

Davis-Bacon and
the Related Acts
(DBRA)



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HUD's Role

Davis-Bacon Act Enforcement

Ensure	Ensure Local Contracting Agencies (LCAs) apply DBRA requirements properly
Support	Support labor standards compliance
Monitor	Monitor LCA performance
Train	Train LCAs

KEY TERM

DEFINITION

Davis-Bacon Act (DBA)

The Davis-Bacon Act requires the payment of prevailing wage rates to all laborers and mechanics on Federal government construction projects in excess of \$2,000.

Contract Work Hours and Safety Standards Act (CWHSSA)

CWHSSA requires time and one-half pay for overtime (O/T) hours (over 40 in any workweek) worked on covered projects.

The Copeland Act aka Anti-Kickback Act

Makes it a Federal crime for anyone to require any laborer or mechanic (employed on a Federal or Federally-assisted project) to kickback (i.e., give up or pay back) any part of their wages. It requires every employer (contractors and subcontractors) to submit weekly certified payroll reports (CPRs) and regulates permissible payroll deductions.

Fair Labor Standards Act (FLSA)

Applies to any Labor performed – child labor requirements, overtime, federal minimum wage rates

U.S. Housing Act of 1937, as amended, Section 12(a)

....not less than the wages prevailing in the locality, as determined or adopted...by the Secretary, shall be paid to...all maintenance laborers and mechanics employed in the operation of the low-income housing project involved...

Public Housing - DBRA Applicability

For properties subject to a conventional Annual Contributions Contract, construction, rehabilitation, and maintenance work are covered by some type of prevailing wage to all maintenance laborers and mechanics engaged in the operation of low-income housing projects (Section 12(a) of the US Housing Act of 1937).

[Agency-Contractor Guides](#)

- (1) Davis-Bacon - DB rates apply to public housing “development.”
- (2) HUD Wage Rates - HUD-determined prevailing wages apply to public housing maintenance work (including contracted routine maintenance and “non-routine” maintenance, as defined in Modernization regulations in §968.105).
- (3) Force Account - DB and HUD wage rates apply to PHA employees (“force account” workers) as well as to contractor employees.
- (4) Threshold: No unit threshold for DB or HUD wage rate applicability to public housing. DB dollar threshold at \$2,000; \$2,000 dollar threshold for maintenance contracts.

Routine Maintenance Labor Relations Letter 93-01



Work that involves the regular upkeep and preservation of buildings, grounds, and facilities



Routine maintenance wage rates are determined or adopted by HUD



Agencies collect local wage data (Collective Bargaining Agreement, wage surveys) and submit HUD 4750 to DBLS biennially. [HUD4750](#)



DBLS reviews and works with HA to determine the Maintenance Wage Rate Determination; renewed biennially.



A HUD 52158 is issued for all work classifications (force account and anticipated contracts)

Sample 52158

Maintenance Wage Rate Decision	U.S. Department of Housing and Urban Development Office of Labor Relations		HUD FORM 52158 (06/2006)
Agency Name: Any City HRA Some Street Some Beach, MN 50000	LR 2000 Agency ID No: MN0000	Wage Decision Type: <input checked="" type="checkbox"/> Routine Maintenance <input type="checkbox"/> Nonroutine Maintenance	
	Effective Date: July 1, 2020	Expiration Date: June 30, 2022	
<p>The following wage rate determination is made pursuant to Section 12(a) of the U.S. Housing Act of 1937, as amended, (public housing agencies), or pursuant to Section 104(b) of the Native American Housing Assistance and Self-determination Act of 1996, as amended, (Indian housing agencies). The agency and its contractors may pay to maintenance laborers and mechanics no less than the wage rate(s) indicated for the type of work they actually perform.</p>			
<u>Loretta Szweduik, CIRS</u>		<u>6-1-20</u>	
HUD Labor Relations (Name, Title, Signature)		Date	
WORK CLASSIFICATION(S)	HOURLY WAGE RATES		
	BASIC WAGE	FRINGE BENEFIT(S) (if any)	
Maintenance Technician	\$20.00	as defined by HRA	
Custodian (Part-time)	\$15.00	as defined by HRA	
CONTRACTED ROUTINE MAINTENANCE LawnCare/Snow Removal	\$15.00	n/a	

