

NNSA Albuquerque Service Center Labor Standards Training

March 9, 2015

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Labor Standards - Presidential Executive Orders (EO)

- EO 13495, Nondisplacement of Qualified Workers Under Service Contracts (29 CFR Part 9, FAR 22.12 & 52.222-17)
- EO 13658, Establishing a Minimum Wage for Contractors (29 CFR Part 10, FAR 22.19 & 52.222-99 (temporary) will be 52.222-55)
- EO 13673, Fair Pay and Safe Workplaces (Contractor Qualification (Modify Far Part 9 and add new clauses 52.209-AA & AB)

DOE Order 350.3, Labor Standards Compliance

- O 350.3 - *Labor Standards Compliance, Contractor Labor Relations, and Contractor Workforce Restructuring Programs*
- Assistant General Counsel for Labor and Pension Law (GC-63)
 - *New Name: Assistant General Counsel for Contractor Human Resources*
- Website: <http://www.energy.gov/gc/services/technology-transfer-and-procurement/office-assistant-general-counsel-labor-and-pension>



Davis-Bacon Act

- The Davis-Bacon Act is codified at 40 U.S.C. 3141 et seq.
- The Department of Labor has promulgated regulations describing the labor standards for federal construction contracts at 29 CFR Parts 1, 3, and 5.

Davis-Bacon Act – 1931

(Last time amended - 1964)

- The Davis-Bacon Act (DBA) is applicable to contracts of the United States **in excess of \$2,000 for the construction, alteration, and/or repair (including painting and decorating) of public buildings or public works**, but not routine maintenance. For Recovery Act purposes, the \$2,000 attaches to the grant, not each construction contract.
- The DBA requires all contractors and subcontractors to pay laborers and mechanics employed on a covered contract wages and fringe benefits determined by the Secretary of Labor to be prevailing for corresponding classes of employees engaged on similar projects in the locality.
- **Requires payment of wages weekly.**

Labor Standards Coverage

- Reorganization Plan No. 14 of 1950 gives Federal agencies responsibility to ensure that laborers and mechanics are paid at least the applicable Davis-Bacon prevailing wages.
- DOL has regulatory authority and oversight responsibility and can and will investigate compliance.
- Appeals of local labor standard coverage may be made to the Administrator, Wage & Hour Division, at DOL.
- **Wage Rate Requirements (Construction)** (formerly known as the Davis-Bacon Act)

Purpose

- **Wage Protection**

- Protects communities and workers from non-local contractors underbidding local wage levels



Applicability

- Applicable to Federal and District of Columbia Contracts
- Only applicable to Territories when Congress adds language to include Territories.

Criteria for Considering DBA Coverage

- Is the contract an agreement to which the U.S. or District of Columbia is a party?
 - Or a subcontract - DOE contractors
- Is the agreement a “contract for construction”?
 - **Remember** – “construction” does not mean only new building.
- Is the “contract for construction” a contract for construction of a public building or public work of the U.S.?

DBA Requirements

- Applies to “laborers” and “mechanics” of contractors and subcontractors
 - **Laborer:** Is one whose duties are manual or physical in nature.
 - **Mechanic:** Is a skilled worker who uses tools performing the work of a recognized trade.
 - Workers whose duties are manual or physical in nature as distinguished from mental or managerial.
- Performing work on the “site of the work”
 - The physical place or 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
- **MUST be paid weekly**

Davis-Bacon Related Acts (DBRA)

- Davis-Bacon Act requirements extend to numerous “related Acts” (such as the Recovery Act) that provide federal assistance by:
 - Grants
 - Loans
 - Loan Guarantees
 - Insurance



DBRA

continued

- Since 1931, Congress has extended the Davis-Bacon prevailing wage requirements to over 60 related Acts (called Davis-Bacon Related Acts (DBRA)) which provide federal assistance for construction through loans, grants, loan guarantees, and insurance.
- These Acts include by reference the requirements for payment of the prevailing wages in accordance with the Davis-Bacon Act.
- Examples of the related Acts are the American Recovery and Reinvestment Act of 2009, the Federal-Aid Highway Acts, the Housing and Community Development Act of 1974, and the Federal Water Pollution Control Act.
- The American Recovery and Reinvestment Act of 2009 (Recovery Act), provides as follows:

Example:

Wage Rate Requirements

- Section 1606: Notwithstanding any other provision of law and in a manner consistent with other provisions in this Act, **all laborers and mechanics employed by contractors and subcontractors on projects funded directly by or assisted in whole or in part by and through the Federal Government pursuant to this Act shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality** as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of Title 40, United States Code.

No Requirement that the Project be a Public Building or Public Work

- These DBRA provisions make the DBA requirements applicable to “projects funded directly by or assisted in whole or in part by the Federal Government.”
- With a DBRA there is no requirement that the project be a public building or public work. Congress makes the DBA requirements applicable to all construction work involved in a project funded through the particular Act, including non-public buildings and works.

DOL Guidance

- DOL - All Agency Memoranda (AAMs)
 - <http://www.wdol.gov/aam.aspx>
- Field Operations Handbook (FOH)
 - <http://www.dol.gov/whd/FOH/index.htm>
- Davis-Bacon and Related Acts
 - <http://www.dol.gov/whd/govcontracts/dbra.htm>

DOL Responsibilities

- Determine “prevailing wages” in the locality
- Issue regulations and standards to be observed by contracting agencies and recipients of financial assistance
- Perform oversight function
- Compute any back wages and liquidated damages
- Debar contractor (contractor is *ineligible* for future contracts for a period of up to 3 years)
<http://www.wdol.gov/library.aspx>
- Agency may also take action to debar contractor

DOE Responsibilities

- Makes the determination as to whether DBA or Service Contract Act applies to a specific work package submitted by the contractor(s)
- Retains the authority to investigate, monitor, and enforce DBA requirements
- Conducts compliance audits with the contractor
- Investigate potential violations or complaints
- Report semi-annually to DOL regarding dollar value of awards/contracts, number of investigations, number of complaints, results of the investigations, and any back pay owed to laborers and mechanics.

Flow-Down of Responsibilities

- OGC (GC-63) has lead on all Labor Standards issues.
 - ❖ Each Site has a POC in GC-63

- DOE Contracting Officer (CO) has authority to determine whether DBA applies to a specific project.
 - ❖ Labor Standards Committee

- DOE CO has oversight responsibility for contractors
 - ❖ Must collect and retain weekly certified payrolls for three years after completion of projects for purposes of DOL requirements.

Wage Determinations (WDs)

- It is the responsibility of the CO to provide the appropriate WD for work to be performed by a contractor or subcontractor and to designate the work to which the WD applies.
- Find WDs at www.wdol.gov

Wage Determination

General Decision Number: OH150103 06/12/2015 OH103

Superseded General Decision Number: OH20140103

State: Ohio

Construction Type: Building

County: Hamilton County in Ohio.

BUILDING CONSTRUCTION PROJECTS (does not include single familyhomes or apartments up to and including 4 stories).

Note: Executive Order (EO) 13658 establishes an hourly minimum wage of \$10.10 for 2015 that applies to all contracts subject to the Davis-Bacon Act for which the solicitation is issued on or after January 1, 2015. If this contract is covered by the EO, the contractor must pay all workers in any classification listed on this wage determination at least \$10.10 (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract. The EO minimum wage rate will be adjusted annually. Additional information on contractor requirements and worker protections under the EO is available at www.dol.gov/whd/govcontracts.

