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**PROGRAM MATERIALS**  
**Program #3673**  
**May 14, 2026**

## **Labor Law Compliance for Government Contractors**

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# **Labor Law Compliance for Government Contractors**

**May 2026**

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# Learning Points

- How and why does the U.S. Government use contracts to further a socio-economic agenda?
- What laws / executive orders may apply to my government contracts, and how will I know?
- What do these laws / executive orders require?
- How do I comply with these requirements?
- What are the penalties for not complying?
- What's happening with these requirements right now?

# Major Federal Labor Standards Laws

- Davis-Bacon Act – 1931  
(prevailing wages and fringe benefits for construction workers)
- Walsh-Healey Act – 1935  
(prevailing wages for supply/ manufacturing workers)
- Fair Labor Standards Act – 1938  
(general minimum wage and overtime law)
- Contract Work Hours and Safety Standards Act – 1962  
(overtime)
- Service Contract Act – 1965  
(prevailing wages and fringe benefits for service workers)

# Significant Labor-Related Executive Orders

- ~~E.O. 11246 - “Equal Employment Opportunity”~~
- E.O. 13706 - “Establishing Paid Sick Leave for Federal Contractors”
- E.O. 13658 - “Establishing a Minimum Wage for Contractors”
- ~~E.O. 14026 - “Increasing the Minimum Wage for Federal Contractors”~~
- ~~E.O. 14055 - “Nondisplacement of Qualified Workers Under Service Contracts”~~

# Davis-Bacon Act: Requirements

- Prevailing Wage
  - Weighted average of all workers in the locality in the job classification
  - Exception: dominant union representing more than 50% of workers
- Prevailing Fringe Benefits
  - Dependent on locality and trade; consult the WD
  - Some classifications receive little or no fringe benefits (“FBs”)
  - Some dominant union classifications have very high FBs based on CBAs
- Certified Payrolls

# Davis-Bacon Act: Types of Wage-Determination

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## Davis-Bacon Act WD #: DC20250001

State  
District of Columbia

Counties  
Washington, D.C.

DBA Wage Determination

Modification Number  
4

Construction Types  
Heavy, Highway

Published Date  
Feb 28, 2025

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## Davis-Bacon Act WD #: DC20250002

State  
District of Columbia

Counties  
Washington, D.C.

DBA Wage Determination

Modification Number  
4

Construction Types  
Building

Published Date  
Feb 21, 2025

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## Davis-Bacon Act WD #: DC20250003

State  
District of Columbia

Counties  
Washington, D.C.

DBA Wage Determination

Modification Number  
2

Construction Types  
Residential

Published Date  
Feb 14, 2025

# Davis-Bacon Act: Sample Wage-Determination

	Rates	Fringes
Asbestos Worker/Heat and Frost Insulator.....	\$ 40.77	20.17+a

Includes the application of all insulating materials, protective coverings, coatings and finishes to all types of mechanical systems.

a. PAID HOLIDAYS: New Year's Day, Martin Luther King Day, Memorial Day, Independence Day, Labor Day, Veterans' Day, Thanksgiving Day, the day after Thanksgiving and Christmas Day provided the employee works the regular work day before and after the paid holiday.

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ASBE0024-002 10/01/2024

	Rates	Fringes
HAZARDOUS MATERIAL HANDLER.....	\$ 24.46	10.19+a

Includes preparation, wetting, stripping, removal, scrapping, vacuuming, bagging and disposing of all insulation materials, whether they contain asbestos or not, from mechanical systems.

# Davis-Bacon Act: Coverage

- FAR 52.222-6, *Construction Wage Rate Requirements*
- Federal and Federally-assisted contracts > \$2,000
- For construction, alteration, or repair, including painting and decorating
- Of a public work
- Performed at the site of the work
- Using laborers or mechanics
- Does **not** apply to:
  - Bona fide executive, administrative, and professional employees as defined under FLSA
  - Timekeepers, inspectors

# Davis-Bacon Act: Paying Fringe Benefits

Hourly Rate	\$15.00
FB	\$ 4.00
<hr/>	
Total prevailing wage	\$19.00

- The contractor may comply by paying:
  - \$19.00 in cash wages
  - \$15.00 in cash wages plus \$4.00 for FB
  - \$13.00 in cash wages plus \$6.00 for FB

# Service Contract Act: Requirements

- Prevailing wages
- Health and welfare fringe benefits
- Vacation
- Holidays or holiday pay
- No certified payrolls

# Service Contract Act: Sample Wage-Determination

States: District of Columbia, Maryland, Virginia

Area: District of Columbia Statewide

Maryland Counties of Calvert, Charles, Prince George's

Virginia Counties of Alexandria, Arlington, Fairfax, Falls Church, Fauquier,

Loudoun, Manassas, Manassas Park, Prince William, Stafford

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**\*\*Fringe Benefits Required Follow the Occupational Listing\*\***

