

Certified Payroll Report Requirements

Why you need to fill out:

On HUD projects, certain laws and regulations related to labor must be applied. The Davis Bacon Act requires the payment of prevailing wage rates determined by the Department of Labor to all laborers and mechanics on Federal government projects in excess of \$2,000.00. The Copeland Act requires that each week every employer must submit weekly payroll reports called certified payroll reports (CPR's)

You will be provided with one set of necessary HUD forms for the project including the certified payroll report and HUD start up forms.

Certified Payroll Report

Payrolls must be filled out for each week of work by either an authorized company officer or a person appointed by the authorized officer until you are completely finished with the project. The "Payroll Authorization Form" for Subcontractor Appointing an Officer or Employee to Supervise Payment of Employees must be filled out and returned.

Each payroll week must be numbered consecutively. The first payroll should be marked "FIRST" followed by Payroll 2 then Payroll 3, and so on. The last payroll must be marked "FINAL". Weeks where no work is performed still require submitting a certified payroll with "NO WORK PERFORMED" written across the payroll **OR** a "NO WORK REPORT".

Payroll submissions – must be mailed or dropped off at the Prime Contractor's office. Faxing is not accepted. As a general rule, payrolls should be submitted to the Prime Contractor on Friday for the previous work week.

Payrolls must be signed by a company officer or appointee to be valid. **Only original signatures in BLUE INK are accepted, as signatures in black ink can often look like a copy.**

Payment of employees, by law must be at least the prevailing wage rate listed on the wage determination for each trade classification. A copy of the wage determination can be obtained from the Prime Contractor or found in the Bid Spec Documents. If your work classification does not appear on the wage determination, please contact PHFA Compliance Officer.

For further assistance, you are provided with HUD's Guide to Filling out HUD Payrolls, and the Contractors Guide to Davis-Bacon Prevailing Wage Requirements for Federally-Assisted Construction Projects.

Payroll Support Forms

1. **Certified Payroll Form (WH-347)** – This form must be sent in on a weekly basis. You will need to send this form in for your company and any subcontractors that you have working for you.

If you provide an employee listing (who will work on this project) which includes each employee's Name, Address and Social Security number with the first certified payroll, then you only have to place the employee's name and last 4 digits of the social security number on the WH-347 form that you send in every week.

If an employee listing is not provided, then you must put the employee name, address and social security number on each certified payroll form (WH-347) each week.

2. **No Work Reports** - These reports must be completed and submitted for any week that you have no employees on site.
3. **Payroll Authorization Letter** – If a Corporate Officer/Owner is not the one signing the Certified Payroll Reports and No Work Reports, then this form must be completed for any individual that is authorized to sign the Certified Payroll Reports.
4. **Fringe Benefit Form** – This form must be completed if you are paying an employee less than the prevailing wage rate. This form must be submitted with each certified payroll.
5. **Payroll Deduction Authorization** – This form must be completed by any of your employees that are working on this project that have any deductions that you will put on the Certified Payroll form (WH-347) in Column 8 Deductions under the column "Other".
6. **Other Deduction Form** – This form must be completed if you have any amounts on the WH-347 under the Other Column. It must be accompanying all certified payroll reports.

Guide to Filling out Certified Payrolls

Heading of Payroll:

1. State name of Employer and whether he is a contractor or subcontractor.
2. Print Employer's IRS Identification Number on the first payroll.
3. Show complete address.
4. Show payroll number.
5. Show date for the last day of the 7 day period.
6. Show project name and location.
7. Show project or contract number.

Employee Information:

