

---

## Chapter 1 OFFICE OF DAVIS-BACON AND LABOR STANDARDS

1-1 **Introduction.** This chapter introduces the Office of Davis-Bacon and Labor Standards (DBLS), the office within HUD that is responsible for compliance with the federal prevailing wage requirements applicable to HUD-assisted and insured housing and community development programs covered under the Davis-Bacon and Related Acts. This chapter also covers the roles and responsibilities of DBLS staff and the responsibilities of the state, local, and tribal agencies with which it works.

Many acronyms are used throughout this handbook, which are spelled out the first time they are introduced in each chapter. For a comprehensive list of acronyms, see Appendix IV-1, Acronyms and Symbols. For ease of reference, these are the most frequently used acronyms throughout the handbook, listed alphabetically:

- DBA: Davis-Bacon Act
- DBRA: Davis-Bacon and Related Acts
- CPR: Certified Payroll Report
- CWHSSA: Contract Work Hours and Safety Standards Act
- DBLS: HUD Office of Davis-Bacon and Labor Standards
- DOL: U.S. Department of Labor
- HQLS: HUD Headquarters Office of Davis-Bacon and Labor Standards
- LCA: (State or) Local Contracting Agency
- LSIS: Labor Standards Information System
- LSS: HUD Labor Standards Specialist or Staff
- MWD: Maintenance Wage Rate Decision

1-2 **The Office of Davis-Bacon and Labor Standards.** The Office of Davis-Bacon and Labor Standards (DBLS), formerly known as the Office of Labor Relations, is responsible for administering and enforcing federal labor standards provisions in HUD programs. These standards include those contained within the Davis-Bacon and Related Acts (DBRA), the Copeland Act, and the Contract Work Hours and Safety Standards Act (CWHSSA). DBLS is also responsible for administering and enforcing the prevailing maintenance wage requirements of the U.S. Housing Act of 1937 and the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA), both as amended.

1-3 **Reorganization Plan No. 14 of 1950.** President Harry Truman transmitted to Congress his Reorganization Plan No. 14 dated March 13, 1950. The Plan authorized and directed the Secretary of Labor (SOL) to coordinate with other federal agencies on federally financed or assisted projects by prescribing standards, regulations, and procedures related to wages and hours, and make such investigations as the SOL deems desirable to assure consistent enforcement. The authorities granted to the SOL in the Plan include the DBRA, the Copeland Act, and the CWHSSA.

The Plan reiterated that the actual performance of enforcement activities, including the investigation of complaints of violations, remains the duty of the respective agencies awarding the contracts or providing the federal assistance. DBLS carries out HUD's responsibilities under Reorganization Plan No. 14. (See Appendix I-1, Reorganization Plan No. 14 of 1950.)

1-4 **Organization.** DBLS is part of the Office of Field Policy and Management (FPM). DBLS consists of a Headquarters staff, headed by the National Director of DBLS, and field staff organized into three Hubs nationwide. Each Hub is managed by a Hub Director, who is supported by one or more Deputy Directors. Deputy Directors supervise Labor Standards Specialists (LSS) and may supervise staff in more than one region.

1-5 **Roles and Responsibilities.**

A. **Headquarters DBLS (HQLS).** The National Director of DBLS serves as the principal advisor to the Secretary of HUD and throughout HUD on matters concerning labor standards administration and enforcement in HUD programs and associated interests. HQLS is responsible for developing policy and providing guidance, supervision, oversight, and technical support to DBLS staff nationwide.

B. **Field Staff of DBLS.** Both Hub Directors and Deputy Directors are responsible for the proper administration and enforcement of federal labor standards within their respective jurisdictions. Hub Directors advise the National Director of DBLS concerning labor standards and operational matters and associated interests. Deputy Directors supervise field staff located within their region(s) and provide technical support and advice.

An LSS is responsible for the proper administration and enforcement of federal labor standards within their jurisdiction. The LSS serves as the principal advisor to the Deputy Director concerning labor standards and associated matters within their assigned jurisdiction.

1-6 **Delegations of Authority.** The Department published delegations of authority in the Federal Register on October 5, 2020. The Secretary delegated to the Assistant Deputy Secretary for Field Policy and Management and to the Director for Field Policy and Management all authority with respect to Davis-Bacon and Labor Standards administration and enforcement vested in, or delegated or assigned to, the Secretary under statutes and other authorities relating to Davis-Bacon and Labor Standards, including, but not limited to:

- The Davis-Bacon Act (40 U.S.C. 3141, *et seq.*),
- The Copeland Act (40 U.S.C. 3145),
- The Contract Work Hours and Safety Standards Act (40 U.S.C. 3701, *et seq.*),
- Reorganization Plan No. 14 of 1950 (5 U.S.C. App. Reorg. Plan 14),
- The National Housing Act (12 U.S.C. 1701, *et seq.*),
- Section 202 of the Housing Act of 1959 (12 U.S.C. 1701q),

- The Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12704, *et seq.*),
- The United States Housing Act of 1937 (42 U.S.C. 1437),
- The Housing and Community Development Act of 1974 (42 U.S.C. 5301, *et seq.*),
- The Native American Housing Assistance and Self-Determination Act (25 U.S.C. 4101, *et seq.*),
- Executive Order 13502 (74 FR 6985), and
- Certain Department of Labor regulations (29 CFR parts 1, 3, 5, 6, and 7).

