

# Davis-Bacon Act: Overview

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A Practice Note providing an overview of the Davis-Bacon Act (DBA), which requires federal contractors and subcontractors to pay the prevailing wage rate to all laborers and mechanics working on construction sites for public buildings and public works. This Note explains when the DBA applies to a project, briefly describes related acts that supplement the DBA and apply DBA labor standards to other federal projects, and summarizes requirements for compliance with the DBA and related acts.

The Davis-Bacon Act (DBA) (40 U.S.C. §§ 3141 to 3148) requires federal contractors and subcontractors to pay construction workers the prevailing local wage rate at the work site. The DBA's purpose is to protect local workers from outside contractors who may underbid the local wage level when competing for federal projects. Under Reorganization Plan No. 14 of 1950, the US Department of Labor (DOL) and federal contracting agencies share responsibility for implementation and enforcement of the DBA.

The DOL is responsible for:

- Prescribing regulations, standards, and procedures to be applied by the contracting agencies.
- Determining prevailing wages, which is handled by the DOL's Wage and Hour Division (WHD).
- Conducting general oversight and investigations, including review of refusal-to-pay cases referred by the contracting agencies.

Federal contracting agencies are responsible for:

- Applying wage determination to contracts and providing contractors with guidance on classification of work.
- Including labor standards in contracts.

- Daily oversight of contracted activity, including compliance with DBA labor standards.

(See Compliance with DBA and DBRA.)

The labor standards require contractors and subcontractors to:

- Pay covered workers locally prevailing wages and fringe benefits weekly.
- Submit certified payroll records to the contracting or funding agency.
- Include labor standard provisions in subcontracts.
- Post prevailing wage information and other notices at the work site in the prescribed manner.
- Maintain specific records and grant access for auditing purposes.

This Note provides an overview of:

- The scope and coverage of the DBA.
- Certain related acts that supplement the DBA and impose the DBA labor standards to other federal construction projects.
- The DBA's requirements of federal contractors and subcontractors.
- Penalties and other consequences for failure to comply with DBA requirements.

For more information on federal contracting, see Practice Note, Federal Government Contracts: Overview ([9-599-6946](#)) and Federal Government Contracts Toolkit ([4-605-5027](#)).

## SCOPE AND COVERAGE OF DBA

The DBA applies to contracts:

- To which the US or District of Columbia is a party.
- For the construction, alteration, or repair of public buildings or public works (see Types of Projects and Work).
- Involving work performed by mechanics or laborers (see Covered Workers).
- Involving work located in a state or the District of Columbia.
- That exceed \$2,000.

(40 U.S.C. § 3142(a).)

The DBA applies to contracts for construction of public buildings and public works funded by the US government (29 C.F.R. § 5.2(k)). DBA labor standards apply to:

- Certain types of work performed at specific locations (see Types of Projects and Work).
- Specific classes of workers (see Covered Workers).

Other federal laws and DOL regulations apply DBA labor standards to:

- Other federally funded or assisted construction projects (29 C.F.R. § 5.2(k) and see Davis-Bacon Related Acts).
- Contracts between contractors and subcontractors (see Subcontracting Clauses).

The \$2,000 value threshold applies to the initial federal contract or funding amount. If the threshold is met, the DBA then applies to all subcontracts even if the value of the subcontract is less than \$2,000 (29 C.F.R. § 5.5(a)(6)).

## TYPES OF PROJECTS AND WORK

The DBA applies to work:

- On public buildings or public works (for example, a federal office building or military base).
- Involving construction, prosecution, completion, or repair.
- Performed at the site of the work.

To determine whether the work is subject to the DBA, contractors should:

- Review key terms defined in DOL regulations.
- Seek clarification from the agency's contracting officer.

### Buildings or Works

DOL regulations define "building" or "work" generally as construction activity for buildings and structures and **not**:

- Manufacturing.
- Furnishing of materials.
- Servicing and maintenance work.

