

# Federal Labor Standards Training

**Dan Narber**  
**Project Manager**

**IOWA**  
economic development

# Demographics

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

# 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

# Federal Labor Statutes

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# 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)**

# 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**

# 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”**

# 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.**

# Applicability

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# Davis-Bacon Applicability

- » **Davis Bacon Applicability to CDBG through Related Acts**
  - **Housing and Community Development Act of 1974, Section 110(a)**
- » **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**

# 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

# 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

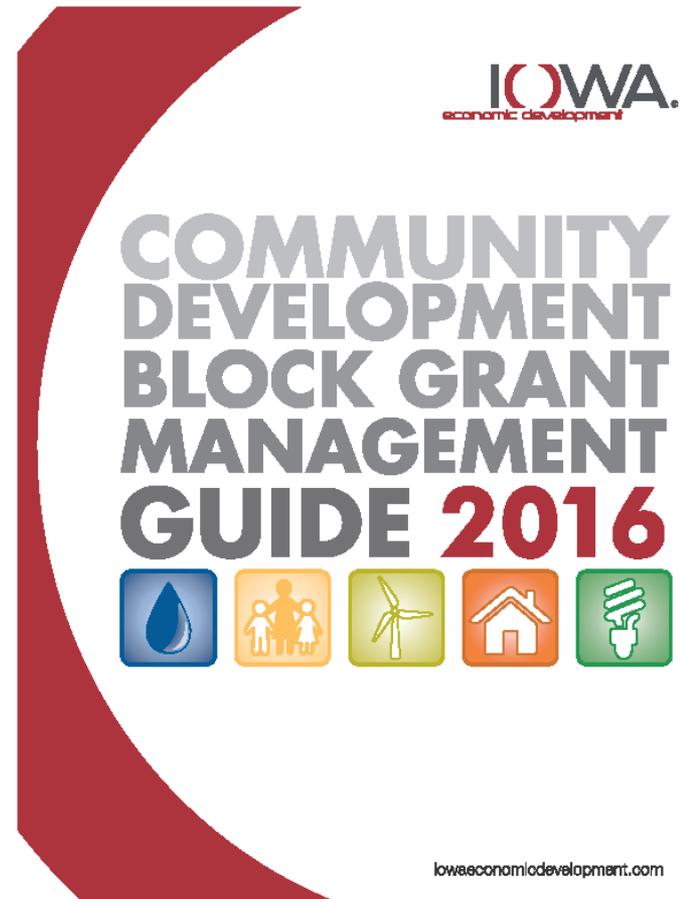
# Making Davis-Bacon Work

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# Labor Standards Compliance Resources