WD Continued

Modification Number	Publication Date
0	01/02/2015
1	01/23/2015
2	01/30/2015
3	02/06/2015
4	02/20/2015
5	03/27/2015
6	05/01/2015
7	05/29/2015
8	06/12/2015

WD Continued

ASBE0008-010 03/01/2015

	Rates	Fringes
ASBESTOS WORKER/HEAT & FROST INSULATOR.....	\$ 28.80	14.52

BROH0018-008 09/01/2014

	Rates	Fringes
BRICKLAYER.....	\$26.50	11.17
TILE FINISHER.....	\$22.90	10.87
TILE SETTER.....	\$27.44	10.87

CARP0002-008 06/01/2014

	Rates	Fringes
CARPENTER (Accoustical Ceiling Installation Only).....	\$ 21.58	13.31

WD

SUOH2012-084 08/29/2014

	Rates	Fringes
ELECTRICIAN (Low Voltage Wiring Only).....	\$ 22.28	8.63
LABORER: Asphalt, Includes Raker, Shoveler, Spreader and Distributor.....	\$ 26.19	8.99
LABORER: Landscape & Irrigation.....	\$ 23.60	0.87
LABORER: Mason Tender - Cement/Concrete.....	\$ 23.87	9.80
LABORER: Pipelayer.....	\$ 23.18	8.95
OPERATOR: Loader.....	\$ 29.66	12.61
OPERATOR: Paver (Asphalt, Aggregate, and Concrete)....	\$ 30.28	13.29

Conformance

Request For Authorization of
Additional Classification and
Rate, SF-1444

AUTHORIZED FOR LOCAL REPRODUCTION

REQUEST FOR AUTHORIZATION OF ADDITIONAL CLASSIFICATION AND RATE

CHECK APPROPRIATE BOX
 SERVICE CONTRACT
 CONSTRUCTION CONTRACT

OMB No.: **9000-0089**
 Expires: **04/30/2005**

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the FAR Secretariat (MVP), Office of Acquisition Policy, GSA, Washington, DC 20405; and to the Office of Management and Budget, Paperwork Reduction Project (9000-0089), Washington, DC 20503.

INSTRUCTIONS: THE CONTRACTOR SHALL COMPLETE ITEMS 3 THROUGH 16, KEEP A PENDING COPY, AND SUBMIT THE REQUEST, IN QUADRUPPLICATE, TO THE CONTRACTING OFFICER.

1. TO: ADMINISTRATOR, Employment Standards Administration WAGE AND HOUR DIVISION U.S. DEPARTMENT OF LABOR WASHINGTON, D.C. 20210	2. FROM: (REPORTING OFFICE) Department of Energy National Energy Test Laboratory
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3. CONTRACTOR State of Arkansas - SEP Grant	4. DATE OF REQUEST
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5. CONTRACT NUMBER 09-DOE-1234567	6. DATE BID OPENED (SEALED BIDDING)	7. DATE OF AWARD 06/20/2009	8. DATE CONTRACT WORK STARTED 08/02/2010	9. DATE OPTION EXERCISED (IF APPLICABLE) (SCA ONLY)
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10. SUBCONTRACTOR (IF ANY)
 Rex Harris d/b/a Rex's HVAC Systems & Repair

11. PROJECT AND DESCRIPTION OF WORK (ATTACH ADDITIONAL SHEET IF NEEDED)
 Repair or replace HVAC systems in multi-family residential buildings over 4 stories

12. LOCATION (CITY, COUNTY AND STATE)
 Piggott, Clay County, Arkansas

13. IN ORDER TO COMPLETE THE WORK PROVIDED FOR UNDER THE ABOVE CONTRACT, IT IS NECESSARY TO ESTABLISH THE FOLLOWING RATE(S) FOR THE INDICATED CLASSIFICATION(S) NOT INCLUDED IN THE DEPARTMENT OF LABOR DETERMINATION

NUMBER: AR100127

DATED: 07/30/2010

a. LIST IN ORDER: PROPOSED CLASSIFICATION TITLE(S); JOB DESCRIPTION(S); DUTIES; AND RATIONALE FOR PROPOSED CLASSIFICATIONS (SCA ONLY) <i>(Use reverse or attach additional sheets, if necessary)</i>	b. WAGE RATE(S)	c. FRINGE BENEFITS PAYMENTS
HVAC Mechanic (Duct and System Installation only) (Baxter County a rural county much like Clay County uses this rate for HVAC Mechanic (duct and system installation).	10.80	0.40

5. CONTRACT NUMBER 09-DOE-1234567	6. DATE BID OPENED (SEALED BIDDING)	7. DATE OF AWARD 06/20/2009	8. DATE CONTRACT WORK STARTED 08/02/2010	9. DATE OPTION EXERCISED (IF APPLICABLE) (SCA ONLY)
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10. SUBCONTRACTOR (IF ANY)
Rex Harris d/b/a Rex's HVAC Systems & Repair

11. PROJECT AND DESCRIPTION OF WORK (ATTACH ADDITIONAL SHEET IF NEEDED)
Repair or replace HVAC systems in multi-family residential buildings over 4 stories

12. LOCATION (CITY, COUNTY AND STATE)
Piggott, Clay County, Arkansas

13. IN ORDER TO COMPLETE THE WORK PROVIDED FOR UNDER THE ABOVE CONTRACT, IT IS NECESSARY TO ESTABLISH THE FOLLOWING RATE(S) FOR THE INDICATED CLASSIFICATION(S) NOT INCLUDED IN THE DEPARTMENT OF LABOR DETERMINATION
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HVAC Mechanic (Duct and System Installation only) (Baxter County a rural county much like Clay County uses this rate for HVAC Mechanic (duct and system installation).	10.80	0.40

14. SIGNATURE AND TITLE OF SUBCONTRACTOR REPRESENTATIVE (IF ANY) (Rex Harris)	15. SIGNATURE AND TITLE OF PRIME CONTRACTOR REPRESENTATIVE (State Energy Office)
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16. SIGNATURE OF EMPLOYEE OR REPRESENTATIVE	TITLE	CHECK APPROPRIATE BOX-REFERENCING BLOCK 13. <input type="checkbox"/> AGREE <input type="checkbox"/> DISAGREE
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TO BE COMPLETED BY CONTRACTING OFFICER (CHECK AS APPROPRIATE - SEE FAR 22.1019 (SCA) OR FAR 22.406-3 (DBA))

- THE INTERESTED PARTIES AGREE AND THE CONTRACTING OFFICER RECOMMENDS APPROVAL BY THE WAGE AND HOUR DIVISION. AVAILABLE INFORMATION AND RECOMMENDATIONS ARE ATTACHED.
 - THE INTERESTED PARTIES CANNOT AGREE ON THE PROPOSED CLASSIFICATION AND WAGE RATE. A DETERMINATION OF THE QUESTION BY THE WAGE AND HOUR DIVISION IS THEREFORE REQUESTED. AVAILABLE INFORMATION AND RECOMMENDATIONS ARE ATTACHED.
- (Send copies 1, 2, and 3 to Department of Labor)*

SIGNATURE OF CONTRACTING OFFICER OR REPRESENTATIVE	TITLE AND COMMERCIAL TELEPHONE NO.	DATE SUBMITTED
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Conformance

- Contractor submits the SF-1444
- Contractor signs in box 14 if it is a subcontractor or box 15 if Prime
- **ONLY** an employee or employee representative signs in box 16 and checks box agree/disagree

Contracting Officer's Duties SF-1444

- Contracting Officer **MUST** sign and submit to DOL email box:

WHD-CBAConformance_Incoming@dol.gov

(Note:

WHD-CBAConformance_Incoming @dol.gov)

- DOL will either accept the proposed wage and fringe or "suggest" a different rate.
- CO modifies the contract to include the new classification(s) and wage(s).

