
CONTRACT LABOR REQUIREMENTS

U.S. Army Corps of Engineers, Kansas City District



JANUARY 4, 2016

U.S. ARMY CORPS OF ENGINEERS, KANSAS CITY DISTRICT
601 E. 12th Street, Ste 665
Kansas City, MO 64106

Kansas City District Labor Advisor Contact Information

Dale E. Coleman
Labor Advisor
U.S. Army Corps of Engineers, Kansas City District
601 E. 12th Street, Ste. 665
Kansas City, MO 64106

(816) 389-2247 (Office)

(816) 389-2019 (Fax)

dale.e.coleman@usace.army.mil

Receipt of Contract Labor Requirements & Instructions

Contractor Company Name (Or Subcontractor as applicable)

(As designated in the contract)

I hereby acknowledge receipt of one copy of "Contract Labor Standards & Requirements: Instructions to Prime and Subcontractors". I understand that my company will be required to comply with the labor provisions contained herein:

Government Contract Number: _____ Task Order #: _____

Name of Contract: _____

Location of Contract (Military Installation [if applicable], City, County, and State: _____

Printed Name & Title of Contractor/Subcontractor Representative

Signature of Contractor/Subcontractor

Date

NOTE: A COMPLETED RECEIPT IS TO BE ATTACHED TO, AND PROCESSED WITH THE FIRST PAYROLL SUBMITTED BY THE PRIME CONTRACTOR AND EACH SUBCONTRACTOR.

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General

Purpose

The purpose of this guide is to advise contractors about the labor provisions in construction contracts and to inform them how those provisions will be administered and enforced. These instructions do not supersede or revoke any provision or requirement of the contract or any federal regulation.

It is our policy to instruct and advise contractors about the labor provisions and request compliance, rather than resort to time consuming investigations, withholding of funds, penalties, debarment, termination, or prosecution.

We expend a lot of time and effort to include labor provisions in advertised contracts for fair bidding. We expect contractors to bid on our contracts with the intention of complying with the labor provisions. Investigation reports are required for willful or major violations of the labor provisions.

Positive Law Codification (Public Law 107-217) (New!!)

In 2012 the names of the acts pertaining to prevailing wages have changed. As a result of Positive Law Codification contract language has changed. The following acts and laws now have new names:

- Davis Bacon Act is now Wage Rates Requirements (Construction).
- Contract Work Hours and Safety Standards Act is now Contract Work Hours and Safety Standards.
- Copeland Anti-Kickback Act is now Kickbacks.

The Content of the laws are unchanged for the most part just the names have changed. To avoid confusion the old names will remain in this booklet but will reference the new names alongside. The industry is still refers to the old names but familiarization with the new titles will be helpful. Also if you wish to research matters pertaining to acts the current names will be helpful to obtain the most up to date rules.

The Department of Labor still refers to the laws under their old names so while using the DOL website Davis Bacon is Appropriate. If you are looking information up in the Federal Acquisition Regulations you will need to use the new names.

Policy

An affirmative labor relations program, in keeping with laws, established policies, and regulatory requirements, will be applied through the Kansas City District. The basic

intent is that contractor employees at the jobsite be classified and paid correctly. We hope that compliance can be obtained without violations and if not, enforcement procedures will be used to correct violations.

Applicability

Responsibilities

The Principal Contractor: The principal contractor (also referred to as the prime or general contractor) is responsible for the full compliance of all employers (the contractor, subcontractors and any lower-tier subcontractors) with the labor standards provisions applicable to the project. Because of the contractual relationship between a prime contractor and his/her subcontractors, subcontractors generally should communicate with the Resident Engineer's Office only through the prime contractor.

The District Labor Advisor: The Labor Advisor is employed by the COE and is responsible for the proper administration and enforcement of the Federal labor standards provisions on contracts covered by Davis-Bacon requirements. He will provide labor standards advice and support to you and other project principals (e.g., the owner, project managers), and ensure that the proper Davis-Bacon wage decision and contract clauses are incorporated into the contract for construction. The Labor Advisor also monitors labor standards compliance by conducting interviews with construction workers (as does the COE representative in the field) at the job site and reviewing payroll reports, and oversees any enforcement actions that may be required.

The Department Of Labor: The DOL also has a role in monitoring Davis-Bacon administration and enforcement. In addition, DOL has independent authority to conduct investigations. A DOL investigator or other DOL representative may visit Davis-Bacon construction sites to interview construction workers or review payroll information.

Recommendations

It is our desire that any contractor bidding a Corps of Engineers (COE) contract be aware of and understand the labor provisions in the contract prior to beginning work at the jobsite. The following is recommended for contractors who do not understand the labor provisions and how these provisions are administered and enforced.

The prime contractor should furnish each subcontractor with:

1. A copy of the contract wage decision(s) and application of decisions with any modifications issued by amendment.

2. A copy of this manual "Contract Labor Standards & Requirements: Instructions to Prime and Subcontractors" (Reproduction is authorized).
3. A supply of required Government-furnished forms, which may be obtained from the Area/Resident Engineer's Office or online.