1. Column 1 – Name of employee with last four digits of his/her social security #.
2. Column 2 – Number of exemptions is optional.
3. Column 3 – Consult wage determination to determine the official title of employee. If the worker is an apprentice, state both his current step and percentage.
 - a. Split Classifications (i.e. a man who works during a single week as both an electrician and a carpenter, etc.)
 - b. Should be shown on separate lines
4. Column 4 – List the days and dates worked. List the total straight time hours (S) and overtime hours (O) separately.
5. Column 5 – List the total project hours only.
6. Column 6 – Rate of pay cannot be less than that set forward in the wage determination. Overtime must be paid at no less than one and one-half times the regular rate of basic pay plus the straight-time rate of any required fringe benefits – overtime is paid for any hours in excess of 40 hours in a week.
7. Column 7 – Show the gross amount earned on this project separately from gross amount on all projects by a split entry (i.e. \$123.45/\$678.90 – the top line is for this project and the bottom line is the gross earnings for the employee's entire week's pay).
8. Column 8 – Show the employee's total deductions for the week (just as it shows on his/her pay stub) – do not break out the project deductions. Any deduction listed in the "other" column must be explained in full on the reverse side of the payroll report or on an "Other Deductions" Form. Any deductions not considered a standard deduction by DOL must be accompanied by a "Payroll Deduction Authorization" Form signed by the employee giving authorization to make said deductions (i.e. tools, personal cell phone use, etc.).
9. Column 9 – Show total net wages paid for the week (just as it shows on his/her pay stub).

Back of Payroll:

1. Check either 4a or 4b. 4a. means funds are paid into authorized fringe benefit plans. 4b means all funds are paid in cash to the employees. Show exceptions in 4c.
2. Payroll bears the original signature of an officer of the firm or a person so authorized.
3. All information requested has been supplied.

Permissible Payroll Deductions

A. Any deduction made in compliance with the requirements of Federal, State, or Local Law.

Examples: Federal withholding taxes
State withholding taxes
Federal Social Security taxes

B. Any deductions of sums previously paid to the employee as a bona fide prepayment of wages when prepayment is made without discount or interest.

Examples: A “bona fide prepayment of wages” is considered to have been made only when cash or its equivalent has been advanced to the person employed in such manner as to give him complete freedom of disposition of advanced funds.

C. Any deduction of amounts required by court process to be paid to another, unless the deduction is in favor of . .

- The contractor
 - The subcontractor
 - Any affiliated person
- OR
- When collusion or collaboration exists

D. Any deduction constituting a contribution on behalf of the person employed to funds established by the employer, or representative of the employer, or both for the purpose of providing (from principle, or income, or both) . . .

- Medical or hospital care
- Pensions or annuities on retirement
- Death benefits
- Compensation for injuries, illness, accidents, sickness, or disability

OR

- For insurance for any of the foregoing
- Unemployment benefits
- Vacation pay
- Savings accounts
- Similar payments for the benefit of employees, their families and dependents, as long as . . .
- The deduction is not otherwise prohibited by law
- It is . . .

1. Voluntarily consented to by the employee in writing and in advance of the period in which the work is to be done.

AND

Such consent is not a condition either for the obtaining of or for the continuation of employment.

OR

2. Provided for in a bona fide collective bargaining agreement between the contractor or subcontractor and representatives of its employees.

- No profit or other benefit is otherwise obtained, directly or indirectly, by the contractor or subcontractor or any affiliated person in the form of commission, dividend, or otherwise; and
- The deductions shall serve the convenience and interest of employees.

FRINGE BENEFITS

Definition: (29 CFR 5.2(p)):

The term “wages” means:

- The basic hourly rate of pay.
- Any contribution irrevocably made by a contractor or subcontractor to a trustee or third party pursuant to a bona fide fringe benefit fund, plan or program.
- The rate of costs to the contractor or subcontractor which may be reasonably anticipated in providing bona fide fringe benefits pursuant to an enforceable commitment to carry out a financially responsible plan or program, which was communicated to the employees in writing.

The statutory language regarding fringe benefits is in section 1(b)(2)(b) of the Davis Bacon Act, and is reiterated at 29 CFR 5.23.

In practice:

The Davis-Bacon “prevailing wage” is made up of two interchangeable components—a basic hourly wage and fringe benefits. Along with the basic hourly rate listed on the wage determination, a fringe benefit will be listed for any classification for which fringe benefits were found prevailing. The total, including any fringe benefits listed comprises the “prevailing wage” requirement.

- This obligation may be met by any combination of cash wages and creditable “bona fide” fringe benefits provided by the employer:
 - The total, including any fringe benefits listed for the classification, may be paid entirely as cash wages;
 - Payments made or costs incurred by the contractor for “bona fide” fringe benefits may be creditable towards fulfilling the requirement; or
 - A combination of cash wages paid and “bona fide” fringe benefits may be used together to meet the total required prevailing wage.

