

## Vendors awarded contracts under Federal funds

A grantee's and sub-grantee's contracts must contain certain provisions. Federal agencies are permitted to require changes, remedies, changed conditions, access and records retention, suspension of work, and other clauses approved by the Office of Federal Procurement Policy to include, but not limited, to those below.

1. Administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as may be appropriate (contracts more than the simplified acquisition threshold).
2. Termination for cause and for convenience by the grantee or sub-grantee including the manner by which it will be effected and the basis for settlement (all contracts in excess of \$10,000).
3. Compliance with Executive Order 11246 of September 24, 1965, entitled "Equal Employment Opportunity," as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor Regulations 41 CFR Chapter 60 (all construction contracts awarded in excess of \$10,000 by grantees and their contractors or sub-grantees).
4. Compliance with the Copeland "Anti-Kickback" Act, 18 U.S.C. 874, as supplemented in Department of Labor Regulations, 29 CFR Part 3 (all contracts and sub-grants for construction or repair).
5. Compliance with the Davis-Bacon Act, (40 U.S.C. 3141-3144 & 3146-3148) as supplemented by Department of Labor Regulations, 29 CFR Part 5 (construction contracts in excess of \$2,000 awarded by grantees and sub-grantees when required by Federal grant legislation).
6. Compliance with Contract Work Hours and Safety Standard Act, 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor Regulations, 29 CFR Part 5 (construction contracts awarded by grantees and sub-grantees in excess of \$2,000, and in excess of \$2,500 for other contracts which involve the employment of mechanics or laborers).
7. Notice of awarding agency requirements and regulations pertaining to reporting.
8. Notice of awarding agency requirements and regulations pertaining to patent rights with respect to any discovery or invention which arises or is developed in the course of or under such contract (37 CFR Part 401).
9. Awarding agency requirements and regulations pertaining to copyrights and rights in data.
10. Access by the grantee, the sub-grantee, the Federal grantor agency, the Comptroller General of the United States, or any of their duly authorized representatives to any books, documents, papers and records of the contractor which are directly pertinent to that specific contract for the purpose of making audit, examination, excerpts, and transcriptions.
11. Retention of all required records for five (5) years after grantees or sub-grantees make final payments and all other pending matters are closed.
12. If over \$150,000, compliance with all applicable standards, orders, or requirements issued under the Clean Air Act (42 U.S.C. 7401-7671q), Federal Water Pollution Control Act (33 U.S.C. 1251-1387). Violators must be reported to Federal awarding agency and EPA.
13. Mandatory standards and policies relating to energy efficiency which are contained in the State Energy Conservation Plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. 6201).
14. If over \$25,000, prospective bidder certifies by submission and signature of this bid that the bidder complies fully with the Federal Debarment Certification regarding debarment, suspension, ineligibility and voluntary exclusion as required by Executive Order 12549. If unable to certify such, attach explanation to bid.
15. Provisions of the National School Lunch Program and Buy American Act (7 CFR Part 210.21(d)).
16. Drug free workplace (7 CFR Part 3017, Subpart F, Section 3017-600).
17. Retention requirements for records (2 CFR 200.318(i))
18. Discounts, rebates and credits shall be credited to Federal agency's account.
19. Prohibition of gratuities. By submission of a bid, vendor certifies that no employee of grantee/sub-grantee has or shall benefit financially or materially from such bid or subsequent contract. Any resultant contract as a result of such bid, can be terminated.
20. If over \$100,000, vendor certifies that it (and its subcontractors/sub-vendors through separate certification) will not and has not used Federal funds to pay any person/organization for attempting to influence an agency officer/employee, Congress member/employee in attempting to obtain any Federal contract, grant or other award (Byrd Anti-Lobbying Amendment).
21. Vendor certifies that bid prices have been arrived at independently with consultation, communication or agreement for purposes of restricting competition.

