

The Davis-Bacon Act

Whether it's the construction of a new highway interchange or the renovation of an old municipal building, government-funded projects can be very desirable to contractors. But before you begin work there are some special regulations that you will need to be aware of to ensure that your project runs smoothly.

The Davis-Bacon Act covers all contractors and subcontractors working on federally funded or assisted contracts over \$2,000. It applies to all construction, alteration or repair of public buildings or works. The Act requires that contractors pay their laborers and mechanics working on the project at least the local prevailing wage and fringe benefits received by those doing similar work in the area.

Local Prevailing Wage

To determine the prevailing wage rates the U.S. Department of Labor (DOL) conducts surveys in the individual counties of each state every three years. The surveys target a random sampling of contractors in four classes of construction: building, heavy, highway and residential. For each location and construction type the survey finds the average wage and fringe benefits paid to various classes of laborers that are usually involved in construction projects.

When the survey results are compiled. The average wage and benefits becomes the minimum wage and benefits that contractors must provide to their employees while working on government-funded projects.

Who Receives Davis-Bacon Wages?

The Act states that "laborers and mechanics" on the "site

of work" must be paid at the local prevailing wage. Understanding what is meant by these terms is essential to staying in compliance with the Act.

The Davis-Bacon Act provides regulated minimum wage and benefit rates to all laborers and mechanics working on federally funded or assisted contracts.

According to the Act, laborers and mechanics are anyone "whose duties are manual or physical in nature (including those workers who use tools or who are performing the work of a trade), as distinguished from mental or managerial" work. This definition also includes any apprentices, trainees or helpers and, in the cases when they are needed, site security guards or watchmen. Those not included as laborers or mechanics are those whose tasks are primarily administrative, executive or clerical.

Working foremen that spend at least 20 percent of their time each week performing mechanical or manual duties are considered laborers for the time they spend doing such work. The rest of the time they are considered to be in an administrative position and not subject to the Act's payment requirements.

Those who fit the definition of laborers and mechanics fall under the Act when performing duties on the "site of work." The Act defines this as "the physical place or

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places where the building or work called for in the contract will remain; and any other site where a significant portion of the building or work is constructed, provided that such site is established specifically for the performance of the contract or project." This means that the provisions of the Act are only in effect when the applicable workers are on the primary location of the construction or any other site that was created especially to aid with the construction at the primary site. If work is done at a location that does not fall under this definition of a "site of work," then the Act does not apply.

Recordkeeping

Employees who are covered by the Act must be paid weekly. To ensure they adhere to the requirements of the Act employers must keep and submit weekly, detailed payroll records for the employees that work on applicable projects. These records, which the employer needs to keep on file for three years, must include:

- Name, address and social security number of each employee;
- Each employee's work classifications;
- Hourly rates of pay, including rates of contributions or costs anticipated for fringe benefits or their cash equivalents;
- Daily and weekly numbers of hours worked;
- Deductions made;
- Actual wages paid;
- If applicable, detailed information regarding various fringe benefit plans and programs, including records that show that the plan or program has been communicated in writing to the laborers and mechanics affected; and
- If applicable, detailed information regarding approved apprenticeship or trainee programs.

To easily manage this information, the DOL has provided an optional worksheet, Form WH-347, which is available on its website at www.dol.gov. While you can use your own system for recordkeeping, using this form is an easy way to keep in compliance.