Example:

A Davis-Bacon wage determination requires:

Basic hourly rate \$10.00
Fringe benefit 1.00
Total prevailing rate \$11.00

The contractor can comply by paying:

1. \$11.00 in cash wages;
2. \$10.00 plus \$1.00 in pension contributions or other “bona fide” fringe benefits; or

3. \$9.00 plus \$2.00 in pension contributions or any combination of “bona fide” fringe benefits.

Note: Under DBA/DBRA (unlike SCA) monetary wages paid in excess of the basic hourly rate may be used as an offset or credit to satisfy fringe benefit obligations, and vice versa. (If fringe benefit contributions are credited towards fulfilling the basic hourly rate requirement in the wage determination, at least the basic hourly rate listed in the contract wage determination must be used in computing overtime pay obligations.)

Please provide to our office proof of how your company offers fringe benefits to your employees. At a minimum, this proof must be provided one time per project for each employee and should be submitted with the certified payrolls. If you are unable to provide proof via certified payroll a separate worksheet should be submitted (sample copy attached).

Application to all hours worked:

Under Davis-Bacon, fringe benefits must be paid for **all** hours worked, including the overtime hours. However, the fringe benefit amounts may be excluded from the half-time premium due as overtime compensation.

For example:

An employee worked 44 hours as an electrician. The wage determination rate was \$12.00 (basic hourly rate) plus \$2.50 in fringe benefits. He would be due:

$$\begin{array}{rcl} 44 \text{ hours} \times \$14.50 & = & \$638.00 - \text{(straight time pay)} \\ 4 \text{ hours} \times \frac{1}{2}(\$12.00) & = & \underline{24.00} - \text{(overtime pay)} \\ & & \$662.00 \end{array}$$

Crediting fringe benefit contributions to meet DBA/DBRA requirements:

The Davis-Bacon Act (and 29 CFR 5.23), list fringe benefits to be considered.

Examples:

- Life insurance
- Health insurance
- Pension
- Vacation
- Holidays
- Sick leave

The use of truck is not a fringe benefit; a Thanksgiving turkey or Christmas bonus is not a fringe benefit. (See *Cody-Zeigler, Inc., WAB Case No. 89-19, April 30, 1991.*)

No credit may be taken for any benefit required by federal state or local law, such as:

- Workers compensation
- Unemployment compensation
- Social security contributions

- Health benefits required under Hawaii state law

Funded fringe benefit plans

- The contractor's fringe benefit contributions made irrevocably to a trustee or third party pursuant to a fund, plan or program, can be credited toward meeting the prevailing wage requirement, without prior DOL approval. For example:
 - Contractor pays for health insurance monthly premiums without employee contributions. (Where payroll deductions for employee contributions are involved, additional rules apply).
 - Contractor makes quarterly contributions to retirement plan trust.
 - The amount of contributions for fringe benefits must be paid irrevocably to the trustee or third party.
 - Contributions to fringe benefit plans must be made regularly, not less often than quarterly. [This requirement is specified in the standard Davis-Bacon Contract clauses at 29 CFR 5.5(a)(1)(i)].
 - Annual contributions into a plan do not meet this requirement. While profit sharing plans are bona fide within the meaning of the Act, profits are not determined until the end of the year. Therefore, the DOL requires contractors to escrow money at least quarterly on the basis of what the profit is expected to be.
 - The contractor must make payments or incur costs in the amount specified by the applicable wage decision **with respect to each individual laborer or mechanic**. Thus, the amount contributed for each employee must be determined separately, and credit can be taken accordingly towards the prevailing wage requirement for each individual. (It is not permissible to take credit based on the average premium paid or average contribution made per employee.)
 - Credit may not be taken for fringe benefit contributions made on behalf of employees who are not eligible to participate in the plan (e.g., those excluded due to age or part-time employment).
 - Some plans provide that contributions and allocations under the plan will only be made on behalf of participants who are employed on the last day of the plan year. No credit is permitted for such participants for whom no contribution is made or for contributions made for employees whose accounts receive no allocation solely because they are not employed on the last day of the plan year.
 - On the other hand, it is not required that all employees participating in a fringe benefit plan be entitled to receive benefits from the plan at all times. For example, an employee who is eligible to participate in an insurance plan may be prohibited from receiving benefits from the plan during a 30-day waiting period. Contributions made on behalf of these employees would be creditable against the contractor's fringe benefit obligations.
 - A pension plan that meets the Employment Retirement Income Security Act (ERISA) requirements may be considered "bona fide" for DBA /DBRA purposes.