DOE Responsibilities

- Receive Original Certified Payrolls and Review
 - CO may have the M&O perform this duty for work performed by subcontractor
 - **MUST audit the M&O's performance**
 - Is the correct wage determination being used?
 - Has the contractor paid the correct rate for the job classification stated on payroll record?
 - Has the contractor paid fringe benefits appropriately?
 - Is box (a) or (b) checked?
 - Is the certification included AND signed?
 - Check the math – does the number of hours of DB work correlate to the gross wages paid?
 - Are deductions appropriate

DOE Responsibilities

- Investigate and monitor DBA requirements
 - Perform employee interviews
- Conduct compliance audits
- Investigate potential violations or complaints

Responsibilities

- Employee Interviews – **May Use SF-1445**
 - Information provided is confidential
 - Interview statements should contain:
 - Place and date of interview
 - Name and address of employer/employee
 - Employment status and classification
 - Alleged violations
- Conduct Interviews of Sub-contractors employees for DBA Covered Work



Semi-Annual Report

- ❖ **Report in iBenefits – Semi-Annually**
 - ❖ Dollar value of contracts, number of investigations, number of complaints, results of the investigations, and any back pay owed to laborers and mechanics.

- ❖ **Reporting Periods**
 - ❖ October 1st through March 31st
 - ❖ April 1st through September 30th

- ❖ Due to GC-63 by 20th of the month following the end of the reporting period.

Employer Responsibilities

- Notices and Posters
 - Every employer performing work covered by the DBA labor standards must post the WH-1321 "Employee Rights Under the Davis-Bacon Act" Poster:
<http://www.dol.gov/whd/regs/compliance/posters/fedprojc.pdf> at the site of the work in a prominent and accessible place where it may be easily seen by employees. There is no particular size requirement.
- The wage determination(s) must be similarly posted with the Poster.
- Continually assess and determine what classification(s) of workers needed to perform the work.

Employer Responsibilities

Recordkeeping

- Covered contractors must maintain payroll and basic records for all laborers and mechanics during the course of the work and for a period of three years thereafter.
- Records to be maintained 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
 - If applicable, detailed information regarding approved apprenticeship or trainee programs

Cost for Failure to Maintain Payroll Records

- ***Pythagoras General Contracting Corp. v. Dep't of Labor*** decided in February 2011 penalized a contractor for not maintaining adequate payroll records.
 - \$23 million construction contract subject to DBA.
 - Complaints by employees that the contractor was not paying prevailing wage
- DOL investigated and concluded that the contractor failed to pay prevailing wage by misclassifying several employees.
- Contractor could not rebut the employees' testimony evidence because it had incomplete/inaccurate payroll records (some had been discarded).
- The DOL Administrative Review Board **awarded \$792,000 in unpaid wages** and found the noncompliance was "aggravated and willful" thus invoking **mandatory debarment for 3 years**.

DBA Pay Requirements

- The Davis-Bacon Act requires that “**all laborers and mechanics**” be paid unconditionally not less often than **once a week**.
- **The companion Copeland “Anti-Kickback” Act** requires that the contractor and subcontractors submit certified payrolls within 7 days of the Payroll date. The certified payroll may be submitted on the form prescribed (WH-347) or on the company’s regular payroll form, so long as all required information is included.
- The payroll must be accompanied by a “**Statement of Compliance**” with an original signature (required by Copeland “Anti-kickback” Act).

Certified Payroll

- Required by DOL – **MAY** use Optional WH-347
- **May** use the electronic certified payroll program
- Contractors **MUST** pay employees weekly pursuant to statute
- Employees **MUST** be paid within 7 days of end of employers payroll period
- Contractors **MUST** send original certified payroll to the agency within 7 days of paying employees

Payroll Record – WH-347

U.S. Department of Labor
Wage and Hour Division

PAYROLL

(For Contractor's Optional Use; See Instructions at www.dol.gov/whd/forms/wh347instr.htm)



U.S. Wage and Hour Division
Rev. Dec. 2008

Persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

NAME OF CONTRACTOR <input checked="" type="checkbox"/> OR SUBCONTRACTOR <input type="checkbox"/>		ADDRESS	OMB No.: 1215-0149 Expires: 12/31/2011
Macdonald's Smart Energy Inc.		200 Main Street Clinton, PA 20210	
PAYROLL NO. 001	FOR WEEK ENDING 04/29/2011	PROJECT AND LOCATION Pennsylvania Energy Communication Project Clinton County, PA	PROJECT OR CONTRACT NO. PECP-2011-0006

(1) NAME AND INDIVIDUAL IDENTIFYING NUMBER (e.g., LAST FOUR DIGITS OF SOCIAL SECURITY NUMBER) OF WORKER	(2) NO OF WITHHOLDING SUBPAYMENTS	(3) WORK CLASSIFICATION	OT OR ST.	(4) DAY AND DATE							(5) TOTAL HOURS	(6) RATE OF PAY	(7) GROSS AMOUNT EARNED	(8) DEDUCTIONS					(9) NET WAGES PAID FOR WEEK	
				Sun	Mon	Tues	Wed	Thur	Fri	Sat				FICA	WITH- HOLDING TAX	#01 (s)	OTHER	TOTAL DEDUCTIONS		
				25	26	27	28	29	30	1				HOURS WORKED EACH DAY						
Thomas Holmes - 1234	1	Lineman	O										\$1,266.24							
			S			8.00	8.00	8.00	8.00			32.00	39.57	\$1,360.80	\$102.06	\$341.36	\$50.00		\$493.42	\$867.38
William Bryant - 3456	1	Heavy Equipment Operator	O										\$940.08							
			S	8.00			8.00	8.00				24.00	39.17	\$940.08	\$75.26	\$290.00	\$15.00	\$100.00	\$480.26	\$459.82
Christina Black	2	Groundhand	O										\$1,380.80							
			S	8.00	8.00	8.00	8.00	8.00				40.00	34.52	\$1,380.80	\$98.00	\$314.00	\$25.00		\$437.00	\$943.80
Maxine Walton	2	Truck Driver	O										\$42.85	\$1,371.20						
			S	8.00	8.00		8.00	8.00				32.00	25.72 17.13	\$1,571.20	\$115.00	\$360.00			\$475.00	\$1,096.20
Jackson Macdonald		Owner	O																	
			S																	
			O																	
			S																	

While completion of Form WH-347 is optional, it is mandatory for covered contractors and subcontractors performing work on Federally financed or assisted construction contracts to respond to the information collection contained in 29 C.F.R. §§ 3.3, 5.5(a). The Copeland Act (40 U.S.C. § 3145) contractors and subcontractors performing work on Federally financed or assisted construction contracts to "furnish weekly a statement with respect to the wages paid each employee during the preceding week." U.S. Department of Labor (DOL) regulations at 29 C.F.R. § 5.5(a)(3)(i) require contractors to submit weekly a copy of all payrolls to the Federal agency contracting for or financing the construction project, accompanied by a signed "Statement of Compliance" indicating that the payrolls are correct and complete and that each laborer or mechanic has been paid not less than the proper Davis-Bacon prevailing wage rate for the work performed. DOL and federal contracting agencies receiving this information review the information to determine that employees have received legally required wages and fringe benefits.