Development Projects (Davis-Bacon) regardless of budget source eg: operations, capital funds, disaster recovery funds

New construction

Reconstruction

A substantial improvement in the quality or kind or original equipment and materials

Remodeling that alters the nature or type of housing units falls within the purview of “development” (24 CFR 968.203)

Bidding Solicitation and Award

- Ensure that bid docs, contracts, & subcontracts contain federal labor standards clauses and applicable wage decision
 - Federal labor standards
 - Applicable wage decision

Check general contractor's eligibility prior to contract award

- The excluded parties' records, may be accessed on the System for Award Management (SAM). Place printed search in contract file.

Payroll Reviews

- Additional Classifications
- Apprentices, Deduction Authorizations, Owner/Operator verification

Davis-Bacon Contracts

Determine type of construction for project, Residential, Building, Highway and Heavy (see DOL AAM 130).

Pull wage decision from:

[SAM.gov](https://sam.gov) | [Wage Determinations](#)

Incorporate labor provisions and wage decision in bid documents.

If no bid, because falls under small purchase policy but exceeds \$2,000, provide contractors the wage decision and labor provisions at time you ask for their cost to complete the scope of work.

Construction Contract Labor Provisions - PHAs

- **Contract Forms:**
- HUD-5370 Construction contracts >\$250,000, see Clauses 46 and 47; [HUD 5370](#)
- HUD-5370-EZ Construction contracts \$2,000 - \$250,000; [HUD 5370EZ](#)
- HUD-5370-C (Non-construction contracts and Routine and Non-Routine Maintenance contracts, see Section I [HUD 5370C Section I](#) >\$250,000 & Section II [HUD 5370-C II](#) \$2,000 - \$250,000.
- Forms are available at: [HUDClips](#)

CONTRACT ADMINISTRATION

Development Work (Construction)

Ways to incorporate the provisions:

- 1. REFERENCE**
- 2. INCORPORATION** (into other documents verbatim)
- 3. ATTACHMENT** (recommended method)

See Labor Relations Letter 2006-03 [Methods of Incorporation](#)

Obtaining DOL Wage Determinations

DOL Wage Determinations

Wage Determinations
Formerly Wage Determinations Online (WDOL)
The official website for obtaining wage determination (WDs) for official contract actions

Help me find a Wage Determination

I do not know the number → I need DBA
Public Buildings/Works Contracts
Wage rates for laborers and mechanics on federally funded or assisted contracts

I do know the number → Search by WD Number (DBA or SCA Identifier) → I need SCA
Service Contracts
Wage rates for service employees

- e-98 Form
- Due for Revision
- Reference Library
- Videos, FAQs, Glossary

Obtaining DOL Wage Determinations

[MN20240002 Mod](#)
[0 1-5-24](#)

Select Domain **Wage Determinations** +

By Wage Determination ID

- Construction (DBA)
- Service Contracts (SCA)
- Collective Bargaining Agreement (CBA)

Filter By -

Location

State

Minnesota x ▼

County/ Independent City

Crow Wing x ▼

DBA Construction Type

Residential x ▼

Status ^

- Active
- Inactive

Showing 1 - 1 of 1 results

Sort by Published Date ▼

Davis-Bacon Act WD #: MN20240002

State Minnesota Counties Aitkin, Crow Wing

DBA Wage Determination

Modification Number 0

Construction Types Residential

Published Date Jan 4, 2024

< 1 of 1 > Results per page 25 ▼



"General Decision Number: WI20220023 06/17/2022

Superseded General Decision Number: WI20210023

State: Wisconsin

Construction Type: Residential

Counties: Dodge, Green, Jefferson, Lafayette, Sauk and Walworth Counties in Wisconsin.