Prime contractors and subcontractors should review the labor standards provisions contained in the contract and, by law, incorporated in subcontract agreements. (See 29 CFR Subtitle A, Part 5.5, 01 Jul 2006).

1. Review the manual "Contract Labor Requirements, which is intended to assist contractors in understanding and complying with the contract labor provisions.
2. Attend pre-construction conferences scheduled by the COE Area/Resident Engineers. (Offices delegated authority and responsibility for the administration and enforcement of the labor provisions are referred to in this pamphlet as Resident Engineers. These offices are also responsible for processing payment estimates). Obtain clarification of any question about labor at the time of the pre-construction conference, or as the problem arises.
3. Provide this information and issue instructions on compliance with the labor provisions to those employees responsible for day-to-day operations.

Labor Standards Laws

Wage Rates Requirements (Construction) (Formerly: Davis-Bacon Act (FAR 22.403.1)

The Department of Labor (DOL) has published rules and instructions concerning Davis-Bacon and other labor laws in the Code of Federal Regulations (CFR). These regulations can be found in **Title 29 CFR Parts 1, 3, 5, 6 and 7**. *Part 1* explains how the DOL establishes and publishes DBA wage determinations (aka wage decisions) and provides instructions on how to use the determination. *Part 3* describes Copeland Act requirements for payroll deductions and the submission of weekly certified payroll reports. *Part 5* covers the labor standards provisions that are in your contract relating to Davis-Bacon Act wage rates and the responsibilities of contractors and contracting agencies to administer and enforce the provisions. *Part 6* provides for administrative proceedings enforcing Federal labor standards on construction and service contracts. *Part 7* sets parameters for practice before the Administrative Review Board. These regulations are used as the basis for administering and enforcing the laws. **(FAR 22.403-1)**

1. Requires the payment of prevailing wage rates (which are determined by the U.S. Department of Labor) to all laborers and mechanics on Federal government and District of Columbia construction projects in excess of \$2,000. Construction includes alteration and/or repair, including painting and decorating of public buildings or public works.
2. Prevailing wages will be paid to those mechanics and laborers “employed directly upon the site of work”.
3. Laborers and mechanics are workers utilized by a contractor at any tier, whose duties are manual or physical in nature, including those workers who use tools or who are performing the work of a trade, as distinguished from mental or managerial.

Contract Work Standards (Formerly: The Contract Work Hours and Safety Standards (CWHSS)) (FAR 22.3)

Establishing Basic Rate: Laborers and Mechanics receive compensation at a rate not less than one and one-half times their basic rates of pay, not including fringe benefits, for hours worked in excess of 40 per workweek. If the basic hourly rate has been lowered and the difference paid in fringe benefits, the basic hourly rate on which overtime is figured is the minimum required by the contract wage decision.

Penalties for Violations: When employers violate this Act, they are subject to liquidated damages, assessed at the rate of \$10.00 per day, for each employee who was not paid either at the overtime rate or at the correct overtime rate. Intentional violations of CWHSSA standards can be considered for Federal criminal prosecution.

Kickbacks (Formerly: The Copeland Act) (Anti-Kickback Act)) (FAR 22.403-2)

The Copeland Act makes it a Federal crime for anyone to require any laborer or mechanic employed on a Corps of Engineers Project to **kickback** (i.e., give up or pay back) any part of their wages. The Copeland Act requires every contractor and subcontractor to submit weekly certified payroll reports (CPRs) and regulates permissible payroll deductions.

Standard and customary deductions are permissible without approval from the DOL. Some deductions require prior written authorization from the employee. The authorization should state the exact reason for the deduction, amount, and frequency of the deduction. Deductions that are not “standard” or those deductions that appear to be questionable will require approval from the DOL.

The Fair Labor Standards Act (FLSA)

The FLSA contains Federal minimum wage rates, overtime (O/T), and child labor requirements. These requirements generally apply to any labor performed. The DOL has the authority to administer and enforce FLSA. The Kansas City District will refer to the DOL any possible FLSA violations found on COE projects.

Construction Contract Provisions

Clauses

Each contract subject to Prevailing Wage labor standards requirements must contain labor standards clauses and a Prevailing Wage decision. These documents are usually bound into the contract specifications.

The labor standards clauses describe the responsibilities of the contractor concerning prevailing labor wages and obligate the contractor to comply with the labor requirements. The labor standards clauses also provide for remedies in the event of violations, including withholding from payments due to the contractor to ensure the payment of wages or liquidated damages which may be found due. These contract clauses enable the COE to enforce the Federal labor standards applicable to the project.

Wage Determinations Assigned

The Prevailing wage decision (or wage determination) is a listing of various construction work classifications, such as *Carpenter, Electrician, Plumber and Laborer*, and the minimum wage rates (and fringe benefits, where prevailing) that people performing work in those classifications must be paid.

