



September 2022

U.S. Department of Housing and Urban Development

WORKER'S POCKET GUIDE

For Employees Working on Davis-Bacon Projects





The U.S. Department of Housing and Urban Development (HUD) is a key driver of job creation in communities across the nation. Every year, Congress appropriates billions of dollars to HUD to support building and repair of affordable housing, local infrastructure and community development. **Construction workers serve a critical role in advancing HUD's mission** by building quality and sustainable housing which improves the quality of life of the people who live in these communities.

HUD is committed to ensuring all workers on HUD-funded projects are paid properly for their work. This pocket guide has been developed for you, construction laborers and mechanics who work on HUD-funded projects. **The purpose of this pocket guide is to ensure that all workers on HUD-funded projects understand their rights and protections.**

Through the Office of Davis-Bacon and Labor Standards (DBLS), HUD monitors and enforces the payment of prevailing wages, overtime pay, and recordkeeping. This office also conducts investigations into suspected violations of Federal labor standards provisions. We work in partnership with the U.S. Department of Labor and are actively engaged on federal interagency initiatives named in the [White House Task Force on Worker Organizing and Empowerment](#).

It is with immense appreciation and gratitude to you, construction laborers and tradespeople who build "community" across the United States and the territories, that the Office of Davis-Bacon and Labor Standards presents this guide as a resource. We look forward to talking with you directly if you have any questions or concerns about your rights. We also encourage you to visit other sites, like www.worker.gov and www.dol.gov/general/good-jobs/workers, which provide additional information about important worker rights-related topics. **Together, we can improve quality and create access to good paying jobs that are free from discrimination and harassment for all working people.**

On behalf of your partners at HUD, I thank you for your service to our nation in support of our mission to create strong, sustainable, inclusive communities and quality, affordable homes for all.

Michele P. Perez
Assistant Deputy Secretary
Office of Field Policy and Management

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KNOW YOUR RIGHTS AS A WORKER

On a Davis-Bacon project, you have the right to:

- ✓ Be paid prevailing wages (a federal prevailing wage is the wage paid to the majority of the workers in a similar occupation in a specific area, as determined by the U.S. Department of Labor (DOL)).
- ✓ Observe the [Employee Rights Poster](#) on page 8 and wage decision on page 5 which must be posted on the job site
- ✓ Contact a DBLS Labor Standards Specialist or the Contract Administrator whose name should appear on the Employee Rights Poster
- ✓ Be paid on a weekly basis
- ✓ Receive overtime (at least time and a half of hourly wages) for all hours worked over 40 hours in work week
- ✓ [File a complaint with DBLS](#) or with the [U.S. Department of Labor](#) (DOL)
- ✓ Receive back wages if you are underpaid (back wages are the pay difference between the wage rate you received; and the wage rate required on the wage decision; for all hours worked)

In a safe workplace under the Occupational Safety and Health Administration (OSHA):

Federal law entitles you to a safe workplace. Your employer must keep your workplace free of known health and safety hazards. You have the right to speak up about hazards **without fear of retaliation**.

You also have the right to:

- ✓ Receive workplace safety and health training in a language you understand
- ✓ Work on machines that are safe
- ✓ Receive required safety equipment, such as gloves or a harness and lifeline for falls
- ✓ Be protected from toxic chemicals
- ✓ Request an OSHA inspection, and speak to the inspector
- ✓ Report an injury or illness, and get copies of your medical records
- ✓ Review records of work-related injuries and illnesses
- ✓ See results of tests taken to find workplace hazards

TYPICAL PROBLEMS FOUND ON DAVIS-BACON PROJECTS

- ✓ Misclassification of laborers and mechanics
- ✓ Failure to pay full prevailing wage, including fringe benefits, for all hours worked (including overtime hours)
- ✓ Inadequate recordkeeping, such as not counting all hours worked or not recording hours worked by an individual in two or more classifications during a day
- ✓ Failure of employer to maintain a copy of the bona fide apprenticeship program and individual registration documents for apprentices
- ✓ Failure of employer to submit certified payrolls weekly
- ✓ Failure to post the Davis-Bacon poster and applicable wage determination

WAYS YOU CAN PROTECT YOURSELF

- ✓ Know what hourly wages you should receive for the work you perform
- ✓ Use a calendar to keep track of your hours by the date and the type of work you performed, and any breaks you take
- ✓ Make sure you are receiving your pay weekly
- ✓ Keep your pay stubs or ask for a receipt if you are paid in cash
- ✓ If you are receiving apprentice rates, make sure that you are a part of an apprenticeship program registered with DOL or with a DOL recognized State Apprenticeship Council (SAC)
- ✓ If you don't see an Employee Rights Poster and/or a wage decision on a Davis-Bacon project, contact our office directly
- ✓ You can file a complaint if you feel any of your rights have been violated

