



pennsylvania

DEPARTMENT OF ENVIRONMENTAL PROTECTION

BUREAU OF CLEAN WATER

Davis-Bacon Wage Rate Requirement

What is Davis-Bacon?

The U.S. Environmental Protection Agency (EPA) appropriations bills for FY2010 and beyond included a Davis-Bacon Act requirement. The Davis-Bacon Act requires contractors and subcontractors to pay worker wages and fringe at rates not less than what is specified by the U.S. Department of Labor (DOL). The EPA requirement applies to recipients of over \$2,000 in construction, alteration and repair funding provided by states using Clean Water and Drinking Water State Revolving Fund (SRF) programs.

There is one exception. Davis-Bacon requirements do not apply to Non-Point Source (NPS) projects in the Clean Water SRF program because the appropriations bill limits the impact to the “construction of treatment works.” The requirement therefore applies to projects like wastewater treatment plants, and stormwater work required by Municipal Separate Storm Sewer System (MS4) permits, but it does not apply to Agricultural BMP’s, non-MS-4 Urban Stormwater, Abandoned Mine Drainage, or Brownfields.

Davis-Bacon labor standards clauses must be included in covered contracts. Contractors and subcontractors are required to pay covered workers weekly and submit weekly certified payroll records to the contracting agency. They are also required to post the applicable Davis-Bacon wage determination with the Davis-Bacon poster (WH-1321) on the job site in a prominent and accessible place where they can be easily seen by the workers.

The requirements apply to only “laborers and mechanics” as defined by DOL that work on the job site. See the DOL “Field Handbook” (http://www.dol.gov/whd/FOH/FOH_Ch15.pdf) for further explanation.

How Will a Funding Recipient Know if this Requirement Applies to a Project?

It is the responsibility of the Pennsylvania Department of Environmental Protection (Department) to implement the Davis-Bacon Wage Rate requirements as it applies to the recipients of funding provided by the Clean Water and Drinking Water State Revolving Fund (SRF) programs. These programs are administered in Pennsylvania by the Pennsylvania Infrastructure Investment Authority (PENNVEST). Davis-Bacon wage rate requirements do not apply to Non-Point Source (NPS) projects in the Clean Water SRF program. Only the drinking

water and wastewater projects that receive approved funding at the quarterly board meetings will be notified by the Department of the Davis-Bacon requirements.

What Does a Funding Recipient and/or Project Engineer Need to Do?

1. DOL Job Classifications: Prior to bidding, the funding recipient must prepare a list of the job classification that are expected to be used by contractors and subcontractors on the job. The project engineer is a valuable resource in helping to determine which job classifications will be used. The recipient then establishes the current required wage and fringe rates for each classification from the DOL at <http://www.wdol.gov/dba.aspx#0>. The archived wage rates can be found at <http://www.wdol.gov/archdba.aspx>.

The terminology used to describe job classifications on the DOL website does not always match what is used locally. For that reason funding recipients are encouraged to interpret the DOL classification as needed.

2. Additional DOL Job Classifications: If an additional DOL classification is needed that is not found in the DOL wage rates, form SF-308 or SF-1444 will need to get approval from the DOL for that classification to be added to the contract. If the additional classification is needed pre-award or pre-bidding fill out form SF-308 and submit to the DOL. If the contract has already been awarded fill out form SF-1444 and submit to the DOL. The standard form and supporting documentation should be submitted by email to: WHD-CBACONFORMANCE_INCOMING@dol.gov and the Department should be copied on the email at: RA-DavisBacon@pa.gov . The email to the DOL must be submitted by the government funding applicant as they are who the request is coming from.

Further questions on the additional DOL classification procedures can be answered by the DOL wage analyst whom may be found at:

<http://www.dol.gov/whd/govcontracts/stateassignments.htm>

3. Compliance Form: The recipient places the applicable DOL job classifications and the current wage fringe on DEP Form 3810-FM-BCW0471. The form is available at: <http://www.eibrary.dep.state.pa.us/dsweb/View/Collection-10693>. Instructions for filling out the form are included within the document. Some commonly made mistakes are not selecting the wage rates for the corresponding county that the work is being performed in. Another common mistake is not filling in the DOL General Decision Number column properly (e.g. PA140042 06/09/14 PA3). The column is formatted in a way to identify the wage rate form used with the type of construction being proposed and the date the rates were established.