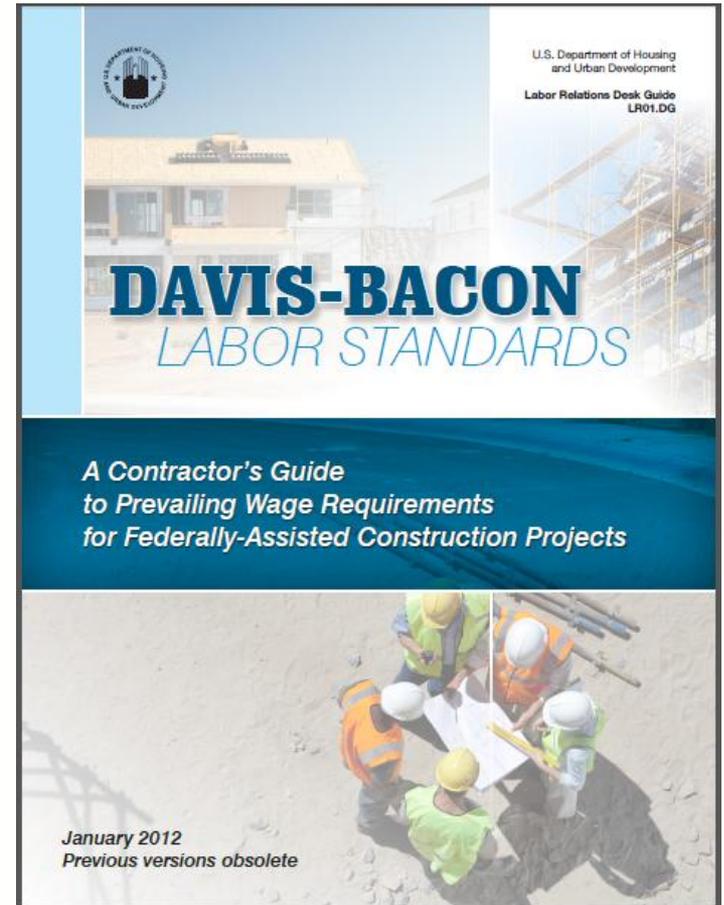
## » CDBG Management Guide

- Chapter 2
- Appendix 2
- Required contract language



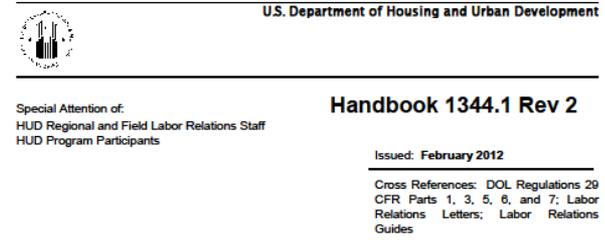
# Labor Standards Compliance Resources

- » **A Contractor's Guide to Prevailing Wage Requirements For Federally-Assisted Construction Projects**



# Labor Standards Compliance Resources

## » HUD Handbook 1344.1 Rev.2



## Federal Labor Standards Requirements in Housing and Urban Development Programs

- » **Talk to engineer/architect early**
  - **Ensure that bid documents contain proper wage determination**
  - **Bid notice should include reference to federal prevailing wage requirements**
- » **Talk with your Project Manager**

# 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?**

# Making Davis Bacon Work

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

# 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 IowaGrants system**
- » Wage determination must be included in all bid documents

## Wage Rates

To obtain a wage determination for your project, please visit the Department of Labor's (DOL) Wage Determinations Online.gov web site at <http://www.wdol.gov/dba.aspx>. Using the dropdown lists, select State, County, and Construction Type. After selecting the construction type, the "WD Number" will automatically populate. Click search and the current wage determination number will appear.

**Construction Type definitions:** (Final determination of construction type will be made by IEDA)

- **RESIDENTIAL:** Includes the construction, rehabilitation and repair of single family houses, townhouses, and apartment buildings of no more than four (4) stories in height.
- **HIGHWAY:** Includes the construction, alteration, and repair of roads, streets, highways, runways, parking areas and most other paving work not incidental to building or nearby construction.
- **TREATMENT:** Construction of, or improvements to, water and sewage treatment facilities.
- **HEAVY:** A "catch-all" category which includes those projects which cannot be classified as Building, Residential, Highway or Treatment. Heavy construction is often further distinguished on the basis of the characteristics of particular projects such as dredging, water and sewer lines, dams, major bridges and flood control projects.
- **BUILDING:** Includes the construction, rehabilitation and repair of sheltered enclosures with walk-in access for the purpose of housing persons, machinery, equipment, or supplies.

Once you have obtained the wage determination from the DOL website, complete this form. Once you have entered the data, click Add to upload the wage determination you received from the DOL web site. Once you have uploaded the document, please e-mail Dan Narber, letting him know the file has been added. You will receive notification upon IEDA review and concurrence of the correct wage determination. You may then provide the wage determination to the project engineer or architect. Based on the "Bid Date" provided, the notification will include a date for the "10-day verification" check to ensure that the wage determination has not been modified. **Please be aware that if the "bid date" changes the "10-day verification" date will also be affected.**

**Date Requested:**   ←

**10-day Check for Modification:**   ←

Bid Opening Date must be less than or equal to this date. If not, you must re-check to insure the current wage determination is used.

**Date Wage Rate Rechecked:**   ←

If the bid opening date is 10-days or greater than the 10-day Check for Modification, you must notify IEDA of the date wage determination was re-checked.

**County where work to be performed**  ▼

**Construction Value:**  ←

**Work Type**  ▼

→ **Estimated Dates:**          
Est. Advertising Date      Est. Opening Bid Date      Est. Contract Award Date      Est. Const. Start Date

*In the decisions, please include entire WD Number as provided from DOL site, including modification number (i.e. IA120001 Mod1).*

**Decision 1:**  ←

**Construction Status:**

**% Engineering Completed**

**% Construction Complete**

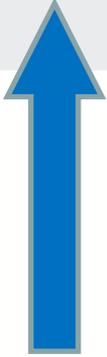
**Act. Construction Start Date**  

  
**Notes:**

Date:	Notes:
11/25/2014	Wage determination IA140001 Mod 1 is correct for this project. Based on the proposed bid opening date of 12/11/2014, the 10-day check for possible modifications is 12/1/2014.
12/02/2014	10-day check for possible modifications made. Wage determination IA140001 Mod 1 is still current.

