State Energy Office Monthly Office Hours

Davis-Bacon Act Compliance: LCPtracker Overview Questions and Answers

May 17th, 2024

1) **Question**: Can the State SEO office have one log in for an Administrator, or does each staff person need to create their own account? For example: StateSEO@gov (username).
   a. **Answer**: Every person needs to have their own login.
2) **Question**: Who validates this information? DOE or the SEO? LCPtracker's validation system checks payrolls for federal Davis-Bacon prevailing wage requirements by flagging mathematical errors or omission discrepancies for the recipient to review on a report (re: factors like base hourly rate, total hourly rate, overtime, double-time, apprentice approval, and fringe benefit contributions).
   a. **Answer:** When an entry is made by the entity performing DBA work, the LCPtracker validation system goes through validation checks. However, additional validation checks performed by RER Solutions (compliance subcontractor) may be needed (e.g., if certain laborers are categorized differently).
3) **Question**: Wage Determinations? How does LCPtracker know that a contract may have been signed and a wage determination from 2022 is being used, but the first payroll is not being submitted until 2023? How do they know the accurate SAM.gov wage rate to use, if they are only pulling current wage rates?
   a. **Answer:** It is the responsibility of whoever is sending in the form which is then entered by the LCPtracker team based upon the information found within the form. (Not the responsibility of LCPtracker team to identify specific wage determination)
4) **Question**: As the prime recipient, does DOE expect the SEO to provide the wage determinations for each subrecipient: how will that work, do we set up each sub in the system, and then their Wage Determination?
   a. **Answer:** DOE expects the SEO to set up each project in the LCPtracker; each project has a wage determination assigned to it. Each subcontractor will need to be set up with LCPtracker and use the wage system to validate they meet the wage determination.
5) **Question**: What is the SEO role? This training appears to be for subrecipients.
   a. **Answer**: This training is for SEOs. SEOs are responsible for ensuring subcontractors are using the LCPtracker, entering in information for projects, and meeting wage requirements, thus SEOs will need to use LCPtracker.
6) **Question**: Does the reporting in LCPtracker remove the requirement for SEO to make Semi Annual reports in PAGE?
   a. **Answer:** No, SEO will still be doing Semi-Annual reports in PAGE. ARRA and BIL will still be reported.
7) **Question**: What happens when a subrecipient/contractor does not upload weekly reports? Whose responsibility is it to follow up and does the program notify anyone, such as the SEO, the subrecipient, the contractor, etc.?
   a. **Answer:** The prime (SEO) has to ensure that the weekly reports are uploaded. If delegated to subrecipient, then the subrecipient will notify the SEO if it is not in there. Following this, DOE will be notified. Reports will be used to identify those that have not been submitting reports within LCPtracker. Additionally, RER solutions (compliance

subcontractor) will be conducting audits in addition to the internal checks that LCPtracker provides.

8) **Question**: Please review the Hardship Waiver/waiver process.
   a. **Answer:** A recipient or subrecipient may obtain a waiver for use of LCPtracker only if they are unable or limited in their ability to use or access the software. For example, a recipient has no or limited access to internet. Award recipients should speak to their grants or contracting officer about seeking an exemption as early as possible, preferably during the application process. In lieu of using LCPtracker software, a recipient with a waiver must still provide weekly, paper reporting of their certified payroll. Under this circumstance, each weekly statement must be delivered by the recipient or subrecipient, within seven days after the regular payment date of the payroll period, to a representative of a federal or state agency in charge at the site of the work. If there is no representative of a federal or state agency at the site of the work, the statement should be mailed by the recipient or subrecipient, within seven days after the regular payment date of the payroll period, to a federal or state agency contracting for or financing the work.

9) **Question**: What is the start date for the required use of LCPtracker? When will the subsequent modification occur?
   a) **Answer:** The start date is now. If states have project before LCPtracker went live and used paper, this is OK, but states are now expected to use LCPtracker moving forward. Modifications to the award Terms and Conditions as well as the Federal Assistance Reporting Checklist (FARC), will be updated on a rolling basis and/or when the need arises for other modifications to the award.

10) **Question**: Is LCPTracker ONLY used for DOE programs?
    a. **Answer:** DOE BIL programs are using LCPtracker. Other federal agencies may differ, and states will need to check with them to identify their requirements for DBA.

11) **Question**: What about EPA funding for Solar for All? Will we use LCPtracker for that as well?
    a. **Answer:** States will need to check with EPA to identify their requirements for DBA.