Prevailing wage decisions are established by the DOL for various types of construction (e.g., residential, heavy, highway, building) and apply to specific geographic areas, usually a county or group of counties. Wage decisions are modified from time to time to keep them current. In most cases, when the contract is awarded or when construction begins, the wage decision is “locked-in” and no future modifications are applicable to the contract or project.

Posting of Information

The prime contractor is responsible for posting a copy of the wage decision, any approved additional classification and rate and a copy of a DOL poster called *Notice to All Employees*, Form WH-1321, on a weatherproof bulletin board at the job site. The location should be in a place that is easily accessible to all construction workers

employed at the project and where the wage decision and poster won't be destroyed by inclement weather.

Additional Classification and Wage Rate (FAR22.406-3)

If the work classification(s) that you need doesn't appear on the wage decision, you will need to request an **additional classification and wage rate** on Standard Form 1444. This process is very simple and you'll want to start the request right after award of the project. Basically, you identify the classification you need and recommend a wage rate for DOL to approve for the project.

There are a few rules about additional classifications and getting them approved outlined in the DOL regulations, Part 5, and in the labor clauses in your contract. The rules are summarized below:

1. The requested classification is used by construction contractors in the area of the project. (The area is usually defined as the *county* where the project is located).
2. The work that will be performed by the requested classification is not already performed by another classification that is already on the wage decision. (In other words, if there already is an Electrician classification and wage rate on the wage decision, you can't request another Electrician Classification and rate).
3. The proposed wage rate for the requested classification "fits" with the other wage rates already on the wage decision. (For example, the wage rate proposed for a trade classification such as Electrician must be at least as much as the lowest wage rate for other trade classifications already contained in the wage decision). And,
4. The workers that will be employed in the added classification (if it is known who the workers are/will be), or the workers' representatives, must agree with the proposed wage rate.

NOTE: EVEN IF YOU ARE PAYING MORE THAN THE PREVAILING WAGE FOR A CLASSIFICATION NOT ON YOUR WAGE DETERMINATION, YOU ARE STILL REQUIRED TO SUBMIT AN SF1444.

Making the Request

A request for additional classification and wage rate must be made in writing through the District's Labor Advisor. If you are a subcontractor, your request should also go through the prime contractor. You need to identify the work classification that is missing and recommend a wage rate (usually the rate that employer is already paying to the

employees performing the work) for that classification. You **MUST** also provide an adequate description of the work for the new classification.¹

COE Review

The District Labor Advisor will review the requested classification and wage rate to determine whether the request meets the DOL rules as previously outlined. If additional information or clarification is needed, the Labor Advisor will contact the prime contractor for more information, etc. If the Labor Advisor finds that the request meets the rules, he will give preliminary approval on the request and refer it to the DOL, Washington, DC for final approval. A copy of the preliminary approval will be sent to the prime contractor.

If the Labor Advisor doesn't think the request meets the rules and if agreement can't be reached on the proper classification or wage rate for the work described, the Labor Advisor will *not* approve the request. In this case, he will send your request to the DOL with an explanation why the COE believes the request shouldn't be approved. The DOL still has final decision authority. You will receive a copy of the disapproval/referral letter to the DOL.

DOL Decision

The DOL will respond to the District's Labor Advisor in writing (supposedly within 30 days) about the additional classification and wage rate request. The Labor Advisor will notify you of the DOL decision in writing. If the DOL approves the request, the prime contractor must post the approval notice on the job site with the wage decision.

If the DOL *does not* approve the request, you will be notified about what classification and wage rate should be used for the work in question. You will also receive instructions about how to ask for DOL reconsideration if you still want to try to get your recommendation approved. In the meantime, DOL stated wages must still be paid retroactive to the time the employee started the job.

Apprentices and Trainees (FAR 22.406-4)

The only workers who can be paid less than the wage rate on the wage decision for their work classification are "apprentices" and "trainees" registered in approved apprenticeship or training programs. Approved programs are those which are registered with the Bureau of Apprenticeship and Training (BAT), a division within the DOL, or with a State apprenticeship agency recognized by BAT.

¹ Updated since the earlier version, "MUST" rather than "MAY".

The certifications are to include the date the apprentices were registered, the current step/rate, and the ratio of apprentices to journeymen.

Most often, the apprentice/trainee wage rate is expressed as a series of percentages tied to the amount of time spent in the program. For example, 0-6 months: 65%, 6 months-1year: 70%, etc. The percentage is applied to the journeyman's wage rate. On DB projects, the percentage must be applied to the journeyman's wage rate on the applicable wage decision for that craft. The percentage does not apply to the "fringe benefit" amount. It remains at 100%.

Payroll reports will not be approved if apprentices or trainees are listed and the proper certification has not been furnished to the Area/Resident Engineer.

If employees are classified as apprentices or trainees and evidence is not furnished to show that they are bona fide apprentices or trainees, the contractor will be required to pay them the journeyman's wage rate.