Public Burden Statement

We estimate that it will take an average of 55 minutes to complete this collection, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. If you have any comments regarding these estimates or any other aspect of this collection, including suggestions for reducing this burden, send them to the Administrator, Wage and Hour Division, U.S. Department of Labor, Room S3502, 200 Constitution Avenue, N.W. Washington, D.C. 20210

Date May 9, 2011

I, Jackson Macdonald President/Owner
 (Name of Signatory Party) (Title)

do hereby state:

(1) That I pay or supervise the payment of the persons employed by
Macdonald's Smart Energy Inc. on the
 (Contractor or Subcontractor)

Pennsylvania Energy Communication Project; that during the payroll period commencing on the
 (Building or Work)
25 day of April, 2011, and ending the 1 day of May, 2011,

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

Macdonald's Smart Energy Inc. from the full
 (Contractor or Subcontractor)

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. Subtitle 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

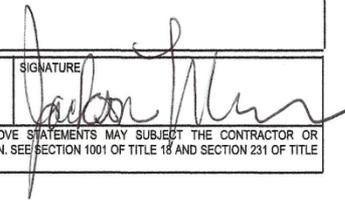
EXCEPTION (CRAFT)	EXPLANATION
Maxine Walton - Truck Driver	Probationary Employee - not yet eligible for benefit package

REMARKS:

Other Deduction taken from W. Bryant is Child Support Payment.

NAME AND TITLE
 Jackson Macdonald, President/Owner

SIGNATURE



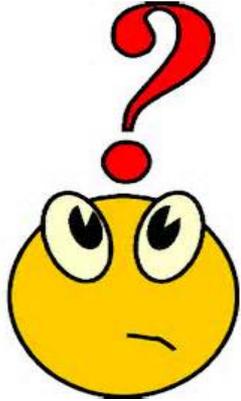
THE WILLFUL FALSIFICATION OF ANY OF THE ABOVE STATEMENTS MAY SUBJECT THE CONTRACTOR OR SUBCONTRACTOR TO CIVIL OR CRIMINAL PROSECUTION. SEE SECTION 1001 OF TITLE 18 AND SECTION 231 OF TITLE 31 OF THE UNITED STATES CODE.

Signatures

- Electronic Signatures: Certified Electronic Payroll Reporting is acceptable if the DOE reviewing official has access and the documents can be maintained in the Electronic System with DOE having access for more than 3 years from end of the contract.
- Scanned Hard Copies: Do not carry the same legal effect as handwritten signatures for DOL enforcement purposes. Therefore, where there is not a certified electronic payroll system, the contractor must forward the document to DOE in paper form.

Maintain CPRs & Supporting Documents

- If the CPR & supporting documents start as an electronic payroll document it can be maintained in the electronic payroll format.
- If the CPR is in paper format with a hand signature it must be maintained in the paper/original form.



DEAR 970.2204-1 Confusion

- 970.2204-1-1 Administrative controls and criteria for application of the Davis-Bacon Act in operational or maintenance activities. (a) Particular work items falling within one or more of the following criteria normally will be classified as non-covered by the Davis-Bacon Act, hereinafter referred to in this section as the "Act."
 - (3) Assembly, modification, setup, installation, replacement, removal, rearrangement, connection, testing, adjustment, and calibration of machinery and equipment. **However, it is noted that these activities are covered** if they are part of, or would be a logical part of, the construction of a facility, or **if construction-type work which is not "incidental" to the overall effort is involved.**

Is Construction Incidental

- Factors to be considered in determining whether installation requires substantial amounts of construction include:
 - the extent to which structural modifications to buildings are needed to accommodate the equipment (i.e., widening entrances, relocating walls, installing electrical wiring, new piping or duct work);
 - the cost of the installation work in both terms of absolute amount or in relation to the cost of the equipment and the total project cost; and
 - The total number of labor hours (32 hours or less)?
 - [DOE Acquisition Guide, Chapter 22.1](#)

Equipment Installation

- The Davis-Bacon Act includes "altering, remodeling, installation (where appropriate) on the site of the work of items fabricated off-site." 29 C.F.R. 5.2(j)(1)(i).
- Is the construction to install the equipment so minor as to be considered construction incidental to the purchase of the equipment?
- Review DOE Acquisition Guide –
 - Chapter 22.1
 - <http://www.energy.gov/management/downloads/departments-energy-doe-acquisition-guide>

DFARS Defense Department



- DFARS guidance instructs the use of "a less than 32 work-hours (SCA)" vs. "32 or more work-hours (DBA)" work hours test (200 or more SF for painting) only when it is unclear whether the work is SCA-type maintenance or DBA repair.

Like for Like?

- No such thing –
 - Use the incidental construction test
 - Is this just putting in a replacement and all that is needed is minor wiring and some new clamps – probably incidental construction.



Section 1804, Energy Policy Act (EPACT) of 1992

Compels –

- Payment of DBA wages for decontamination and decommissioning (D&D) work.
- Performed at DOE uranium enrichment facilities
 - Portsmouth and Paducah Gaseous Diffusion Plants
 - The East Tennessee Technology Park (former K-25)
 - Certain Facilities at Y-12

Contract Work Hours & Safety Standards Act (CWHSSA)

- CWHSSA, 40 U.S.C. Chapter 37
- DOL Regulations 29 CFR § 5.5(b)
- The Act applies to federal service contracts and DBA covered contracts over \$150,000.

Payment of Overtime

- Passed in 1962 and amended in 1986 to consolidate a number of “8-hour” laws, which provided for overtime pay after 8-hours per day on Federal construction contracts.



CWHSSA Requirements

- Requires contractors and subcontractors to pay laborers and mechanics (including security personnel) employed in the performance of the contracts one and one-half times their basic rate of pay for **all hours worked over 40 in a workweek**.
- Workweek is any consecutive 7 day period.
- Some states continue to require payment of overtime wage for all hours over 8 in a day.

CWHSSA

- This Act also prohibits unsanitary, hazardous, or dangerous working conditions on federal and federally financed and assisted construction projects.



CWHSSA Liquidated Damages

- In addition to payment of back wages owed, the contractor/subcontractor is assessed liquidated damages.
- Computed in the amount of \$10 for each calendar day in the workweek on which the individual was required or permitted to work in excess of forty hours without payment of the required overtime wages.
- Liquidated damages are deposited in the U.S. Treasury miscellaneous receipts.

CWHSSA – Purpose

- Place a financial burden on employers for working employees long hours.
- Encourage employer to hire additional workers rather than using lesser number.
- Method employed by government to reduce unemployment.

DBA – Overtime Calculations

- Time and ½ of the DBA WD wage rate
- Fringe rate is not 1-1/2 –
 - Fringe must be paid on every hour worked
 - Including when paid into a *bona fide* fringe plan

Example:	Wage	Fringe
BRICKLAYER.....	\$26.50	\$11.17
$26.50 \times 1.5 = \$39.75 + 11.17 = \50.92		

Public Contracts Act

- The Walsh-Healey Public Contracts Act (PCA) of 1936 (41 U.S.C. 35 *et. seq.*)
- The Department of Labor has promulgated regulations describing the labor standards for federal construction contracts at 41 CFR Parts 50-201 – 50-203 and 210.