RESIDENTIAL CONSTRUCTION PROJECTS (consisting of single family homes and apartments up to and including 4 stories).

Note: Contracts subject to the Davis-Bacon Act are generally required to pay at least the applicable minimum wage rate required under Executive Order 14026 or Executive Order 13658. Please note that these Executive Orders apply to covered contracts entered into by the federal government that are subject to the Davis-Bacon Act itself, but do not apply to contracts subject only to the Davis-Bacon Related Acts, including those set forth at 29 CFR 5.1(a)(2)-(60).

Modification Number	Publication Date
0	01/07/2022
1	02/25/2022
2	06/17/2022

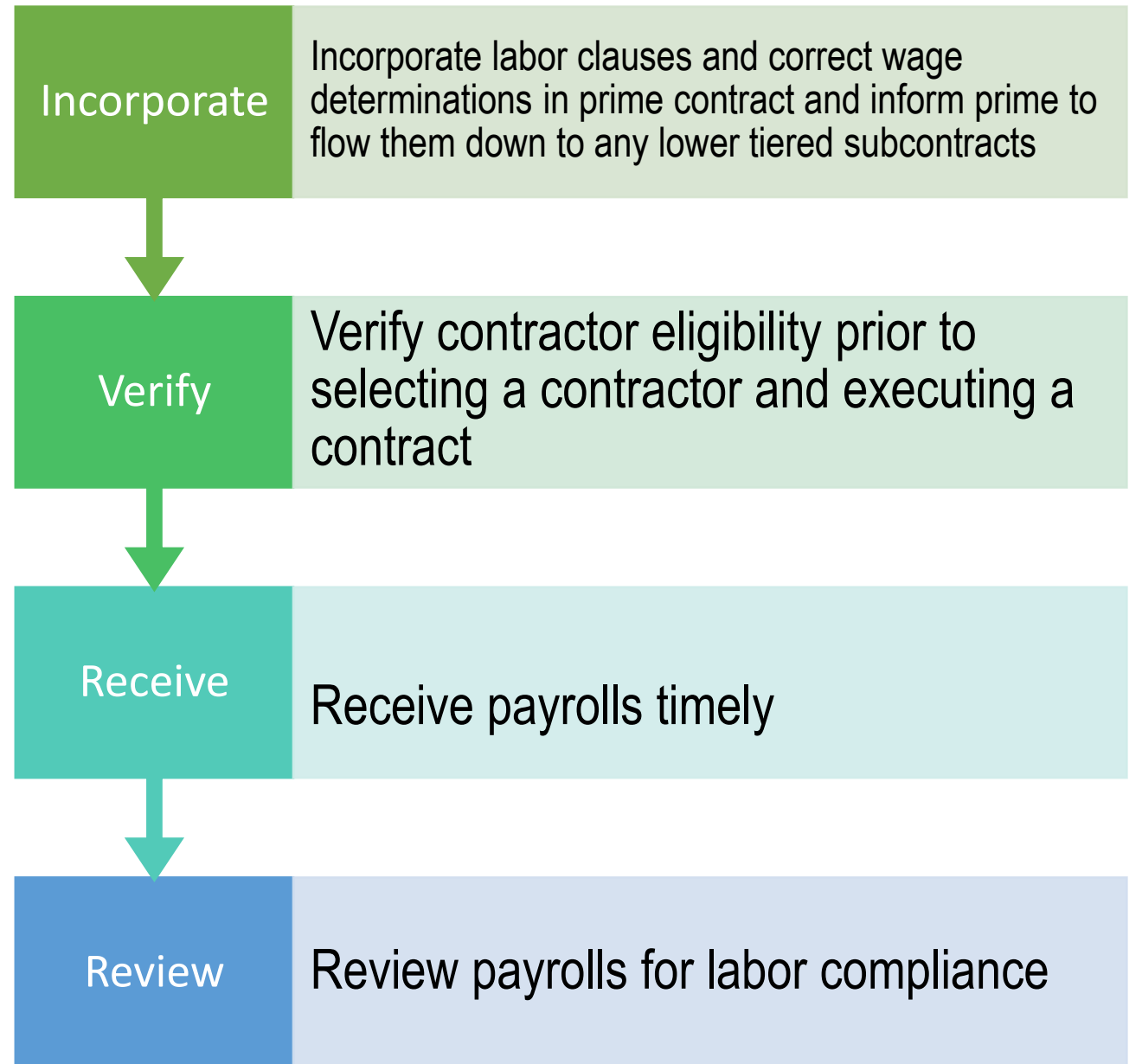




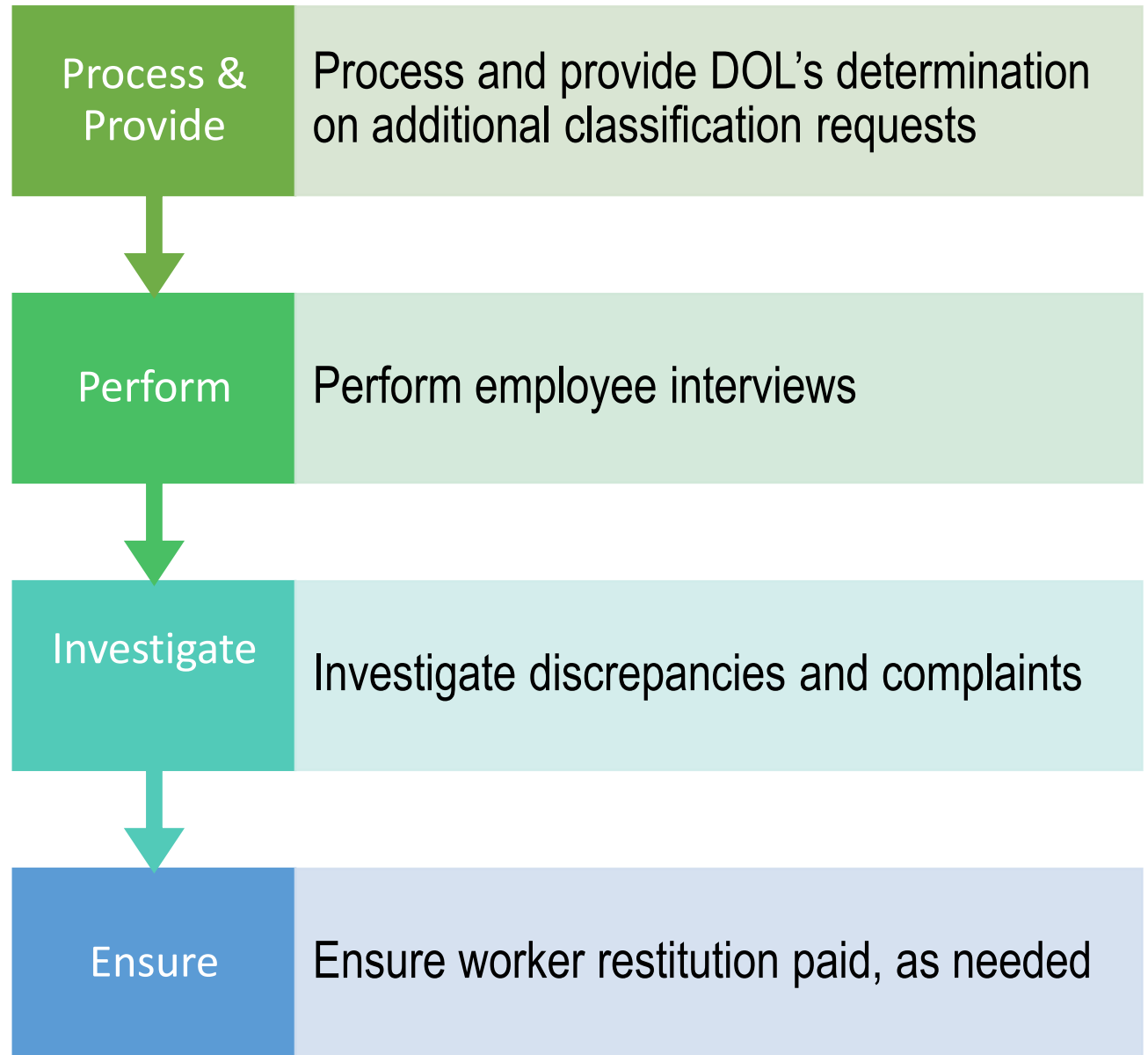
Additional Classifications

- Agencies can submit conformance requests directly to the DOL.
- Complete DOL form [SF1444](#); submit along with the wage decision and any support documentation directly to: dbaconformance@dol.gov.
- Helpful link: [DOL Conformance Guide](#)

Agency Responsibilities Contract/Project Management



Agency Responsibilities Contract/Project Management



Davis-Bacon Covered Contract Checklist

