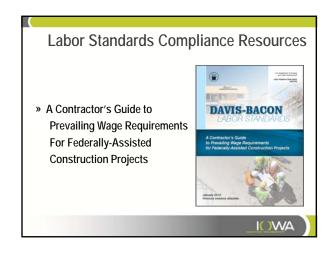
Exceptions - CDBG

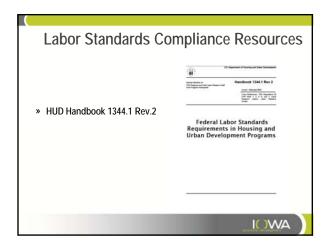
- » Grantee can pay for non-construction costs without triggering Davis-Bacon
- » Only private funds are used to construct or rehab
- » Demolition, except:
 - If subsequent construction on site is planned as part of the same contract
 - If subsequent construction is contemplated as part of a future construction project under another eligible activity

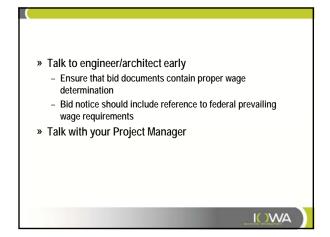
Exceptions - CDBG **Volunteer labor* - Specific record keeping and tracking required - the name and address of the agency sponsoring the project - a description of the project - the number of volunteers - the names of the volunteers - the hours of work they performed - the type of work performed by the volunteers. **Employees of local grantee* - Force account labor











Making Davis Bacon Work

- » Job Sites Safety, Required Postings
- » Interviews (on-site workers) HUD Form 11
- » Review of Certified Payrolls Receive weekly
- » Statement of Compliance all blocks must be completed
- » Required Reporting Enforcement Reports
- » Networks Who are the problems?

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Making Davis Bacon Work

- » Designate an individual for compliance monitoring
 - Grant recipient is ultimately responsible overall compliance
 - Prime/general contractor is responsible for <u>full</u> compliance of all subcontractors and lower-tier contracts

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Grantee Responsibilities

- » Before Construction
 - Procurement, bonding, debarment verification, contracting, pre-construction conference
- » During Construction
 - Employee field interviews, collection and review of weekly CPR's, identification of underpayments, restitution payments and restitution CPR's
- » After Construction
 - Ensure files are in order
- » Maintain all information/files for 5 years

Grantee Responsibilities

- » Project Files
 - Labor Compliance Administration File
 - Procurement
 - · Wage Determination, additional classification, lock-in
 - Bonding
 - · Contract award documentation
 - · Construction contract
 - · Pre-construction conference minutes
 - · Notice to proceed
 - Correspondence
 - · Notice of completion



Grantee Responsibilities

- » Ensure bid documents, contract and sub contracts contain Federal Labor Standards Provisions (HUD-4010)
- » Ensure bid documents, contract and sub contracts contain applicable wage determination
- » Review certified payroll reports (CPR's) and confirm discrepancies through employee field interviews

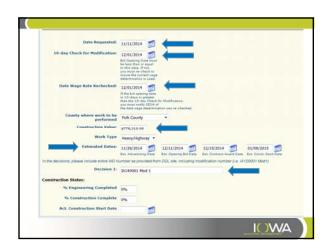


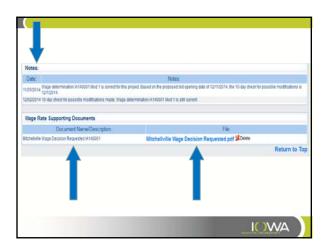
Obtain A Wage Determination

- » Requests for Pre-2012 Projects
 - Paper request form
- » 2012 Program Year Projects and Beyond
 - IowaGrants On-line system

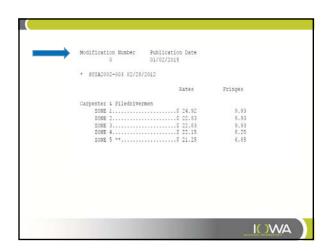
Obtain A Wage Determination » Request at least 30 days prior to bid advertising date » Contact IDED for modifications to wage determination - at least 10 working days prior to bid opening • Do not submit a request for 10-day check in lowaGrants system » Wage determination must be included in all bid documents