Public Contracts Act

- Applies to contracts for the manufacture or furnishing of materials, supplies, articles or equipment to U.S. or District of Columbia.
- Contracts exceeding \$10,000
- Contractors must pay employees who produce, assemble, handle, or ship goods under contracts **to pay the federal minimum wage** for all hours worked and time and one half their regular rate of pay for all hours worked over 40 in a workweek.



PCA – Exceptions

- Certain contracts are not covered by the PCA. They include:
 - Purchases of materials, supplies, articles, or equipment as may usually be bought in the "open market"
 - Purchases of perishables
 - Contracts made by the Secretary of Agriculture for the purchase of agricultural commodities or products
 - Contracts for public utility services and certain transportation and communication services



Service Contract Act (SCA)

- The McNamara O'Hara Service Contract Act (SCA) of 1965
- Codified at 41 U.S.C. 351, *et seq.*
- The Department of Labor has promulgated regulations in 29 CFR Part 4.
- FAR: Service Contract Labor Standards (formerly known as the Service Contract Act)



Purpose of SCA

- The McNamara-O'Hara Service Contract Act (SCA) of 1965 applies to every contract entered into by the United States or the District of Columbia, the **principal purpose of which is to furnish services to the United States through the use of service employees.**
- To cover contracts that are not DBA or Walsh-Healey Public Contracts Act covered. Similar protections as under those contracts.
- Definition of United States includes U.S. Territories.

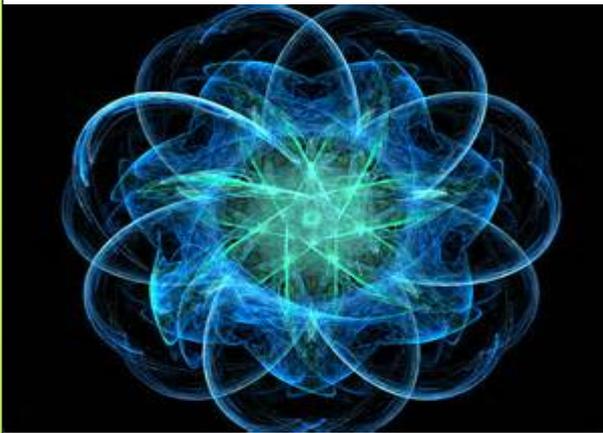
Requirements

- Applicable to contracts in excess of \$2,500
- Principal Purpose – Simple majority of contract requirements
- Employers must pay service employees in various classes no less than the monetary wage rates and to furnish fringe benefits found prevailing in the locality.
- If the predecessor contractor had a collective bargaining agreement (CBA), that CBA becomes the wage determination for the contract.
 - Watch what the CBA says about benefit carryover.
- Safety and health standards also apply to such contracts.



SCA Enforcement

- SCA is enforced by DOL.
- Contracting agencies have certain responsibilities to assure contractors are complying, but no authority to enforce outside of the contract.
- DOE CO must include the WD in the contract and update it periodically.
- DOL usually increases the health and welfare benefits annually – CO **does not** modify a multiyear contract annually to cover the increase, but modifies every two years or when an option is exercised.



Prime Contractors

- SCA is not applicable to M&O contractors, but it is applicable to other prime contracts of the Department.
- M&O and Prime contractors must flow down applicable SCA clauses to subcontractors.
- M&O and other prime contractors are **jointly and severally liable** for contractors non-compliance.



SCA or DBA

- ❖ If the contract is principally for providing services, but there is “a **not incidental** DBA component,” the DBA work is segregated and DBA wages are paid.
- ❖ This is not the case where the contract is principally for construction, but has an SCA component. If principally for construction, SCA is not segregated.



Wage Determination

- Minimum Wages
- Health & Welfare
 - DOL Usually updated annually
- Vacation
- Holidays

Example

OCCUPATION CODE - TITLE	FOOTNOTE	RATE
01000 - Administrative Support And Clerical Occupations		
01011 - Accounting Clerk I		13.68
01012 - Accounting Clerk II		15.35
01013 - Accounting Clerk III		17.17
01020 - Administrative Assistant		21.54
01040 - Court Reporter		17.63
01051 - Data Entry Operator I		12.40
01052 - Data Entry Operator II		13.83
01060 - Dispatcher, Motor Vehicle		17.80
01070 - Document Preparation Clerk		14.16
01090 - Duplicating Machine Operator		14.16
01111 - General Clerk I		11.98
01112 - General Clerk II		13.97
01113 - General Clerk III		15.41

Example of WD

- ALL OCCUPATIONS LISTED ABOVE RECEIVE THE FOLLOWING BENEFITS:
- HEALTH & WELFARE: \$4.02 per hour or \$160.80 per week or \$696.79 per month VACATION: 2 weeks paid vacation after 1 year of service with a contractor or successor; 3 weeks after 8 years, 4 weeks after 15 years, and 5 weeks after 25 years. Length of service includes the whole span of continuous service with the present contractor or successor, wherever employed, and with the predecessor contractors in the performance of similar work at the same Federal facility. (Reg. 29 CFR 4.173) HOLIDAYS: A minimum of ten paid holidays per year, New Year's Day, Martin Luther King Jr's Birthday, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans' Day, Thanksgiving Day, and Christmas Day. (A contractor may substitute for any of the named holidays another day off with pay in accordance with a plan communicated to the employees involved.) (See 29 CFR 4174)

Missing Classification Conformance Process

- Contractor must complete the SF-1444, Request for Additional Classification, or may use e98 form.
- Contractor must submit the request for an additional classification if they have a classification that is non-standard (e.g., Health Physics Tech) or has duties outside a currently listed classification.
- Contracting Officer submits the completed form to DOL at: scaconformance@dol.gov

Section 4(c) of the Service Contract Act

- Provides that no “contractor or subcontractor under a contract, which succeeds a contract subject to this Act and under which substantially the same services are furnished, shall pay any service employee under such contract less than the wages and fringe benefits, including accrued wages and fringe benefits, and any prospective increases in wages and fringe benefits provided for in a collective-bargaining agreement as a result of arm's-length negotiations, to which such service employees would have been entitled if they were employed under the predecessor contract . . . *Provided*, that in any of the foregoing circumstances such obligations shall not apply if the Secretary finds, after a hearing in accordance with regulations adopted by the Secretary, that such wages and fringe benefits are substantially at variance with those which prevail for services of a character similar in the locality.”

Section 4(c) of the Service Contract Act

- Under Section 4(c) –
 - The successor contractor's sole obligation is to insure that all service employees are paid no less than the wages and fringe benefits to which such employees would have been entitled if employed under the predecessor's collective bargaining agreement *for one year*.
 - The obligation is irrespective of whether the successor's employees were or were not employed by the predecessor contractor.
 - The obligation of the successor contractor is limited to the wage and fringe benefit requirements of the predecessor's collective bargaining agreement and **does not extend to other items such as seniority, grievance procedures, work rules, overtime, etc.**

SCA CBA Wage Determinations

- Where there is a successor contractor, the wage rates and fringe benefits are set forth in the pertinent collective bargaining agreements.
- Contracting Officer attaches a copy of the pertinent CBA to the Request for Proposals/Bids and the resulting award.

Section 4(c) - Not applicable If:

- The Secretary of Labor finds after a hearing that such wages and fringe benefits are substantially at variance with those which prevail for services of a character similar in the locality.



