

How Not to Become Bacon Bits



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Complying with Davis-Bacon Requirements

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Davis-Bacon Applies to:

- * Contracts with the federal government.
- Or
- * Certain federally assisted contracts.
- * For construction, alteration, or repair projects.
- * For public buildings or public works projects.

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Davis-Bacon Only Applies to Construction Contracts for More Than \$2,000

Not

- * consulting engineers.
- * municipal staff.
- * construction management.
- * materials testing.
- * supplies or equipment purchase.

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Davis-Bacon Requirements Apply to:

- * Clean Water and Drinking Water SRF funded projects since 2010.
- * CDBG grants (All HUD programs).

- * Separate state prevailing wage laws apply to all public works projects Statewide.

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Bid Phase Requirements for Recipients

- * Include required Federal language and forms in bid specifications (specs), advertisement and the contract.
- * Include the most recent Federal Wage Determination (or Decision) for your area and project type in the bid specs and the contract.
- * Check for changes to wage determination 10 days prior to bid opening.
- * Follow the six good faith efforts
- * Buy American (if applicable)

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What is a Federal Wage Determination and How Do You Pick it?

- * A wage determination is a list of the prevailing wages for similar construction in your area of the state.
- * Divided into 4 “schedules”.
 - * Heavy, Highway, Residential, and Building
- * Each schedule contains wage rates for specific job classifications.
- * You will choose the type based on the work that will need to be completed on your project.
- * Can be found at www.wdol.gov

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Which Wage Determination is the “Right One”?

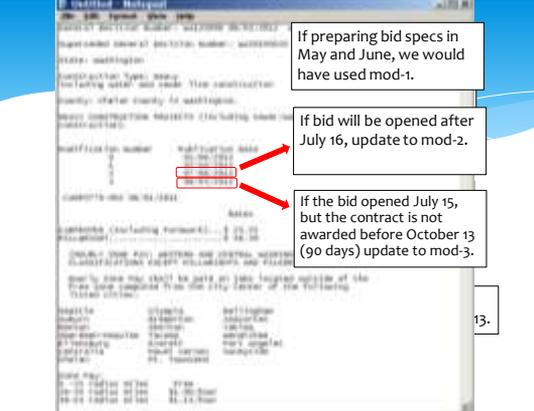
- * Residential – Single Family Houses and apartment complexes.
- * Building – Other enclosed structures.
- * Highway – Almost anything paved.
- * Heavy – Everything Else (including Water and Wastewater projects) On occasion there are more than one type of Heavy.

- * Your wage determination will need to be checked 10-days before your bid opening for any modifications.

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What if US Department of Labor Issues a New Wage Determination?

- * The wage determination must be updated in your bid specs if:
 - * The wage determination changes prior to 10 days before bid opening.
- OR -
- * The contract is not awarded within 90 days of bids closing.
- * **BEST PRACTICE:**

If preparing bid specs in May and June, we would have used mod-1.

If bid will be opened after July 16, update to mod-2.

If the bid opened July 15, but the contract is not awarded before October 13 (90 days) update to mod-3.

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What if a Classification is Not on My Determination?

- * Generally try to use the existing classifications.
- * Can an existing classification perform the work?
- * Additional wage rate classifications can be requested from US Department of Labor.
 - * Use Form SF-1444
 - * Complete the request and forward to your funding agency
- * **Identify additional classifications early it is taking up to 30 days for approval from USDOL**
- * Coordinate with the contractor at the pre-construction meeting.

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Additional Classification Request



contractor

client

Commerce

What is "Zone Pay"?



- * Zone pay applies if the job is located outside of listed cities.
- * Zone pay is added to the base rate.
- * This can affect overtime calculations
- * A resource to assist you in determining if zone pay is applicable is a point to point calculator located at: <http://tjpeiffer.com/crowflies.html>

What are Fringe Benefits?

- * Health Insurance
- * Paid vacation or sick leave
- * Paid holidays
- * Pension plans
- * 401k contributions

Wages and Fringe Benefits

- * The prevailing wage is the base rate + fringe shown.

	Rates	Fringes	
CEMENT MASON/CONCRETE FINISHER...	\$ 24.50	6.30	= \$30.80
LABORER: Common or General (Water and Sewer Lines).....	\$ 20.79	4.63	
LABORER: Landscape and Irrigation.....	\$ 12.27	2.73	
OPERATOR: Asphalt Plant.....	\$ 34.14	0.68	

- * Contractor can pay any combination of base rate and bona fide benefit

- \$30.80 Base Rate + \$0.00 Fringe
- \$24.50 Base Rate + \$6.30 Fringe
- \$15.00 Base Rate + \$15.80 Fringe
- \$8.67 Base Rate + \$22.13 Fringe

What About Overtime Pay?

- * Federal overtime standards are based on a 40 hour work week
- * Workers are paid 1.5 times their base rate for every hour of overtime.
- * Fringe benefits do not increase for overtime pay.
- * Zone pay is an increase in the base rate, so zone pay is increased for overtime pay.
 - * 10.00 base + 1.00 zone = 11.00 x 1.5 + fringe
- * State Prevailing overtime may be different.

What is a Laborer and Mechanic?

- * Workers whose duties are manual or physical in nature
- * Includes apprentices

Does not include:

- * Timekeepers, inspectors, architects, engineers
- * Bona fide executive, administrative, and professional employees as defined under FLSA
- * Working foremen are generally non-exempt
 - * must be paid the Davis Bacon (DB) rate for the classification of work performed if not 541 exempt

Site of the Work

- * Davis-Bacon applies only to laborers and mechanics employed "directly on the site of the work"

Truck Drivers

- * Truck drivers of the contractor or subcontractor are covered by Davis-Bacon for time:
 - * Spent driving on the "site of the work," and
 - * Spent loading or unloading materials and supplies on the "site of the work," if such time is more than *de minimis*

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Truck Drivers

- * Truck drivers are also covered when:
 - * Transporting materials and supplies between staging area that is part of the "site of the work" and the actual construction site; or
 - * Transporting portions of a building or work between a site where a significant portion of the project is being constructed and the physical place where the building or work will remain

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Truck Drivers

- * Truck drivers are not covered in the following instances:
 - * Material delivery truck drivers while off the "site of the work"
 - * Truck drivers of a contractor or subcontractor traveling between a commercial facility and the Davis-Bacon job when they are off the "site of the work"
 - * Truck drivers whose time spent on the "site of the work" is *de minimis* for pick-up or drop off

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Truck Drivers Owner-Operators

- * DOL has an enforcement position with respect to bona fide owner-operators of trucks who are independent contractors (an owner-operator is a person who owns and drives a truck). Certified payrolls including the names of such owner-operators do not need to show the hours worked or the rates paid, only the notation "owner-operator."
- * This position does not apply to owner-operators of other equipment such as bulldozers, cranes, etc.

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What about State Prevailing Wages?

- * You must also check the state prevailing wage rates.
- * The contractor must pay the higher of the federal or state prevailing wages.
- * Intent to pay and the Affidavit are submitted by the contractor to L&I.
- * If you are using a classification on the State prevailing wage that is not on the federal wage determination, you must apply for additional classification on the federal wage decision.

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Contractor Requirements

- * Pay workers the higher of federal or state prevailing wages.
- * Pay weekly.
- * Post federal and state wages on job site.
- * Information posters are to be on the job site.
- * Provide certified payrolls to project owner. (WHD-347)
- * Document Fringe Benefits.
- * Ensure subcontractor compliance with all requirements.

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Questions?

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