The permissible ratio applies to each contract, on a daily basis. If the ratio is certified to be one (1) apprentice to three (3) journeymen, our policy is to permit this ratio with the second apprentice allowed for the fourth journeyman.

Subcontracts (FAR 22.406-5 and 52.222.11)

Several contract provisions apply to subcontractors and require them to include the labor provisions in their subcontractor agreements. The **PRIME** contractor is required to submit the Standard Form 1413 within 14 days after award of any subcontract to the Area/Resident Engineer. The prime contractor states what portion of the project is subcontracted and to whom. The subcontractor involved acknowledges the labor provisions. The 1413 is also required to be submitted by Subcontractors who contract with 2nd (3rd, 4th, etc) tier subs. *(see directions and samples at pages 38 - 44)*

Payroll and Basic Statements (FAR 22.406-6)

The contractor must submit or cause to be submitted, within 7 calendar days after the regular payment date of the payroll week covered, for the contractor and each subcontractor, one copy of the weekly payrolls applicable to the contract and weekly payroll Statement of Compliance.² In turn, the Prime Contractor is responsible to ensure the payrolls are delivered to the Area/Resident Engineer office within 7 days of receipt of the payrolls. (This will allow for sufficient time for the Prime to review the payrolls before sending to the COE office).

NOTE: According to FAR 52.222-6 (b)(1) "All laborers and mechanics employed or working upon the site of the work will be paid unconditionally and not less often than once a week..."

² Updated since earlier version: Time frame for payroll submission.

The payrolls should be numbered consecutively beginning with #1 and marked “Final” for your last payroll for the project. The requested “contract number” is that contract between the Prime and the contracting agency (Corps of Engineers)

Payroll Formats

The easiest form to use is DOL’s WH-347, **Payroll**. A sample of the form is included in the back of this Guide. A computer-generated form may be used, but it must contain the exact payroll information as listed on the WH-347. Instructions for completing the CPR (Certified Payrolls) are listed on pages 46 through 52.

Payroll Certifications

The weekly payrolls are called *certified* because each payroll is signed and contains language certifying that the information is true and correct. The payroll **certification** language is on the reverse side of the WH-347. If you are using another type of payroll format, you may attach the certification from the back of the WH-347, or any other format which contains the same certification language on the reverse side of the WH-347.

“No Work” Payrolls

“No work” payrolls may be submitted whenever there is a temporary break in your work on page 2 of the WH347, or payroll form. The contractor is certifying no employees worked.

The contractor **MAY** submit a “No Work” payroll each week. Enter “No Work” in the remarks section of the Statement of Compliance when no work was performed during the work week. However, it is **preferred** that contractors submit one payroll with a “No Work Until Further Notice” entry covering multiple pay periods rather than individual “No Work” payrolls each week.

In the event there are multiple non work weeks, submit the next work payroll using the next sequential number. Enter “No Work” from date to date in the remarks section.

Payroll Review and Submission

The prime contractor should **review** each subcontractor’s payroll reports for compliance **prior** to submitting the reports to the Area/Resident Engineer. Note: The prime contractor is responsible for the full compliance of all subcontractors on the contract and will be held accountable for any wage restitution that may be found due to any laborer or mechanic that is underpaid and for any liquidated damages that may be assessed for overtime violations. All of the payroll reports for any project must be submitted to the Area/Resident Engineer *through* the prime contractor.

The submission of electronic payrolls, photocopies or other automated duplication of the contractor's regular payrolls containing all of the required information pertinent to the government construction project(s) is sufficient to satisfy the payroll data requirements set forth at 29 CFR 5.5(a)(3)(ii)(A).

An alert prime contractor that reviews the contractor payroll submissions can detect any misunderstandings early, prevent costly underpayments and protect itself from financial loss should underpayments occur.

Payroll Retention

Every contractor (including subcontractors) must keep a complete set of their own payrolls and other basic records such as time cards, tax records; evidence of fringe benefit payments, on a Davis-Bacon project for at least 3 years after the project is completed. The prime contractor must keep a complete set of all of the payrolls for every contractor (including subcontractors) for at least 3 years after completion of the project.

Payroll Inspection

In addition to submitting payrolls to the Area/Resident Engineer, every contractor (including subcontractors) must make their own copy of payrolls and other basic records available for review or copying to any authorized representative from the COE or the DOL.

Reporting Requirements (Completing a Certified Payroll Report)

Project and Contractor/Subcontract Information

Each payroll must identify the contractor or subcontractor's name and address, the project name and number (that between the Prime and the COE), and the week ending date. Indicate the week dates in the spaces provided. The payrolls should be numbered consecutively.

Employee Information

All weekly payrolls must contain the employee's name and Individual Number (e.g., the last four digits of his/her Social Security Number). Full social security numbers and home addresses shall not be included on weekly transmittals. This is in accordance with the instructions as given by the Department of Labor.