Copeland Act

- The Copeland "Anti-Kickback" Act of 1934, codified at 18 U.S.C. 874
- Prohibits the "kickback" of wages
- Supplemented the Davis-Bacon Act
- Requires contractors on DBA/DBRA projects to submit weekly a "statement of compliance"
- Regulates payroll deductions
- DOL Regulations 29 CFR Part 3.

Copeland Act

- Requires the submission of weekly statements to funding agency
 - Within seven days of payment of wages to employees
- Requires the preservation (3 years) and inspection of weekly payroll records
 - Agency is required to examine the wages for accuracy
- Requires contractors to pay all wages owing.
- Requires that Contractors provide a statement of compliance.
- Prohibits contractors from requiring an employee to give up any part of compensation.
- **Regulates payroll deductions.**

Copeland Act is a Criminal Statute

- Falsification of the time sheet
 - Watch for deductions -
- Permissible deductions (29 CFR §3.5)
 - Federal, State, and local taxes
 - Fringe benefit plans
 - Insurance premiums
 - Pension contributions
 - Deductions ordered by a court
- Permissible deductions with DOL Approval (29 CFR §3.6)
 - Providing it benefits employee
 - Employer does not make a profit





Miller Act

- Requires prime contractors on government construction contracts exceeding \$150,000 to post bonds guarantying:
 - The performance of their contractual duties, and
 - Payment to subcontractors and material suppliers.
- For amounts greater than \$35,000, but less than \$150,000, the Contracting Officer can choose other guaranty types.

Miller Act

- Why require a bond?
 - When unpaid on a private construction project, an unpaid contractor or supplier can typically file a mechanics lien against the project itself. The lien attaches directly to the property, preventing transfers and sales, to protect the unpaid contractor's right to payment.
 - On jobs when the federal government owns the property itself, there is no legal right to file a lien against it. Instead, unpaid contractors or suppliers must turn to the bond.

Why is the Miller Act Considered a Labor Standard?

- Protection follows DBA coverage and **protects workers' wages/benefits.**
- Not enforced by DOL (claims must be filed in US District Court.
- The Miller Act, as amended, is codified at 40 U.S.C. Sections 3131-3134

Fair Labor Standards Act of 1938

- Established a national minimum hourly wage - Initially \$0.25 and now at \$7.25.
- Introduced the forty-hour work week
- Guaranteed time-and-a-half for over 40 hours in certain jobs
 - Provides some jobs are exempt from the overtime requirement (e.g., Attorneys, Engineers, Managers)
- Prohibited most employment of minors in "oppressive child labor."

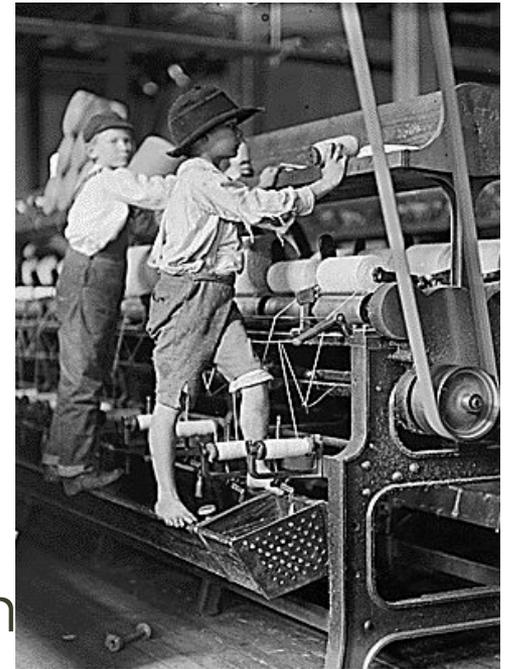


FLSA

- Applies to employees engaged in interstate commerce, employed by an enterprise engaged in commerce, or in the production of goods for commerce.
- Affects most private and public employment.
- Prime contractors are subject to FLSA
- Department of Labor Regulations at 29 CFR Parts 510 to 794.

FLSA – Child Protections

- ❖ The FLSA child labor provisions are designed to protect educational opportunities of youth and prohibit their employment in jobs and under conditions detrimental to their health or safety.
- ❖ Provisions include some restrictions on hours of work for youth under 16 years of age and lists of hazardous occupations too dangerous for young workers to perform



FLSA – Donning & Doffing

- Certain activities are generally not compensable working time:
 - ❖ Traveling to or from the actual place where the employee performs his principal activities.
 - ❖ Time spent on “incidental” activities before or after the employee’s principal activities.

- Employers must generally pay for:
 - ❖ Time spent putting on or taking off protective gear or clothing.
 - ❖ Time spent walking from a company locker room after putting on such equipment.
 - ❖ Time spent walking to the company locker room before taking off such equipment.
 - ❖ Time spent waiting to take off such equipment.

- The FLSA excludes “changing clothes” from the time for which unionized employees must be paid, unless negotiated otherwise.
 - ❖ Clothes is given a broad definition, such that protective gear may be clothing for union employee purposes.

E.O. 13495 – Nondisplacement of Qualified Workers Under Service Contracts

- Signed by President Obama on January 30, 2009
- Applies to federal government service contracts.
- Requires that qualified workers on a Federal service contract who would otherwise lose their jobs as a result of the completion or expiration of a contract be given the right of first refusal for employment with the successor contractor.

E.O. 13495

- Generally, a successor contractor may not hire any new employees under the contract until this right of first refusal has been provided.
- The E.O. applies to a successor contract for the performance of the same or similar services at the same location.

Purpose

- Job protection for service employees.
- Economy and efficiency of procurement interests are served when the successor contractor hires the predecessor's employees.
- A carryover work force reduces disruption to the delivery of services during the period of transition between contractors.
- The Federal Government benefits through an experienced and trained work force that is familiar with the Federal Government's personnel, facilities, and requirements.

Exceptions under E.O. 13495

- The E.O. contains a number of exclusions
 - Contracts under the simplified acquisition threshold (currently \$150,000)
 - Certain contracts awarded for services produced or provided by persons who are blind or have severe disabilities.

Successor Contractor Requirements

- Required to offer the right of first refusal of employment to all qualified employees whose names appear on the predecessor's certified list for the number of vacancies for which the contractor plans to hire.
- Except that:
 - Contractor may bring its own employees – those who worked for that contractor for at least three months immediately preceding commencement of the contract and who would otherwise face lay-off or discharge.

Successor

- The successor contractor has the discretion to determine how many employees are needed for efficient performance of the contract,
 - may employ fewer employees than the predecessor contractor, and
 - has the discretion to determine which employees will first be offered the right of first refusal.

- Where the successor offers a right of first refusal to fewer employees than were employed by the predecessor,
 - the obligation to provide a right of first refusal of employment under the contract to the predecessor's employees continues to apply for 90 days after commencement of the contract to fill vacancies, including those due to increased staffing levels.

E.O. 13658 – Establishing a Minimum Wage for Contractors

- President Obama signed the EO on February 12, 2014.
- Purpose - to raise the minimum wage initially to \$10.10 for all workers on Federal construction and service contracts. Increases thereafter based upon wages the Secretary of Labor sets.
- The Executive Order directed the Department of Labor to issue regulations to implement the new Federal contractor minimum wage.