The authority delegated includes the authority to determine or adopt prevailing wage rates, which is vested in the Secretary by certain statutes, including, but not limited to, the United States Housing Act of 1937 (42 U.S.C. 1437j) and the Native American Housing Assistance and Self Determination Act (25 U.S.C. 4101, *et seq.*).

A. **Allocation of program authority within the Office of Davis-Bacon and Labor Standards.**

1. **The National Director of Davis-Bacon and Labor Standards** retains program authorities and actions relating to:
  - a. Referrals/requests to DOL on reconsiderations of Davis-Bacon wage decisions, rulings, and additional classifications;
  - b. Referrals/requests to DOL on DBRA/CWHSSA investigations on HUD program activity;
  - c. Referrals to DOL for hearings/appeals on investigative or other findings of violation, and recommendations for administrative sanctions;
  - d. Decisions relating to variations, tolerances, waivers and/or exemptions from the requirements of this handbook and any other directive or policy issued by DBLS (the National Director of DBLS may not approve variations, tolerances, waivers and/or exemptions relating to statutory or regulatory requirements); and
  - e. Final decisions relating to the administration and enforcement of prevailing wage rates determined or adopted by HUD.
2. **Hub Directors and Deputy Directors** are authorized and empowered to take the actions listed below within their assigned jurisdiction, and on certain cases or instances as assigned to them by the National Director of DBLS. Actions and decisions made by the Deputy Director may be subject to further review by, or appeal to, the National Director of DBLS.
  - a. Review/make determinations of federal labor standards applicability for HUD program activities;
  - b. Refer to HQLS unique and/or complex prevailing wage applicability determinations and other labor standards issues;
  - c. Approve the initiation of federal labor standards investigations on HUD-assisted projects/contracts;
  - d. Render decisions on requests for reconsideration pertaining to findings of underpayment;

- 
- e. Recommend, through HQLS, the imposition of administrative sanctions including debarment and limited denials of participation;
  - f. Approve reductions or waivers of CWHSSA liquidated damages totaling \$500 or less; recommend, through HQLS, reductions/waivers of CHWSSA liquidated damages totaling in excess of \$500;
  - g. Approve the imposition of deposit requirements on HUD multifamily development projects;
  - h. Approve disbursements from deposit accounts;
  - i. Recommend, through HQLS to DOL, any appeals, variances, tolerances and exemptions in the application of DOL regulations, directives, guidance and/or Davis-Bacon wage decisions;
  - j. Refer, through HQLS to DOL, disputes, investigative findings, and other matters relating to Davis-Bacon prevailing wage rates for further review and disposition;
  - k. Render decisions on requests for reconsideration pertaining to prevailing wage rates determined or adopted by HUD;
  - l. Render decisions on disputes arising from the administration and/or enforcement of prevailing wage rates determined or adopted by HUD; and
  - m. Undertake and/or oversee any program actions or authorities delegated to Field Labor Relations Specialists/Staff.
3. **Labor Standards Specialists** are authorized and empowered to take the actions listed below within their assigned jurisdiction and on certain cases or instances as assigned to them by the Deputy Director. Actions taken and decisions made by the LSS may be subject to further review by, or appeal to, the Deputy Director.
- a. Review/make determinations of federal labor standards applicability for HUD program activities;
  - b. Refer to the Deputy Director unique and/or complex prevailing wage applicability determinations and other labor standards issues;
  - c. Issue determinations of back wages due and other findings of underpayment or labor standards violation;
  - d. Issue notices of intent to assess CWHSSA liquidated damages; approve reductions or waivers of CHWSSA liquidated damages totaling \$100 or less; recommend, through the Deputy Director, reductions/waivers of CWHSSA liquidated damages totaling in excess of \$100;
  - e. Conduct investigations of labor standards compliance as approved by the Deputy Director;
  - f. Issue prevailing wage rates for maintenance laborers and mechanics;
  - g. Approve training programs, including wage rates for trainees; associated with maintenance work subject to prevailing wage rates determined or adopted by HUD;
  - h. Approve the payment of expenses, reasonable benefits, and/or nominal fees to bona fide volunteers;
-

- i. Conduct training and provide technical assistance to state and/or local contracting agencies (LCA) administering HUD programs;
  - j. Conduct monitoring reviews to assess state, local and/or tribal agency labor standards performance; and
  - k. Issue reports relating to state and/or local agency monitoring.
- B. **Responsibilities of state, local, and tribal agencies.** This handbook delineates certain labor standards responsibilities of state, local, and tribal agencies (collectively referred to as Local Contracting Agencies or LCAs) that administer HUD programs subject to prevailing wage requirements.