DAVIS-BACON DEFINITIONS

Laborer or Mechanic

Anyone doing construction work on a project. You must be paid at least prevailing wage rates

Employee

A person that works as a laborer or mechanic on a job site, regardless of a contract

Apprentices and Trainees

Apprentices and trainees may be paid less than the wage rate on the wage decision for their work. Apprentices must be employed in registered programs that are approved by the DOL or a DOL recognized State Apprenticeship Agency. Employers must follow rules to ensure that apprentices and trainees are properly paid and trained

Piece work

If you are paid by the quantity (amount) of work you produce (do), such as the number of units painted or the square feet of sheetrock hung, you must still receive wages based on the actual number of hours you worked, can not be below prevailing wages.

Wage Decision

A listing of different work classifications (types) and the minimum hourly pay that must be paid to anyone performing work in those classifications on a specific job

Fringe Benefits

Additional benefits that may be paid to an employee and seen on the wage decision of a specific construction project. They do not include employer payments required by law

Overtime

All hours worked beyond 40 hours in a 7-day pay period

Deductions

Can be required by law, like income taxes social security or even court ordered. Other payroll deductions, such as a loan repayment, must have your approval

Work Classification

The actual type of trade (work) you are doing as listed on a wage decision, for example carpenter, roofer, electrician, etc. The skill level does not matter

Split-classification

Work done in more than one trade. You can be paid the hourly pay for each work classification or the highest of all of the classifications you worked














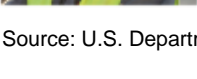

Site of Work

The boundaries of the project, but also can include other property that is next to the project

EMPLOYEE VS. INDEPENDENT CONTRACTOR

Several factors determine whether you are an employee of a contractor or sub-contractor or work as an independent contractor. For guidance on this, you can refer to www.irs.gov/taxtopics/tc762.

If you are a misclassified worker, you could be denied critical benefits and labor standards protections found at www.dol.gov/agencies/whd/flsa/misclassification.

	EMPLOYEE	OR	INDEPENDENT CONTRACTOR
	Working for someone else's business		Running their own business
	Paid hourly, salary, or by piece rate		Paid upon completion of project
	Uses employer's materials, tools and equipment		Provides own materials, tools and equipment
	Typically works for one employer		Works with multiple clients
	Continuing relationship with the employer		Temporary relationship until project completed
	Employer decides when and how the work will be performed		Decides when and how they will perform the work
	Employer assigns the work to be performed		Decides what work they will do

Source: U.S. Department of Labor

FREQUENTLY ASKED QUESTIONS (FAQs)

1. I am a roofing subcontractor, working alone, and paid by a per square / piece basis (for example every 100 sq. ft). The contractor I work for requires that I have workers' compensation and liability insurance. They plan to deduct 40% of my wages for the cost of insurance and make it impossible to earn the prevailing wage. Is this ok?

- *No. Laborers and mechanics (e.g., roofers) must be paid the hourly pay in the applicable wage decision.*
- *[Workers' Compensation](#) and Liability Insurance are not allowed deductions (see [FAQ # 8](#)).*
- *A true subcontractor generally has a registered trade name with a telephone listing, a license, liability insurance or bond, and/or a Federal Tax Identification Number, along with a signed contract containing HUD Federal Labor Provisions.*

2. I work more than one trade within in a single day. How do I determine the correct rate to be paid?

If you work in more than one trade your boss must pay you for the hours worked at the correct rate for each trade (job).

3. I am paid \$15.00 dollars per hour, on my paycheck there were no deductions for social security and taxes. I am not a self-employed contractor. Is it ok for my boss to not make these deductions?

No. A contractor must pay the correct hourly rate in the wage decision. If you believe deductions from your paychecks haven't been made, you should speak with your boss about this.

4. The contractor I work for told me that I'll be paid two times a month. Is this ok?

No. Under Davis-Bacon, a contractor must pay their employees once a week on federal construction projects.

5. How do I know I'm being paid the right amount for what I'm doing?

Look for a copy of the wage decision and any additional classifications. They must be posted at the work site in plain view for you to see. If your job type is not listed or posted, you can call the person listed as the agency point of contact on the [Publication WH-1321 Notice to Employees](#) that must be posted at each job site.

6. An official from the Department of Labor came to our job site and asked workers about our pay and to tell them about how much we made an hour, how many hours we worked each week, what type of tools we used, etc. Do we have to answer these questions?