The terms "building" or "work" do not include the manufacture or furnishing of items for construction **unless** it is both:

- Conducted regarding the construction activity (see Construction, Prosecution, Completion, or Repair).
- At the site of the building or work (see Site of the Work).

(29 C.F.R. § 5.2 (i).)

### Construction, Prosecution, Completion, or Repair

DOL regulations define "construction, prosecution, completion, or repair" as construction work done by laborers and mechanics on a building or at the site of work, including:

- Painting and decorating.
- On-site manufacturing or furnishing of material, articles, supplies, or equipment.
- On-site altering, remodeling, and installation of items fabricated off-site.
- Transportation between:

- the site of the work; and
- a facility dedicated to the construction of the building or work and deemed a part of the site of the work (for example, tool yards).

(29 C.F.R. § 5.2(j).)

The DBA does not cover the transportation of materials or supplies to or from the site of the work by employees of the construction contractor or subcontractor (29 C.F.R. § 5.2(j)(2)).

### Site of the Work

The "site of the work" is defined as:

- The physical places where the building or work will remain.
- Other sites where a significant portion of the building or work is constructed if established specifically for the contract or project.

The site of work **can** include sites like job headquarters, tool yards, and borrow pits, if they are both:

- Exclusively or nearly exclusively dedicated to performance of the contract or project.
- Adjacent or virtually adjacent to the site of the work.

The site of work **does not** include:

- Other contractor facilities whose location and continued operation are determined wholly without regard to a particular federal contract or project, such as:
  - permanent home offices;
  - branch plant establishments; and
  - tool yards.
- Commercial or material supplier facilities (for example, fabrication plants and batch plants) established by the supplier for the project:
  - before opening of bids; and
  - not otherwise on the site of the work.

(29 C.F.R. § 5.2(l).) Contractors should address DBA coverage questions with the agency's contracting officer.

### COVERED WORKERS

The DBA applies only to mechanics, laborers, and other workers that engage in manual or physical labor (29 C.F.R. § 5.2(n)). All persons who meet the criteria for covered workers, including independent contractors, are considered employees for the DBA (29 C.F.R. § 5.2(o)).

Covered workers can include:

- Apprentices and trainees registered in DOL training programs who may be paid at less than prevailing wage rates (29 C.F.R. § 5.5(a)(4)).
- Helpers but only in specific circumstances (29 C.F.R. § 5.2(n)(4)).
- Watchmen or guards when the contract is subject to the Contract Work Hours and Safety Standards Act (see Contract Work Hours and Safety Standards Act).

Common classifications include:

- Carpenter.
- Electrician.

- Machinist.
- Plumber.
- Truck driver.
- Welder.

The DBA does not apply to individuals who primarily handle administrative, clerical, professional, or management work. White collar employees are not covered. These include:

- Superintendents.
- Project managers.
- Engineers.
- Office staff.

Business owners are also not covered even if they participate in manual labor so long as they:

- Own at least a 20 percent equity interest in the contractor.
  - Are actively engaged in its management.
- (29 C.F.R. § 5.2(m).)

Working foremen who participate in manual or physical labor may be covered for those hours worked if:

- The hours account for more than 20 percent of the foreman's workweek.
- The foreman does not meet other criteria in the DOL regulations.

For making status determinations, DBA regulations reference DOL rules for determining minimum wage and overtime pay requirements under the Fair Labor Standards Act (FLSA) (29 C.F.R. §§ 541.101 to 541.710). This analysis depends on an individual's duties regarding the contract work and not his job title. For more information on the Fair Labor Standards Act and wage and hour rules, see Practice Note, Wage and Hour Law: Overview ([2-506-0530](#)).

## DAVIS-BACON RELATED ACTS

Congress has included the DBA's prevailing wage provisions and other labor standards in many additional laws through which the federal government assists construction projects with:

- Grants.
- Loans and loan guarantees.
- Insurance.