S A M P L E

DAVIS-BACON PUBLIC HOUSING CHECKLIST DEVELOPMENT CONSTRUCTION PROJECTS

Project Name: _____

Yes

No

Project subject to Davis-Bacon

(eg: +\$2,000/statutorily required by HUD funding source; includes POHP, RAD/PBV 9+ units)

Determine Category of Construction (<https://beta.sam.gov/help/wage-determinations>) Note: Examples in each category below are not comprehensive, see DOL All Agency Memorandum 130 and 131

_____ Residential (4 Stories or less)

_____ Building (non-residential and 5 stories or more)

_____ Highway (sidewalk, parking, roads)

_____ Heavy (all other, water/sewer lines, parks & playgrounds)

Project Applicable Labor Standards Provisions

_____ 5370 EZ (Projects under \$150,000)

_____ 5370 (Projects \$150,000+)

_____ 5370 C (Contracted Maintenance)

Yes

No

Correct Wage Decision and Labor Standards Provisions included in bid documents. (Ensure most current WD modification.)

WD # and Mod: _____

<https://sam.gov/content/wage-determinations>

LSP HUD Form: _____

https://www.hud.gov/program_offices/davis_bacon_and_labor_standards/olrform

Yes

No

Correct Wage Decision and Labor Standards Provisions bound into contract. (Ensure most current modification.)

WD # and Mod: _____

LSP HUD Form: _____

Effective Date of Wage Decision ("Lock-In")

_____ Formal Bid (10 day advertised bid, receipt of sealed bids, scheduled bid opening) Lock-in is effective date bids are opened.

_____ Bid Opening Date

_____ Informal Bid (no formal bid opening, no advertisement, telephone or written quotes) Lock-in is effective date contract is signed.

Certified Weekly Payrolls



Statement of Compliance

Hints on a Quick & Thorough Payroll Review (WH-347):

STATEMENT OF COMPLIANCE:

DATE: The Statement of Compliance date must cover only a single week and accompany each weekly payroll provided.

FRINGE BENEFITS*(a): If this checked off, benefits are paid into a DOL approved plan.

FRINGE BENEFITS*(b): If this is checked off, benefits are paid to the employee directly in cash and counted in his or her Rate of Pay.

***AT LEAST ONE BOX MUST BE CHECKED OFF!**

NAME AND TITLE: If someone OTHER than a principal or officer of the firm is signing the payrolls, a letter stating that person is authorized to do so must first be submitted by a principal or officer of the firm.

