



Davis-Bacon and Related Acts

Who Actually Gets Paid Prevailing Wage Rates Anyway?



WAGE AND HOUR DIVISION
UNITED STATES DEPARTMENT OF LABOR

dol.gov/agencies/whd
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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.

Laborers and Mechanics

- The Davis-Bacon Act (DBA) and the Davis-Bacon Related Acts (Related Acts) require the payment of prevailing wage rates to laborers and mechanics working on covered construction projects.
- Laborers and Mechanics
 - Include Apprentices and Helpers
 - Include Guards and Watchpersons for CWHSSA purposes

Laborers and Mechanics – Examples

- Bricklayers
 - Carpenters
 - Electricians
 - Ironworkers
 - Laborers
 - Plumbers
- Plumbers
 - Operators – Power Equipment
 - Traffic Control (including Flaggers)
 - Truck Drivers

Who are Laborers and Mechanics?

- Workers whose duties are manual or physical in nature
- Applies to any individual who performs laborer or mechanic duties, regardless of any alleged contractual relationship
- No employment relationship required – independent contractors usually should receive prevailing wages

Duties are Manual or Physical in Nature

- Because the term laborers and mechanics includes those workers whose duties are manual or physical in nature, it does *not* include:
 - Timekeepers, inspectors, architects, engineers
 - Bona fide executive, administrative, and professional employees as defined under Fair Labor Standards Act (FLSA) and 29 CFR part 541

What About Business Owners?

- Business owners are excluded from the term “laborers and mechanics” when they
 - Own at least a 20% equity interest in the company in which they are employed, **and**
 - Are actively engaged in its management
- Management includes activities such as hiring and overseeing employees, planning and controlling the budget, monitoring or implementing legal compliance measures, etc.

What About Working Supervisors?

- A working supervisor is generally *not* an exempt employee under the FLSA and 29 CFR part 541
 - Working supervisors who devote more than 20% of their workweek to laborer or mechanic duties are considered laborers and mechanics for that work.
 - These workers must be paid the applicable Davis-Bacon (DB) prevailing wage rate for the classification of work performed if they are not 541 exempt.

Who is an Apprentice?

- An apprentice is a person who is
 - Individually registered in a bona fide apprenticeship program registered with DOL's Employment Training Administration (ETA), Office of Apprenticeship (OA), or a State Apprenticeship Agency recognized by OA, **or**
 - An individual in their first 90 days of probationary employment as an apprentice in such a program, provided certain requirements are met.

Bona Fide Apprentices

- Bona fide apprentices are permitted to work on DB covered projects and be paid less than the journey level WD rate for the classification of work performed when they are employed in accordance with the terms of the applicable apprenticeship program.
- However, apprentices must be paid the full prevailing wage rate for the classification of work performed if they are not individually registered in and employed pursuant to the terms of a bona fide apprenticeship program.

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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