**Wage Rate Supporting Documents**

Document Name/Description:	File:
Mitchellville Wage Decision Requested IA140001	<a href="#">Mitchellville Wage Decision Requested.pdf</a>  Delete

[Return to Top](#)



General Decision Number: IA150001 01/02/2015 IA1

Superseded General Decision Number: IA20140001

State: Iowa



Construction Types: Heavy and Highway



Counties: Adair, Adams, Allamakee, Appanoose, Audubon, Benton, Black Hawk, Boone, Bremer, Buchanan, Buena Vista, Butler, Calhoun, Carroll, Cass, Cedar, Cerro Gordo, Cherokee, Chickasaw, Clarke, Clay, Clayton, Clinton, Crawford, Dallas, Davis, Decatur, Delaware, Des Moines, Dickinson, Dubuque, Emmet, Fayette, Floyd, Franklin, Fremont, Greene, Grundy, Guthrie, Hamilton, Hancock, Hardin, Harrison, Henry, Howard, Humboldt, Ida, Iowa, Jackson, Jasper, Jefferson, Johnson, Jones, Keokuk, Kossuth, Lee, Linn, Louisa, Lucas, Lyon, Madison, Mahaska, Marion, Marshall, Mills, Mitchell, Monona, Monroe, Montgomery, Muscatine, O'Brien, Osceola, Page, Palo Alto, Plymouth, Pocahontas, Polk, Pottawattamie, Poweshiek, Ringgold, Sac, Shelby, Sioux, Story, Tama, Taylor, Union, Van Buren, Wapello, Warren, Washington, Wayne, Webster, Winnebago, Winneshiek, Woodbury, Worth and Wright Counties in Iowa.



Concrete Finisher

ZONE 1.....	\$ 22.70	7.00
ZONE 2.....	\$ 22.70	7.00
ZONE 3.....	\$ 22.70	7.00
ZONE 4.....	\$ 20.50	5.45
ZONE 5.....	\$ 18.90	6.00



Electricians: (STREET AND HIGHWAY LIGHTING AND TRAFFIC SIGNALS)

ZONE 1, ZONE 2 AND ZONE 3...	\$ 21.30	5.70
ZONE 4.....	\$ 20.00	5.70
ZONE 5.....	\$ 17.75	5.70

Ironworkers: (SETTING OF STRUCTURAL STEEL)

ZONE 1.....	\$ 26.55	7.45
ZONE 2.....	\$ 25.31	7.45
ZONE 3.....	\$ 25.01	7.75
ZONE 4.....	\$ 22.00	6.60
ZONE 5 **.....	\$ 21.25	6.10

Laborers:

ZONE 1, ZONE 2, AND ZONE 3		
GROUP A.....	\$ 20.56	7.95
GROUP AA.....	\$ 22.21	7.95
GROUP B.....	\$ 18.68	7.95
GROUP C.....	\$ 15.45	7.95
ZONE 4		
GROUP A.....	\$ 18.05	7.65
GROUP B.....	\$ 16.73	7.65
GROUP C.....	\$ 13.85	7.65
ZONE 5		
GROUP A.....	\$ 18.50	6.00
GROUP B.....	\$ 15.75	6.00
GROUP C.....	\$ 15.15	6.00





## ZONE DEFINITIONS

ZONE 1 - The Counties of Polk, Warren and Dallas for all Crafts, and Linn County Carpenters Only.

ZONE 2 - The Counties of Dubuque for all crafts and Linn County for all Crafts except Carpenters.

ZONE 3 - The Cities of Burlington, Clinton, Fort Madison Keokuk, and Muscatine (and abutting municipalities of any such cities).

ZONE 4 - Story, Black Hawk, Cedar, Jasper, Jones, Jackson, Louisa, Madison and Marion Counties; Clinton County (except the City of Clinton), Johnson County, Muscatine County (except the City of Muscatine), the City of Council Bluffs, Lee County and Des Moines County.