Work Classification

Each employee must be classified in accordance with the wage decision based on the type of work they actually perform. Employees are to be classified correctly, using classifications as determined in the wage decision to include, zone, group, size, capacity, etc. "Journeyman", "Operator", "Apprentice", "Helper" and "Insulator" are not complete work classifications.

1. **Apprentices or Trainees.** The first payroll on which any apprentice or trainee appears must be accompanied by a copy of that apprentice's or trainee's registration in a registered or approved program. A copy of the portions of the registered or approved program pertaining to the wage rates and ratios shall also accompany the first payroll on which the first apprentice or trainee appears.
2. **Split Classifications.** If you have employees that perform work in more than one trade during a work week, you can pay the wage rates specified for each work classification in which work was performed **only** if you maintain accurate time records showing the amount of time spent in each classification. Deductions and net pay may be based upon the total gross amount earned for all classifications. If you do not maintain accurate time records, you must pay the employees the highest wage rate of all of the classifications of work performed.

1099 "Employee" or "Contractor"

Certified Payroll is for Employees only. The Department of Labor and the Internal Revenue Service have very specific guidelines on this subject. The following information is taken directly from the Internal Revenue Service Website.

The determination of whether a worker is an employee or an independent contractor is based on common-law rules. The determination depends primarily on the extent to which the person receiving the services has the right to direct and control the service provider with regard to what is to be done and how it is to be done. An employer generally has the right to control how an employee performs the service. Independent contractors determine for themselves how the work is to be performed.

The general rule is that an individual is an **independent contractor** if you, the person for whom the services are performed, have the right to control or direct **only the result** of the work and **NOT** the means and methods of accomplishing the result. If you subcontract out your contractual requirements to others and issue them a 1099 at the end of the tax year, these individuals do NOT belong on your certified payroll report. They are considered to be a separate company, and as such need to complete a Certified Payroll Report for their individual companies.

Accordingly, anyone who performs services for you is your **EMPLOYEE** if you can control ***what will be done and how it will be done***. This is so even when you give the employee freedom of action. What matters is that you have the right to control the details of how the services are performed. In determining whether the person providing service is an employee or an independent contractor, all information that provides evidence of the degree of control and independence must be considered.

Common-law rules look at the relationship of the worker and the business, taking into consideration all evidence of control and independence. Courts consider many facts in determining worker status. These facts fall into three main categories:

1. Behavioral control: Facts that show whether the business has a right to direct and control how the worker does the task for which hired.
2. Financial control: Facts that show whether the business has a right to control the business aspects of the worker's job.
3. Relationship of the parties: Facts that show the parties' type of relationship.

These facts are used in connection with IRS audits concerning worker status. Not all facts need to be present in any given situation, and no single fact is controlling.

When in doubt about how to classify a worker, classify him or her as an employee.

Misclassification of Employees as 1099

Consequences of Treating an Employee as an Independent Contractor: if you classify an employee as an independent contractor and you have no reasonable basis for doing so, you may be held liable for employment taxes for that worker. See Internal Revenue Code section 3509 for more information. ³

Hours Worked

The payroll should show in the fields for dates and hours worked **ONLY** the regular and overtime hours worked on **this** project. Provide the daily and total weekly hours for each employee. If an employee performs work at job sites other than the project for which the payroll is prepared, those "other job" hours *should not* be reported on the payroll. In these cases, you should list the employee's name, classification, hours for this project only, the rate of pay and gross earnings for this project, and the gross earned for *all projects*. Deductions and net pay may be based upon the employee's total earnings (for all projects) for the week.

³ Updated since earlier version. This entire section on 1099 employees was added.

If more than one wage decision is used on the contract, indicate which wage decision is used on the payroll.

Rate of Pay

Prevailing wage rates are the rates listed on the wage decision for the project. The wage decision will list a minimum basic hourly rate of pay plus applicable fringe benefits for each work classification. If the wage decision includes a fringe benefit rate, you will need to add it to the basic hourly rate *unless* you provide bona fide fringe benefits for your employees.

Show the basic hourly rate of pay for each employee for this project. If the wage decision includes a fringe benefit and you **do not** participate in approved fringe benefit programs, **add** the fringe benefit rate to the basic hourly rate of pay. Also list the overtime rate if overtime hours were worked.

If an employee is paid a basic rate that is more than the required Davis-Bacon rate contained on the wage decision, the overtime rate is based on the basic amount the employee is regularly paid.

Note: the overtime rate is computed at one and one-half times the basic rate of pay plus the fringe benefits. For example, if the wage decision requires \$10/hour basic plus \$5/hour fringe benefits, the overtime rate would be $(\$10 \times 1 \frac{1}{2}) + \$5 = \$20/\text{hour}$ overtime rate.

Some employees are hired on a “**piece-work**” basis, that is, the employee’s earnings are determined by a factor of work produced. For example, A Drywall Hanger’s earnings may be calculated based upon the square feet of sheetrock actually hung and a Painter’s earnings may be based upon the number of units painted.