Accordingly, LCAs are authorized, empowered, and responsible for undertaking the following responsibilities. LCA actions and decisions may be subject to further review by, or appeal to, HUD DBLS staff.

1. **Designate appropriate staff** prior to any work subject to prevailing wage requirements, to ensure compliance with all applicable labor standards requirements and to act for and in liaison with HUD. Provide the name(s) of the staff to the appropriate HUD DBLS staff.
2. **Establish a construction contract management system** which meets the standards of HUD regulations at 24 CFR Part 85, Administrative Requirements for Grants and Cooperative Agreements to State, Local, and Federally Recognized Indian Tribal Governments.
3. **Inform, support, and oversee subordinate program participants,** (e.g. sub-recipients and grantees) concerning labor standards requirements and responsibilities. Ensure full labor standards compliance regarding any activities undertaken by subordinate program participants.
4. **Ensure that all bid documents, contracts, and subcontracts** for work subject to federal prevailing wage requirements contain the appropriate labor standards provisions and the applicable federal wage rate decision.
5. **Ensure that a contract is not awarded to a contractor that is ineligible** to participate in federally assisted programs (e.g. debarred).
6. **Conduct on-site inspections including interviews with laborers and mechanics** employed on the prevailing wage-covered work. Ensure that the applicable federal wage decision is posted at the job site and, for work subject to Davis-Bacon requirements, ensure that the Davis-Bacon poster WH-1321 is posted with the applicable wage decision.
7. **Review certified payroll reports and related documentation.** Identify discrepancies and violations. Ensure that any needed corrections are

promptly made.

8. **Maintain full documentation** of federal labor standards administration and enforcement activities, such documentation to be made freely available for HUD review. Documentation associated with work subject to Davis-Bacon requirements must also be made freely available to the U.S. Department of Labor (DOL).
9. **Refer any potential criminal or complex enforcement matters to HUD,** in addition to debarment recommendations and liquidated damage assessments for CWHSSA overtime violations.
10. **Comply with all HUD requirements** including special statutory, program, and other requirements.
11. **Prepare and submit to HUD federal labor standards enforcement reports** as required in DOL regulations at 29 CFR § 5.7.
12. **State agencies additionally:**
  - a. May communicate directly with DOL concerning administering and enforcing federal labor standards provisions, or may communicate through HUD, at the State's discretion.
  - b. Must monitor and assess its grantees' labor standards performance.
  - c. Must ensure corrective actions are taken for any deficiencies noted in grantee performance reviews.
  - d. Must collect and submit to DOL or HUD all enforcement reports required in DOL regulations at 29 CFR § 5.7. (See Chapter 10, *Reports – Davis-Bacon and Related Acts*.)

1-7 **Primary labor standards objectives and core work activities.** HUD identified five primary labor standards objectives for LCAs and its staff. In addition, HUD defined the core work activities for its field operations.

A. **The labor standards objectives for both LCAs and DBLS staff are to:**

1. **Apply prevailing wage requirements properly.** Make certain that prevailing wage and reporting standards are applied where required. Ensure that any exemptions, exceptions, or limitations are identified.
2. **Support labor standards compliance.** Provide training, technical support, and oversight to program participants, including contractors and subcontractors, to ensure that program participants understand their obligations under federal labor standards.
3. **Monitor contractor performance.** Review certified payroll submissions and other information to ensure that employers comply with labor

standards requirements including paying prevailing wages to laborers and mechanics.

4. **Investigate probable violations and complaints.** Thoroughly explore any evidence of violations, especially allegations of underpayment. Ensure full resolution of substantiated violations.
  5. **Pursue debarment and other available sanctions against repeat labor standards violators.** Implement a no-tolerance policy toward employers and any other program participants who repeatedly violate prevailing wage requirements and/or fail to properly carry-out their labor standards responsibilities.
- B. **HUD Davis-Bacon and Labor Standards core work activities.** The definitions of DBLS staff's key program responsibilities and tasks are contained in Appendix I-3, Labor Relations Core Work Activities. The definitions include the item or activity name, the expected product or outcome, the timing for performance credit, and the source document and associated recordkeeping.

LCAs are not required to follow DBLS core work activities but may find these definitions helpful in the implementation of their own labor standards administration and enforcement program.

### **Related Appendices**

- I-1 Reorganization Plan No. 14 of 1950
- I-2 Delegations of Authority
- I-3 Labor Standards Core Work Activities
- IV-1 Acronyms and Symbols