

# Davis-Bacon Act Policies & Procedures

## Davis-Bacon Act (DBA) Overview

Enacted in 1931, the DBA is intended to protect communities and workers from economic disruption caused by competition arising from non-local contractors obtaining federal construction contracts by underbidding local wage levels.

## Applicability

The DBA requires payment of prevailing wages and fringe benefits for all construction contracts **exceeding \$2,000** funded in whole or in part with Federal funds (AIP, USDA, ARC, etc.). This requirement extends to all subcontractors employed under the prime Contractor. This requirement is included in the grant assurances, and is considered a condition of grant acceptance.

## Wage Determinations (WD)

WD's are issued based on project location and construction type: *Highway, Building, Heavy, and Residential.*

- **Highway** — Appropriate for most airfield projects
- **Building** — Non-residential sheltered enclosures
- **Residential** — Not applicable to airport work
- **Heavy** — Projects not classified as any of the above

A current wage rate determination and DBA contract provision must be **physically** included in the project bid solicitation. WD's must also be posted at the job site.

Get Current Wage Determinations

CLICK



- Select State and County
- Select Construction Type

*\*Note: Tennessee has a **statewide** wage rate determination for the highway construction type*

## Resources

[Davis-Bacon Act — 40 U.S.C. 3141 et. seq.](#)  
[29 CFR — Labor](#)  
[29 CFR Part 541 — Exemptions](#)  
[Department of Labor Resources](#)  
[Federal Contract Provisions](#)  
[Davis-Bacon Poster \(WH-1321\)](#)  
[SF 1445 — Labor Standards Interview](#)  
[Optional Form WH-347 \(Certified Payroll\)](#)

## Guide to Compliance

### Sponsor:

- Incorporate a current WD and required contract clause into the bid solicitation
- Do not award contract to a debarred contractor
- Discuss DBA requirements with Contractor(s) before construction activities begin—preferably, at the pre-construction meeting
- Review weekly payroll records for compliance
- Conduct labor standards interviews
  - No mandated frequency; however, *29 CFR Part 5.6* requires interviews to be conducted “with such frequency as may be necessary to assure compliance.”

### Contractor:

- Pay wages and fringe benefits per appropriate WD
- Post WD and Davis-Bacon Poster (*WH-1321*) in a prominent and conspicuous location on the job site
- Maintain payroll records for three (3) years from completion of contract
- Submit the “Timely Certified Payroll Attestation” form to TDOT before beginning work (**ALL** Contractor(s) must submit)
- Submit “each weekly statement... within seven [7] days after the regular payment date of the payroll period” to Sponsor and TDOT Aeronautics **including periods when no work was performed.** (*29 CFR 3.4 (a)*)
  - Shall **NOT** include Social Security Numbers or home addresses (*29 CFR 5.5(a)(3)(ii)(A)*)
  - **MUST** be accompanied with a “Statement of Compliance” which satisfies *OMB No. 1235-0008*
  - *Optional Form WH-347* satisfies DBA requirements, but is not mandated

### TDOT Aeronautics Division:

- Save each weekly statement in the “Contractor Payrolls” folder in the project file on the network with the below name:  
*Contractor\_WeekEndingDate(YYYYMMDD)*
- Document the date of receipt by saving correspondence in the “Contractor Payroll” folder for each weekly statement and make sure they are being received within seven (7) days of Contractor pay period payment
- To approve an invoice reimbursement for a specific pay period:
  - Review wages and work classifications for compliance with the WD included in the contract
  - Attach all certified payrolls for the pay period with the approved Project Manager pay form
  - Attach all correspondence of received payrolls for the pay period
- Withhold reimbursement requests until all certified payrolls are submitted and reviewed for compliance

## TIMELY CERTIFIED PAYROLL SUBMITTAL ATTESTATION

- The Copeland Act (40 U.S.C. § 3145) and 29 C.F.R. §§ 3.3(a) requires contractors and subcontractors performing work on Federally financed or assisted construction contracts to "furnish **weekly** a statement with respect to the wages paid each employee during the preceding week."
- U.S. Department of Labor (DOL) regulations at 29 C.F.R. § 3.4(a) require:
  - *Each weekly statement required under §3.3 shall be delivered by the contractor or subcontractor, **within seven days** after the regular payment date of the payroll period, to a representative of a Federal or State agency in charge at the site of the building or work, or, if there is no representative of a Federal or State agency at the site of the building or work, the statement shall be mailed by the contractor or subcontractor, within such time, to a Federal or State agency contracting for or financing the building or work.*
- 48 CFR 22.406-6(b) states that if the contractor fails to submit certified payrolls promptly, the department will withhold payments to protect the interest of the government and construction workers.