Those acts are referred to as related acts and, together with the DBA, are often referred to as Davis-Bacon and related acts (DBRAs). A list of related acts can be found in the DOL regulations (29 C.F.R. § 5.1). The list is updated periodically as Congress adds related acts. The related acts involve assisted construction in areas like:

- Transportation.
- Housing.
- Air and water pollution reduction.

If a construction project is funded by more than one source, the DBA prevailing wage provisions may apply only to the portion of the project that is funded by a federal contract, grant, loan, or insurance. Other state and federal laws may apply to wages paid for other portions of the project.

DOL regulations integrate labor standards to include:

- The requirements of the DBA and its regulations.
- Prevailing wage rates of DBRAs.
- Requirements included in the Copeland Act (see Copeland Act).
- Requirements included in the Contract Work Hours and Safety Standards Act, which is not a related act but frequently applies as well (see Contract Work Hours and Safety Standards Act).

The DOL's Office of Federal Contract Compliance Programs (OFCCP) also administers and enforces Executive Order No. 11246 of 1965 (E.O. 11246), as amended. The order prohibits federal contractors and subcontractors from discrimination in employment decisions based on:

- Race.
- Color.
- Sex.
- National origin.

For more information regarding E.O. 11246, see Practice Note, Affirmative Action: Overview: Executive Order No. 11246 of 1965 (E.O. 11246) ([3-506-4783](#)).

## COPELAND ACT

The Copeland Act has two components, which are:

- **The anti-kickback criminal statute.** This provision prohibits anyone from inducing a covered worker to give up any part of his compensation earned through work subject to the DBA or DBRAs but does not apply when the only assistance is a loan guarantee (18 U.S.C. § 874).
- **A directive to establish DBA and DBRA regulations for contractors.** Congress directed the DOL to prescribe regulations for contractors and subcontractors and specifically included a requirement that each contractor provide a weekly statement of wages paid to each employee during the prior week (40 U.S.C. § 3145). The DOL developed:
  - regulations that address Copeland Act reporting and certification requirements (29 C.F.R. §§ 3.1 to 3.11); and
  - labor standards contract provisions and regulations that assign administrative responsibility to contracting agencies and contractors (29 C.F.R. §§ 5.1 to 5.32).

The reporting regulations require contractors and subcontractors to maintain records and file certified payroll records (see Additional Requirements of DBA and DBRAs). The regulations allow employers to make certain deductions from covered workers' wages. These include deductions:

- Permitted without prior approval by the DOL, such as deductions:
  - to comply with federal and state tax law;
  - for prepayment of wages;
  - required by court process; or
  - for contribution to a benefits plan that meets certain criteria.
- That require prior approval of the DOL. These may be granted when the DOL finds that the deduction:
  - does not profit or benefit from the deduction (for example, as a commission or dividend);

- is not prohibited by law;
- serves the convenience and interest of the employee; and
- is either voluntarily or unconditionally consented to by the employee or as part of a collective bargaining agreement.

(29 C.F.R. §§ 3.5 and 3.6.)

### CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

The Contract Work Hours and Safety Standards Act (CWHSSA) (40 U.S.C. §§ 3701 to 3708) covers DBAs and federally assisted service contracts that:

- Involve laborers, mechanics, guards, and watchmen.
- Are above \$100,000.

The CWHSSA requires contractors and subcontractors to pay workers one and one-half times the basic rate of pay for each hour worked above 40 hours in a workweek. Contractors who violate the CWHSSA can be liable for liquidated damages assessed at a rate of \$25 per calendar day for each worker not paid proper overtime pay. (29 C.F.R. §§ 5.5(b) and 5.8(a).)

When the DBA and CWHSSA apply concurrently, the DBA excludes amounts paid for fringe benefits in the computation of overtime (29 C.F.R. § 5.32).