OCCUPATION CODE - TITLE	FOOTNOTE	RATE
01000 - Administrative Support And Clerical Occupations		
01011 - Accounting Clerk I		21.35
01012 - Accounting Clerk II		23.96
01013 - Accounting Clerk III		26.86
01020 - Administrative Assistant		38.79
01035 - Court Reporter		28.71
01041 - Customer Service Representative I		17.17***
01042 - Customer Service Representative II		18.74
01043 - Customer Service Representative III		21.03
01051 - Data Entry Operator I		18.16
01052 - Data Entry Operator II		19.81
01060 - Dispatcher, Motor Vehicle		24.53
01070 - Document Preparation Clerk		19.93

# Service Contract Act: Sample Wage-Determination

**HEALTH & WELFARE:** \$5.36 per hour, up to 40 hours per week, or \$214.40 per week or \$929.07 per month

HEALTH & WELFARE EO 13706: \$4.93 per hour, up to 40 hours per week, or \$197.20 per week, or \$854.53 per month\*

\*This rate is to be used only when compensating employees for performance on an SCA-covered contract also covered by EO 13706, Establishing Paid Sick Leave for Federal Contractors. A contractor may not receive credit toward its SCA obligations for any paid sick leave provided pursuant to EO 13706.

**VACATION:** 2 weeks paid vacation after 1 year of service with a contractor or successor, 3 weeks after 5 years, and 4 weeks after 15 years. Length of service includes the whole span of continuous service with the present contractor or successor, wherever employed, and with the predecessor contractors in the performance of similar work at the same Federal facility. (Reg. 29 CFR 4.173)

**HOLIDAYS:** A minimum of eleven paid holidays per year: New Year's Day, Martin Luther King Jr.'s Birthday, Washington's Birthday, Memorial Day, Juneteenth National Independence Day, Independence Day, Labor Day, Columbus Day, Veterans' Day, Thanksgiving Day, and Christmas Day. (A contractor may substitute for any of the named holidays another day off with pay in accordance with a plan communicated to the employees involved.) (See 29 CFR 4.174)

# Service Contract Act: Coverage

- FAR 52.222-41, *Service Contract Labor Standards*
- Every Federal government service contract in excess of \$2,500
  - Some statutory and regulatory exemptions
  - 80% “Rule of thumb”
- “Exempt” employees do not need to receive SCA prevailing wage / fringe benefits
  - Executive
  - Administrative
  - Professional
  - Computer

# Service Contract Act: Paying Fringe Benefits

- Can be bona fide fringe benefits or cash equivalent
  - Medical, hospital, life and other insurance
  - Pension benefits
    - Including employer's 401(k) contribution, but not employee's contribution
  - Disability benefits
  - Benefits required by law (e.g., social security or the minimum required workmen's comp.) are not "bona fide" fringe benefits.
- Must be separately identified on the employee's paystub

# Service Contract Act: Conformances

- Labor Classifications not on a wage determination must be “conformed” to the classifications on the wage determination
- Art Not Science
- Some Rules of Thumb
  - Subordinate classifications ***not*** permitted
  - Intermediate classifications ***not*** permitted
  - Hybrid classifications ***not*** permitted

# Service Contract Act: Successorship Obligation

- If a collective bargaining (union) agreement covers the predecessor contract employees, then the wages and fringes in the CBA apply to successor contract employees
  - Includes prospective increases
  - excludes CBA provisions other than wages / fringes
  - Successor is not a party to the CBA

# Service Contract Act: Price Adjustment

- FAR 52.222-43, *Fair Labor Standards Act and Service Contract Labor Standards-Price Adjustment (Multiple Year and Option Contracts)*
- Increase to contract price or unit price labor rates for actual increase in wages / fringe benefits to comply with WD applicable on anniversary date of multiple year contract or at beginning of the option period.
- Adjustment limited to increases in wages / fringe benefits and accompanying increases in social security / unemployment taxes and workers' comp insurance.

# Davis Bacon Act vs. Service Contract Act

- DBA-covered when activity part of construction contract
  - Performed prior to acceptance by owner
  - Examples of activities:
    - Cleanup
    - Landscaping
    - Carpet laying
    - Drapery installation
- SCA-covered maintenance work is typically:
  - Scheduled, regular and recurring maintenance activities
  - Routine to keep something in state of continuous utilization

# Davis Bacon Act & Service Contract Act: Working Time

- Covered workers must be paid for all working time (“hours worked”)
- Work not requested, but “suffered or permitted” is working time
  - Preparing tools for work
  - Changing clothes, if required due to the nature of the work
  - Fire drills
  - Medical attention for on-the-job injuries or at the employer’s direction
  - Washing up, if required due to the nature of work
  - Charitable work required by employer
  - Answering phones during lunch break

# Davis Bacon Act & Service Contract Act: Working Time

- Waiting Time
- On-Call Time
- Rest Periods
- Meal Periods
- Sleeping Time
- Travel Time
- Training Time

# Davis Bacon Act & Service Contract Act: Working Time

- What are the biggest mistakes employers make regarding compensable working time?
  - “I told her not to work overtime, so I don’t have to pay for it.”
  - “My client won’t reimburse us for overtime, so . . . .”
  - “If he were more efficient, the job would take fewer hours, so . . . .”
  - “I told him not to take work home, so . . . .”