Date _____

I, _____ (Name of Signatory Party) _____ (Title)

do hereby state:

(1) That I pay or supervise the payment of the persons employed by _____ (Contractor or Subcontractor) on the _____ (Building or Work); that during the payroll period commencing on the _____ day of _____, and ending the _____ day of _____, all persons employed on said project have been paid the full weekly wages earned, that no rebates have been or will be made either directly or indirectly to or on behalf of said _____ (Contractor or Subcontractor) from the full weekly wages earned by any person and that no deductions have been made either directly or indirectly from the full wages earned by any person, other than permissible deductions as defined in Regulations, Part 3 (29 C.F.R. Subpart A), issued by the Secretary of Labor under the Copeland Act, as amended (48 Stat. 948, 63 Stat. 108, 72 Stat. 967; 76 Stat. 357; 40 U.S.C. § 3145), and described below:

(2) That any payrolls otherwise under this contract required to be submitted for the above period are correct and complete; that the wage rates for laborers or mechanics contained therein are not less than the applicable wage rates contained in any wage determination incorporated into the contract; that the classifications set forth therein for each laborer or mechanic conform with the work he performed.

(3) That any apprentices employed in the above period are duly registered in a bona fide apprenticeship program registered with a State apprenticeship agency recognized by the Bureau of Apprenticeship and Training, United States Department of Labor, or if no such recognized agency exists in a State, are registered with the Bureau of Apprenticeship and Training, United States Department of Labor.

(4) That:

(a) WHERE FRINGE BENEFITS ARE PAID TO APPROVED PLANS, FUNDS, OR PROGRAMS

- in addition to the basic hourly wage rates paid to each laborer or mechanic listed in the above referenced payroll, payments of fringe benefits as listed in the contract have been or will be made to appropriate programs for the benefit of such employees, except as noted in section 4(c) below.

(b) WHERE FRINGE BENEFITS ARE PAID IN CASH

- Each laborer or mechanic listed in the above referenced payroll has been paid, as indicated on the payroll, an amount not less than the sum of the applicable basic hourly wage rate plus the amount of the required fringe benefits as listed in the contract, except as noted in section 4(c) below.

(c) EXCEPTIONS

EXCEPTION (CRAFT)	EXPLANATION

REMARKS:

NAME AND TITLE _____ SIGNATURE _____

THE WILLFUL FALSIFICATION OF ANY OF THE ABOVE STATEMENTS MAY SUBJECT THE CONTRACTOR OR SUBCONTRACTOR TO CIVIL OR CRIMINAL PROSECUTION. SEE SECTION 1001 OF TITLE 18 AND SECTION 3729 OF TITLE 31 OF THE UNITED STATES CODE.

Reviews of Certified Payrolls

- Full name of employee. (Address, social security number, most current telephone number and e-mail address must be on file and available upon request.) New requirement by US Department of Labor 10-23-23
- Properly classified according to the work actually performed
- Established work week (eg: Sun-Sat, Tues-Wed)
- Hours worked each week
- Gross and net wages properly calculated
- “Other” deductions documents submitted
- Overtime computed properly
- Statement of Compliance – authorized original signature

Reviews of Certified Payrolls Typical Errors

- Work classification errors
- Copy or fax Statement of Compliance
- Inadequate/incomplete payroll information
- Missing 4 Digit ID Number
- One Statement of Compliance for multiple work weeks
- Other deductions
- Ratio of laborers to mechanics
- Unauthorized signature on Statement of Compliance

Electronic Certified Payrolls

- Payroll reports may be certified and submitted electronically through a web-based, inalterable, system. **BE CAREFUL** to distinguish that electronic signature or submission **does not** mean pdf files of signed payrolls attached to an email, or faxed copies of signed payrolls.
- Several vendors offer products claiming to meet Davis-Bacon/Copeland Act requirements. Several contracting agencies report using these products and find them to be acceptable. However, neither DOL nor HUD/DBLS has endorsed any particular vendor or product.