### COMPLIANCE WITH DBA AND DBRA

#### WAGES AND WAGE DETERMINATIONS

The DBA requires that contractors and subcontractors:

- Pay at least prevailing wage rates and fringe benefits in amounts determined by the WHD and the Secretary of Labor. The DOL's Administrative Review Board, formerly the Wage Appeals Board, has interpreted the DBA to contractually obligate prime contractors to pay the sums owed by its subcontractor to the subcontractor's employees (*In re Northern Colorado Constructors, Ltd.*, 1987 WL 247047 (Dep't of Labor W.A.B. Dec. 14, 1987)).
- Include the applicable wage and fringe benefits rate in subcontracts in the form of wage determinations.
- Provide paid sick leave for certain workers on federal contracts under Executive Order 13706 (80 Fed. Reg. 54697 (Sept. 10, 2015)).

Under the DBA, wages and related terms, such as wage rates and prevailing wages, consist of both:

- The basic hourly rate of pay.
- Fringe benefits to bona fide third-party plans, such as:
  - medical insurance;
  - pension plans;
  - compensation for injuries or illness resulting from occupational activity; or
  - life and disability insurance.

(40 U.S.C. § 3141(2).)

Fringe benefits do not include employer payments required by other federal, state, or local laws, such as:

- Employer-required contributions to unemployment insurance.
- Reimbursement to employees for company-related business expenses (for example, travel and meals).

The prevailing wage is the wage paid to more than 50 percent of the laborers or mechanics in the classification who work:

- On similar projects.
- In the city, town, village, county, or other civil subdivision of the state in which the work is to be performed.
- During the same period.

If the WHD finds that the same wage is not paid to a majority in the classification, it averages the wages paid, weighted by the total employed in the classification, to establish the prevailing wage (29 C.F.R. § 1.2(a)).

Some employees are hired and paid on a piecework basis (for example, a drywall hanger can be paid by piece of drywall installed). In those cases, contractors must calculate weekly earnings based on piece rates. The contractor must still pay weekly earnings in an amount sufficient to satisfy the wage rate requirement based on the actual hours worked, including overtime. If any employee paid by the piece works overtime, the contractor must pay the employee an additional 50 percent time premium for any hours worked above 40 per workweek.

The DBA requires that the DOL makes wage determinations to be included in covered contracts. DOL regulations establish procedures for predetermination of wage rates (29 C.F.R. §§ 1.1 to 1.9). The WHD conducts voluntary surveys through its regional offices and makes prevailing wage determinations for each type of construction and worker classifications in the area (29 C.F.R. § 1.3). A wage determination:

- Lists the wage rates and fringe benefit rates for each classification of laborers and mechanics in an area.
- Includes the WHD's original decision and all subsequent decisions.

Agency contracting officers are responsible for determining which wage determinations apply and integrating those determinations into the covered contracts or bid solicitations. Those requirements are set out in both the DOL regulations (29 C.F.R. § 1.6(b)) and the Federal Acquisition Regulations (FAR) (48 C.F.R. §§ 22.404 and 22.404-2).

The contracting officer must ensure that all covered workers are classified in conformance with a wage determination. The contracting officer usually can use general wage determinations (see General Wage Determinations). On occasion, he may need to obtain a project wage determination (see Project Wage Determinations). If a contractor finds that a project's laborer's or mechanic's work does not fit within a classification included in the contract, the contractor can use procedures included in the contract clauses to request that the contracting agency provide additional classifications and wage determinations (29 C.F.R. § 5.5(a)(1)(ii)).

Wage determinations included in a contract are effective for the life of the contract. However, contracting officers must include current wage determinations when they exercise an option to extend the term of a contract (see DOL All Agency Memorandum No. 157).

#### CREDITING OF FRINGE BENEFIT PAYMENTS

Contractors and subcontractors must make contributions to fringe benefit plans on a regular basis and at least quarterly (29 C.F.R. § 5.5(a)(1)(i) and 48 C.F.R. § 52.222-6(b)(2)). Contractors are not required to obtain the employee's concurrence before

contributing to the fringe benefit plan on his behalf. However, contractors may only take credit for bona fide fringe benefits and cannot take credit for any benefit required by law, such as social security contributions or workers compensation.

