

American Recovery and Reinvestment Act Davis-Bacon Compliance Checklist

Project: _____

American Recovery and Reinvestment Act funds used for a transaction that involves a new construction or repair contract, exceeding \$2,000, must comply with the prevailing wage requirements of the Davis-Bacon and Related Acts requirements. This checklist has been created to provide an overview of the requirements established by the Davis-Bacon and Related Acts requirements as prescribed in RD Instruction 1940-C. This checklist does not substitute for the detailed provisions in RD Instruction 1940-C or the Department of Labor requirements for implementing Davis-Bacon and Related Acts requirements.

As noted in this checklist, the Contracting Officer (CO) is responsible for ensuring that Davis-Bacon and Related Acts requirements are met. The person designated to perform the duties of the CO varies by program. The Administrative Notice identifies the individual or firm responsible as CO for these requirements. The RD Official shall insert the date that each requirement is completed.

Applicable requirements are listed below.

Before awarding a construction or repair contract.

(date) **Informing the Applicant and Reviewing the Contract:** When application is made to the Agency or a guaranteed lender for assistance involving construction, the Agency or approved lender must inform the applicant that wages paid for labor must not be less than the prevailing wages determined by the Secretary of Labor (RD Instruction 1940-C (1940.106(b))). The Agency must review the contract to ensure that it contains the language provided in RD Instruction 1940.105(a) and the DOL website language (see below).

(date) **Wage Determination:** Before bidding, the CO shall download the applicable Department of Labor (DOL) Davis-Bacon Wage Determination for the work from the DOL website at www.wdol.gov/dba.aspx#0. Once on the selection page, the CO chooses the state, county, and Construction Type. Construction Type choices are "All Construction Types", "Building" (public buildings), "Heavy", "Highway", or "Residential". Click on "Search". The CO then scrolls to the bottom, and clicks on "Printer Friendly Version". The CO then clicks on "File", "Print", and inserts the wage determinations into the contract documents.

(date) **Information for Bidders:** Information provided to any and all bidders shall include the statement "The contractor must comply with the minimum rates for wages for laborers and mechanics as determined by the Secretary of Labor in accordance with the provisions of the Davis-Bacon and Related Acts." The CO shall verify this and include a copy of the Wage Determination in the bid information.

(date) **Construction Contract Provisions:** All construction and repair contracts exceeding \$2000-must include the statement "The contractor must comply with the minimum rates for wages for laborers and mechanics as determined by the Secretary of Labor in accordance with the provisions of the Davis-Bacon and Related Acts." In addition, labor standards provisions from 29 CFR 5.5(a) must be included in every contract. See www.dol.gov/dol/allcfr/ESA/Title_29/Part_5/toc.htm. (The DOL website includes updated information which meets the requirements of RD Instruction 1940.105(b)).

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After awarding a construction contract and before construction starts.

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(date) **Pre-Construction Conference:** The CO and other project participants will have a Pre-Construction Conference to discuss the following items. (See requirements of RD Instruction 1940.106(d).)
- The CO, inspectors, or applicant may monitor contractor's adherence to the Davis-Bacon and Related Acts requirements at any time.
 - Non-compliance with the Davis-Bacon and Related Acts requirements may result in termination of the contract and debarment of the contractor.
 - Enforcement of non-compliance with the Davis-Bacon and Related Acts requirements may result in penalties
 - Although the Agency and owner has the right to perform employee interviews, typically information can be confirmed by reviewing progress reports and contractor's typical payroll records.
 - The contractor shall maintain posted on site a copy of the Davis-Bacon and Related Acts poster (form WH-1321) and a copy of the wage determination. The poster is available at:
www.dol.gov/esa/whd/regs/compliance/posters/davis.htm, with a Spanish version available at
www.dol.gov/esa/whd/regs/compliance/posters/davisspan.htm. (The wage determination should have been provided to the contractor as a part of the bid package and the contract.)

During Construction (Monitoring)

(date) **Certification of Compliance:** Contractor and subcontractors must provide certification of compliance with the Davis-Bacon and Related Acts to the CO / approved lender, as well as copies of payroll records for the period during which the work was performed. (See RD Instruction 1940-C (1940.106(e)(1))).

(date) **Determination of Non-compliance:** The project inspector or CO, on determining that the contractor is not in compliance, will notify the appropriate parties, including the Agency and approved lender (if applicable) who will then contact the State Director for advice and further instructions. (Additional information on actions to be taken is available in RD Instruction 1940-C (1940.106(e)(2) and (3), and 1940.106(f)).)

(date) **Semiannual Report.** RD field offices or approved lenders will submit to the State Director Form RD 440-29, "Semiannual Labor Compliance Report," for projects requiring compliance with the Davis-Bacon and Related Acts for the periods established in RD Instruction 1940-C (1940.107(a)). (October through March, and April through September)

(date) **Consolidated Report.** RD State Offices will consolidate all reports received from field offices and approved lenders, and forward copies to the Administrator no later than April 30 and October 31. (See RD Instruction 1940-C (1940.107(b)).)

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After Construction

_____ **Recordkeeping.** The Agency official or approved lender responsible for the project
(date) will preserve all payrolls and certifications for a period of 3 years from the date of
final payment on the contract. (See RD Instruction 1940-C (1940.108).)

Contracting Officer

date