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## Technical Bulletins: Davis-Bacon Fact Sheet

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## technical bulletin

Municipal Technical Advisory Service  
Institute for Public Service, The University of Tennessee  
In cooperation with the Tennessee Municipal League

March 23, 1976

### Davis-Bacon Fact Sheet \*

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In accordance with Section 123(a)(6) of the State and Local Fiscal Assistance Act of 1972 (known as general revenue sharing) and Section 51.42 of the pursuant regulations, construction projects meeting certain conditions also are subject to the prevailing wage rate requirements of the Davis-Bacon Act and its regulations, 29 CFR Parts 1, 3, 5, and 7. Under this latter Act, the Secretary of Labor is empowered to determine the prevailing wage rate for all laborers and other construction workers employed by contractors and subcontractors engaged in Federally-funded construction projects.

#### The Wage

Based on classifications of construction activity, the Department of Labor (DOL) conducts mail surveys and on-site visits in each State to determine the wages to be paid to the laborers and other construction workers employed on Federally-funded construction projects.

The Department of Labor classifies standard types of construction activity into building and non-building categories. Generally, these two classifications contain the following types of construction activity:

**Building** *Residential* single family dwelling units and garden type apartments up to and including 4 stories;

*Non-Residential* commercial buildings, hospitals, schools, industry/factories, institutional buildings, or building construction exclusive of residential construction.

**Non-Building** *Heavy* construction which is other than building or highway and includes such projects as water and sewer installations, wharves, piers, canals, breakwaters, levees, dredgings, shorings, buoys, tunnels, and dams.

*Highway* paving and preparation for paving of streets, highways, roads, runways, and other paving projects.

There are two basic types of wage determinations issued under the Davis-Bacon Act.

1. A **General** or **Area** wage determination refers to a wage rate for a defined type of construction in a specific geographic area and is published in the *Federal Register*. There is no set expiration date for this determination, so it remains in effect until modified. A general wage determination can be used by a contracting agency without notifying the Department of Labor.

A national index of general wage determinations is published in the *Federal Register* on the first Friday of each month for use by Federal contracting agencies and recipients of general revenue sharing. Modifications to general wage determinations are published each Friday.

2. A **Project** wage determination refers to a wage rate applicable to a *specified construction project* which does not have a general wage determination and is issued only at the request of the Federal contracting agency or general revenue sharing recipient. Such a determination remains in effect for 120 days. The request for a project wage determination must be made on a Standard Form 308, entitled "Request for Determination and Response to Request" which provides the Department of Labor with a description of the project. (A sample copy of the Standard Form 308 is attached for your information.) The time required for processing requests varies according to the facts and circumstances surrounding each case; however, a government should anticipate that such processing in the Department of Labor will take *at least* 30 days.

It is very important to note that the use of union labor does not in itself mean that your government is in full compliance with the Davis-Bacon standards. The Department of Labor wage scales do not necessarily correspond to the "union wage," and there are other, administrative requirements which also must be considered.

When does the Davis-Bacon Act apply to general revenue sharing expenditures?

*You*, as a revenue sharing recipient, must determine if the Davis-Bacon provisions apply to your proposed use of revenue sharing funds.

- First, are you using revenue sharing funds to finance 25% or more of the total cost of the construction project? (In general, "total cost" does not

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cover the purchase of land but refers to the costs of all types of work on a particular building or at a site, including any alterations to the property, remodeling, painting and decorating, transportation of supplies, and manufacturing or furnishing of needed materials at the location.)

● Second, is the total cost of the construction project over \$2,000?

If you can answer "No" to either *one* of these questions, then Davis-Bacon standards *do not* apply to your construction project.

What are your Davis-Bacon responsibilities as a general revenue sharing recipient?

1. Acquire or request a wage determination for each construction project, at least 30 days prior to the invitation for bids. If you believe that the wage determination is inequitable, you may challenge the determination to the Department of Labor before the opening of bids.
2. Ensure that all laborers and mechanics on the project are properly classified and that the correct wage determinations are included in the contract specifications. When a general wage determination applies, any modifications which are in effect 10 days prior to the opening of the bids should be used. If a project determination is applicable, the contract should be awarded prior to the expiration date of the wage determination.
3. Include all necessary provisions on labor standards, such as those of the Contract Work Hours and Safety Standards Act (CWHSSA), in the contract specifications. The CWHSSA relates to overtime requirements.
4. Ensure that no contractor or sub-contractor who has been debarred by the Department of Labor from Federally-funded construction projects for flagrant violations of Federal labor standards is awarded the contract.
5. Make contractors aware of their responsibilities under the Davis-Bacon Act.
6. Acquire, review for compliance and retain copies of the weekly payroll records and a statement of compliance from the contractor and subcontractors.
7. Ensure that any secondary recipients of your revenue sharing funds (governments, agencies, special districts, non-profit organizations, etc.) understand that the Davis-Bacon provisions may apply to capital construction projects which they might undertake with shared revenues.
8. Ensure that revenue sharing funds are not used to retire outstanding debts from construction projects whose contracts failed to include Davis-Bacon provisions.
9. Report any violations to the Employment Standards Administration Regional Office of the Department of Labor.

What are the responsibilities of the contractor under Davis-Bacon?