The form is either emailed to DEP at RA-DavisBacon@pa.gov or hard copy mailed using the address on the form. DEP will promptly review the form and either approve it or specify changes which are needed.

The recipient included the approved rates and fringe in bidding documents for use by contractors in preparing bids.

The recipient is required to monitor the DOL website during the bidding period for changes to the rates and fringe. If changes occur more than 10 days before bid opening the recipient is required to modify the bidding documents (generally by issuing and “addendum” which specifies the changes to contractors which have requested bidding documents). It is not required that such changes be approved by DEP. The recipient must however retain all relevant records to be used in the event of an audit.

If the recipient does not award the contract within 90 days of bid opening the wage rates and fringe must be adjusted to reflect updated rates and fringe (if any) from the DOL website.

4. Application of Davis-Bacon Wage Rates by Change Order: Once the compliance form is approved any changes in rates or additional DOL classification(s) that will affect the original contract will need to be added through a change order. This can be done by filling out form 3810-FM-BCW0131. The form is available at: <http://www.elibrary.dep.state.pa.us/dsweb/View/Collection-12947>. Instructions to fill out the form are included within the document.
5. Posting Requirements: Workers must be informed about Davis-Bacon coverage during construction. The applicable Davis-Bacon wage determination with the Davis-Bacon poster (WH-1321) must be posted on the job site where it can be easily accessible and seen by the workers. See <http://www.dol.dog/whd/programs/dbra/faqs/page44.htm> for information on posting requirements. There are also federal requirements for the posting of your wage rates. The following is a DOL link with information on how to meet those requirements. <http://www.dol.gov/compliance/topics/posters.htm>
6. DOL Payroll Forms: During construction the recipient obtains completed DOL payroll forms from contractors and subcontractors. The form is available on the DOL website at: <http://www.dol.gov/whd/forms/wh347instr.htm>. The form is completed on a weekly basis and submitted by the recipient to PENNVEST with payment requests.
7. Davis-Bacon Interview Forms: Also during construction the recipient interviews a sample of workers to confirm that Davis-Bacon requirements are being satisfied. That work is documented using the “Davis-Bacon Interview Form” which is available on the GSA website at: <http://www.gsa.gov/portal/forms/download/115910>. The forms are

not required to be submitted. They must however be retained by the contractor in the event of an audit.

Recipients are encouraged to use the DOL Field Handbook to review how a wide variety of project-specific issues are resolved under Davis-Bacon.

What Approvals Does a Funding Recipient Need to Get?

The funding recipient will need to get approval from the Department for each Davis-Bacon Compliance Form 3810-FM-BCW0471 filled out, one per contract. In the event of application of Davis-Bacon wage rates by change order, the Department will need to approve the complete 3810-FM-BCW0131 form. If form SF-308 or SF-1444 are utilized they will need to get approval from the DOL for that classification to be added to the contract. The funding recipient is required to maintain a copy of the compliance form, Labor Standards Interview forms, DOL Payroll forms, and any other approvals and relevant records for seven (7) years after amortization of the loan in the event of an EPA or PENNVEST audit.

Additional Resources

PA DEP Davis-Bacon Compliance Form:

<http://www.elibrary.dep.state.pa.us/dsweb/View/Collection-10693>

PA DEP Davis-Bacon Wage Rates Change Order Form:

<http://www.elibrary.dep.state.pa.us/dsweb/View/Collection-12947>

SF-1444 Request for Wage Determination

<http://www.gsa.gov/portal/forms/download/115906> or;

<http://www.wdol.gov/docs/sf1444.pdf>

SF-308 Request for Wage Determination

<http://www.wdol.gov/docs/sf308x.pdf> or;

<http://www.dol.gov/whd/programs/dbra/docs/sf308x.pdf>

For more information on prevailing wage and wage determinations, visit the Prevailing Wage Resource Book:

<http://www.dol.gov/whd/recovery/pwrb/toc.htm>

Additional information on wage determinations and the conformance procedure can be found at:

<http://www.dol.gov/whd/recovery/>

<http://www.dol.gov/whd/recovery/dbsurvey/conformance.htm>

http://www.wdol.gov/db_confmnce.aspx

<http://www.wdol.gov/usrguide/sectionc.aspx>

<http://www.wdol.gov/library.aspx>