E.O. 13658

- Applies to four major categories of contractual agreements:
 - (1) procurement contracts for construction covered by the Davis-Bacon Act (DBA);
 - (2) service contracts covered by the Service Contract Act (SCA);
 - (3) concessions contracts, including any concessions contract excluded from the SCA by the Department of Labor's regulations at 29 CFR 4.133(b); and
 - (4) contracts in connection with Federal property or lands and related to offering services for Federal employees, their dependents, or the general public.

Exceptions to E.O. 13658:

- Narrow exclusions from coverage for the following types of contractual agreements:
 - (1) grants;
 - (2) contracts and agreements with and grants to Indian Tribes under Public Law 93-638, as amended;
 - (3) any procurement contracts for construction that are not subject to the DBA (*i.e.*, procurement contracts for construction under \$2,000); and
 - (4) any contracts for services, except for those otherwise expressly covered by the proposed rule, that are exempted from coverage under the SCA or its implementing regulations. For example, the SCA exempts contracts for public utility services, including electric light and power, water, steam, and gas, from its coverage.
- Does not apply to contracts for the manufacturing or furnishing of materials, supplies, articles, or equipment to the Federal Government, *i.e.*, those subject to the Walsh-Healey Public Contracts Act.

E.O. 13673

Fair Pay and Safe Workplaces

- Purpose:
 - To improve contractor compliance with labor laws and increase efficiency, which will result in a cost savings to the government.
- Applicability:
 - Contracts greater than \$500,000

E.O. 13673 – Requirements

- Disclose labor violations:
 - Offers reports civil judgments, arbitral awards/ decisions, and administrative merits determinations for 14 named labor laws and equivalent State laws, from prior 3 years.
 - Contractors provides mitigating information.
 - Contractors must update this information semi-annually during contract performance.
 - Subcontractors must report the same information to the Prime contractor.

E.O. 13673

- Contracting Officer Assess Disclosures:
 - Contracting Officers must determine responsibility initially
 - Provides information from the Offeror or Contractor to the **Labor Compliance Advisor** (LCA).
 - LCA reviews and advises the Contracting Officer

E.O. 13673 - LCA

- Each agency must designate a senior agency official to serve as LCA
 - The Secretary of Energy has designated the Assistant General Counsel for Labor and Pension Law (GC-63), currently Jean Stucky, as LCA for DOE.
- Under the EO, the LCA will be primarily responsible for implementing the order within the agency.
 - The LCA will work closely with NNSA Office of General Counsel on issues concerning NNSA.
 - Works with safety personnel Representative(s) of the cognizant DOE/NNSA health and safety organization on such matters.
- Work with your site POC within GC-63 and the NNSA GC's Office.

DOE Order 350.3

- *Three Chapters*
 - *Labor Standards Compliance,*
 - *Contractor Labor Relations, and*
 - *Contractor Workforce Restructuring Programs*
- *Model H clauses are moving through concurrence process*

DOE Order 350.3

- ROLES/RESPONSIBILITIES: GC-63 (In consultation of NNSA Office of General Counsel)
 - Serve as DOE/NNSA labor advisor & primary POC with DOL
 - Coordinate comments on proposed DOL regulations
 - Furnish DBA enforcement reports to DOL
 - Work with HCA and COs to determine classes of work for which applicability or non-applicability of DBA is clear (DEAR 970.2204-1-1(b)(3) and DOE Acquisition Guide Chapter 22.1: <http://energy.gov/sites/prod/files/Attachment-AG%20Chapter%2022%201.pdf-4>).
 - Coordinate Congressional responses on labor standards issues
 - Review disputed labor standards determinations before finalized
 - Review/comment on applicable contract clauses
 - Assist in determining labor standards applicability as requested

O 350.3 – New Items

- Forwarding disputed labor standards determinations to GC-63 or NNSA OGC for review when appeal of an initial decision.

- Contracting Officers/Designees responsibilities include:
 - Consult regularly with HCA on labor standards issues
 - Notify GC-63 or NNSA OGC as soon as possible of:
 - contractor employee complaints
 - labor standards violations of at least \$1,000
 - DOL investigations
 - other labor standards complaints, arbitrations, legal/judicial proceedings
 - significant labor standards issues
 - DBA/SCA compliance findings

Contacts & Resources Available

DOE Desk Guide:

<http://www.energy.gov/gc/services/technology-transfer-and-procurement/office-assistant-general-counsel-labor-and-pension>

- www.dol.gov & www.wdol.gov
- Field Office –
 - Attorneys in the Chief Counsel's Office
 - Contractor Human Resource Management group
- GC-63 POCs for DBA and advice

Frequently Asked Questions

FAQs

- This web link connects you to hundreds of DBA FAQs:
<http://www.energy.gov/gc/services/technology-transfer-and-procurement/office-assistant-general-counsel-labor-and-pension>

Exercise

Classification	Rates	Fringes
○ Bricklayers	\$12.00	\$5.46
○ Carpenters	\$13.35	\$4.63
○ Laborers (Unskilled)	\$10.65	\$3.65
○ Sheet Metal Workers	\$15.24	\$3.778

U.S. Department of Labor
Employment Standards Administration
Wage and Hour Division

PAYROLL

Page 1 of 2

(For Contractor's Optional Use; See Instructions at www.dol.gov/esa/whd/forms/wh347instr.htm)

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Rev. Dec. 2008

NAME OF CONTRACTOR OR SUBCONTRACTOR
Hale N. Hardee Construction Co., Inc.

ADDRESS

1 Easy Street, New York, NY

OMB No.: 1215-0149
Expires: 12/31/2011

(1) NAME AND INDIVIDUAL IDENTIFYING NUMBER (e.g., LAST FOUR DIGITS OF SOCIAL SECURITY NUMBER) OF WORKER	(2) NO. OF WITHHOLDING EXEMPTIONS	(3) WORK CLASSIFICATION	(4) DAY AND DATE							(5) TOTAL HOURS	(6) RATE OF PAY	(7) GROSS AMOUNT EARNED	(8) DEDUCTIONS					(9) NET WAGES PAID FOR WEEK
			OT. OR ST.	S	M	T	W	T	F				S	FICA	WITH- HOLDING TAX	OTHER	TOTAL DEDUCTIONS	
				6	7	8	9	10	11				12					
Anderson, Joseph		Carpenter	o		1	1	1	1	1		5	35.96	899.00	67.43	179.80	17.98	265.21	633.79
			s		8	8	8	8	8		40	17.98	899.00					
Bedwell, Thomas		Carpenter	o		1	1	1	1	1		5	20.03	819.35	61.45	163.87	16.39	341.71	477.64
			s		8	8	8	8	8		40	17.98	819.35					
Larson, Todd		Carpenter	o		1	1	1	1	1		5	20.03	634.15	47.56	126.83	12.69	187.08	447.07
			s		8	8	8	8	8		40	13.35	634.15					
O'Brian, Tom		Apprentice Carpenter	o									505.60	37.92	101.12	10.11	149.15	356.45	
			s		8	8	8	8	8		40	12.64						505.60
Roberts, Gordon		Apprentice Carpenter	o									505.60	37.92	101.12	10.11	149.15	356.45	
			s		8	8	8	8	8		40	12.64						505.60
Snyder, Hammond		Trainee Carpenter	o									505.60	37.92	101.12	10.11	149.15	356.45	
			s		8	8	8	8	8		40	12.64						505.60
Clements, Paul E.		Bricklayer	o									541.50	40.61	108.30	10.83	259.24	282.29	
			s		6	6	6	6	7		31	17.46						541.50
Cunningham, Christopher		Bricklayer	o									568.10	42.60	113.60	11.36	210.16	357.54	
			s		6	6½	7	7	6		32½	17.46						568.10