1. Pay not less than the prevailing wages outlined in the contract including time and one half to those employees who work over eight hours per day or forty hours per week on the project, whichever is greater.
2. Pay all employees at least once a week.
3. Post the applicable wage determinations on the job site so that employees may verify their rates of pay.
4. Submit weekly payroll records and a statement of compliance to the contracting government and keep these records for 3 years from the date of completion of the contract.
5. Make the Davis-Bacon provisions a part of all subcontractors' contracts.

Where do you go for advice on wage determinations and possible non-compliance with Davis-Bacon Act?

The Office of Revenue Sharing recognizes that many recipients have not had previous experience with the Davis-Bacon Act and may inadvertently be in non-compliance with the general revenue sharing law because of a Davis-Bacon violation. Often local officials ask questions such as: **Is my project defined as being "construction?"**; **"What is the total project cost of this job?"**; **"Does total project cost include the aggregate of all contracts let?"**; **"Are any of the contractors bidding on our project debarred by the Department of Labor?"**; **"Has my government properly classified all employees?"**.

If your government has any questions on wage determinations or compliance problems with the Davis-Bacon Act, you should contact the Wage Specialist in the nearest Employment Standards Administration regional office. This person can provide the necessary wage determinations and suggest possible corrective actions to compliance problems. Notification of this contact should be forwarded to the Compliance Manager, Office of Revenue Sharing.

NOTE: The contact person for all Tennessee cities is Mrs. Elizabeth R. Ball, in the DOL Atlanta Regional Office, 1371 Peachtree St., N.E., Room 331, Atlanta, GA 30309, Phone 404/526-5801.

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DAVIS-BACON WAGE REQUIREMENTS FOR  
FEDERAL AID PROJECTS

The wage rates appearing below fall into the category of a general or area wage determination for a particular type of construction in a specific geographic area. (See Section 1 on Page 1)

For street construction projects using Revenue Sharing, Community Development or other Federal Funds the Davis-Bacon wage requirements can be met by including in the bid specifications and contracts the state-wide highway construction wage scales as published in the Federal Register.

The prevailing highway construction wages for Tennessee, which should remain fixed for the balance of 1976, are:

| <u>OCCUPATION</u>                    | <u>BASIC HRLY. RATE</u> | <u>OCCUPATION</u>            | <u>BASIC HRLY. RATE</u> |
|--------------------------------------|-------------------------|------------------------------|-------------------------|
| Bricklayers                          | \$ 6.40                 | Earth Drill                  | \$ 3.85                 |
| Iron Workers - Structural            | 5.70                    | Scale Operator               | 3.75                    |
| Iron Workers - Reinforce             | 5.10                    | Tractor - Farm               | 3.80                    |
| Carpenter or Leadsman                | 5.35                    | Curb Machine                 | 3.65                    |
| Cement Mason                         | 5.35                    | Ditch Paver                  | 3.55                    |
| Nozzleman or Gunman (Gunite)         | 5.35                    | Pump Operator                | 3.40                    |
| Painter or Sand Blaster              | 5.35                    | Concrete Saw                 | 3.75                    |
| Shovel Operator                      | 5.35                    | Guard Rail Erector           | 3.75                    |
| Backhoe Operator                     | 5.35                    | Sign Erector                 | 3.95                    |
| Crane Operator                       | 5.35                    | Motor Crane Drive            | 3.75                    |
| End Loader                           | 5.35                    | Fence Erector                | 3.75                    |
| File Driver Operator                 | 5.35                    | Fireman                      | 3.55                    |
| Motor Patrol - Finish                | 5.35                    | Asphalt Raker                | 3.85                    |
| Concrete Paver Operator              | 5.35                    | Track Drill Operator         | 4.00                    |
| Mechanic - Class I                   | 5.35                    | Concrete Edger               | 3.65                    |
| Mechanic - Class II                  | 4.65                    | Powder Man                   | 4.55                    |
| Motor Patrol (Rough)                 | 4.65                    | Form Setter - Steel Road     | 4.25                    |
| Bull Dozer or Push Dozer Operator    | 5.25                    | Air Tool Operator            | 3.55                    |
| Scraper Operator                     | 5.25                    | Mortar Mixer                 | 3.50                    |
| Trenching Machine Operator           | 4.80                    | Chain Saw                    | 3.50                    |
| Central Mixing (Asphalt or Concrete) | 4.65                    | Pipe Layer                   | 3.50                    |
| Tractor - Boom and Hoist             | 4.80                    | Concrete Rubber              | 3.50                    |
| Concrete Finishing Machine           | 4.65                    | Laborer                      | 3.25                    |
| Soil Cement Machine                  | 4.65                    | Flagman                      | 3.25                    |
| Asphalt Paver                        | 4.65                    | Oiler                        | 4.15                    |
| Roller - High Type                   | 4.65                    | Welder's Helper*             | 3.40                    |
| Spreader - Self-Propelled            | 4.50                    | Mechanic's Helper            | 3.55                    |
| Distributor - Bituminous             | 4.35                    | Electricians                 | 6.15                    |
| Roller - Other than Finish           | 4.15                    | Truck Drivers                |                         |
| Tractor - Crawler - Utility          | 4.40                    | 2 & 3 Axles                  | 3.65                    |
| Dozer or Loader - Stock Pile Only    | 4.10                    | 4 & 5 Axles or More or Heavy |                         |
| Concrete Mixer - Less than 1 Yd.     | 3.85                    | Duty off-the-road trucks     | 4.30                    |
| Mulcher or Seeder                    | 3.75                    |                              |                         |

\*Welders - Receive rate for craft performing operation to which welding is incidental.

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