

Small Cities Development Program Labor Standards (Davis Bacon and Related Acts) Training Packet and Process

12 Step Instructions

Davis Bacon applies to the following activities:

- Commercial rehabilitation projects exceeding \$2,000 (all funds).
- Public facilities and community centers.
- Rental rehabilitation if there are 8 or more units under 1(one) site or within 1(one) building.
- Demolition if an immediate plan is in place for reuse of the site and Davis-Bacon would be required for the re-use. *Example: A large downtown building is demolished and 10 units of rental housing will be constructed on that site.*

Note: All Illustration numbers referenced in these instructions correspond with forms that were provided to administrators. Please contact your SCDP representatives for missing forms. Labor Standards training webinar is located on DEED website - <https://mn.gov/deed/government/financial-assistance/community-funding/small-cities.jsp>

Step 1: Getting started: Properties have been:

- inspected for commercial or 8 or more units of rental or
- engineering and permitting are complete for public facilities.

The scope of work has been determined and bid documents are being prepared for contractors to bid on. Environmental, including SHPO, complete if applicable.

Step 2: HUD 4010: Include the “Federal Labor Standards Provisions (HUD 4010 or ***Illustration 2***) and the current wage decision in bid documents. The website to obtain wage determination is <https://sam.gov/content/home>

Instructions for locating Wage Decisions: After the site is accessed, select Wage Determination in the pull down menu and click Search. Select “Davis-Bacon Act (DBA)” in Wage Determination Type. Use the selections for state and county to search wage decisions. Use the following decisions based on the project:

- “Building” decision for Commercial rehabilitation projects.
- Most public facility work uses a “Heavy” decision. If a plant is being constructed use a “Building” decision.
- Rental housing rehabilitation or construction of 8 units or more of housing, 4 stories and less, requires a “Residential” decision.
- Rental housing rehabilitation or construction of 8 units or more of housing, over 4 stories and more, requires a “Building” decision.

Tip #1: Provide bidders with a short summary of expected Classifications, along with their corresponding wage and fringe rates. This will assist contractors that have minimal experience with Davis - Bacon requirements.

The Contractor/Subcontractor Certification (Illustration 5) is a screening tool to ensure that adequate wages will be paid prior to finding this out during payroll review.

We strongly suggest completion of the Contractor/Subcontractor Certification be part of the bid requirement, or at a minimum require submission of them prior to bid award. Such action helps ensure wage rates, any apprentice issues, or need for additional classifications are not in any way a surprise to any contractors; especially with contractors or subcontractors where you are not familiar with their performance with Davis-Bacon wage rates.

DEED does not permit the enforcement of more than one wage decision for each project.

Step 3: Equal Employment Opportunity (Executive Order 11246): For projects over \$100,000, include the Equal Employment Opportunity documents in the bid specifications. Examples include all public facilities and rental housing construction. A complete packet will be provided at training if your project fits this description. The documents are contained in **Illustration 3**.

Step 4: Bid Opening: Prior to the formal bid opening you must determine if the wage decision placed in the bid specifications is still current. [A bid opening is not formal unless contractors are provided with the time and place of bid opening.](#)

Determining if the wage decision is still current can be done by accessing the Davis-Bacon website provided in Step #2. This site is usually updated on Fridays. We would thus recommend bid openings be held mid-week. If the wage decision that is in the bid specifications is not current, immediately provide all prospective bidders with the most current wage decision. Section 3 forms will need to be completed by winning contractor.

Step 5: Wage decision to enforce in contract: Enforce the wage decision that was in place when the bids were opened. The contract needs to be awarded within 90 days of the bid opening date. If the contract is not awarded within 90 days of bid opening, the modification in effect on the date of that contract award will be the one enforced on your project.

Note: Make sure the HUD 4010 and correct wage decision are in the construction contract and enforce the correct wage decision as grantees might be liable for paying wages that were inadequate. Please call the SCDP if you have any questions about enforcing the correct decision. The wage decision and modification is "locked in" for the duration of the contract, if awarded correctly.