Employers may calculate weekly earnings based upon piece rates **provided** the weekly earnings are sufficient to satisfy the wage rate requirement based upon actual hours, including any overtime, worked. *Accurate time records must be maintained for any piece-work employees.* To compute the effective hourly rate, divide the piece-work earnings by the total number of hours worked, including consideration for any overtime hours. If the weekly piece rate earnings are not sufficient, the employer must re-compute weekly earnings based upon the actual hours worked and the rate on the wage decision for the work classification(s) involved.

The effective hourly rate must be reflected on the certified payroll and the hourly rate may be no less than the wage rate (including fringe benefits, if any) on the wage decision for the classification of work performed. It does not matter that the effective

hourly rate changes from week-to-week, only that the rate is no less than the rate on the wage decision for the classification of work performed.

Gross Wages Earned

Show the gross amount of wages earned for work performed on this project. Note: for employees with work hours and earnings on other projects, you may show gross wages for this project over gross earnings all projects (for example, \$425.40/\$764.85) in column #7 of the payroll form and base deductions and net pay on "all projects" earnings.

Deductions

Fringe benefits determined in a wage decision are paid by the contractor. They can include health insurance premiums, retirement contributions, life insurance, vacation, etc. Payment records are to show the fringe benefits paid to the employee either as cash or for the employee into a bona fide fund, plan, or program.

Fringe benefit payments apply to all hours of work, but are not subject to premium pay under the overtime law.

Employees should be informed in advance of their employment and in writing of a contractor's fringe benefit plan, if applicable, and the plan fully explained to them.

Show the amounts of any deductions from the gross earnings. **"Other deductions"** should be identified (for example, Savings Account or Loan Repayment). Any voluntary deduction (that is, not required by law or by an order of a proper authority) must be authorized in writing by the employee or provided for in a collective bargaining (union) agreement. A short note signed by the employee is all that is needed and should accompany the first payroll on which the "other" deduction appears.

Net Pay: Show the net amount of wages paid.

Statement of Compliance (Page 2 OF WH347, Payroll Form)

Required for each weekly payroll report. Also, you must check either 4(a) or 4(b). Checking 4(a) indicates that you are paying required fringe benefits to approved plans or programs; and 4(b) indicates that you are paying any required fringe benefit amounts directly to the employee by adding the fringe benefit rate to the basic hourly rate of pay. If you are paying a portion of the required fringe benefit to programs and the balance directly to the employee, explain those differences in box 4(c).

If block 4(a) is marked, the contractor is required to submit to the COE office (with that first payroll only) a copy of all plans, funds, and programs being paid into.⁴

Only one statement of compliance is required for each employer's weekly payroll, no matter how many pages are needed to report the employee data.

Signature

Make sure the payroll is signed with an original signature. The payroll must be signed by a principal of the firm (owner or officer such as the president, treasurer or payroll administrator) or by an authorized agent (a person authorized by a principal in writing to sign the payroll reports). Signature authorization (for persons other than a principal) should be submitted with the first payroll signed by such an agent.

Falsification of Certified Payroll records

Contractors and/or subcontractors that are found to have willfully falsified payroll reports (Statements of Compliance), including corrected certified payroll reports, may be subject to civil or criminal prosecution. Penalties may be imposed of \$1,000 and/or one year in prison for each false statement (see Section 1001 of Title 18 and Section 231 of Title 31 of the United States Code).

Interviews & Payroll Reviews

On-Site Interviews: Every employer (contractor, subcontractor, etc.) must make their employees available for interview at the job site with the Resident Engineer's Personnel or other agency representative, or DOL representative. The interviews are confidential and the employee will be asked about the kind of work they perform and their rate of pay. Every effort will be made to ensure that these interviews cause as little disruption as possible to the on-going work. The interviewer will record the interview information, usually on the Standard Form 1445, Labor Standards Interview, maintain a copy with the payrolls and forward a copy to the District Labor Advisor. This data, along with the result of the reviews (next paragraph) needs to be entered into RMS in the "interview module".⁵

Project Payroll Reviews: The Resident Engineer will compare the information on the interview forms to the corresponding payrolls to ensure that the workers are properly listed on the payrolls for the correct days, work classification and rate of pay. The Resident Engineer or representative will also review the payroll submissions to make

⁴ This paragraph regarding "Plans, Funds, and Programs" added since earlier version

⁵ This reference to RMS entry added since earlier version.

certain that the payrolls are complete and signed; that employees are paid no less than the wage rate for the work classification shown; apprentice and trainee certifications are submitted (where needed); employee or other authorizations for other deductions are submitted (where needed); etc.

Payroll Corrections

The following paragraphs describe common payroll errors and the corrective steps you must take.

Inadequate Payroll Information: If an alternate payroll format used by an employer (such as some computer payrolls) is inadequate, e.g., does not contain all of the necessary information that would be on the optional form WH-347, the employer will be asked to resubmit the payrolls on an acceptable form.

Missing Identifying Number: If the first payroll on which an employee appears does not contain the employee's last four digits of his/her Social Security Number, or other 4 digit identifier, the employer will be asked to supply the missing information. A short note providing the information is all that is needed.