Bona fide benefits include those:

- Common to the construction industry
- That are paid directly to the employees in cash or into a fund, plan, or program.

Contractors may take credit for contributions made under conventional plans without requesting the approval of WHD (29 C.F.R. § 5.5(a)(1)(iv)). Unconventional benefits, such as unfunded plans, must be examined by the WHD to determine if they meet the requirements of the act (29 C.F.R. §§ 5.28 and 5.5(a)(1)(iv)).

### General Wage Determinations

The WHD makes general wage determinations (GWDs) for:

- Specific geographic areas, including most counties.
- Common types of construction, including:
  - building;
  - residential;
  - highway; and
  - heavy construction.

GWDs do not have an expiration date and remain valid until modified, superseded, or canceled. The WHD publishes GWDs at Wage Determinations OnLine (WDOL), and federal contracting agencies can use GWDs without prior approval from the DOL. Contracting officers must include only the wage rates that apply to work performed under the contract and must seek clarification about classifications from the WHD (48 C.F.R. § 22.404-2).

### Project Wage Determinations

Project wage determinations (PWDs) are limited in scope to a specific project or contract. Contracting officers can request that the WHD create a PWD when either:

- There is no GWD in effect.
- Nearly all of the work will be performed by a classification not covered by the GWD.

PWDs are effective for 180 calendar days from the date they are issued. If the contracting officer does not award the contract within 180 days, the contracting officer must ask the WHD for a new PWD or an extension.

## ADDITIONAL REQUIREMENTS OF DBA AND DBRAs

### Record-Keeping

Contractors and subcontractors must maintain payrolls and basic records. The records must include each employee's:

- Name.
- Address.
- Social security numbers.
- Classification.
- Hourly rate, fringe benefits, or equivalents and include:
  - documentation of the cost of the benefits; and
  - copies of written communication to affected employees.

- Daily and weekly hours worked.
  - Deductions made and actual wages paid. Deductions from pay may be made when they are:
    - permitted by DOL regulations (for example, tax withholdings, Social Security, Medicare garnishments, and child support orders); or
    - voluntary deductions with written authorization (for example, insurance premiums and savings accounts).
- (29 C.F.R. §§ 3.3, 3.4, and 5.5(a)(3)(i).)

If contractors employ apprentices or trainees under approved programs, the records must include:

- The registration of the apprenticeship program.
- Certification of trainee programs.
- The registration of the apprentices and trainees.
- The ratios and wage rates prescribed in the applicable programs.

Contractors and subcontractors must also:

- Preserve the records for three years after the completion of covered work.
- Make the records accessible on request to the DOL or agency representatives for inspection, copying, or transcription.
- Permit DOL or agency representatives to interview employees during work hours.

(29 C.F.R. §§ 3.4 and 5.5(a)(3)(iii).)

### Weekly Statement of Wages Paid

Contractors and subcontractors must submit copies of payroll records to the contracting agency each week. The report must:

- Omit the employees' addresses.
- Substitute an individually identifying number for each employee's social security number.

The prime contractor:

- Submits payroll records to the agency on behalf of all subcontractors.
- May require that subcontractors provide employee addresses and social security numbers for its own records and not for weekly submissions.

(29 C.F.R. § 5.5(a)(3)(ii)(A).)

Contractors and subcontractors must include a statement of compliance signed by the contractor or subcontractor or an agent that handles payroll matters. The statement of compliance certifies that:

- The weekly payroll record contains the required information, which is being maintained according to the regulations and is correct and complete.
- Each covered worker employed during that week has been paid:
  - the full weekly wages earned, without rebate, either directly or indirectly; and
  - at least the applicable equivalent of the wage rates and fringe benefits specified in the contract for the classification of work performed.

