



Davis-Bacon and Related Acts

Anti-Retaliation



WAGE AND HOUR DIVISION
UNITED STATES DEPARTMENT OF LABOR

dol.gov/agencies/whd
1-866-4-US-WAGE

Introduction

- The Wage and Hour Division (WHD) is responsible for administering and enforcing several federal laws involving labor standards including:
 - The Davis-Bacon and Related Acts (DBRA);
 - The McNamara – O’Hara Service Contracts Act (SCA);
 - Executive Orders applicable to federal contractors;
 - The Fair Labor Standards Act (FLSA);
 - Family Medical Leave Act (FMLA)
- The DBRA applies to contractors and subcontractors performing on federally funded or assisted contracts in excess of \$2,000 for construction, alteration, or repair.
 - Covered contractors and subcontractors must pay their laborers and mechanics working under the contract no less than the locally prevailing wages and fringe benefits for corresponding work on similar projects in the area.

Anti-Retaliation Provisions

- Intended to discourage contractors, responsible officers, and any other persons from engaging in – or causing others to engage in – unscrupulous business practices that may chill worker participation in WHD investigations or other compliance actions and enable prevailing wage violations to go undetected.

Protected Activities

- Workers or job applicants are protected from being retaliated against for the following activities:
 - Making a contractor aware of any conduct the worker reasonably believes is a violation
 - Asserting DBRA rights on behalf of themselves or others, such as filing a complaint
 - Cooperating in an investigation or other compliance action
 - Informing another person of their rights under the DBRA

Prohibited Actions

- It is unlawful for any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, or to cause any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, any worker or job applicant for engaging in protected activities.

Example – Is This Retaliation?

- George works as a roofer for a local roofing contractor and contacts WHD confidentially to inquire about prevailing wages for work performed on a DBRA contract. George tells another roofer what he learned from WHD and his co-worker told one of the laborers. Later that day, their supervisor overhears two roofers talking about the call and terminates George's employment.

Example - Retaliation

- In this scenario, terminating George's employment because he contacted WHD (or was suspected of contacting WHD) is prohibited.
- WHD would seek appropriate remedies, including but not limited to reinstatement, lost wages, compensatory damages.

Retaliation Remedies

- Make-whole relief and remedial actions under the anti-retaliation provisions are intended to restore the affected worker to the economic and work status the worker would have occupied had the violation never occurred.

Potential Retaliation Remedies

- Back pay and benefits denied or lost
- Other actual monetary losses sustained as a result of the violation
- Interest on back pay or other monetary relief from date of the loss
- Restoration of prior conditions and privileges of the worker's employment or former employment
- Removal of warnings, reprimands, or derogatory references
- The provision of a neutral employment reference
- Debarment

Debarment

- Contractors can be debarred for retaliation against workers OR applicants.
- The standard for debarment for retaliation is the same as for other DBRA violations – a disregard of obligations.

Internet Sites

- Wage Determinations: <https://sam.gov>
- Wage and Hour Division: <http://www.dol.gov/agencies/whd/government-contracts>
- WHD Protections for Workers in Construction under the Bipartisan Infrastructure Law: <https://www.dol.gov/agencies/whd/government-contracts/protections-for-workers-in-construction>
- Resource Book: <http://www.dol.gov/agencies/whd/prevaling-wage-resource-book>
- Office of the Administrative Law Judges Law Library: <https://www.dol.gov/agencies/oalj/topics/libraries/LIBDBA>
- Prevailing Wage Topic videos: <https://www.dol.gov/agencies/whd/government-contracts/construction/presentations>

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