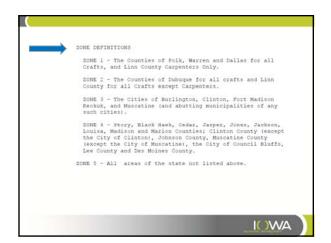


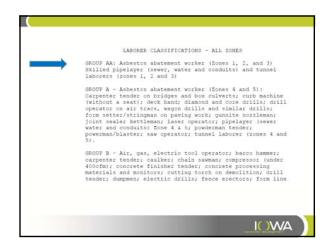






Concrete Finisher	
EONE 1 \$ 22.70	7.00
EONE 2 22.70	7.00
EONE 3 22.70	7.00
EONE 5	6.00
EONE 5.11.11.11.11.11.11.11.13 18.90	6.00
Electricians: (STREET AND	
HIGHWAY LIGHTING AND TRAFFIC SIGNALS)	
EONE 1, ZONE 2 AND ZONE 3\$ 21.30	5.70
EONE 4 20.00	5.70
EONE 5 17.75	5.70
Ironworkers: (SETTING OF	
STRUCTURAL STEEL)	
EONE 1 26.55	7.45
ZONE 2 25.31	7.45
EONE 3 3 25.01	7.75
EONE 5 **	6.60
EONE 5 ** 21.25	6.10
Laborers:	
BONE 1, BONE 2, AND BONE 3	
GROUP A 20.56	7.95
GROUP AA\$ 22.21	7.95
GROUP B \$ 18.68	7.95
OROUP C\$ 15.45 DONE 4	7.95
GROUP A 5 18.05	7.65
GROUP B	7.65
GROUP C5 13.85	7.65
EOME 5	
GROUP A \$ 18.50 4	6.00
GROUP B \$ 15.75	6.00
GROUP C\$ 15.15	6.00





POWER EQUIPMENT OPERATOR CLASSIFICATIONS - ALL ZONES

GROUP A - All terrain (off road) forklift; Asphalt Breakdown
Roller (vibratory), Asphalt laydown machine; asphalt
plant; Asphalt Screed, bulidozer finish); central mix
plant; concrete pump; crans; crawler tractor pulling
scraper; directional dfill (60,000 (lbs) pullback and
above); dragline and power showel; dredge engineer;
excavator (over 1/2 cu. yd.) front end loader (4 cy and
over) horizontal boring machine; master mechanic; milling
machine (over 350 hp); motor grader (finish); push cat;
rubber tired backhoe (over 1/2 cu. yd.) scraper (12 cu. yd.
and over or finish); Self-propelled rotary mixes/road
reclaimer; sidebroom tractor; slipform portland concrete
paver; tow or push boat; trenching machine (Cleveland 80 or
similar).

GROUP B - Articulated off road hauler, asphalt heater/planer;
asphalt material transfer vehicle; Asphalt Roller; belt
loader or similar loader; bulldozer (rough); chum or
rotarydrill; concrete curb machine, crawler tractor pulling
ripper, disk or roller; deek hand/oiler directional drill
(less than 60,000 (lbs) pullback); distributor; excavator
1/2 cu. yd. and under); form riding concrete paver; front
end loader (2 to less than 4 cu. yd.); group equipment

Contractor Eligibility

After bid letting:

- » Verify eligibility status of contractors
 - Debarred/Suspended List
 - · www.sam.gov
 - Contractor registration number
 - · http://www.iowaworkforce.org/labor/contractor.htm
- » Inform contractor of his/her responsibilities
- » Required contract language in all contracts
- » Request additional classifications



Additional Classifications

- » Classification not found on wage determination
- » Complete form with contractor's proposed rate of pay
- » Check for possible conformance to existing classifications
- » Department of Labor makes final decision

Examine Weekly Payrolls

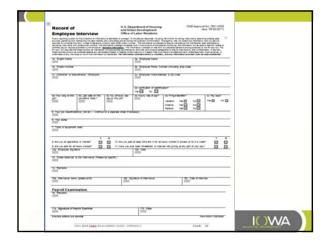
- » Proper classification, including group letter (when applicable)
- » Proper wage for work performed
- » Check calculations
- » Verify method of payment for fringe benefits
- » All forms must be certified (signed)
- » You should receive original signed payroll reports



On-site Interviews

- » Form HUD-11
- » Ensure proper classification
- » Observe duties on-site must match classification
- » Verify the stated wage conforms to weekly payroll form





On-site Interviews

- » Ensure the following items are posted at work site in prominent location:
 - Wage determination
 - Federal Labor Standards Provisions (HUD 4010)
 - Labor posters

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Back at the Office

- » Cross reference employee interview forms with weekly payrolls
- » Note any discrepancies
- » Contact the contractor to resolve any issues
- » Obtain sufficient documentation for any wage restitution issues

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Implementing the Basics

- » Develop an effective compliance management system
 - Processes and procedures
 - Overlaps with procurement
 - Coordination

Implementing the Basics

- » Monitoring vs. Contract administration
 - What are the differences between the two functions?
 - · Monitoring from the IEDA perspective
 - Contract administration is compliance with federal labor standards – is the contractor complying with federal labor laws on construction / construction related work, subject to prevailing wages?
- » Delegating function
 - Contractors?

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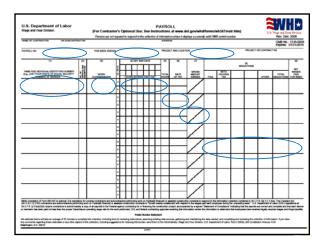


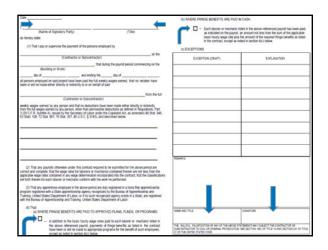
Required Job Site Postings

- » Davis Bacon Poster
 - Obtain English and Spanish versions
 - Post signs so that all can see
 - Include Authority's compliance officer's contact information in the contact block of these posters
 - Post in a highly visible area protected form the weather elements that is easily accessible and traveled by most workers working at the job site
- » Whose name is added to the poster as the compliance officer for reporting violations?