ZONE 5 - All areas of the state not listed above.

## LABORER CLASSIFICATIONS - ALL ZONES



GROUP AA: Asbestos abatement worker (Zones 1, 2, and 3)  
Skilled pipelayer (sewer, water and conduits) and tunnel laborers (zones 1, 2 and 3)

GROUP A - Asbestos abatement worker (Zones 4 and 5):  
Carpenter tender on bridges and box culverts; curb machine (without a seat); deck hand; diamond and core drills; drill operator on air tracs, wagon drills and similar drills; form setter/stringman on paving work; gunnite nozzleman; joint sealer kettleman; laser operator; pipelayer (sewer water and conduits) Zone 4 & 5; powderman tender; powerman/blaster; saw operator; tunnel laborer (zones 4 and 5).

GROUP B - Air, gas, electric tool operator; barco hammer; carpenter tender; caulker; chain sawman; compressor (under 400cfm); concrete finisher tender; concrete processing materials and monitors; cutting torch on demolition; drill tender; dumpmen; electric drills; fence erectors; form line

## POWER EQUIPMENT OPERATOR CLASSIFICATIONS - ALL ZONES



GROUP A - All terrain (off road) forklift; Asphalt Breakdown Roller (vibratory), Asphalt laydown machine; asphalt plant; Asphalt Screed, bulldozer finish); central mix plant; concrete pump; crane; crawler tractor pulling scraper; directional drill (60,000(lbs) pullback and above); dragline and power shovel; 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 mixer/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); churn or rotarydrill; concrete curb machine, crawler tractor pulling ripper, disk or roller; deck 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](http://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**



## Record of Employee Interview

U. S. Department of Housing  
and Urban Development  
Office of Labor Relations

OMB Approval No. 2501-0009  
(exp. 09/30/2017)

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. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid OMB control number. The information is collected to ensure compliance with the Federal labor standards by recording interviews with construction workers. The information collected will assist HUD in the conduct of compliance monitoring; the information will be used to test the veracity of certified payroll reports submitted by the employer. ~~Sensitive Information~~ The information collected on this form is considered sensitive and is protected by the Privacy Act. The Privacy Act requires that these records be maintained with appropriate administrative, technical, and physical safeguards to ensure their security and confidentiality. In addition, these records should be protected against any anticipated threats or hazards to their security or integrity that could result in substantial harm, embarrassment, inconvenience, or unfairness to any individual on whom the information is maintained. The information collected herein is voluntary, and any information provided shall be kept confidential.

1a. Project Name _____			2a. Employee Name _____		
1b. Project Number _____			2b. Employee Phone Number (including area code) _____		
1c. Contractor or Subcontractor (Employer) _____			2c. Employee Home Address & Zip Code _____		
			2d. Verification of Identification? Yes <input type="checkbox"/> No <input type="checkbox"/>		
3a. How long on this job? _____	3b. Last date on this job before today? _____	3c. No. of hours last day on this job? _____	4a. Hourly rate of pay? _____	4b. Fringe Benefits?	
			Vacation Yes <input type="checkbox"/> No <input type="checkbox"/>		4c. Pay stub? Yes <input type="checkbox"/> No <input type="checkbox"/>
			Medical Yes <input type="checkbox"/> No <input type="checkbox"/>		
			Pension Yes <input type="checkbox"/> No <input type="checkbox"/>		
5. Your job classification(s) (list all) --- continue on a separate sheet if necessary _____					
6. Your duties _____					
7. Tools or equipment used _____					
8. Are you an apprentice or trainee? Y <input type="checkbox"/> N <input type="checkbox"/>					
10. Are you paid at least time and 1/2 for all hours worked in excess of 40 in a week? Y <input type="checkbox"/> N <input type="checkbox"/>					
9. Are you paid for all hours worked? Y <input type="checkbox"/> N <input type="checkbox"/>					
11. Have you ever been threatened or coerced into giving up any part of your pay? Y <input type="checkbox"/> N <input type="checkbox"/>					
12a. Employee Signature _____			12b. Date _____		
13. Duties observed by the interviewer (Please be specific.) _____					
14. Remarks _____					
15a. Interviewer name (please print) _____		15b. Signature of interviewer _____		15c. Date of interview _____	

### Payroll Examination

16. Remarks _____	
17a. Signature of Payroll Examiner _____	17b. Date _____

Previous editions are obsolete

Form HUD-11 (08/2004)

# 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

# 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**

# 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?**

# Enforcement and Compliance

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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 from 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](http://www.dol.gov) – posters are available for downloading

# Enforcement

- » **Payroll & Document Review**
- » **Employee Interviews**
- » **Additional Classifications/Conformances**

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.