12) **Question**: Is the grant recipient responsible for monitoring to ensure that EVERY project has submitted its required DBA reports, or can this be done on a sample basis?
    a. **Answer:** Yes. Users will find getting into LCPtracker is easy and will help save time. More in-depth reviews may be limited. For example, the contracting officer reviews the first month of performance and checks for errors flagged in LCPtracker then corrected. If the contractor is satisfied that errors are less frequent, they are submitting properly and timely, they may want to switch to a regular tempo, e.g., from every week to every-other-week.

13) **Question**: Do SEOs have to review and approve every CPR submitted for a grant? Or are they reviewed on a sample basis?
    a. **Answer:** Every project CPR will need to be reviewed and approved, but SEOs may delegate this. States can flow this review to a subcontractor and make them the responsible entity.

14) **Question**: Has SEP already hired a DBA concierge?
    a. **Answer**: Yes, the DBA concierge is hired and scheduled to be available to serve states in June 2024.

15) **Question**: Will the SEOs have to coordinate registration with all the individual POs for project creation across the various funding programs, meaning EECBG, 40101(d), BIL SEP? Once we have created an administrator role, I assume it works across EECBG and 40101(d).
    a. **Answer:** States can use the same registration form and multiple departments can be added in the registration form. SEP has naming conventions for SEOs; WAP may have different conventions. SEOs can verify the naming conventions with other entities for the form (e.g., WAP).
16) **Question:** How will this work for states hiring a third-party entity to serve as prime program administrator for their program? What about for multi-level project chains (e.g., 5 levels: state grant recipient to another state entity to a third-party administrator to a building owner to a contractor), what is the role of each entity?
    a. **Answer**: The different entity may need to be added. LCPtracker can support this. For multiple state entities involved, they can take responsibility as the prime recipient co-equally.
17) **Question**: If the state energy office retains a program administrator to perform DBA monitoring, do both the SEO and program administrator register? The SEO is contracting this responsibility to someone doing this on their behalf (in general, not necessarily in the lens of RLF).
    a. **Answer**: The SEO will still need an LCPtracker account. Contact SEP team separately about more specific questions. DOE SEP will not be able to identify what is inherently government based upon state and local laws, we can only identify federally. Make sure to work with General Counsel within the agency to meet state's responsibility.
18) **Question**: Are you able to create a department for other awards like programs funded with ARRA?
    a. **Answer:** You need to create departments for different awards, however LCPtracker is limited to BIL awards. DOE's LCPtracker system cannot be used for ARRA awards.
19) **Question**: What is the "General Decision Number" on the Project Information form?
    a. **Answer:** That is the wage determination number on sam.gov that needs to be assigned to the project.
20) **Question**: What happens once we get approval to bring new subrecipients into the system? Who will be responsible for training them to use LCP Tracker?
    a. **Answer:** There are recorded trainings that the subrecipients will need to watch as well as register for the live trainings that LCPtracker provides.
21) **Question**: As SEOs we typically do not have contractors, but rather subrecipients, who then contract with entities. Who assigns/sets up the contractor?
    a. **Answer:** States will set up the subrecipient and flow down the responsibility to the subrecipient who will be responsible for setting up and approving projects.
22) **Question**: If our sub has a contractor, do we put that in or can the subrecipient?
    a. **Answer:** Once a contractor or subcontractor has been set-up, they will have the ability to set up a lower tier sub. It does not rely entirely on the SEO; it can be delegated to a subrecipient.
23) **Question**: Please also verify that the "project" set up is also through the subrecipient for their project, which they will set up, not the SEO (as the pass-through entity).

a. **Answer:** The project is set up by the "business manager" role (whether that is SEO or subrecipient) and assigns contractors to the project; contractors can set up additional subcontractors.

24) **Question**: If CPRs pass validation, why do they need to be approved?
   a. **Answer:** The CPRs still have to be reviewed and approved, as it is self-certified. As opposed to going straight from sub to DOE, this approval process is a benefit for those responsible for overseeing the project, allowing any discrepancies to be identified earlier in the process. Approval is separate from Validation.

25) **Question**: I thought SEOs were monitoring CPR approvals?
   a. **Answer:** SEOs can delegate to subrecipients to approve and monitor CPRs.

26) **Question**: Would the subrecipient (as the Prime and project holder) be the one "approving" the certified payroll from the contractor?
   a. **Answer:** SEOs can delegate to subrecipients to approve and monitor CPRs.

27) **Question**: Who provides the training on LCPtracker use for field contractors? Is it the responsibility of the prime recipient/assigned subs?
   a. **Answer:** Once within the system, there is training that assigned field contractors are required to complete.