# Davis-Bacon Act & Service Contract Act: Penalties

- Contract withholding for back pay by DOL or agency
- Government suit
- Debarment
- Contract cancellation/termination for default by agency
- Prime contractor financial liability for subcontractor acts
- Potential *qui tam* suits for false claims

# Walsh-Healey Public Contracts Act (“PCA”)

- Establishes minimum wage, maximum hours, and safety and health standards for work on contracts in excess of \$15,000 for the manufacturing or furnishing of materials, supplies, articles, or equipment to the U.S. government or the District of Columbia.

# Contract Work Hours and Safety Standards Act ("CWHSSA")

- Requires contractors to pay laborers and mechanics, including watchpersons and guards, employed in the performance of covered contracts not less than one and one-half times their basic rate of pay for all hours worked over 40 in a workweek.

# Copeland Anti-Kickback Act

- Prohibits contractors and subcontractors performing work on covered contracts from in any way inducing an employee to give up any part of the compensation to which he or she is entitled.
- Requires contractors and subcontractors performing on covered contracts to pay their employees on a weekly basis and in cash or a negotiable instrument payable on demand.

# E.O. 11246 - Equal Employment Opportunity

- Prohibits federal contractors and federally-assisted construction contractors and subcontractors, who do over \$10,000 in Government business in one year from discriminating in employment decisions on the basis of race, color, religion, sex, sexual orientation, gender identity or national origin.
- Requires Government contractors to take affirmative action to ensure that equal opportunity is provided in all aspects of their employment.

# E.O. 11246 - Equal Employment Opportunity

- Prohibits federal contractors and subcontractors from, under certain circumstances, taking adverse employment actions against applicants and employees for asking about, discussing, or sharing information about their pay or the pay of their co-workers.

## E.O. 13706 – Paid Sick Leave

- FAR 52.222-62, *Paid Sick Leave Under Executive Order 13706*
- Employees on covered contracts must be permitted to earn not less than 1 hour of paid sick leave for every 30 hours worked.
- A contractor may not set a limit on the total accrual of paid sick leave per year, or at any point in time, at less than 56 hours
- Paid sick leave accrued under the order must carry over from one year to the next and must be reinstated for employees rehired by a covered contractor within 12 months after a job separation.

# E.O. 13706 – Paid Sick Leave

- Employees must be able to use paid sick leave for an absence resulting from:
  - physical or mental illness, injury, or medical condition;
  - obtaining diagnosis, care, or preventive care from a health care provider;
  - caring for a child, a parent, a spouse, a domestic partner, or any other individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship who has any of the conditions or needs for diagnosis, care, or preventive care described above or is otherwise in need of care; or

## E.O. 13706 – Paid Sick Leave

- Employees must be able to use paid sick leave for an absence resulting from (*continued*):
  - domestic violence, sexual assault, or stalking, if the time absent from work is for the purposes otherwise described above, to obtain additional counseling, to seek relocation, to seek assistance from a victim services organization, to take related legal action, including preparation for or participation in any related civil or criminal legal proceeding, or to assist an individual related to the employee as described above in engaging in any of these activities.

# E.O. 14055 - Nondisplacement of Qualified Workers Under Service Contracts

- Service contracts and subcontracts that succeed a contract for performance of the same or similar work, and solicitations for such contracts and subcontracts, should include a clause requiring the contractor and its subcontractors to make good faith offers of employment to qualified service employees employed under the predecessor contract and its subcontracts whose employment would be terminated as a result of the award of the new contract or the expiration of the contract under which the employees were hired.

# Disputes

- FAR 52.233-1, *Disputes*
- FAR 52.222-14, *Disputes Concerning Labor Standards*
  - “The United States Department of Labor has set forth in 29 CFR parts 5, 6, and 7 procedures for resolving disputes concerning labor standards requirements. Such disputes shall be resolved in accordance with those procedures and not the Disputes clause of this contract. Disputes within the meaning of this clause include disputes between the Contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.”

# Proposal Considerations

- Pricing of labor (exempt vs. non-exempt)
- Providing for out-year escalation
- Identifying labor categories to be used
- Pricing sick leave
- Making offers to incumbent employees

# Best Practices

- Reduce the likelihood of DOL investigations by listening to employee complaints, both formal and “grapevine.”
- Institute a compliance/self-audit program **before** being investigated.
- Train your managers
- Keep accurate records as required by law; do not destroy records or create new records.
- Cooperate with DOL.
- Assert defenses at the exit conference.
- Be open to negotiate with investigator or his superiors, especially when facts or law are unclear.

**Contact Information:**

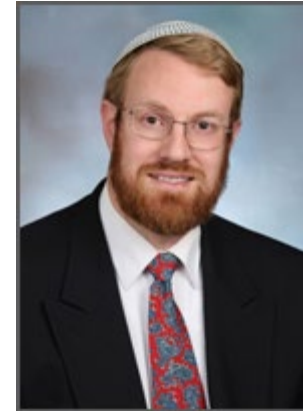
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*Please contact me to receive a free copy of my  
“Subcontract Negotiation Quick Reference Guide”*

