

# Davis Bacon

## LABOR RELATIONS PROCESS

Grantees receiving funding agree to administer and enforce Davis-Bacon requirements as a condition for receiving HUD program assistance. They have responsibilities to designate appropriate staff to ensure compliance with applicable labor standards requirements, establish a construction contract management system, ensure that all contracts contain Federal labor standards provisions, ensure that contractors are eligible, conduct on-site inspections, review payroll reports and maintain full documentation of Federal labor standards enforcement activities.

Labor standard administration involves the activities that take place primarily before construction begins. Enforcement activities occur during the construction stage.

Most HUD -assisted construction work is covered by Davis-Bacon but there are some exceptions. The best approach is whenever a contract or construction activity involves construction work that is valued in excess of \$2,000 to assume that Davis-Bacon requirements will be applicable. Labor standards also apply to the rehabilitation of residential property only if it is more than 8 units.

If Community Development Block Grant funds finance only a portion of a construction project, labor standards are applicable to the entire construction work. Labor standards provisions apply to all laborers and mechanics employed by contractors and subcontractors.

When a grantee decides to conduct an activity that involves construction and Davis-Bacon requirements apply, the grantee should follow the following steps:

1. Grantee advertises for bids and includes wage decision obtained from the U.S. Government Printing Office or the Department of Labor
2. Bids are opened
3. Grantee checks to ensure that contractor is not debarred from Federal-assisted work by checking the Excluded Parties List System.
4. Contract is awarded with wage decision and HUD-4010 incorporated in the contract.
5. Preconstruction conference is held with sub recipient and/or construction firm.
6. Construction starts.
7. Grantee must monitor Certified Payroll Reports and conduct worker interviews.
8. Grantee must retain 5% of contract amount until all complaints or issues are resolved.

There are three lock-in dates. They are the dates of bid opening, contract award, and construction start. A wage decision is requested at each of these dates. The wage decision is included in the request for bids, the bid award, and the construction contract. If 90 days have past since the wage decision was requested, a modification must be made and a new wage decisions requested. Reference to the wage decision must be made on the signature page and incorporated into the construction contract.

Grantees must obtain a statement signed by construction workers authorizing deductions from checks for union dues, health insurance, pensions, child support, and other fringe benefits. Authorization is not required for state and federal income taxes and social security taxes.

The contractor is required to display on the job site a copy of the applicable Davis-Bacon wage decision and the form WH-1321, Notice to Employees. The Notice to employees must have listed the name and telephone number of a person to contact to report violations of the Davis-Bacon requirements. HUD has also prepared a pamphlet explaining the rights of workers to be paid prevailing wages, which may be made available to laborers and mechanics on the job site.

In addition, grantees should organize files containing the required documentation. Files should have a checklist of critical elements regarding wage decisions, contractor eligibility, deduction certifications, payroll data, interview information, etc. It is also recommended that grantees prepare a wage rate sheet and use it when monitoring payroll data.

Additional information may be obtained by referring to the Labor Relations Desk Guide. This publication with the title Making Davis-Bacon Work has basic information on labor standards objectives, responsibilities, and requirements. Other desk guides are replacing in parts the HUD Handbook 1344.1, Federal Labor Standards in HUD Programs and HUD's Contractor's Guide to Davis-Bacon. These Guides are available at the HUD Labor Relations Library.

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