

2009 American Recovery and Reinvestment Act (ARRA) Davis-Bacon Act (DBA) Wage Compliance

What is the DBA?

Contractors and subcontractors are required to pay their laborers and mechanics employed directly upon the “site of the work” **no less than** the locally prevailing wage and fringe benefit rates for corresponding work on similar projects in the county where the work is performed “regardless of any contractual relationship which may be alleged to exist.”

Who determines the prevailing wage rates and where do I find them?

The U.S. Department of Labor determines and sets the prevailing wage rates. Wages for specific locations by county and construction type can be found on WageDeterminationsOnLine.gov.

NOTE:

This fact sheet is provided to assist applicants and their contractors. It is not meant to supersede directives of the U.S. Department of Labor, but to help explain them. Contractors are responsible for adhering to all DBA requirements in accordance with U.S. Department of Labor directives.

What classes of workers are considered under the DBA?

- Carpenters
- Electricians
- Plumbers
- Ironworkers
- Flaggers
- Craftsmen
- Welders
- Concrete Finishers
- Power Equipment Operators
- Helpers

What classes of workers are NOT considered under the DBA?

- Architects
- Engineers
- Timekeepers
- Foremen
- Survey Crew Members
- Supervisors

My organization is doing the work in-house. Does DBA apply to me?

No, the DBA and related Acts apply to **contractors and subcontractors** performing on federally funded or assisted contracts totaling more than \$2,000 for the construction, alteration, or repair (including painting and decorating) of public buildings or public works.

How do I determine the correct prevailing wage?

Most ConserFund Plus Loan projects fall under the “Building Construction” or “Heavy Construction” types. If your project does not seem to fit either of these categories, please call the Energy Office or consult the [Department of Labor’s Prevailing Wage Resource Book](#).

The specific classification of labor should be based on the work being done and not on the perceived level of training required.

Apprentices or trainees may be employed at less than the rates listed in the contract wage determination only when they are in an apprenticeship program registered with the U.S. Department of Labor or with a state apprenticeship agency recognized by the Department.

How do fringe benefits affect wage determinations?

The contractor's obligation to pay at least the prevailing wage listed in the contract wage determination can be met by paying each laborer and mechanic the applicable prevailing wage entirely as cash wages or by a combination of cash wages and employer-provided bona fide fringe benefits. Fringe benefits include:

- Life Insurance
- Health Insurance
- Pension
- Vacation
- Holiday
- Sick Leave

What are the duties of the ConserFund Plus Loan Project Manager?

- Ensure that adherence to DBA requirements is included in any contract to perform work under this program. If the work is being bid out, we recommend that DBA requirements are included in any bid package, RFP, etc. and that links to U.S. Department of Labor DBA information are provided to prospective bidders.
- Ensure that payment of wages is in accordance with requirements of the DBA.
- Ensure that every employer performing work covered by the labor standards of the DBA posts a notice in the form of [English](#) and [Spanish](#) following the format of poster version WH-1321 and including any applicable wage determination. Posters should be posted at the work site in a prominent and accessible location easily seen by employees.
- Perform on-site interviews with laborers and mechanics to be sure the wages reported are the wages paid [using the form HUD-11](#).
- Receive a completed [payroll form WH-347](#) from the contractor each week that work is being performed on-site.

What happens if a laborer or mechanic is paid less than the prevailing wages?

The contractor or subcontractor must make up the difference before the Energy Office will disburse the requested amount to the project owner/manager. A written acknowledgement from the laborer(s) that they've received payment to make up the difference between wages paid and the prevailing wage is also required.

What are typical problems that arise from DBA?

1. Misclassification of laborers and mechanics.
2. Failure to pay full prevailing wage, including fringe benefits, for all hours worked (including overtime hours).
3. Inadequate recordkeeping, such as not counting all hours worked or not recording hours worked by an individual in two or more classifications during a day.
4. Failure to maintain a copy of bona fide apprenticeship program and individual registration documents for apprentices.
5. Failure to submit certified payrolls weekly.
6. Failure to post the Davis-Bacon poster and applicable wage determination.



Additional links and information regarding The Davis-Bacon Act

[The Davis-Bacon Act](#)

[Payroll form WH-347 Instructions](#)

[US Department of Labor Davis-Bacon and Related Act FAQ](#)

[Davis-Bacon Act Compliance Guide](#)

[US Department of Energy ARRA Flow-Down Requirements](#)