

D. DAVIS-BACON ACT

Compliance Requirements

When required by the Davis-Bacon Act, the Department of Labor's (DOL) governmentwide implementation of the Davis-Bacon Act, **ARRA**, or by Federal program legislation, all laborers and mechanics employed by contractors or subcontractors to work on construction contracts in excess of \$2000 financed by Federal assistance funds must be paid wages not less than those established for the locality of the project (prevailing wage rates) by the DOL (40 USC 3141-3144, 3146, and 3147 (formerly 40 USC 276a to 276a-7)).

Non-federal entities shall include in their construction contracts subject to the Davis-Bacon Act a requirement that the contractor or subcontractor comply with the requirements of the Davis-Bacon Act and the DOL regulations (29 CFR part 5, Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction). This includes a requirement for the contractor or subcontractor to submit to the non-Federal entity weekly, for each week in which any contract work is performed, a copy of the payroll and a statement of compliance (certified payrolls) (29 CFR sections 5.5 and 5.6). This reporting is often done using Optional Form WH-347, which includes the required statement of compliance (*OMB No. 1215-0149*).

Source of Governing Requirements

The requirements for Davis-Bacon compliance are contained in 40 USC 3141-3144, 3146, and 3147; 29 CFR part 29; the A-102 Common Rule (§ __.36(i)(5)); OMB Circular A-110 (2 CFR part 215, Appendix A, Contract Provisions); program legislation; **Section 1606 of ARRA and OMB guidance at 2 CFR part 176, Subpart C**; Federal awarding agency regulations; and the terms and conditions of the award (**including that imposed by ARRA**).

Availability of Other Information

The U.S. Department of Labor, Employment Standards Administration, maintains a Davis-Bacon and Related Acts Internet page (<http://www.dol.gov/esa/programs/dbra/index.htm>). Optional Form WH-347 and instructions are available on this Internet page.

Audit Objectives

1. Obtain an understanding of internal control, assess risk, and test internal control as required by OMB Circular A-133 § __.500(c).
2. Determine whether the non-Federal entity notified contractors and subcontractors of the requirements to comply with the Davis-Bacon Act and obtained copies of certified payrolls.

Suggested Audit Procedures – Internal Control

1. Using the guidance provided in Part 6 – Internal Control, perform procedures to obtain an understanding of internal control sufficient to plan the audit to support a low assessed level of control risk for the program.

2. Plan the testing of internal control to support a low assessed level of control risk for Davis-Bacon Act and perform the testing of internal control as planned. If internal control over some or all of the compliance requirements is likely to be ineffective, see the alternative procedures in § __.500(c)(3) of OMB Circular A-133, including assessing the control risk at the maximum and considering whether additional compliance tests and reporting are required because of ineffective internal control.
3. Consider the results of the testing of internal control in assessing the risk of noncompliance. Use this as the basis for determining the nature, timing, and extent (e.g., number of transactions to be selected) of substantive tests of compliance.

Suggested Audit Procedures – Compliance

1. Select a sample of construction contracts and subcontracts greater than \$2000 that are covered by the Davis-Bacon Act and perform the following procedures:
 - a. Verify that the required prevailing wage rate clauses were included.
 - b. Verify that the contractor or subcontractor submitted weekly the required certified payrolls.

Note: The suggested audit procedures above for internal control and compliance testing may be accomplished using dual-purpose testing.