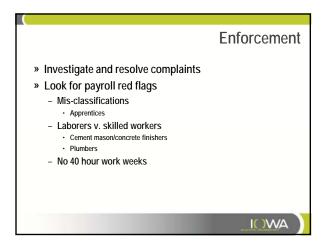
Required Job Site Postings » Project Wage Decision - Approved DOL conformance / additional classifications » Other DOL Required Posters - EEO - FLSA - OSHA - DOL website: www.dol.gov - posters are available for downloading

Enforcement » Payroll & Document Review » Employee Interviews » Additional Classifications/Conformances





	Enforcement
 Establish enforceable procedures/pro Share with applicable entities 	ocesses
» Identify and document violations	
» Notify the contractor (in writing)	
» State date for completion	
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Enforcement - Not enough employees - Ghost employees - Same hours, same rate of pay, same gross, same net - Non-allowable deductions - "Other" deductions listed but no authorization » Ensure restitution, if any, is paid timely » Pursue debarment, if necessary - Debar locally – (local policies?) - Refer to HUD for debarment and or restrictions » Determine other action, if necessary

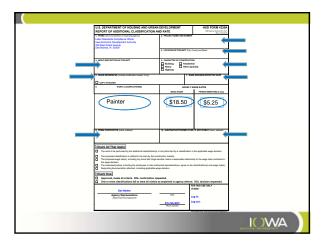


Conformance / Additional Classifications » This process not completed in lowaGrants system » The proposed rate, including bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage decision - All Agency Memorandum No. 213

Guidance - Additional Classifications

- » Determine if the classification being conformed:
 - Is a laborer classification
- » Action
 - Recommend a wage rate that uses the existing common laborer wage rate as a benchmark

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Recent changes

- » Use of Heavy Sewer/Water Treating Plant wage determination, IA4 (currently IA160004 Mod 0) for <u>all</u> treatment projects, including lagoon or mechanical treatment plants.
- » New Heavy Highway wage determination, IA97 (currently IA160097 Mod 0)



Self-employed Owners – The Rule

- » Owners of a subcontractor firm who are themselves performing work of laborers and mechanics are entitled to the applicable prevailing wage rate for the classification of the work performed
- » HUD Office of Labor Relations Letter (LR-96-01)

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Self-employed Owners

- » Include in the sub-contract:
 - the total hourly prevailing wage rate for the trade, and
 - The estimated number of hours for job completion
- » Develop a system for tracking dates and hours worked on the prevailing wage project for these mechanics and laborers

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Self-employed Owners

- » Payroll Report
 - Carried on the responsible employer's weekly payroll
 - Must include name, work classification, actual hour of work, effective hourly rate, and amount paid
- » Owners Working with Their Crew
 - Can certify payroll report
 - Must include name, work classification including "owner" and daily and total hours worked
 - Do not need to list a rate of pay or amounts earned

Payroll Issues – Red Flags Apprentices - You notice the following: · Workers classified as apprentices with a rate of pay lower than the prevailing wage rate - On the apprenticeship information you notice: · One worker's beginning date is after the start of his work on the prevailing wage project · Another worker's ending date is before the start of his work on the prevailing wage project · No information submitted for one apprentice » What do you do?

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Payroll Issues – Apprentices **Require the following: - Individual registration for the apprentice - Select pages from the DOL approved apprenticeship program - Title page (shows name of the program) - Page reflecting ratio of apprentices to journeyman - Page reflecting pay scale for apprentices - Includes apprenticeship level and percentage of journeyman's rate for each level - Page reflecting fringe benefits - If silent on fringe benefits, pay full amount of fringe benefit stated on the wage decision - Signatory page (reflects signatories to agreement) ** Absent this information, pay full journeyman's rate

Statement of Compliance No contractor failed to include all required information No information in block 1 No sub-block of 4 checked, or wrong block checked No original signature Payroll clerk signed the statement of compliance

DOL All Agency Memorandum (AAM)

- » Conformance / Additional Classification Requests
 - AAM 213- March 2013
 - · Old: Benchmark based on lowest skilled wage rate
 - New Standard: Reasonable relationship to all wage rates in the decision (skilled to skilled; laborer to laborer)
- » Surveyors DBA applicability
 - AAM 214 March 2013
 - DBA applies if done immediately before or during construction in support of construction crews



Resources

- » CDBG Management Guide
- » A Contractor's Guide to Prevailing Wage Requirements for Federally-Assisted Construction Projects
 - Labor Relations Desk Guide LR01.DG
- » Federal Labor Standards Requirements in Housing and Urban Development Programs (1344.1 Rev. 2)
 - http://portal.hud.gov/hudportal/HUD?src=/program_offices/administration/hudclips/handbooks/sech/13441
- » Wage Determinations Online Website
 - http://www.wdol.gov/



Questions?

- » Contact Your Project Manager
- » Contact Me

Dan Narber

515.725.3072

dan.narber@iowa.gov

THANK YOU!