

Davis-Bacon (DB) EPA Region 9 State Revolving Fund ARRA Fact Sheet

Taken from the Davis-Bacon Terms and Conditions

Responsibilities when subrecipients are government entities:

- Primary responsibility for DB compliance lies with the subrecipient. Subrecipients are entities receiving a loan or a subgrant from a state capitalization grant recipient. Subrecipients shall obtain the wage determination for the locality in which a covered activity subject to DB will take place prior to issuing requests for bids, proposals, quotes or other methods for soliciting contracts (solicitation) for activities subject to DB. These wage determinations shall be incorporated into solicitations and any subsequent contracts. Prime contracts must contain a provision requiring that subcontractors follow the wage determination incorporated into the prime contract. Subrecipient shall monitor www.wdol.gov on a weekly basis to ensure that the wage determination contained in the solicitation remains current.
- If the subrecipient carries out an activity subject to DB by issuing a task order, work assignment or similar instrument to an existing contractor (ordering instrument) rather than by publishing a solicitation, the subrecipient shall insert the appropriate DOL wage determination from www.wdol.gov into the ordering instrument.
- States are responsible for ensuring the subrecipient maintains compliance.
- EPA Regional office offers support to the states in their responsibilities to ensure subrecipient compliance.
- Labor wages can be determined at <http://www.wdol.gov>
- Laborers are to be paid no less than weekly.
- Contractors and subcontractors are required to submit weekly copies of payroll to the subrecipient for every week work is completed.
- Contractors must submit a statement of compliance with each submission of payroll. The reverse side of Form WH-347 serves as an acceptable compliance statement.
- Contracts over \$100,000 have special requirements in regards to overtime pay: any laborer or mechanic working in excess of 40 hours a week is entitled to no less than time and a half for hours worked beyond 40. Time and a half applies to the prevailing wage base rate.
- Subrecipients are responsible for verification of wages and spot-checking submitted payroll documentation on a schedule the subrecipient deems appropriate. **At a minimum** this means subrecipients must spot-check payroll

within the first 2 weeks of any subcontractor's first weekly timesheet submission and 2 weeks prior to the completion date for the contract.

- Subrecipients are required to periodically interview a sufficient number of employees covered under DB. **At a minimum** this means subrecipients must interview employees within the first 2 weeks of any subcontractor's first weekly timesheet submission and 2 weeks prior to the completion date for the contract. Standard form 1445 is the acceptable form of documentation for memorializing these interviews.
- Questions and answers regarding DB and implementation can found at <http://www.dol.gov/esa/whd/recovery/>

Responsibilities when subrecipients are non-government entities:

- All responsibilities for government subrecipients are valid for non government subrecipients except for the following deviations
- Subrecipients must determine and submit proposed wage determinations to the **State for approval** prior to any contract solicitation.
- State grantees shall determine who/how to proceed with the procedural aspects of review and verification of wages. The state can take this responsibility or they can delegate it to another government entity or to the subrecipient.

Retroactively applying Davis Bacon:

- After October 1, 2008 Davis Bacon wage determinations apply to all projects receiving ARRA funding. If lower wages were paid than what was required under DB, the DB-covered workers must be compensated retroactively for the difference in the amount. After any reimbursements have been made to satisfy the wage rates, the employer should submit certified payrolls from the beginning of the ARRA funding to certify that the correct wage rates have been paid.
- Procedural aspects of Davis Bacon, (submission and review of payroll, employee interviews, sign posting, etc) must be complied with on all existing or future projects.

Potential DB violations shall be reported to EPA Region 9 and the Department of Labor Wage and Hour District Office. Contact the Clean Water SRF program for reporting procedures:

DavisBacon@waterboards.ca.gov or (916) 327-7323.