



U.S. DEPARTMENT OF
ENERGY

OFFICE OF THE UNDER SECRETARY FOR
INFRASTRUCTURE

Davis-Bacon Act Implementation and Compliance for Utilities

Aug 2, 2024

Notice

- This webinar is being recorded and may be posted on DOE's website or used internally.
- Participation in today's webinar does not confer any disadvantages or advantages to any current or future opportunities.
- All participants are strongly encouraged to carefully read the Davis-Bacon Act (DBA) requirement and visit our [website](#) which provides information and useful links.
- There will be a non-recorded Q&A session at the conclusion of the webinar. Any questions that cannot be addressed live may be submitted afterwards.



Agenda

Leadership Share

Scene Setting

Getting to Compliance

Weekly Pay Options

- **Requirements**
- **Options**

Next Steps

Q&A



Leadership Message

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Scene Setting

- Where the Davis-Bacon Act (DBA) applies to projects funded in whole or in part:
 - Under the **Bipartisan Infrastructure Law (BIL)** -> if the project involves construction, alteration, or repair
 - If financed in whole or part with a loan guaranteed under Title 17
- Weekly pay is required only for the workers (laborers and mechanics) performing construction activities covered by DBA, not the entire utility workforce.
- Certified payrolls must be submitted to DOE weekly.



Scene Setting Continued

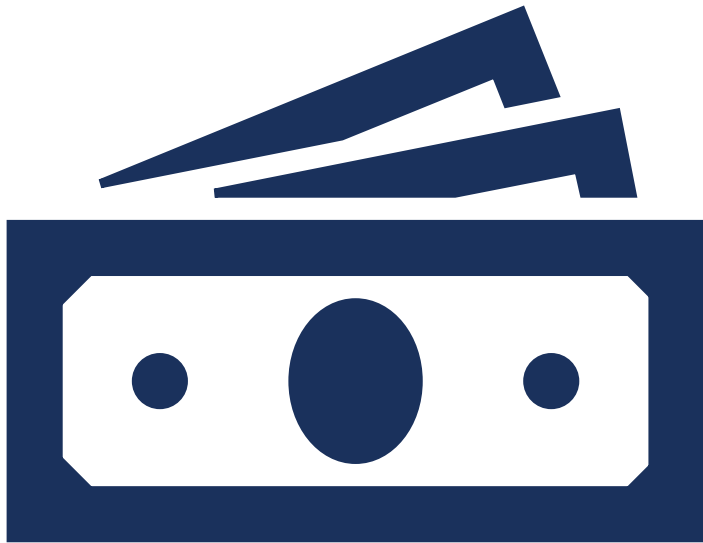
- Methods to comply with weekly pay may change as the project progresses.
 - E.g., Utility may begin with checks then move to a third-party system.
 - DOE clearance of compliance strategy is not required: utility must be comfortable certifying they have paid weekly.
- DOE will consider requests for additional funding to comply with DBA, including weekly payroll.
 - Any requests for modifications to the approved budget shall be raised to your DOE point of contact (Grants Officer, Portfolio Management Team Lead, etc.).

- **DBA is new for many utilities, and DOE will collaborate with utilities to resolve any initial noncompliance issues** and will provide a brief grace period to get into compliance.
 - Utilities do not need to have a perfect system from the very beginning, and final awards can be signed without complete realization of these systems. Noting that prospective compliance is only required once construction work has begun.
- Weekly pay and/or reporting errors will result in a letter from the DOE Grants Officer or representative requiring a recovery plan.
 - Pay errors may be remedied retroactively e.g., Paid base rate was under by \$0.25. The difference may be added to next pay period.
- Utilities must demonstrate good-faith effort to comply DBA. In the most extreme cases, the financial assistance could end and risk debarment.

Getting to Compliance



Requirements for All Weekly Pay Options



- Pay the prevailing wage
- "Free and clear" wages
- No deductions
- No reversion
- No opt-in or opt-out
- Sufficient to cover second week and no-offset
- Provide guidance from recipient or third-party
- Recordkeeping by recipient



Weekly Pay Options




Weekly Pay: Cash Advance

- Does not require change in frequency of payroll system
- Issue a cash advance in the alternate, non-traditional payment weeks in an amount equal to or exceeding the prevailing wages due to workers for their hours worked on DBA projects in the preceding weeks
- The cash advance is then deducted from the biweekly payroll amount.
- The remaining wages paid to workers on biweekly payrolls must be sufficient to also cover the prevailing wage rate due to workers for:
 - any DBA hours worked during the second week of payroll
 - workers' usual rate for their non-DBA work



Weekly Pay: Draw Check

- Does not require change in frequency of payroll system
- Issue a “draw” check for a set amount in alternate weeks, which is subsequently deducted from/draws against the regular biweekly payroll
- The remaining wages paid to the workers on the biweekly payrolls must be sufficient to also cover the prevailing wage rate due to workers for:
 - any DBA hours worked during the second week of payroll
 - workers’ usual rate for their non-DBA work



Weekly Pay: Third Party Payroll - Application/Debit Card

- Does not require change in frequency of payroll system.
- DOE does not endorse any specific payroll services provider or product.
- Often consists of base subscription and fixed cost per employee.
- Third party providers frequently handle direct deposit, the issuing of paper checks, or other wage payment methods for on utilities' behalf.
 - e.g., funds equivalent to the wages due could be placed in an account that workers can access through a payroll application.
 - Workers must be able to obtain the full wage compensation due to them from the payroll app, payroll debit card, or similar method in accordance with the requirements for all Weekly Pay Options.



Next Steps

- Consult your labor partners
- Work with your DOE POC to:
 - Discuss allowable costs (*as needed*)
 - Join a follow on GC to GC informational session (*details to come*)

FAQS

- Will changing to weekly pay open up Collective Bargaining Agreements?
- We've started work with DOL on a weekly pay reporting variance, should we continue this process?
- We're planning to use a third-party payroll option but expect it to come at a cost, can this be considered as an allowable cost?
- Do projects need to wait until they can support compliance activities to sign an award? If my project would start construction immediately, should I wait until I can comply to accept my award?





Q&A



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Thank you!