28) **Question**: Can someone please review the roles for SEO's when they administer the grant to a subrecipient, who then has the project and the contractor/subcontractors? Set up, review, approvals, etc. This review seems very specific to what our subrecipients may need to follow.
   a. **Answer:** Please see the answer to question 41.

29) **Question**: Is the Contractor User Guide version 1.5 the latest version?
   a. **Answer:** Whatever is found under Training Materials would be the latest. Version 2.0 appears to be the latest available. It is recommended that the training materials via web-version is utilized as opposed to downloads.

30) **Question**: Do states need to be set up in the LCPtracker before participating in the live training?
   a. **Answer**: Yes. Once a state is set up in LCPtracker they can reach out to training-doe-bil-dbls@lcptracker.com to participate in live training.

31) **Question**: Are we allowed to provide this link to subrecipients to attend training? And they will need accounts set up in order to attend, as well?
   a. **Answer:** Yes and yes

32) **Question**: We work with a lot of rural subrecipients. What if they are unable to provide virtual ID?
   a. Answer: Please see the answer to question 8. If an SEO encounters this issue, they can also contact SEP who will address it on a case-by-case basis.

33) **Question**: Will there be a DOE specific Contractor User Guide (pdf) developed? I see a lot of contractor user guide designed for specific states and local governments.
   a. **Answer:** DOE is not planning to develop a contractor-specific user guide at this time.

34) **Question**: Can you provide a link or document to the DOE's IT security requirements that LCP tracker has been vetted to meet?
   a. **Answer:** Below is the link to the NIST 800-53 Rev-5 control families:
   - https://csrc.nist.rip/Projects/risk-management/sp800-53-controls/release-search#!/families?version=5.1

- https://csrc.nist.rip/Projects/risk-management/sp800-53-controls/release-search#!/controls?version=5.1&family=AC

35) **Question**: How quickly will these slides be sent out after this meeting?
   a. **Answer:** Slides will be sent out today; answers to FAQs will be sent later after following up on questions that require further investigation and verifying question answers.

36) **Question**: Your message to training-DOE-DIL-DBLS@lcptracker.com couldn't be delivered.
   a. **Answer:** training-doe-bil-dbls@lcptracker.com is the correct email address

37) **Question**: What is the wage determination lock-in rate and date on the project intake form?
   a. **Answer:** Wage determine rates are locked in for the life of the project when it is submitted to the system. Wage determination dates are locked in when the project goes out to bid; the wage determination associated with the bid is the lock-in date.

38) **Question**: Is there a requirement for what time frame the SEO (or a contractor it retains) must complete its review of submitted CPRs? And for programs like the Energy Efficiency Revolving Loan Fund Capitalization Grant Program, the review and approval of CPRs doesn't seem to have to be tied to issuance/approval of loans.
   a. **Answer:** The entity that is doing the actual work has to certify by the end of the week. The certified payroll is not able to be viewed by DOE before the SEO completes review of the submitted CPRS.

39) **Question**: Can LCPtracker be utilized for Joint Office of Energy and Transportation projects (e.g., NEVI)?
   a. **Answer:** You will need to check with your Project Officer for your NEVI award to see what their DBA requirements are.