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Late submittal of certified payrolls violates the Copeland Act and 29 C.F.R. § 3.4(a), and my signature acknowledges that I understand the Davis-Bacon Requirements in the contract and are aware of the requirement to submit certified payrolls within seven days after the regular payment date of the payroll period to the agency financing the construction project (TDOT Aeronautics Division). I understand that the Aeronautics Division will withhold payments until certified payrolls are submitted as required.

Please complete the following.

Name of Signatory Party: \_\_\_\_\_

Title: \_\_\_\_\_

Contractor or Subcontractor: \_\_\_\_\_

Project and Location: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

**Example 1:**

- A) The prime/subcontractor's weekly pay period ends on Friday, 9/13/2019.
- B) The prime/subcontractor must pay employees within 7 days of weekly pay period end date Friday, 9/13/2019, payment is due on or before Friday, 9/20/2019.
- C) Certified Payrolls are due to TDOT within 7 days of payment on Friday 9/20/2019, Certified Payrolls are due on or before Friday, 9/27/2019.

**September 2019**

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
1	2	3	4	5	6	7
8	9	10	11	12	13 <b>A</b>	14
15	16	17	18	19	20 <b>B</b>	21
22	23	24	25	26	27 <b>C</b>	28
29	30					

**Example 2:**

- D) The prime/subcontractor’s weekly pay period ends on Saturday, 9/14/2019
- E) The prime/subcontractor pays employees every Tuesday, payment for weekly pay period end date of Saturday, 9/14/2019 occurs on Tuesday, 9/17/2019.
- F) Certified Payrolls are due to TDOT within 7 days of payment on Tuesday, 9/17/2019, Certified Payrolls are due on or before Tuesday, 9/24/2019.

**September 2019**

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
1	2	3	4	5	6	7
8	9	10	11	12	13	14 <b>D</b>
15	16	17 <b>E</b>	18	19	20	21
22	23	24 <b>F</b>	25	26	27	28
29	30					

**Example 3:**

- G)** The prime contractor’s weekly pay period ends on Friday, 9/13/2019.
- H)** The prime contractor pays employees every Wednesday, payment for weekly pay period end date of Friday, 9/13/2019 occurs on Wednesday, 9/18/2019.
- I)** The subcontractor’s weekly pay period ends on Wednesday, 9/11/2019, and 9/18/2019 (**H**).
- J)** The subcontractor pays employees every Monday, so payment for weekly pay period end date of Wednesday, 9/11/2019 occurs on Monday, 9/16/2019.
- K)** Certified Payroll for subcontractor is due to TDOT within 7 days of payment on Monday, 9/16/2019, Certified Payrolls are due on or before Monday, 9/23/2019.
- L)** Certified Payrolls for prime contractor are due to TDOT within 7 days of payment on Wednesday, 9/18/2019, Certified Payrolls are due on or before Wednesday, 9/25/2019.

**The Prime Contractor may submit prime and sub certified payrolls on 9/25/2019 (L) for prime contractor week ending date 9/13/2019 (G) and subcontractor week ending date 9/16/2019 (H) and be within the timeframes outlined in the Code of Federal Regulations.**

**If the prime contractor does NOT submit payrolls for subcontractor 9/11/2019 (I) until 9/25/2019 (L), the subcontractor payrolls will be late by two (2) days.**

**THE PRIME CONTRACTOR IS RESPONSIBLE FOR THE SUBMISSION OF COPIES OF PAYROLLS FOR ALL SUBCONTRACTORS.**

**September 2019**

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
1	2	3	4	5	6	7
8	9	10	11 <b>I</b>	12	13 <b>G</b>	14
15	16 <b>J</b>	17	18 <b>H</b>	19	20	21
22	23 <b>K</b>	24	25 <b>L</b>	26	27	28
29	30					

**Example 4:**

- M) The prime contractor’s weekly pay period ends on Friday, 9/27/2019
- N) The prime contractor pays employees every Wednesday, payment for weekly pay period end date Friday, 9/27/2019 occurs on Wednesday, 10/2/019.
- O) Certified Payrolls are due to TDOT within 7 days of payment on Wednesday, 10/2/2019, Certified Payrolls are due on or before Wednesday, 10/9/2019.

**Prime/subcontractor certified payrolls that are due to TDOT on or before the estimate run date must be received before processing the estimate.**

**September, 2019**

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27 <b>M</b>	28
29	30 <b>Estimate Cutoff Date</b>					

**October 2019**

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
		1	2 <b>N</b>	3	4	5
6	7	8	9 <b>O</b>	10 <b>Estimate Run Date</b>	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		