- No deductions have been made either directly or indirectly from the full wages earned, other than permitted deductions (see Copeland Act).

(29 C.F.R. § 5.5(a)(3)(ii)(B).)

Contractors and subcontractors may use the WHD's Optional Form WH-347 to satisfy these requirements. Contractors must complete statements of compliance within seven days after the regular pay date for the pay period.

### Subcontracting Clauses

DBA labor standards require agencies' contracting officers to insert specific clauses into covered contracts (29 C.F.R. § 5.5(a)). The FAR require that clauses 52.222-6 through 52.222-15 be included in construction contracts above \$2,000 (48 C.F.R. § 22.407). These ten FAR clauses implement the DBA and DBRAs by making compliance a contractual obligation at all tiers. The prime contractor is responsible for subcontractor and lower-tier compliance with the contract clauses. The clauses cover:

- **Minimum wages.** Contractors must pay the prevailing wages according to classifications. The provision also addresses:
  - acceptable methods of payment; and
  - procedures for adding classifications for employees who will perform work not covered by classifications in the contract.
- **Withholdings.** The agency can, on its own or on behalf of the DOL:
  - withhold accrued payments or advances to pay workers prevailing wages as required; or
  - if the contractor failed to make any payments as required, suspend payment after providing the contractor with written notice.
- **Payrolls and basic records.** (See Record-Keeping and Weekly Statement of Wages Paid.)
- **Apprenticeships and trainees.** (See Covered Workers.)
- **Compliance with Copeland Act requirements.** (See Copeland Act.)
- **Subcontracts.** Contractors must insert the DBA contract clauses into subcontracts and require subcontractors to include the DBA contract provisions in lower tier subcontracts.
- **Contract termination and debarment.** (See Penalties and Enforcement.)
- **Compliance with DBRAs requirements.** All rulings and interpretations regarding applicable DOL regulations are incorporated by reference into contracts.
- **Disputes concerning labor standards.** Disputes regarding applicable labor standards are to be resolved according to DOL regulations specific to the DBA and DBRAs (29 C.F.R. §§ 5.1 to 5.32, 6.1 to 6.57, and 7.1 to 7.18).
- **Certification of eligibility.** Contractors that enter into covered contracts certify that:
  - neither the contractor nor any person with an interest in the contractor is ineligible for government contracts because they have been debarred; and
  - no part of the contract will be subcontracted to a person or firm that has been debarred.

If the CWHSSA applies to the contract, the contracting officer and contractors must include additional clauses that address:

- **Overtime requirements.** This provision applies the CWHSSA overtime pay requirement to contractors or subcontractors.
- **Violations and liability for unpaid wages and liquidated damages.** Contractors and subcontractors are liable:
  - for unpaid wages in violation of the CWHSSA; and
  - to the government for liquidated damages at a rate of \$25 per calendar day for each worker not paid proper overtime pay.
- **Withholding for unpaid wages and liquidated damages.** The agency can, on its own or on behalf of the DOL, withhold sums required to satisfy unpaid wages or liquidated damages that arise from violation of the CWHSSA.
- **Subcontracts.** Contractors must insert the CWHSSA contract clauses into subcontracts and require subcontractors to include CWHSSA provisions in lower tier subcontracts. Prime contractors are responsible for CWHSSA violations of subcontractors at all tiers. (29 C.F.R. § 5.5(b).)

The obligation of a contractor to make overtime payments under the CWHSSA applies even if these clauses were not included in the contract.

### Wage and WH-1321 Posters

Covered employers must post:

- A notice of the prevailing wage rates for each classification of worker.
- An Employee Rights under the Davis-Bacon Act notice, also known as a WH-1321 poster.

Contractors and subcontractors must:

- Post the notices at the site of the work in a prominent and accessible place where it can be easily seen by the workers.
- Keep the notices posted at all times.

(29 C.F.R. § 5.5(a)(1).)

The WHD's website addresses workplace poster requirements and provides English and Spanish versions of the WH-1321 poster.