[If bid documents \(specifications book\) become the bulk of the contract, the contract itself still needs to contain the correct wage decision and HUD 4010. Any reference to the specifications must be very specific.](#)

Step 6: Contractor/Subcontractor certification: If not yet submitted, have all contractors (including subcontractors) assigned to work on the project complete the Contractor/Subcontractor certification forms. Review the forms to ensure contractors intend to pay correct wages and fringes and that the proposed work Classifications conform to those listed in the applicable wage decision. If the Classifications listed on the certification form are not found listed in the wage decision and cannot be conformed to another Classification listed in the wage decision, complete the Additional Classification Request and submit it to our office as soon as possible. The need for Additional Classifications may also be encountered during

construction. Those forms are **Illustrations 8.1 to 8.3**. **Note: It can sometimes take up to a month or longer to receive an additional classification from HUD.**

Tip# 2: *Pre construction conferences are not required. However, we strongly recommend that they be held for large projects, such as public facilities, and that at least some instruction is provided to contractors and subcontractors working on commercial rehabilitation projects. We recommend that the instruction occurs before work starts. Often, the most important person to receive instruction is the payroll person responsible for contractor payrolls.*

A “Contractor Profile Form” (Illustration 5.1) will need to be completed and signed by the owner of the contracting firm if the firm will have a payroll person, rather than the firm’s owner, responsible for signing the payrolls or statements of compliance. The SCDP will monitor that the completed forms are in respective files.

*The purpose of this conference is to review labor standards requirements with the contractors and review the Contractor/Subcontractor certifications to ensure contractors plan to pay appropriate wages and determine if any additional Classifications might be required. Corresponding forms are **Illustration 4**. The HUD publication “Making Davis-Bacon Work: A Contractor’s Guide to Prevailing Wage Requirements for Federally-Assisted Construction Projects” is reference material that is useful for contractors as well as project implementers. **The Guide can be found on HUD’s website - <https://files.hudexchange.info/resources/documents/Making-Davis-Bacon-Work-Contractors-Guide-Prevailing-Wage-Requirements.pdf>.***

Step 7: Debarment: Check to make sure the general contractor and any subcontractors are not debarred from working on federal contracts. Although a responsibility of the general contractor, we strongly suggest checking subcontractors working on projects as well. Even though using a debarred contractor is a problem for the General Contractor, this will likely become an even larger problem for you that could be eliminated by spending a few extra minutes checking. This would especially apply in the case of commercial rehabilitation when the building owner often carries general contractor status and responsibilities.

Debarment checks can be conducted at <https://www.sam.gov> or at <https://beta.sam.gov/> . Print the result and file as evidence of no debarment.

Step 8: Notice of Contract Award: This form shall be submitted to DEED (**Illustration 6**) via the instructions provided on the form. The form shall be provided to DEED before construction begins and within 14 days after the contract is awarded. If the date of the preconstruction conference is not known at that time, estimate the date.

Step 9: Response to Notice of Contract Award: After submission of the Notice of Contract Award form (Step #8), DEED will determine whether the submission is acceptable and send an email with further instructions. The email will also provide a DEED-assigned labor standards number for your project.

Tip#3: *The SCDP Labor Standards checklist (Illustration 1) is a tool to ensure complete Davis-Bacon compliance. Although not required, we strongly suggest using to keep on track.*

Tip #4: *Keep in mind that if your grant has multiple projects or more than one contract, such as commercial rehabilitation or water treatment and water lines under separate bids, all steps will need to be repeated for each building or contract.*

Step 10: Posting of wage decision: The “Employee Rights Under the Davis-Bacon Act” poster (**Illustration 11.1**) must be found on the job site where workers can locate it, along with the correct wage decision and labor standards officer contact information. The “On Site Labor Standards Monitoring” form (**Illustration 11.2**) must be completed for each project as well to document contractor compliance. This requires a site visit. If you are unable to conduct such a visit before construction is over, our advice is to have rehabilitation staff (in the case of commercial rehabilitation) perform the check as they will have to conduct a final inspection before payments are issued. It is required to monitor all contractors and subcontractors to ensure that Davis Bacon and Related Acts are properly applied to each project. Beware of General Contractors employing subcontractors for unanticipated work after construction begins. If so, secure all required information from these subcontractors as all subcontractors and workers are covered by Davis-Bacon and Related Acts.