22. If over \$10,000, complies with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act (40 CFR part 247).

23. Protest procedures per Section 120, Florida Statutes.

Revision, 11/15/16, gh

## Davis-Bacon Contract Provisions and Related Matters

(a) The Agency head shall cause or require the contracting officer to insert in full in any contract in excess of \$2,000 which is entered into for the actual construction, alteration and/or repair, including painting and decorating, of a public building or public work, or building or work financed in whole or in part from Federal funds or in accordance with guarantees of a Federal agency or financed from funds obtained by pledge of any contract of a Federal agency to make a loan, grant or annual contribution (except where a different meaning is expressly indicated), and which is subject to the labor standards provisions of any of the acts listed in §5.1, the following clauses (or any modifications thereof to meet the particular needs of the agency, *Provided*, That such modifications are first approved by the Department of Labor):

(1) *Minimum wages.* (i) All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (a)(1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in §5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: *Provided*, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph (a)(1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

(ii)(A) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

( 1 ) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

( 2 ) The classification is utilized in the area by the construction industry; and

( 3 ) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(ii) (B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, *Provided*, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

(2) *Withholding.* The *Charlotte County Public School Board* shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), all or part of the wages required by the contract, the (Agency) may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

(3) *Payrolls and basic records.* (i) Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project). Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(ii)(A) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to *The Charlotte County Public School Board* if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant, sponsor, or owner, as the case may be, for transmission to the *Granting Agency*. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social

security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee ( e.g. , the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to *The Charlotte County Public School Board* if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit them to the applicant, sponsor, or owner, as the case may be, for transmission to the *Granting Agency*, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the sponsoring government agency (or the applicant, sponsor, or owner).

(B) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

( 1 ) That the payroll for the payroll period contains the information required to be provided under §5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under §5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;

( 2 ) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;

( 3 ) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (a)(3)(ii)(B) of this section.

(D) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

(iii) The contractor or subcontractor shall make the records required under paragraph (a)(3)(i) of this section available for inspection, copying, or transcription by authorized representatives of *The Charlotte County Public School Board* or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the Federal agency may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

(4) *Apprentices and trainees* —(i) *Apprentices*. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or

otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) *Trainees.* Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) *Equal employment opportunity.* The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246.

(5) *Compliance with Copeland Act requirements.* The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

(6) *Subcontracts.* The contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as *The Charlotte County School Board* may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

(7) *Contract termination: debarment.* A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

(8) *Compliance with Davis-Bacon and Related Act requirements.* All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

(9) *Disputes concerning labor standards.* Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

(10) *Certification of eligibility.* (i) By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

(b) *Contract Work Hours and Safety Standards Act.* The Agency Head shall cause or require the contracting officer to insert the following clauses set forth in paragraphs (b)(1), (2), (3), and (4) of this section in full in any contract in an amount in excess of \$100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by §5.5(a) or 4.6 of part 4 of this title. As used in this paragraph, the terms *laborers* and *mechanics* include watchmen and guards.

(1) *Overtime requirements.* No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(2) *Violation; liability for unpaid wages; liquidated damages.* In the event of any violation of the clause set forth in paragraph (b)(1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (b)(1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (b)(1) of this section.

(3) *Withholding for unpaid wages and liquidated damages.* The Charlotte County School Board shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (b)(2) of this section.

(4) *Subcontracts.* The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (b)(1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (b)(1) through (4) of this section.

(c) In addition to the clauses contained in paragraph (b), in any contract subject only to the Contract Work Hours and Safety Standards Act and not to any of the other statutes cited in §5.1, the Agency Head shall cause or require the contracting officer to insert a clause requiring that the contractor or subcontractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three years from the completion of the contract for all laborers and mechanics, including guards

and watchmen, working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. Further, the Agency Head shall cause or require the contracting officer to insert in any such contract a clause providing that the records to be maintained under this paragraph shall be made available by the contractor or subcontractor for inspection, copying, or transcription by authorized representatives of *The Charlotte County School Board* and the Department of Labor, and the contractor or subcontractor will permit such representatives to interview employees during working hours on the job.