## HOW TO COMPLY

### ENSURE PROPER CLASSIFICATIONS

Misclassification of workers is a common mistake. Contractors and subcontractors must ensure they are paying employees for the proper classifications covering the work being performed. If a classification is not included in the governing wage determination, the contracting officer should add the correct classifications using the conformance process.

### Nonexempt Employees

A nonexempt employee who performs both covered work and other work must be paid the prevailing wage for hours spent performing work within a classification. These employees can present record-keeping and compliance challenges when they perform work:

- On covered projects and non-covered projects in the same workweek.
- That is both administrative (non-covered) and manual (covered) in nature.
- In multiple covered classifications.

If the employee is salaried, the contractor must determine:

- The number of hours of covered work performed by the employee.
- That the classification applies to each hour of covered work.
- Whether the employee's salary and benefits (on an hourly basis) is equal to or greater than the wage determination for the classification.

If the employee's salary is less than the prevailing wage rate for covered work performed, the contractor must increase the employee's pay for the week that the work is performed.

If the employee is paid hourly, the contractor must:

- Determine the number of hours of covered work performed by the employee.
- Determine which classification applies to each hour of covered work.
- Ensure that the employee's hourly payment is equal to or greater than the wage determination for the classification.

The contractor cannot reduce the employee's non-covered hourly wages to offset its obligation to pay prevailing wages for covered work.

### FAILING TO KEEP ACCURATE RECORDS

Contractors that fail to keep accurate records risk being required to pay prevailing wage rates for all hours worked by covered employees during the project.

### PAYROLL ERRORS

Typical payroll errors and required corrections include:

- Missing payroll information.
- Incomplete payroll information.
- The use of classifications not appearing on the applicable wage determination.
- Inaccurate wage rates.
- The failure to pay required overtime rates.
- Improper deductions from pay.
- The failure to pay required fringe benefits.
- Unsigned statements of compliance.

### PENALTIES AND ENFORCEMENT

The contracting or funding agencies:

- Preserve payroll reports and statements of compliance for three years from the date of completion of the contract.
- Conduct periodic investigations to ensure compliance with the labor standards clauses by:
  - interviewing employees in confidence;
  - examining payroll data for correct classification and payment of fringe benefits; and
  - reviewing apprenticeship and training plan documentation for proportionate use of those employees.

Employees can file complaints with the DOL or the contracting or funding agency. The DOL collaborates with the agencies in conducting investigations. The DOL provides an enforcement report to the agencies if there are underpayments of \$1,000 or more and either:

- There are reasons to believe that:
  - the violations are aggravated or willful; or
  - a covered contractor disregarded its obligations to employees and subcontractors.
- The CWHSSA liquidated damages assessed.

The DOL reports in detail:

- Labor standards violations.
- Any corrective action taken by the contractor (for example, payment of back wages).

(29 C.F.R. § 5.6.)

Contractors and subcontractors can face several consequences for failure to comply with the DBRAs, including:

- Termination for breach of contract (29 C.F.R. § 5.5(a)(7)).
- Withholding of money due the contractor in an amount sufficient to cover back wages due employees together with sanctions (29 C.F.R. § 5.5(a)(7)).
- Suspension of any further payment, advance, or guarantee of funds (29 C.F.R. § 5.9).
- Restitution and criminal action for willful violations (29 C.F.R. § 5.10).
- Debarment (no DBRA contract eligibility for contractor or those with a substantial interest in contractor) for up to three years if there are aggravated or willful violations (29 C.F.R. § 5.12).
- Liquidated damages under the CWHSSA (see Contract Work Hours and Safety Standards Act).
- Criminal prosecution for:
  - violations of the anti-kickback provisions of the Copeland Act, which are punishable by a fine, imprisonment of up to five years, or both; or
  - the willful falsification of a payroll report or statement of compliance (18 U.S.C. § 1001 and 31 U.S.C. § 3729).

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