*It is voluntary to answer these questions but **answering on-site interview questions** is very important if a problem comes up between workers and their employers. Every employer (contractor, subcontractor, etc.) must make their employees available to be interviewed at the job site by HUD, a DOL representative, or with the contract administrator's representative and the interviews are private and confidential.*

7. Who do workers contact if they have questions or concerns about labor violations?

You can call the person listed as the agency point of contact on the [Publication WH-1321 Notice to Employees](#) that must be posted at each job site.

8. What deductions can my boss make from my paycheck?

Employers can make deductions for FICA, income taxes, medical insurance, retirement pensions, unemployment benefits, life insurance, accident insurance, vacation or holiday pay, and apprenticeship program costs. Some workers may have additional deductions.

9. I work for a plumbing contractor as a laborer. My duties are similar to the plumbers I help on a daily basis. I use the same tools they use and do the same work they do, like laying and connecting pipes, etc. Should I be paid as a laborer or plumber?

Generally, if you are using the tools and doing the work of the trade like the other plumbers, then you should be paid the pay of a plumber, not a laborer.

10. I am paid on a weekly basis and my boss pays me in cash each week. Is that ok?

Yes, but you should each make sure to keep records of payment, hours worked, receipts, etc.

11. My boss stated they were going to pay me \$15.25 per hour, but said I also needed to give them back \$2.00 for each hour I worked on the federal project for the tools that I borrowed. Is this ok?

No. Your employer can't require you or other employees to give back any portion of pay you've earned. This is a direct violation of the Copeland Act (Anti-Kickback Act).



EMPLOYEE RIGHTS

UNDER THE DAVIS-BACON ACT

FOR LABORERS AND MECHANICS EMPLOYED ON FEDERAL OR FEDERALLY ASSISTED CONSTRUCTION PROJECTS

PREVAILING WAGES

You must be paid not less than the wage rate listed in the Davis-Bacon Wage Decision posted with this Notice for the work you perform.

OVERTIME

You must be paid not less than one and one-half times your basic rate of pay for all hours worked over 40 in a work week. There are few exceptions.

ENFORCEMENT

Contract payments can be withheld to ensure workers receive wages and overtime pay due, and liquidated damages may apply if overtime pay requirements are not met. Davis-Bacon contract clauses allow contract termination and debarment of contractors from future federal contracts for up to three years. A contractor who falsifies certified payroll records or induces wage kickbacks may be subject to civil or criminal prosecution, fines and/or imprisonment.

APPRENTICES

Apprentice rates apply only to apprentices properly registered under approved Federal or State apprenticeship programs.

PROPER PAY

If you do not receive proper pay, or require further information on the applicable wages, contact the Contracting Officer listed below:

or contact the U.S. Department of Labor's Wage and Hour Division.



WAGE AND HOUR DIVISION
UNITED STATES DEPARTMENT OF LABOR

1-866-487-9243
TTY: 1-877-889-5627
www.dol.gov/whd



DAVIS-BACON RELATED RESOURCES

[Department of Housing and Urban Development \(HUD\)](#) – www.hud.gov

[Davis-Bacon and Labor Standards](#)

www.hud.gov/program_offices/davis_bacon_and_labor_standards

[HUD Contractor's Guide to Davis-Bacon](#)

<https://files.hudexchange.info/resources/documents/Davis-Bacon-and-Labor-Standards-Contractor-Guide-Addendum.pdf>

[Department of Labor \(DOL\)](#) – www.dol.gov

[Apprenticeship.gov](#)

www.apprenticeship.gov/

[DOL and Davis-Bacon and Related Acts](#)

www.dol.gov/agencies/whd/government-contracts/construction

[Davis-Bacon and Related Acts \(DBRA\) Frequently Asked Questions](#)

www.dol.gov/agencies/whd/government-contracts/construction/faq

[U.S. DOL Wage and Hour Division \(WHD\) State Labor Offices](#)

www.dol.gov/agencies/whd/state/contacts

Wage and Hour Division (WHD) Free and Confidential Hotline for Worker Inquiries 1-866-USWAGE (1-866-487-9243)

[Worker.gov](#)

www.worker.gov/

If you need help with:

- Determining whether Davis-Bacon wage rates apply to a project that you may be working on
- Filing a labor complaint
- Understanding and filing out the worker questionnaire
- Other related technical assistance

Please consult with the HUD Labor Standards Field staff for your area.

U.S. Department of Housing and Development
Office of Field Policy and Management
451 7th Street S.W., Washington, DC 20410



[Local Offices | HUD.gov / U.S. Department of Housing and Urban Development \(HUD\)](#)

www.hud.gov/local



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