- Some pension plans contain “vesting” requirements. Where an employer contributes to the plan, employees may be required to complete a certain length of service before they have a nonforfeitable right to benefits based on the employer’s contributions to the plan.

Thus, an employee who leaves employment before completing the specified length of service may forfeit all or part of the accrued benefit. Such forfeitures are permitted, provided the plan is a bona fide plan that meets applicable requirements under ERISA, including minimum vesting requirements. Forfeited Davis-Bacon contributions may not revert to the employer, but should be distributed among the remaining plan participants.

Unfunded plans

- A fringe benefit plan or program under which the cost a contractor may reasonably anticipate in providing benefits that will be paid from the general assets of the contractor (rather than funded by payments to a trustee or third party) is generally referred to as an **unfunded plan**. These generally include:
 - Holiday plans
 - Vacation plans
 - Sick pay plans
- No type of fringe benefit is eligible for consideration as an unfunded plan unless it meets the following criteria:
 1. It can be reasonably anticipated to provide benefits described in the Davis-Bacon Act;
 2. It represents a commitment that can be legally enforced;
 3. It is carried out under a financially responsible plan or program; and
 4. The plan or program has been communicated in writing to the laborers and mechanics affected.
- To insure that such plans are not used to avoid compliance with the Act, the Secretary of Labor directs the contractor to set aside, in an account, sufficient assets to meet the future obligation of the plan.

Annualization

- Davis-Bacon credit for contributions made to fringe benefit plans are allowed based on the effective annual rate of contributions for all hours worked during the year by an employee, regardless of whether or not the hours were worked on a Davis-Bacon project.

Examples:

- For a defined benefit pension plan, or for a defined contribution pension plan which does not provide for immediate or essentially immediate vesting, if a contractor wishes to receive \$2.00 per hour credit for a pension contribution, the contractor must contribute at this same rate for all hours worked during the year. If this is not done, the credit for Davis-Bacon purposes would have to be revised accordingly.

- If the firm’s contribution for the pension benefit was computed to be \$2,000 a year for a particular employee, the employee worked 1,500 hours of the year on a Davis-Bacon covered project and 500 hours of the year on other jobs not covered by the Davis-Bacon provisions, only \$1,500 or \$1.00 per hour would be creditable towards meeting the firm’s obligation to pay the prevailing wage on the Davis-Bacon project. (Annual contribution - \$2,000, divided by total hours worked – 1,500+500 = 2000; i.e. \$2,000/2000 hours = \$1.00 per hour.)
- For contributions made to defined contribution pension plans which provide for immediate participate and immediate or essentially immediate vesting schedules (100% vesting after an employee works 500 or fewer hours), and also certain supplemental unemployment benefit plans, a contractor may take Davis-Bacon credit at the hourly rate specified by the plan. Under such plans, contributions are irrevocably made by the contractor, most, if not at all, of the workers will become fully vested in the plan, and the higher contributions made during Davis-Bacon work result in an increase in the value of the individual employee’s account. The amount of contributions to such plans should be in conformance with any limitations imposed by the Internal Revenue Code.

Example:

An employee works as an electrician where the wage determination rate is \$12.00 (basic hourly rate) plus \$2.50 in fringe benefits.

- Where the employer provides the electrician with medical insurance in the amount of \$200 per month (\$2,400 per year), the employer would divide the total annual cost of the benefit by 2,080 hours (40 hours x 52 weeks) to arrive at the allowable fringe benefit credit.

(\$200 x 12 months) divided by 2080 hours = \$1.15 per hour.

