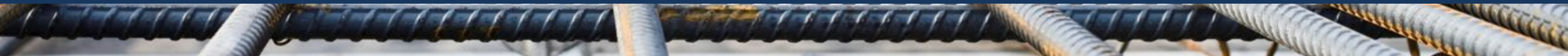




Davis-Bacon and Related Acts

What Am I Supposed to Do With All of These Certified Payrolls?



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 Contract Act (SCA);
 - Executive Orders applicable to federal contractors;
 - The Fair Labor Standards Act (FLSA);
 - Family Medical Leave Act (FMLA).

Davis-Bacon and Related Acts

- The DBRA applies to contractors and subcontractors performing on federal or federally assisted contracts in excess of \$2,000 for construction, alteration, or repair.
- Covered contractors and subcontractors must pay their laborers and mechanics working on the site of work no less than the locally prevailing wages and fringe benefits for corresponding work on similar projects in the area.

Prime Contractor

- The prime contractor is responsible for the compliance by any subcontractor or lower tier subcontractor with all the DBRA contract clauses.
- Prime contractors must include the Davis-Bacon labor standards clauses in any subcontract as well as a clause requiring subcontractors to include these clauses in any lower tier subcontracts.
- Prime contractors are responsible for the submission of the certified payrolls to the contracting agency, including certified payrolls for all subcontractors on the project.

Prime Contractors and Certified Payroll

Prime contractors should review certified payrolls submitted by all tiers of subcontractors to ensure:

- Workers are correctly classified according to work actually being performed
- Workers are paid the applicable prevailing wages and fringe benefits as per the wage determination
- Workers are paid for all hours worked, including time and a half the base hourly rate (BHR) after 40 hours
- The CPRs include all the information required by 29 CFR 5.5(a)(3)
- Each CPR has the required “Statement of Compliance” completed

Who Should be on the Certified Payroll?

- Laborers and mechanics, including apprentices, regardless of contractual relationship
- Working Forepersons

Who Should NOT be on the Certified Payroll?

- Anyone who meets the exemption criteria under 29 CFR 541: Bona Fide executive, administrative, and professional employees, and business owners as defined under FLSA.
 - Administrative employees such as billing clerks or administrative assistants
 - Supervisors who do not spend more than 20% of their time during a workweek performing laborer or mechanic duties

Common Violations

- Misclassification of Laborers and Mechanics
- Failure to pay full prevailing wage, including fringe benefits, for all hours worked
- Inadequate recordkeeping
- Failure to maintain a copy of the bona fide apprenticeship program and individual registration documents for apprentices
- Failure to submit certified payrolls weekly
- Failure to display the Davis-Bacon poster and applicable wage determination

How to Identify Potential Violations

- Diligent oversight of subcontractors of all tiers will greatly reduce the potential for violations to occur
 - Compare certified payroll reports to daily reports, sign-in sheets or progress reports
 - Compare certified payroll reports to subcontractor's scope of work (e.g., certified payroll lists laborers, but the subcontractor's scope of work involves skilled work)

Why Should I Monitor My Subcontractors?

- The prime contractor is responsible for the compliance of its subcontractor(s), including lower tiers
- If the subcontractor owes back wages and is either unable or unwilling to make payment, the prime contractor will be held financially responsible. This can result in contract funds being withheld in an amount equal to the estimated wage underpayment and possibly debarment.

Signing Certified Payrolls

- Certified payrolls must be signed with an original handwritten signature or a legally valid electronic signature.
- Valid electronic signatures include any electronic process that indicates acceptance of the certified payroll record and includes an electronic method of verifying the signer's identity.

Placeholder for Sample Certified Payroll

- Placeholder – during video, presenter will pull up the sample WH-347 and walk through.

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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