

Frequently Asked Questions about Davis-Bacon Act Compliance During Revolving Fund Loan Project Construction

Question 1: Who is the “Contracting Officer” or “Contracting Agency”?

Answer: Both terms refer to the applicant/municipality that awards the construction bid contract.

Question 2: How does one identify the appropriate Davis-Bacon wage rate classification (as to the type of construction, i.e., heavy, building, etc.) to incorporate into the construction bid contract?

Answer: The appropriate Davis-Bacon wage rate classification is identified based upon the work that the majority of loan funding will support within the contract. The U.S. Department of Labor (DOL) has provided explanations to assist with classification in the following resources:

<http://www.wdol.gov/aam/AAM130.pdf>

<http://www.wdol.gov/aam/AAM131.pdf>

<http://www.dol.gov/whd/recovery/pwrb/toc.htm>

Any questions or disputes regarding the appropriate classification of a project with regard to type of construction should be referred the Wage and Hour Division for resolution prior to bid opening.

Question 3: Under what circumstances is it appropriate to incorporate two or more Davis-Bacon wage rate classifications (i.e., heavy, building, etc.) into one construction bid contract?

Answer: It is appropriate to incorporate two or more Davis-Bacon wage rate classifications into one construction bid contract if 1) it is over \$1 million, AND 2) the work represented by each Davis-Bacon wage rate classification exceeds 20 percent of the total value of the contract.

Question 4: What do loan recipients have to report to the Michigan Department of Environmental Quality (DEQ) during the construction of our revolving fund loan project?

Answer: The loan recipient must complete and submit a DEQ Davis-Bacon Act Compliance Certification form with each request for loan reimbursement when reimbursement is being requested for construction costs. Although submitted with the monthly request for loan reimbursement, the certification that the revolving fund loan project has remained in compliance with Davis-Bacon requirements must be based on a weekly review of contractor payroll records. The certification form for loans containing ARRA money is available at: http://www.michigan.gov/documents/deq/deq-ess-mfs-ARRA-Davis-BaconCertForm_318662_7.pdf. The certification form for loans without

ARRA money is available at: http://www.michigan.gov/documents/deq/deq-ess-mfs-formsguidance-Davis-BaconCert_332690_7.pdf.

Question 5: Beyond submittal of the new Davis-Bacon Act Compliance Certification form, what other Davis-Bacon requirements apply during the construction of our revolving fund loan project?

- Answer:
- a. The loan recipient must review payroll submissions to confirm that its contractors' employees are paid weekly, without unauthorized payroll deductions and according to the wage determinations established in the contract.
 - b. The loan recipient must collect signed certifications from its contractors of Davis-Bacon and Related Acts (DBRA) compliance for all weeks during project construction.
 - c. The loan recipient must document that wage interviews were conducted periodically to verify that contractors and subcontractors are paying the appropriate wage rates.
 - d. The loan recipient must verify that contractor fringe contributions were made as planned.
 - e. The loan recipient must verify that contractors and subcontractors have the proper registrations/certifications for all apprentices and trainees working on the project.
 - f. The loan recipient must verify that the ratio of apprentices and trainees working on the project is consistent with the ratio prescribed in the U.S. Department of Labor's approved program for apprentices and trainees.
 - g. The loan recipient must verify that the Davis-Bacon wage poster and applicable Davis-Bacon wage rates are posted at the construction site.

Question 6: Must a certified weekly payroll be collected from the prime contractor during the construction of our revolving fund loan project?

Answer: Yes, the loan recipient must collect the payroll records, using DOL Form WH-347 or its equivalent, for all laborers and mechanics for all weeks of project construction. These payroll records must be collected from the prime contractor for each contract and checked each week. Form WH-347 is available at: <http://www.dol.gov/whd/forms/wh347instr.htm>.

Question 7: I would like to have the contractor submit the certified weekly payrolls with each month's payment request. Is this an acceptable frequency?

Answer: No, the certified payrolls must be collected weekly.

Question 8: Do the certified weekly payrolls requirements apply to "minor" subcontracts?

Answer: The payroll certification requirements apply to any contract worth more than \$2,000.

Question 9: Is there anything more I must do regarding the weekly payrolls beyond collection and record keeping?

Answer: The loan recipient must document, using General Services Administration Form SF-1445 or its equivalent, that wage interviews were conducted periodically to verify that contractors and subcontractors are paying the appropriate wage rates. We recommend that at least two interviews be conducted on every revolving fund loan project which will take six or fewer months to complete. A higher frequency is recommended for projects which will take twelve or months to complete or where the loan recipient finds a pattern of errors in weekly payroll submissions. Form SF-1445 is available at: <http://www.gsa.gov/portal/forms/download/115910>.

Question 10: My project is being handled under a construction management or design-build contract. Do Davis-Bacon requirements apply to my project?

Answer: Yes, DBRA requirements apply to all revolving fund loan projects. In your case, a construction management or engineering consulting firm is acting as your general contractor and is responsible for Davis-Bacon compliance for all of its subcontractors.

Question 11: Do Davis-Bacon Act requirements apply to my Strategic Water Quality Initiatives Funding (SWQIF) loan?

Answer: No, DBRA requirements apply only to revolving fund loan projects which were fully or partially funded by federal dollars. The SWQIF program is completely state funded.

Question 12: Are there any other Davis-Bacon requirements that apply during the construction of our revolving fund loan project?

Answer: Yes. All revolving fund loan projects must have the applicable Davis-Bacon wage determinations and Davis-Bacon wage posters (WH-1321) in all relevant languages posted at the construction site in a conspicuous place and protected from the weather.

Question 13: Are there other resources available for loan recipients to use in understanding Davis-Bacon requirements?

Answer: Yes. For questions not answered in these FAQs, please consult the U.S. DOL website (www.dol.gov) or call 616-456-2004.

If you have further questions, please contact your DEQ project manager.