40) **Question**: If a project has multiple locations and possible different wage rates at each location, do we have to set up different projects for different wage determination areas?
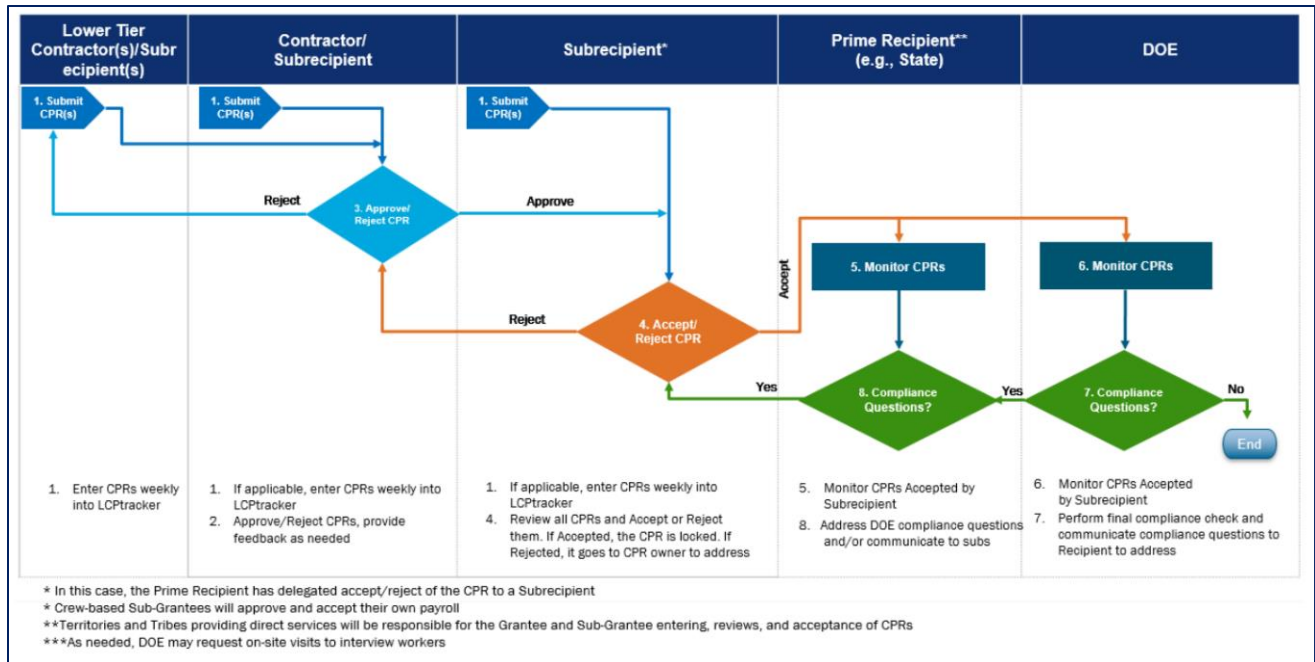   a. **Answer:** If a project has multiple locations, when the project is set up, the multiple county locations can be selected and the applicable wage determinations for the counties can be loaded and assigned to the project. The contractors when submitting Certified payroll will select the correct location and applicable craft and the classification options will be available by location.

41) **Question**: What about projects that started before today but are still in process?
   a. **Answer:** Projects may be added and going-forward, certified payrolls submitted.

42) **Question**: It was just said that flowing down the responsibility to subrecipients is allowed. The answer you had to another question sounded like the SEO was responsible to approve payrolls. Can you please clarify what SEO's responsibility is?
      Answer: Yes, you can pass through responsibility to your sub. However, the SEO still has a responsibility to be monitoring those approved CPRs. Further, it will be the SEO's responsibilities for registering in LCPtracker and registering their subrecipients. For more details on roles and responsibilities, please review the following guide and flow chart: BIPARTISAN INFRASTRUCTURE LAW DAVIS BACON ACT COMPLIANCE USING LCP TRACKER (energy.gov)

Lower Tier Contractor(s)/Subrecipient(s) | Contractor/Subrecipient | Subrecipient* | Prime Recipient** (e.g., State) | DOE

1. Submit CPR(s)
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3. Approve/Reject CPR — Reject / Approve

4. Accept/Reject CPR — Reject / Accept

5. Monitor CPRs

6. Monitor CPRs

8. Compliance Questions? — Yes

7. Compliance Questions? — Yes / No

End

1. Enter CPRs weekly into LCPtracker

1. If applicable, enter CPRs weekly into LCPtracker
2. Approve/Reject CPRs, provide feedback as needed

1. If applicable, enter CPRs weekly into LCPtracker
4. Review all CPRs and Accept or Reject them. If Accepted, the CPR is locked. If Rejected, it goes to CPR owner to address

5. Monitor CPRs Accepted by Subrecipient
8. Address DOE compliance questions and/or communicate to subs

6. Monitor CPRs Accepted by Subrecipient
7. Perform final compliance check and communicate compliance questions to Recipient to address

* In this case, the Prime Recipient has delegated accept/reject of the CPR to a Subrecipient
* Crew-based Sub-Grantees will approve and accept their own payroll
**Territories and Tribes providing direct services will be responsible for the Grantee and Sub-Grantee entering, reviews, and acceptance of CPRs
***As needed, DOE may request on-site visits to interview workers

43) **Question**: For specific state questions that get emailed to SCEP, can the responses be shared with all of the states?
   a. **Answer:** Yes, we will continue to share Q&A with states as they are processed.
44) **Question**: If we pass along the review of CPRs to sub-recipients and an audit finds discrepancies in DBA regulations these finding would still be considered the responsibility of the SEO correct? Therefore, SEO are taking a risk by following this advice?
   a. **Answer:** The prime (SEO) will be responsible for compliance of any subrecipient. A state can flow the responsibility of reviewing and accepting CPRs, however, ultimately it is the state's responsibility to ensure any issue is resolved.