Incomplete Payrolls: If the information on the payroll is not complete, for example, if work classifications or rates of pay are missing, the employer will be asked to send a corrected payroll.

Classifications: If the payrolls show work classifications that do not appear on the wage decision, the employer will be asked to reclassify the employees in accordance with the wage decision or the employer may request an additional classification and wage rate. If reclassification results in underpayment (i.e., the wage rate paid on the payroll is less than the rate required for the new classification), the employer will be asked to pay wage restitution to all affected reclassified employees and submit required information (restitution paperwork) to the COE Resident office or District Office Labor Advisor.

Wage Rates: If the wage rates on the payroll are less than the wage rates on the wage decision for the work classifications reported, the employer will be asked to pay wage restitution to all affected employees submit required information (restitution paperwork) to the COE Resident office or District Office Labor Advisor.

Apprentices and Trainees: If a copy of the employee's registration or the approved program ratio and wage schedule are not submitted with the first payroll on which an apprentice or trainee appears, the employer will be asked to submit a copy of each apprentice's or trainee's registration and/or the approved program ratio and wage schedule. If the ratio of apprentices or trainees to journeymen on the payroll is greater

than the ratio in the approved program, the employer will be asked to pay wage restitution to any excess apprentices or trainees. Also, any apprentice or trainee that is not registered in an approved program must receive the journeyman's wage rate for the classification of work they performed.

Overtime: If the employees did not receive at least time and one-half for any overtime hours worked on the project, the following will occur:

1. If the project is subject to CWHSS overtime requirements, the employer will be asked to pay wage restitution for all overtime hours worked on the project. The employer may also be liable to the United States for liquidated damages computed at \$10 per day per violation. Or,
2. If the project is not subject to CWHSS, the employer will be notified of the possible FLSA overtime violations. Also, the District Labor Advisor may refer the violations to the DOL for further review.

Computations: If the payroll computations (hours worked times rate of pay) or extensions (deductions, net pay) show frequent errors, the employer will be asked to take greater care. Wage restitution may be required if underpayments resulted from the errors.

Deductions: If there are any "Other" deductions that are not identified, or if employee authorization isn't provided, or if there is any unusual (very high, or large number) deduction activity, the employer will be asked to identify the deductions, provide employee authorization or explain unusual deductions, as necessary.

The Corps does not enforce or attempt to provide advice on employer obligations to make deductions from employee earnings for tax on Social Security. However, we will refer to the IRS or other responsible agency copies of certified payroll reports that show wages paid in gross amounts (i.e. without a deduction) for its review and appropriate action.

Fringe Benefits: If the wage decision contains fringe benefits but the payroll does not indicate how fringe benefits were paid [neither 4(a) or 4(b) is marked on the Statement of Compliance], the employer may be asked to submit corrected payrolls and will be required to pay wage restitution if underpayments occurred. However, if the basic hourly rates for the employees are at least as much as the total wage rate on the wage decision (basic hourly rate plus the fringe benefit rate), no correction is necessary.

Signature: If the payroll Statement of Compliance is not signed or is missing, the contractor will be asked to submit a signed Statement of Compliance for each payroll affected. If the Statement of Compliance is signed by a person who is not a principal of the firm and that person has not been authorized by principal to sign, the contractor will be asked to provide an authorization or to resubmit the Statement(s) of Compliance bearing the signature(s) of a principal or other signatory.

On-Site Interview Comparisons: If the comparison of on-site interviews to the payrolls indicates any discrepancies (for example, the employee does not appear on the payroll for the date of the interview), the contractor will be asked to submit a corrected payroll report.

Restitution for Underpayment of Wages

Where underpayments of wages have occurred, the contractor will be required to pay wage restitution to the affected employees. Wage restitution must be paid promptly in the full amounts due, less permissible and authorized deductions.

Notification to the Prime Contractor: The Area/Resident Office and/or District Labor Advisor will notify the prime contractor in writing of any underpayments that are found during payroll or other reviews. The Area/Resident Office and/or District Labor Advisor will describe the underpayments and provide instructions for computing and documenting the restitution to be paid. **The prime contractor is allowed 30 days to correct the underpayments.** Note that the prime contractor is responsible to the Area/Resident Office for ensuring that restitution is paid. If a subcontractor is involved, the subcontractor will usually make the computations and restitution payments and furnish the required documentation through the prime contractor.

Computing Wage Restitution: Wage restitution is simply the difference between the wage rate paid to each affected employee and the wage rate required on the wage decision for all hours worked where underpayments occurred. The difference in the wage rates is called the adjustment rate. The adjustment rate times the number of hours involved equals the gross amount of restitution due. You may also compute wage restitution by calculating the total amount of Prevailing Wages earned and subtracting the total amount of wages paid. The difference is the amount of back wages due. **(see Forms & Instructions section at the back of this manual)**

Correction Payrolls: The contractor will be required to report the restitution paid on a correction certified payroll. The correction payroll will reflect the period of time for which restitution is due (for example, Payrolls #1 through #6; or a beginning date and

ending date). The correction payroll will list each employee to whom restitution was paid and their work classification; the total number of work hours involved (daily hours are usually not applicable for restitution); the adjustment wage rate (the difference between the required wage rate and the wage rate paid); the gross amount of restitution due; deductions and the net amount actually paid. A signed Statement of Compliance must be attached to the correction payroll.

