

CITY OF AUSTIN PRESENTS



Your partner in capital project delivery!

Wage Rate and Payroll Reporting Section 00830



PURPOSE

- To provide an overview of our prevailing wage requirements and compliance processes.
- To identify key areas that affect the contractors' success of compliance with the terms of their contract



THE DAVIS-BACON ACT

I. History And Purpose Of The Act

The Davis-Bacon Act (the “Act”), 40 U.S.C. 276a, was enacted on March 3, 1931, to require the inclusion of minimum wage rates for laborers and mechanics employed on the site of Federal government contracts for construction, alteration or repair, painting and decorating of public buildings or public works. The Act is named after its chief sponsors, Representative Bacon of New York and Senator Davis of Pennsylvania.



THE DAVIS-BACON ACT

II. Requirements Of The Act

A. Prevailing Wages - General Rule

The Act requires that contractors pay their laborers and mechanics minimum wages that are “based upon the wages that will be determined by the Secretary of Labor to be prevailing for the corresponding classes of laborers and mechanics”.



COA REQUIREMENTS

- What is our Program?
 - Modeled after Davis-Bacon Act, Copeland Anti-Kickback Act, and the Texas Government Code
 - CLMD is required by State law to enforce payment of prevailing wages, job classifications, and retention of required documents on municipal construction contracts for **all publicly-funded construction projects**.
 - The City of Austin will administer the Acts listed above and adopt rules as necessary to implement these acts



WAGE RATES AND REPORTING

- Requirements of **Section 00830**
 - Payment
 - Apprentices
 - Withholding of Payments
 - Payrolls
 - Complaints and Penalties
 - Area Practice
 - Texas Open Records Act



PRECONSTRUCTION PACKET

- Required Forms provided to Contractor
 - Statement and Acknowledgement (SF 1413) – for federal projects
 - Copy of Approved Expenditure Report (Sub-K)
 - Prompt Payment Schedule
 - Certificate of Insurance (for renewals & updates)
 - Payroll Deduction Authorization Form
 - Employee Certification Form
 - Certified Payroll Report and instructions
 - Statement of Compliance (to accompany each certified payroll)
 - Request to Add Classification



PRECONSTRUCTION PACKET

- Required Posters provided to Contractor
 - Copy of all applicable wage scales from Project Manual section 00830
 - Workers Compensation – English & Spanish
 - Contact and Wage Dispute Notice – English & Spanish
 - Equal Employment Opportunity Notice – English & Spanish
 - Additional posters for federally-funded projects



PREVAILING WAGE RATE DETERMINATION

- Wage Rate Determination Scales
 - Updated weekly online at:
<http://www.wdol.gov/wdol/scafiles/davisbacon/tx.html>
 - Website is part of the Integrated Acquisition Environment, one of the E-Government initiatives in the President's Management Agenda
 - Collaborative effort of the Office of Management and Budget, Department of Labor, Dept. of Defense, General Services Administration, Dept. of Energy and Dept. of Commerce



PREVAILING WAGE RATE DETERMINATION

- The Wage Rates can be located in Section 00830 of every City of Austin Construction contract
 - Heavy and Highway rates
 - Building Construction rates
 - Others (Heavy Tunnel, etc)



SITE OBSERVATIONS

- Initial visit takes place within three (3) weeks of issuance of Notice to Proceed
 - Closely observe workers on site
 - Check for vendors not on the compliance plan
 - Verify required Postings
 - Conduct 'On-the-Spot' interviews when possible



SITE OBSERVATIONS

○ Interviews

- Interviews with multiple workers are acceptable and may be necessary (accompanied by translator as needed/available)
- Once interviews have been completed, documentation is reviewed to identify any violations or compliance issues



WAGE AUDITS

- Review the following to determine Contractor and all sub-contractors are in compliance with Section 00830 of the Contract:
 - Weekly Certified Payroll
 - Proof of Fringe Benefits (if applicable)
 - Statement of Compliance
 - Employee Certifications
 - Payroll Deduction Authorization Forms
 - Employee Interviews and Observations



WAGE AUDITS

- Federally-funded projects
 - Contractor is informed at preconstruction meeting that all payroll information must be provided at the beginning of the project
 - Payrolls must be provided weekly
 - All employees must be paid not less than once weekly for the work performed the previous week
 - Federal audits are completed on a quarterly basis and continue throughout the duration of the project



WAGE AUDITS

- Non-federally funded projects
 - Subject to audit pending the outcome of site visits or through random selection
 - **Complaint-driven**
 - Complaint is received alleging non-compliance of wage requirements **or** audit is deemed necessary after review of information gathered during site observation
 - **Random**
 - Project is pre-selected for random audit based on Risk Assessment method and guidelines for Random Selection of Wage Audits



COA EXPECTATIONS

- Comply with the “Conditions of the Contract”
 - Ensure workers are paid proper prevailing wages
 - Ensure workers are paid on time
 - Ensure workers are classified correctly
 - Ensure required posters are displayed at work site
 - Ensure required forms are filled out and retained for three years after completion of contract



MOST COMMON ISSUES OF NON-COMPLIANCE

- Contractor failed to properly fill out required forms **prior** to employees entering job site
 - Resulting in inability to provide copies to Owner upon request in timely manner
- Contractor failed to display required Postings on site
- Contractor allowed employees to work more than one classification without recording time on each classification and/or without paying the higher wage rate of the multiple classifications



MOST COMMON ISSUES OF NON-COMPLIANCE

- Contractor failed to maintain weekly payroll reports or failed to provide copies in a timely manner upon request by Owner of contract
 - Including failure to provide documentation from subcontractors
- Contractor failed to pay employee proper wages due to misclassification of duties



SANCTIONS AND PENALTIES

- What happens if a Contractor violates the Conditions of the Contract?
 - Funds may be withheld from Contractor under which the suspected violations occurred or under any federal contract with same prime contractor
 - A Contractor or Subcontractor who violates their contract may be required to pay to the political subdivision on whose behalf the contract is made, \$60 per worker for each calendar day that a worker is paid less than the wage rates stipulated in the contract.
 - Confirmed Retaliation taken by Contractor against employees who provide information during an interview or investigation on wages received may result in suspension or debarment from consideration of award on future City projects.



FREQUENTLY ASKED QUESTIONS

1. Q. Will an audit cause work to stop?

A. No. Employees will not be interviewed at the same time, others will continue to work while audit is being performed

2. Q. What if workers are performing the duties of two classifications?

A. Contractor may choose to keep records of the time employee worked on each classification and pay worker accordingly, or the employee must be paid the higher wage of the multiple classifications.

3. Q. Where should records be retained for three years?

A. The contractor must decide where to store and retain payroll records. The contractor is required to retain payroll records for three years after completion of the contract, and responsible for providing copies of records to Owner within two (2) working days if requested.



FREQUENTLY ASKED QUESTIONS

4. Q. Are my subcontractors required to fill out the required documents?

A. Yes. The contract requires that the Employee Certification form be filled out and signed by each of the contractor's AND subcontractors' employees. It is strongly recommended that these be filled out prior to the employee beginning work on the site.

5. Q. Is the contractor allowed to choose which workers will be interviewed?

A. No. It is at the discretion and authority of the contract owner/auditor to decide which employees will be interviewed.

6. Q. Are workers allowed to decline interviews?

A. No. Employees must participate when asked to interview by the COA auditor. At this point the contractor should have notified the employees of periodic audits, and instructed them to participate.



Q & A





WHOM TO CONTACT

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