(The information collection, recordkeeping, and reporting requirements contained in the following paragraphs of this section were approved by the Office of Management and Budget:

| Paragraph     | OMB Control Number |
|---------------|--------------------|
| (a)(1)(ii)(B) | 1215-0140          |
| (a)(1)(ii)(C) | 1215-0140          |
| (a)(1)(iv)    | 1215-0140          |
| (a)(3)(i)     | 1215-0140,         |
|               | 1215-0017          |
| (a)(3)(ii)(A) | 1215-0149          |
| (c)           | 1215-0140,         |
|               | 1215-0017          |

[48 FR 19540, Apr. 29, 1983, as amended at 51 FR 12265, Apr. 9, 1986; 55 FR 50150, Dec. 4, 1990; 57 FR 28776, June 26, 1992; 58 FR 58955, Nov. 5, 1993; 61 FR 40716, Aug. 5, 1996; 65 FR 69693, Nov. 20, 2000; 73 FR 77511, Dec. 19, 2008]

**Effective Date Note:** At 58 FR 58955, Nov. 5, 1993, §5.5 was amended by suspending paragraph (a)(1)(ii) indefinitely.

#### **14. What are the Contracting Agency Responsibilities when accessing SCA Wage Determinations?**

Contracting Offices are to follow the procedures set forth below:

- a. The contracting office will obtain the appropriate SCA WD by accessing the WDOL SCA Database prior to the issuance of a solicitation (IFB or RFP), exercise of option, contract extension, or contract modification.
- b. The contracting office will monitor the SCA Database to determine if an applicable WD has been revised. Wage determinations will be considered received by the Federal Agency on the date of their publication in the NTIS Database. The provisions of [29 CFR 4.5\(a\)\(2\)](#) shall be followed to determine whether a revised WD must be included in the solicitation and subsequent contract. Thus,
  1. For contracts which are the result of sealed bidding procedures, revisions to the WD which are published in the WDOL SCA Database 10 or more days prior to bid opening shall be effective. Any revised WD which is published in the WDOL SCA Database less than 10 days prior to bid opening shall not be effective if the contracting office determines that there is not a reasonable time still available to notify bidders of the revision.
  2. For contracts which are the result of other than sealed bidding procedures, any revision to a WD that is published in the WDOL SCA Database prior to the date of award (or the date of a specified modification having the effect of a new award) shall be effective. Any revision to a WD that is in the WDOL SCA Database after the date of award shall not be effective provided that contract performance commences within 30 days of the award date. If contract performance commences more than 30 days after award (or the specified modification), any revised WD published in the WDOL SCA Database at least 10 days prior to commencement of the work shall be effective and applicable to the contract.
- c. If it is discovered that the most current, applicable wage determination (i.e., covering the appropriate locality, occupations, type of service and fringe benefit level for the service to be performed) contained in the WDOL SCA Database system was not included in the contract, the agency is required to incorporate the applicable wage determination in the contract as provided by [29 CFR 4.5\(c\)\(2\)](#), [29 CFR 4.101\(b\)](#) and [FAR 22.1015](#). Therefore, the presence of a wage determination on the WD database does not determine the applicable WD for any specific contract. *Only* those wage determinations placed into the contract at award or by modification are controlling.

Ref: <http://www.wdol.gov/faqs.aspx#Q14>

DBA WDs Contracting officers and other interested parties may obtain current, official DBA General Wage Decisions (DBA WDs) from the WDOL.GOV Program.

- a. Under the WDOL Program, DOL will publish all DBA WD revisions for a given week on the WDOL.GOV Program database each Friday. The WDOL.GOV Program will also provide a notice to users of pending revisions to be listed on the next scheduled publishing date (Friday). The pending revisions are found at "DBA WDs to Be Revised Next Friday". The WDOL.GOV Program will also provide a notice to users of pending revisions to be listed on the next scheduled publishing date (Friday). The pending revisions are found at "DBA WDs to Be Revised Next Friday".

