**Davis‐Bacon and Related Acts Frequently Asked Questions (FAQ) for Clean Water State Revolving Fund (CWSRF) Recipients**

1. **How do workers on a construction site know that a project is covered by the Davis‐Bacon Act? How do they know the prevailing wage to which they are entitled?**

The wage determination (including any additional classifications and wage rates) and a Davis‐Bacon poster (WH‐1321) must be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen. In the absence of such posted information, any person who wants to determine if the project is covered should contact the DavisBacon@Waterboards.ca.gov or (916) 327‐7323.

2. **What is a Wage Determination?**

A "wage determination" is the listing of wage rates (hourly pay plus fringe benefits) for each classification of laborers and mechanics which the Administrator of the Wage and Hour Division of the U.S. Department of Labor has determined to be prevailing in a given area for a particular type of construction (e.g., building, heavy, highway, or residential). The term “wage determination” is defined as including not only the original decision but any subsequent decisions modifying, superseding, correcting, or otherwise changing the rates and scopes of the original decision. Wage Determinations can be obtained at [www.wdol.gov](http://www.wdol.gov).

3. **What is the Davis-Bacon Prevailing Wage?**

The Davis-Bacon prevailing wage is made up of two interchangeable components – a basic hourly rate and fringe benefits that have been found prevailing in the area, and published in a Davis–Bacon wage determination. Along with the basic hourly rate listed on the wage determination, a fringe benefit will be listed for any classification for which fringe benefits are found prevailing. The total sum of the basic hourly rate including the fringe benefits listed comprises the Davis-Bacon prevailing wage.

4. **What Davis‐Bacon prevailing wage rates are used in the bid solicitation and contract?**

The prevailing wage rate for the job classifications for the locality must be used. If the wage rate changes more than 10 days of the bid opening, the solicitation must be modified to include the new rate. If the wage rate changes less than 10 days of the bid opening, the recipient must get a written determination from the State Water Board that there is not reasonable time to modify the bid solicitation.

5. **What is and where can I find Davis-Bacon language?**

The Davis-Bacon Act requires that all contractors and subcontractors performing on federal contracts (and contractors or subcontractors performing on federally assisted contracts under the related Acts) in excess of $2,000 pay their laborers and mechanics not less than the prevailing wage rates and fringe benefits listed in the contract’s Davis-Bacon wage determination for corresponding classes of laborers and mechanics employed on similar projects in the area. Davis-Bacon labor standards clauses must be included in bid specs/contracts. Click on the link to get the Davis-Bacon language to be incorporated in the bid spec/contracts.

6. **What are Fringe Benefits?**

Fringe Benefits are contributions irrevocably made to a trustee or third party pursuant to a bona fide fringe benefit fund plan or program. Examples of fringe benefits are: Life insurance, Health insurance, Pension, Vacation, Holidays, Sick Leave and other bona fide fringe benefits. Payments required by federal, state or local law are not fringe benefit contributions.

**Note:** Such payments required to fund Social Security, unemployment compensation and workers’ compensation programs, as required by law, do not count as fringe benefits. Fringe Benefits can be paid in cash to the employee or paid into bona fide fringe benefit program.

7. **Can apprentices work on a project covered by the Davis‐Bacon or related Acts (DBRA), and what wage rates must they be paid?**

Individuals who meet the following definition may be employed as apprentices on DBRA

projects:

(a) A person employed and individually registered in a bona fide apprenticeship program

registered with the U.S. Department of Labor, Employment and Training Administration,

Bureau of Apprenticeship and Training, or with a State Apprenticeship Agency recognized by the Bureau,

or

(b) A person in the first 90 days of probationary employment as an apprentice in such an

apprenticeship program, who is not individually registered in the program, but who has

been properly certified to be eligible for probationary employment as an apprentice.

Information on wage rates paid to apprentices are not reflected in Davis‐Bacon wage determinations. The proper wage rates to be paid to apprentices are those specified by the

particular programs in which they are enrolled, expressed as a percentage of the journeyman rate on the wage determination. In the event employees reported as apprentices on a covered project have not been properly registered within the meaning of the Regulations and the contract stipulations, or are utilized at the job site in excess of the ratio to journeymen permitted under the approved program, they must be paid the applicable wage rates for laborers and mechanics employed on the project performing in the classification of work they actually performed. This applies regardless of work classifications which may be listed on the submitted payrolls and regardless of their level of skill.

8. **What wage rates must be paid to supervisory employees (foremen, superintendents, etc.) employed on a covered project?**

The wage rates for bona fide supervisory employees are not regulated under the Davis‐Bacon and Related Acts because their duties are primarily administrative or executive in nature rather than those of laborers or mechanics. However, such employees who devote more than 20 percent of their time during a workweek to mechanic or laborer duties are laborers and mechanics for the time so spent, and must be paid at least the appropriate wage rates specified in the wage determination. Employees who are bona fide executive, administrative, or professional employees as defined under the Fair Labor Standards Act at 29 CFR Part 541 are not covered by the Davis‐Bacon Act.

9. **Does Davis‐Bacon apply to the entire project?**

Yes, Davis‐Bacon applies to the entire project, not just the portion funded by CWSRF.

10. **What Davis‐Bacon prevailing wage rates are used in the bid solicitation and contract?**

The prevailing wage rate for the job classification for the locality must be used. If the wage rate changes more than 10 days of the bid opening, the solicitation must be modified to include the new rate. If the wage rate changes less than 10 days of the bid opening, the AR must get a written determination from the State Water Board that there is not reasonable time to modify the bid solicitation.

11. **Do projects need to comply with state and federal prevailing wage laws?**

Yes, all projects need to comply with both state and federal prevailing wage laws and must pay the higher rate.

12. **Are employee interviews required?**

Yes, in Exhibit “G”, of the CWSRF Agreement, the recipient is required to conduct employee interviews.

13. **Can the contractor/subcontractor submit the certified payrolls to the recipient on a biweekly or monthly basis?**

NO. Laborers and mechanics are to be paid no less than weekly. The payroll must be submitted to the recipient along with the compliance statement within seven days after the regular payroll period.

14. What is Davis-Bacon's ruling for showing owner/operators on certified payroll?

Davis-Bacon does not apply to owner-operators of trucks who are independent contractors.  Certified payrolls need only include the names of such owner-operators and the notation “Owner-operator.”

Note: We will be continually updating this FAQ list. If your question is not answered please contact us at [DavisBacon@waterboards.ca.gov](file:///D%3A%5CCWhite%5CDesktop%5CDavisBacon%40waterboards.ca.gov) or (916) 327‐7323.