Step 11: Checking Payrolls

- Please use the “On-Site Payroll Number Tracking Sheet” (**Illustration 7.3**) to track payrolls. The form is located in our forms packet that is included in our web site discussed above.
- The SCDP strongly recommends contractors use the Department of Labor, WH-347 form (**Illustration 7.1**) for payrolls. If alternative forms are used they must be completely understood by you and they must contain all the information being sought on the WH-347.
- Review weekly payrolls to verify that the wages being paid meet or exceed those listed in the appropriate wage decision and that listed work Classifications correspond to those in the decision. Restitution, or make up pay, is due underpaid workers and documentation is discussed below. Remember that employers cannot force workers to give any of their pay (or “kick back”) back to their employer.
- For projects involving a public facility, copies of the first payroll for each contractor and/or subcontractor working on the project will be provided to DEED staff for review before any cash disbursements for the activity are issued by DEED.
- The ratio of “skilled” workers to unskilled laborers or tenders is generally one-to-one. Higher ratios are a sign of improper Classification that you may need to address.
- Ask contractors to collect employee signed timecards to document hours paid. Signed timecards for split classifications need to account for time spent in each classification.
- Overtime: To be paid at the rate of time and one half for all hours over 40 per week worked on any project over \$100,000.
- Fringes: Paid for all hours worked. All workers, including working owners, need to be listed on payrolls and assigned a Classification that is listed on the enforced wage decision. Working owners should write “self-employed” over the withholding section of

the payroll report. Ask contractors to collect employee signed timecards to document hours worked.

- Apprentices and Trainees: Must be registered in a program approved only by the Department of Labor and Industry or the federal Department of Labor. Certificate of proof is needed.
- Restitution: Please submit the “Report of Wage Restitution Accomplished” (**Illustration 10**), if restitution is required. The forms are available electronically on the SCDP website and are electronically “fillable” as well. Payrolls and Statements of Compliance shall be corrected.

Employee Interviews

- Employee interviews (**use Illustration 9.1**): interview at least one worker for each trade employed on the job. If you are unable to conduct face-to face interviews, please mail out HUD 4730 forms (**Illustration 9.2**) with a return envelope and postage. You must compare wages reported from interviews with those listed on submitted payrolls. [Indicate and sign in writing in the remarks section of the face to face form, or below the signature portion of the HUD 4730 form, that comparison showed wage compliance or any corrective action taken.](#)
- [Workers can decline to be interviewed. If this happens, make a note to the file with a description of the person and a description of the tasks they were seen performing.](#)
- Your review of payrolls and interviews with workers may reveal errors or violations that result in the underpayment of wages. You must work with the contractor(s) to correct these violations as they occur. Original payrolls will need to be corrected to document compliance and those payrolls will be clearly labeled “corrected payroll” along with a signed statement of compliance to match the payroll(s). Signatures of workers on the corrected payrolls are no longer necessary.
- If complaints are received from workers, provide the worker with the appropriate form (HUD 4730 or 4731) (**Illustration 9.2 or 9.3**). Forward the form to DEED immediately if completed by the worker satisfactorily.

Step 12: Final Labor Standards Compliance

- When all construction is complete and all payrolls are received and reviewed, and all workers have been paid appropriately, and any violations have been resolved and/or reported to our office, please complete electronically (if able) the Final Labor Standards Compliance Report (**Illustration 12**) and submit to SCDP.

Remember that all interview forms, private information and payroll records shall be kept in secure locations such as locked filing cabinets.