- b. DOL issues DBA WDs reflecting prevailing wages and benefits paid by the construction industry within specific localities. The DBA WDs are further classified by the nature of the construction projects performed, specifically listed as "schedules": residential, building, highway, and heavy construction. A brief outline of the definitions for each schedule is listed below. Further details and examples may be found in DOL's "All Agency Memorandum No. 130 and 131" issued in 1978 (reference the WDOL Library Page).
- o Building Construction. Includes construction of sheltered enclosures with walk-in access for the purpose of housing persons, machinery, equipment or supplies; all construction of such structures; the installation of utilities and of equipment, both above and below grade levels; as well as incidental grading, utilities and paving. Such structures need not be "habitable" to be building construction. Also, the installation of heavy machinery and/or equipment does not generally change the project's character as a building.
  - o Heavy Construction. Includes those projects that are not properly classified as either "building," "highway," or "residential." Unlike these classifications, heavy construction is not a homogenous classification. Because of this catch-all nature, projects within the heavy classification may sometimes be distinguished on the basis of their particular project characteristics, and separate schedules may be issued for dredging projects, water and sewer line projects, dams, major bridges, and flood control projects.
  - o Highway Construction. Includes construction, alteration or repair of roads, streets, highways, runways, taxiways, alleys, trails, paths, parking areas, and other similar projects not incidental to building or heavy construction.
  - o Residential Construction. Includes the construction, alteration or repair of single-family houses, apartment buildings of no more than four stories in height. This includes all incidental items such as site work, parking areas, utilities, streets, and sidewalks.
  - o Some contracts or projects may require more than one general schedule to be included depending on the nature and extent of the work. This is described in more detail in DOL's All Agency Memo No. 131. The contracting agency should provide designate the work to which each wage determination or part thereof applies per FAR 22.404-2.
- c. There may be rare circumstances where the general schedule wage determination does not contain the principal work classification necessary for contract performance. In that situation a project wage determination may be requested from Department of Labor by submittal of an SF-308 or other request that contains the same information. In such cases the Contracting Officer should follow the instruction in FAR 22.404-3.
- d. The contracting officer must monitor the WDOL.GOV Program DBA database regularly to determine if a selected WD has been revised prior to the expiration of the "effective date" for that particular contract action.
- e. DBA WD Numbering System within WDOL.gov. DBA WDs are generally numbered by DOL in the following format: a current WD applicable to Virginia is numbered "VA030001" (showing the two-letter state abbreviation (VA), the latest year of publication (03), and the sequential number assigned to the particular WD (0001)). In

using the WDOL.gov menus for "Selecting DB WDs" or selecting "Archived DB WDs", the user must use the DBA WD short-number for each WD. The format will be as follows: for VA030001 the short-number is "VA1"; for MD030114, the short-number is "MD114". In "Selecting DBA WDs, the user may also select a WD without the number by completing the menu for other selection criteria (state, county, type of construction).

- f. WDOL.GOV ALERT SYSTEM. To ensure that the contracting officer (or other interested party) is aware of revisions made by DOL to DBA WDs selected for a specific contract action, the WDOL.GOV user may register for automatic email notification of such revisions. Upon selection of an appropriate DBA WD, the user will be offered the opportunity to request email notice of future revisions for a specific period of time, or until a specific date. Contracting officers are encouraged to request this automatic notification process in order to be aware of timely revisions applicable to contract actions.
1. At the Alert Service menu, the user will be asked to provide an email address for the WDOL.gov to use in providing notification of a revision to a WD. The user may also provide an "alert identifier" which will appear in the WDOL.gov notification and will assist the user in relating the newly revised WD to a specific contract or solicitation, or other area of interest.
  2. Users requesting the Alert Service will receive an email notice each time the selected DBA WD is revised until the Alert Service request expires. CAUTION: The Alert Service does not relieve the contracting officer of the obligation under DBA and its regulations to use timely received new or revised DB WDs in contract actions.

Archived DBA WDs. Once DOL revises a DBA WD, the most current revision will be published on the WDOL.GOV database. Prior revisions, no longer current, will be maintained in the "Archived DBA WD" database for information purposes only. Contracting officers should not use an archived WD in a contract action without prior approval of DOL. Contact DOL at Telephone no. 866-487-9423.

Ref: Wage determination, construction types  
<http://www.wdol.gov/usrguide/sectionc.aspx>