Statement of Certification

Date **October 17, 2009**

I, **Hale N. Hardee** **President**
 (Name of Signatory Party) (Title)

do hereby state:

(1) That I pay or supervise the payment of the persons employed by
Hale N. Hardee Construction Co., Inc. on the
 (Contractor or Subcontractor)

6 - Story Office Building

(Building or Work)

that during the payroll period commencing on the
11 day of **October 2009**, and ending the **17** day of **October 2009**,
 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

Hale N. Hardee Construction Co., Inc.

from the full
 (Contractor or Subcontractor)

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. Subtitle A), issued by the Secretary of Labor under the Copeland Act, as amended (48 Stat. 948,
 63 Stat. 108, 72 Stat. 967; 78 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
Larson, Todd	\$4.63/HR paid to a fringe benefit plan

REMARKS:

NAME AND TITLE

Hale N. Hardee, President

SIGNATURE

Hale N. Hardee

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 231 OF TITLE
 31 OF THE UNITED STATES CODE.



U.S. Department of Labor
Wage and Hour Division

PAYROLL

(For Contractor's Optional Use; See Instructions at www.dol.gov/whd/forms/wh347instr.htm)

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NAME OF CONTRACTOR OR SUBCONTRACTOR ADDRESS 5509 Bayside Lane, Fort Washington, ID 83404
 Jason's Electric Company OMB No.: 1235-0008 Expires: 01/31/2015

PAYROLL NO. RETROACTIVE - CORRECTED FOR WEEK ENDING PROJECT AND LOCATION PROJECT OR CONTRACT NO.
 Northampton County Courthouse Lighting Project, Boise, ID 2010-535-7925

(1) NAME AND INDIVIDUAL IDENTIFYING NUMBER (e.g., LAST FOUR DIGITS OF SOCIAL SECURITY NUMBER) OF WORKER	(2) NO. OF WORKING DESCRIPTIONS	(3) WORK CLASSIFICATION	OT OR SEI.	(4) DAY AND DATE							(5) TOTAL HOURS	(6) RATE OF PAY	(7) GROSS AMOUNT EARNED	(8) DEDUCTIONS					(9) NET WAGES PAID FOR WEEK
				HOURS WORKED EACH DAY											FICA	WITH-HOLDING TAX	STATE TAX	OTHER	
Thomas J. Holmes -5678 Paid \$23.00/hour + \$10.50 = \$33.50 WD \$27.66+\$10.33 = \$37.96 (\$4.46)	1	Electrician	o									\$276.52	\$19.36	\$58.08	\$38.72		\$116.16	\$160.36	
			s							62.00	62.00	4.46							\$276.52
William K. McKay - 1234 Paid \$16.62 (Step 1, 60%)+8.10=\$24.72 WD 16.60 + 10.33 = \$26.93 (\$2.21)	0	Apprentice	o									\$88.40	\$6.19	\$18.57	\$12.38		\$37.14	\$51.26	
			s							40.00	40.00	2.21							\$88.40
Christina Black - 9101 Paid \$23.10 + \$12.00 = \$35.10 WD \$27.66 + 10.33 = \$37.96 (\$2.86)	2	Electrician	o									\$85.80	\$6.01	\$18.03	\$12.02		\$36.06	\$49.74	
			s							30.00	30.00	2.86							\$85.80
Maxine Walters - 1213 Paid \$10.50 + \$8.50 = \$19.00 WD \$12.97 + 2.47 = \$15.44 (\$0.00)	1	General Laborer	o									\$0.00	\$0.00	\$0.00	\$0.00				
			s							60.00	60.00	0.00							\$0.00
Jackson Macdonald - 1415 \$20.78 (Step 4, 75%)+\$9.10 = \$29.88 WD \$20.75+10.33 = \$31.08 (\$1.20)	2	Apprentice	o									\$57.60	\$4.03	\$12.09	\$8.06		\$24.18	\$33.42	
			s							48.00	48.00	1.20							\$57.60
Walter Monument - 1617 Paid \$23.00 + \$10.50 = \$33.50 WD \$27.66+\$10.33 = \$37.96 (\$4.46)	3	Electrician	o									\$178.40	\$12.49	\$37.47	\$24.98		\$74.94	\$103.46	
			s							40.00	40.00	4.46							\$178.40
Jason McKinsey - 3839		Owner	o																
			s																
Scott VanDan - 1718 Paid \$21.00 + \$10.00 = \$31.00 WD \$27.66+\$10.33 = \$37.96 (\$6.96)	3	Electrician	o									\$361.92	\$25.33	\$75.99	\$50.66		\$151.98	\$209.94	
			s							52.00	52.00	6.96							\$361.92

While completion of Form WH-347 is optional, it is mandatory for covered contractors and subcontractors performing work on Federally financed or assisted construction contracts to respond to the information collection contained in 29 C.F.R. §§ 3.3, 5.5(a), The Copeland Act (40 U.S.C. § 3145) contractors and subcontractors performing work on Federally financed or assisted construction contracts to "furnish weekly a statement with respect to the wages paid each employee during the preceding week." U.S. Department of Labor (DOL) regulations at 29 C.F.R. § 5.5(a)(3)(ii) require contractors to submit weekly a copy of all payrolls to the Federal agency contracting for or financing the construction project, accompanied by a signed "Statement of Compliance" indicating that the payrolls are correct and complete and that each laborer or mechanic has been paid not less than the proper Davis-Bacon prevailing wage rate for the work performed. DOL and federal contracting agencies receiving this information review the information to determine that employees have received legally required wages and fringe benefits.

Public Burden Statement

We estimate that it will take an average of 55 minutes to complete this collection, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. If you have any comments regarding these estimates or any other aspect of this collection, including suggestions for reducing this burden, send them to the Administrator, Wage and Hour Division, U.S. Department of Labor, Room S3502, 200 Constitution Avenue, N.W., Washington, D.C. 20210

Date 2/7/2011

I, Jason McKinsey President/Owner
 (Name of Signatory Party) (Title)

do hereby state:

(1) That I pay or supervise the payment of the persons employed by
Jason's Electric Company on the
 (Contractor or Subcontractor)
Northampton County Courthouse; that during the payroll period commencing on the
 (Building or Work)
1st day of September 2010 and ending the 30th day of September 2010

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

Jason's Electric Company from the full
 (Contractor or Subcontractor)

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. Subtitle 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

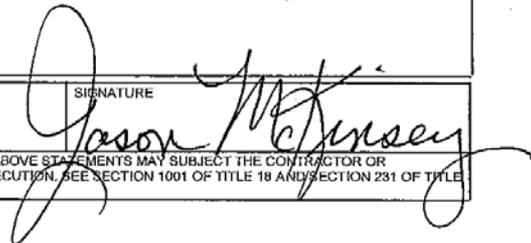
EXCEPTION (CRAFT)	EXPLANATION

REMARKS:

I provide my employees with Aetna medical insurance (they pay a share of the premium), Travelers life insurance, Travelers short term disability insurance, a 3% match to a 401(k) Plan from Vanguard, vacation, 10 Holidays, 5 sick days each year. Vacation is paid beginning after 1 year = 2 weeks and after 5 years = 3 weeks.

NAME AND TITLE
 Jason McKinsey

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 231 OF TITLE 31 OF THE UNITED STATES CODE.