- If the employee in this example receives no other “bona fide” fringe benefits, then for each hour worked on a covered contract the individual is due \$12.00 (basic hourly rate) plus \$1.35 paid as cash (the difference between the \$2.50 per hour fringe benefit required under the applicable wage determination and the credit allowed for the provision of medical insurance.) Thus,

Basic hourly rate	\$12.00
Medical insurance benefit	1.15
<u>Additional cash due</u>	<u>1.35</u>
Total due per hour	\$14.50 (\$12.00 + \$2.50)

Crediting Fringe Benefits For Davis Bacon Covered Work

EXAMPLE – METHOD 1

Mike's Plumbing Co.

FED ID# 515611231

Employee	Job Classification	Vacation	Holiday	Pension	BC/BS	Fringe Total Per Yr	Fringe Hourly	Wage Paid	Total Fringes Plus Wage Paid	We Owe
	Plumber	\$680.00	\$1,088.00	\$0.00	\$2,559.60	\$4,327.60	\$2.08	\$20.03	\$22.11	\$0.00
	Unskilled LBR	\$1,040.00	\$832.00	\$313.20	\$2,559.60	\$4,744.62	\$2.29	\$14.00	\$16.29	\$0.00
	Unskilled LBR	\$0.00	\$64.00	\$0.00	\$0.00	\$64.00	\$0.03	\$12.46	\$12.49	\$196.00
	Plumber	\$1,600.00	\$1,280.00	\$663.46	\$2,559.60	\$6,103.06	\$2.94	\$20.03	\$22.97	\$0.00
	Unskilled LBR	\$400.00	\$800.00	\$0.00	\$2,559.60	\$3,759.60	\$1.81	\$13.60	\$15.41	\$0.00
	Unskilled LBR	\$400.00	\$800.00	\$412.91	\$2,559.60	\$4,172.51	\$2.01	\$14.70	\$16.01	\$0.00
	Plumber	\$1,680.00	\$1,344.00	\$825.03	\$2,559.60	\$6,408.63	\$3.09	\$21.00	\$24.09	\$0.00
	Unskilled LBR	\$0.00	\$960.00	\$0.00	\$2,559.60	\$3,519.60	\$1.70	\$16.00	\$17.70	\$0.00
	Plumber	\$640.00	\$1,024.00	\$0.00	\$2,559.60	\$4,223.60	\$2.03	\$20.03	\$22.06	\$0.00
	Unskilled LBR	\$1,280.00	\$1,024.00	\$566.98	\$2,559.60	\$5,430.58	\$2.61	\$16.00	\$18.61	\$0.00

Other Approved Fringe Benefits - Training & Education

52 Weeks x 40 Hours per Week = 2080 Hours

EXAMPLE – METHOD 2

Wage determination states a particular classification of work is due \$17.60/hr base rate plus \$7.65 fringe rate for all hours worked in that classification on the DB covered contract. Thus the employer has a total \$25.25/hr obligation to pay.

The employer provides a variety of fringe benefits which are creditable towards the Davis Bacon obligation. They include:

Employer share of monthly health insurance
Employer contribution to life insurance
Employer contribution to 401K
Cost to employer of 2 weeks paid vacation at regular shop rate (\$12/hr)
Cost to employer of 6 holidays/yr at regular shop rate

Employer may calculate the hourly credit to be taken for these fringes by a process of “annualization”. First take the annual costs of all the fringes:

Employer monthly share of health insurance
 $\$225/\text{mo} \times 12 = \2700

Employer contributions to 401K over the year
 $\$1785$

Monthly life insurance contributions
 $\$50 \times 12 = \600

Vacation
 $80 \text{ hrs} \times 12/\text{hr shop rate} = \960

Holidays
 $48\text{hrs} \times 12 = \576

Total value of fringes for the year is \$6571.00

Next take all hours (government and non-government) worked by the employee over the past year, let’s say 1735 hours, and divide it into total fringes.

$\$6571 / 1735 \text{ hrs} = \$3.79/\text{hr}$

\$3.79/hr is the amount of fringe credit that can be taken for each hour worked on the Davis Bacon covered project. Thus $\$25.25 - \$3.79 = \$21.46$, which is the remaining cash wage that must be paid.