

DOE GUIDANCE: DAVIS-BACON ACT REQUIREMENTS ASSOCIATED WITH RECOVERY ACT FUNDS

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The U. S. Department of Energy (DOE) issued guidance on how to implement the Davis-Bacon Act (DBA) prevailing wage rate requirements for State Energy Program (SEP) grant recipients under the American Recovery and Reinvestment Act of 2009 (Recovery Act). Following is a summary of the DOE guidance.

ARRA DAVIS-BACON REQUIREMENTS

Section 1606 of **ARRA**:

Notwithstanding any other provision of law and in a manner consistent with other provisions in this Act, all laborers and mechanics employed by contractors and subcontractors on projects funded directly by or assisted in whole or in part by and through the Federal Government pursuant to this Act shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor in accordance with subchapter IV of chapter 3 1 of title 40, United States Code. With respect to the labor standards specified in this section, the Secretary of Labor shall have the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (64 Stat. 1267; 5 U.S.C. App.) and section 3 145 of title 40, United States Code.

BACKGROUND

The DBA requires all contractors and subcontractors to pay laborers and mechanics employed under the contract prevailing wages and benefits for similar employees and projects in the locality.

DBA normally applies to contracts over \$2000.00 for construction, alteration, and/or repair of public buildings or public works. However, the Recovery Act specifies that all laborers and mechanics employed on any project funded by Recovery Act funds must be paid the DBA prevailing wage rate. If the entity that receives the work contracts out the work funded by the Recovery Act then it must ensure that the contractor that employs the laborers and mechanics pays them the DBA prevailing wage rate.

CONTRACT CLAUSES

The recipient of the Recovery Funds (for example the State Energy Office) is responsible for DBA compliance by its subgrantees and contractors. The recipient must include the DBA contract clauses in their contracts and grants and require that the DBA contract clauses apply to contracts/subcontracts for the performance of the work.

If an ongoing project later receives Recovery Act funding, the wage determinations must be included

effective as of the date the Recovery Act funding is approved for use on the project.

PAYROLL RECORDS

Grantees/sub-grantees and contractors/subcontractors on projects funded by Recovery Act funds must maintain payroll records for all laborers and mechanics and hold them for three years following the project. Laborers and mechanics must be paid on a weekly basis and the certified weekly payroll must be submitted to the contracting and administering agency.

PUBLISHED WAGE RATES

Wage determinations can be found at <http://www.wdol.gov>.

RECOVERY ACT FUNDED STATE ENERGY PROGRAM CONSUMER REBATE PROGRAMS

The Department of Labor (DOL) has determined that DBA prevailing wage rate requirements will not apply to consumer rebate programs which allow individual homeowners to apply for rebates either before or after energy efficiency/renewable energy improvements are completed.

The DOE notice can be found on the Technology Assessment website at:

http://dnr.louisiana.gov/sec/execdiv/techasmt/programs/ARRA_2009/images/SEP_DBA_Program_Notice_10-003_123009_Final.pdf.