Apprentices & Sole Proprietors

- Apprentices can be paid less than Davis-Bacon prevailing wages **only under very controlled circumstances.**
 - Contractors must submit a copy of the individuals apprentice agreement, wage and benefit scale, level of completion in the program and ratio language. [DOL Field Operations Handbook 15e01 Apprentices](#)
- Sole Proprietors/Working Contractors
 - All laborers and mechanics are covered regardless of any contractual relationship alleged to exist. There is no exception to this for self-employed or sole proprietors on HUD funded projects.
[Labor Relations Letter 96-01](#)

Monitoring & Recordkeeping



Agencies monitored based upon annual risk analysis scores or if circumstances warrant (program area recommendation).

[On-site Monitoring Checklist](#)



Agencies are required to retain specific records. See Page 5-6 (B) for Development Recordkeeping and Page 8-5 B for Routine Maintenance in HUD Handbook. [LCA File System](#)

Report Requirements & Deadlines

- Semi-Annual Labor Standards Enforcement Report-[Semi-Annual Report 4710](#)
 - Period 1 Oct 1 – Mar 31 Due first week of April
 - Period 2 Apr 1 – Sep 30 Due first week of October
- 5.7 Report due immediately when one contractor owes more than \$1,000 in restitution. Submit to your Labor Standards Specialist.
- Contract termination due to labor standards violations; notify your Labor Standards Specialist
- Maintenance Wage Rate Determinations (52158) Biennially
HUD sends notice of renewal 90 days prior to end of Fiscal Year.
[HUD 4750](#)

A Brief Moment About Section 3

- Purpose from §135.1(a):
 - To ensure that employment and other economic opportunities generated by certain HUD financial assistance shall, **to the greatest extent feasible**... be directed to low- and very-low income persons, particularly those who are recipients of government assistance for housing, and to business concerns which provide economic opportunities to low- and very-low income persons.
 - Section 3 clause is required to be included in construction contracts.

Section 3 Resources

- Website: www.hud.gov/section3
- Resource Hub: [HUD Section 3 \(arcgis.com\)](http://HUD%20Section%203%20(arcgis.com))
- HUD Exchange: [Section 3 Resources and Tools - HUD Exchange](#)
- Guidebook: [Section 3 Guidebook: Welcome - HUD Exchange](#)
- General e-mail: section3@hud.gov

DOL Final Rule Takeaways

- Contractors and/or agencies must collect and retain employee last known address, full social security number, e-mail address and telephone number.
- Updated HUD 5370, HUD 5370EZ and HUD 5370-C (Contracted Routine Maintenance) are available at HUDClips:
[HUD-5a-Forms | HUD.gov / U.S. Department of Housing and Urban Development \(HUD\)](#)
- Multi-year contracts or a contract with a significant change to the original scope of work may require a new wage decision to be applied.
- If apprentices are working at a DBRA covered site, the ratios and wage rates of the locality where the work is actually performed are followed.
- Added Anti-Retaliation language.

DOL Final Rule Takeaways

- The Final Rule will continue to bring changes to some of the ways you do your work.
- You can anticipate updates to forms, especially the Labor Standards provisions from HUD programs, guidance in DBLS Handbook/LR Letters, and other DBLS materials
- You may experience more contact with HUD & DOL regarding questions you have moving forward including investigations, reports, and new rule interpretations
- As the Final Rule takes shape and is enforced over time, changes will be shared as they are introduced

Thank You!

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- **DISCLAIMER**

- This presentation is intended as general information only and does not carry the force of legal opinion. The Department of Housing and Urban Development is providing this information as a public service. This information and related materials are presented to give the public access to information on the Davis-Bacon and Related Acts. You should be aware that, while we try to keep the information timely and accurate, there will often be a delay between official publications of the materials and the modification of these pages. Therefore, we make no express or implied guarantees. The Federal Register and the Code of Federal Regulations remain the official source for regulatory information. We will make every effort to keep this information current and to correct errors brought to our attention.

Any Questions



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