NAME OF CONTRACTOR OR SUBCONTRACTOR ADDRESS OMB No.: 1235-0008  
Expires: 01/31/2015

PAYROLL NO.		FOR WEEK ENDING		PROJECT AND LOCATION			PROJECT OR CONTRACT NO.							
(1)	(2)	(3)	(4) DAY AND DATE			(5)	(6)	(7)	(8) DEDUCTIONS				(9)	
NAME AND INDIVIDUAL IDENTIFYING NUMBER (e.g., LAST FOUR DIGITS OF SOCIAL SECURITY NUMBER) OF WORKER	NO. OF WITHHOLDING EXEMPTIONS	WORK CLASSIFICATION	OT. DIST.	HOURS WORKED EACH DAY			TOTAL HOURS	RATE OF PAY	GROSS AMOUNT EARNED	FICA	WITH-HOLDING TAX	OTHER	TOTAL DEDUCTIONS	NET WAGES PAID FOR WEEK
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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 S3502, 200 Constitution Avenue, N.W. Washington, D.C. 20210

Date \_\_\_\_\_  
 \_\_\_\_\_  
 (Name of Signatory Party) \_\_\_\_\_ (Title)

do hereby state:

(1) That I pay or supervise the payment of the persons employed by \_\_\_\_\_ on the \_\_\_\_\_ (Contractor or Subcontractor); that during the payroll period commencing on the \_\_\_\_\_ (Building or Work); \_\_\_\_\_ 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 \_\_\_\_\_ from the full \_\_\_\_\_ (Contractor or Subcontractor)

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.

# Enforcement

- » **Establish enforceable procedures/processes**
  - Share with applicable entities
- » **Identify and document violations**
- » **Notify the contractor (in writing)**
- » **State date for completion**

# Enforcement

- » Investigate and resolve complaints
- » Look for payroll red flags
  - Mis-classifications
    - Apprentices
  - Laborers v. skilled workers
    - Cement mason/concrete finishers
    - Plumbers
  - No 40 hour work weeks

# 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**

## Employer Complaints

Employer

Project Number

Referred to HUD Labor Relations for investigation?

Referred to HUD Labor Relations for 5.11 hearing?

Referred to the Department of Labor(DOL) for investigation?

Referred to Department of Labor (DOL) for 5.11 hearing?

Number of workers for whom wage restitution was collected/disbursed:

Report only once: If you previously reported workers for whom restitution was collected, do not report the same workers when funds are disbursed. Include workers to whom restitution was paid directly by the employer.

Total amount of straight time wage restitution collected/disbursed during this period:

Report only once: If you report funds collected, do not report the disbursement. Include restitution amounts paid directly by the employer as reported on correction certified payrolls.

Total amount of CWHHSA overtime wage restitution collected/disbursed during this period:

Report only once: If you report funds collected, do not report the disbursement. Include restitution amounts paid directly by the employer as reported on correction certified payrolls.

Total amount of liquidated damages collected:

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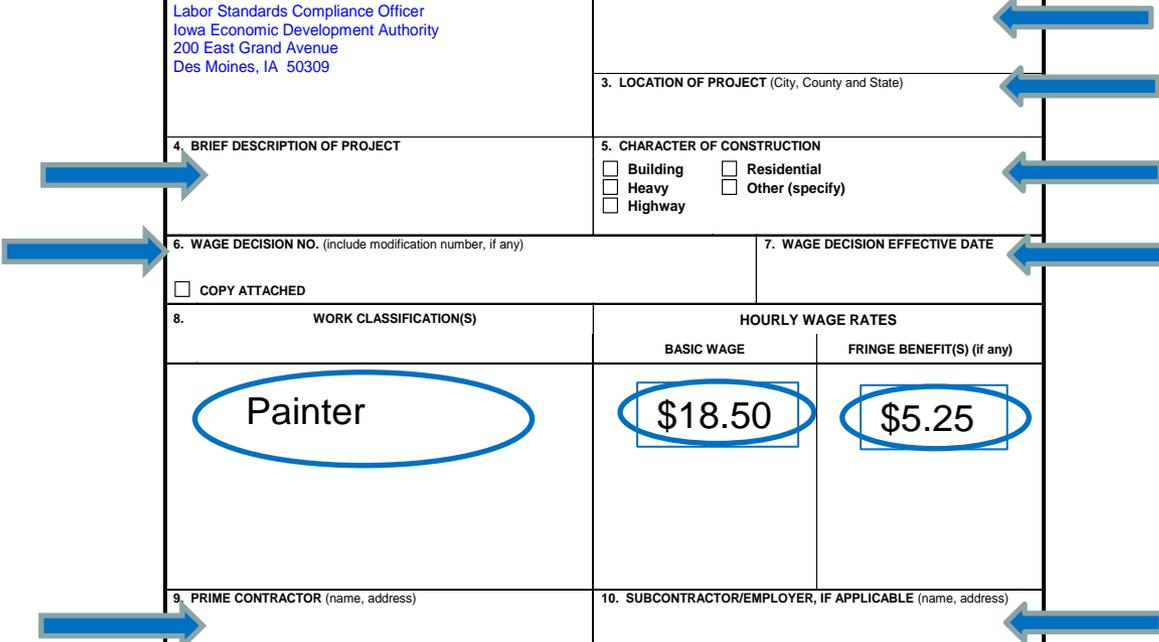
# Conformance / Additional Classifications

- » **This process not completed in IowaGrants 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

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT REPORT OF ADDITIONAL CLASSIFICATION AND RATE		HUD FORM 4230A OMB Approval Number 2501-0011 (Exp. 01/31/2010)
1. FROM (name and address of requesting agency) Labor Standards Compliance Officer Iowa Economic Development Authority 200 East Grand Avenue Des Moines, IA 50309		2. PROJECT NAME AND NUMBER
4. BRIEF DESCRIPTION OF PROJECT		3. LOCATION OF PROJECT (City, County and State)
5. CHARACTER OF CONSTRUCTION <input type="checkbox"/> Building <input type="checkbox"/> Residential <input type="checkbox"/> Heavy <input type="checkbox"/> Other (specify) <input type="checkbox"/> Highway		
6. WAGE DECISION NO. (include modification number, if any) <input type="checkbox"/> COPY ATTACHED		7. WAGE DECISION EFFECTIVE DATE
8. WORK CLASSIFICATION(S)	HOURLY WAGE RATES	
	BASIC WAGE	FRINGE BENEFIT(S) (if any)
Painter	\$18.50	\$5.25
9. PRIME CONTRACTOR (name, address)	10. SUBCONTRACTOR/EMPLOYER, IF APPLICABLE (name, address)	
<b>Check All That Apply:</b> <input type="checkbox"/> The work to be performed by the additional classification(s) is not performed by a classification in the applicable wage decision. <input type="checkbox"/> The proposed classification is utilized in the area by the construction industry. <input type="checkbox"/> The proposed wage rate(s), including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage decision. <input type="checkbox"/> The interested parties, including the employees or their authorized representatives, agree on the classification(s) and wage rate(s). <input type="checkbox"/> Supporting documentation attached, including applicable wage decision.		
<b>Check One:</b> <input type="checkbox"/> Approved, meets all criteria. DOL confirmation requested. <input type="checkbox"/> One or more classifications fail to meet all criteria as explained in agency referral. DOL decision requested.		
Dan Narber _____ Agency Representative (Typed name and signature)		FOR HUD USE ONLY LR2000:  Log in:  Log out:
_____ Date		515-725-3072 _____ Phone Number



# Recent changes

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

# Common Issues and Problem Areas

**IOWA**  
economic development

# Common Questions – Wage Rates

- » **Why are the rates so high?**
- » **Can a contractor appeal a DOL approved rate?**
- » **Where is the guidance for appealing a wage rate?**
- » **Why are major crafts/trades missing from wage decisions?**

# Common Questions

- » **How can a contractor estimate the labor costs when the trade / craft is not listed on the wage decision?**
- » **Why is the trade / craft “not” listed on the wage decision?**
- » **Why does the DOL restrict when to submit the conformance/request for additional classification?**

# 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)**

# 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**

# 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?

# 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

- » **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](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**

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**[dan.narber@iowa.gov](mailto:dan.narber@iowa.gov)**

# THANK YOU!