Review of Correction CPR: The Area/Resident Office will review the correction certified payroll to ensure that full restitution was paid. The prime contractor shall be notified in writing of any discrepancies and will be required to make additional payments, if needed, documented on a supplemental correction payroll within 30 days. It is the responsibility of the Corps of Engineers office to provide a copy of the restitution to the District Labor Advisor.

SEE ADDITIONAL GUIDANCE AND RESTITUTION WORKSHEET ON PAGES 56-58

Related Provision and Requirements

Labor Interviews (CFR 5.5 (a)(3)(3)(d)iii)

The contractor or subcontractor shall make the payroll records required under paragraph 5.5(a)(3)(i) of the CFR available for inspection, copying, or transcription by authorized representatives of the US Army Corps of Engineers or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job.

The Prime Contractor or the COE will conduct contractor and subcontractor employee interviews to check the employer's compliance with the labor standards provisions of each contract. DD Form 1567, Labor Standards Interview, is used. The number of interviews conducted each week is determined by the number of employees performing work in each classification and the scope of the contract work. Interviews on a work site should provide a cross section of the work force, including employees of subcontractors, and should be held on a routine basis. Information obtained during the interviews is checked against the information reported on weekly payroll copies. (Engineer Pamphlet 415-1-260)(ER 1180-1-8, para 7-4)

Withholding of Funds (FAR 22.409-9)

The Contracting Office has authority to withhold funds from accrued earnings to assure payment to employees or to cover liquidated damages when violations of the labor provisions have occurred. DOL may also direct the withholding of contract payments for alleged wage underpayments. Withholding is considered to be serious and is not taken unless warranted. If withholding is deemed necessary, the contractor will be notified in writing. Only the amounts needed to meet the contractor's (and/or subcontractor's) liability shall be withheld.

Remember, the prime contractor is responsible and will be held liable for any wage restitution that is due to any worker employed in the construction of the project, including workers employed by subcontractors and any lower-tier subcontractors.

No payroll reports received: Employees cannot be considered paid until a copy of the payroll report evidencing adequate payment is furnished in an acceptable manner. If a contractor performs work at the jobsite and a copy of the payroll report showing this

work has not been furnished, it can be assumed that the employees have not been paid, and an estimated amount to cover the employees' work will be withheld.

Overtime: A penalty of \$10.00 per day per employee may be assessed as liquidated damages for each day an employee is not paid proper overtime.

Errors: In cases of misclassifications, underpayments, or unauthorized deductions, sufficient funds will be retained from monies due the prime contractor until violations cease and correct payment is evidenced.

Final Payments: It is District policy that final contract payments will not be released until the Area/Resident Engineer and District Labor Advisor certify that the contractor has complied with all certified payroll and all other labor provisions.

Certification of Eligibility (FAR 52.222-15)

The prime contractor must certify that neither he nor she nor any person or firm who has an interest in the Contractor's firm is ineligible to be awarded Government contracts.

Disputes Concerning Labor Standards (FAR 52.222-14)

Procedures for resolving disputes covering labor standards requirements are set forth in 29 CFR Parts, 5, 6 and 7.

Contract Termination and Debarment (FAR 52.222-12)

A contract may be terminated or debarred for breach of any of the contract labor clauses.

Socio-Economic Provisions

Listed below are several socio-economic contract clauses, monitored either by the District Labor Advisor, Kansas City District's Small and Disadvantaged Business Utilization (SADBU) Officer, or U. S. Department of Labor, Office of Federal Contract Compliance Programs (OFCCP). Some of the clauses pertain only to specific contracts. Information or answers to questions concerning these provisions should be directed as follows:

1. **Small and Disadvantaged Business Utilization Office**
 - a. Utilization of Small Business Concerns
 - b. Utilization of Small Disadvantaged Business Concerns
 - c. Utilization of Women-Owned Small Business
 - d. Small Business and Small Disadvantaged Business Subcontracting Plan
2. **Department of Labor, OFCCP**
 - a. Equal Opportunity
 - b. Affirmative Action Compliance Requirements for Construction

- c. Equal Opportunity for Special Disabled and Vietnam Era Veterans
- d. Affirmative Action for Workers with Disabilities
- e. Employment Reports on Special Disabled and Vietnam Era Veterans

3. Department of Labor, Wage and Hour Division

- a. Fair Labor Standards Act (FLSA)
- b. Contract Work Hours and Safety Standards Act (CWHSSA)
- c. Wage Rate Requirements (Construction) Davis-Bacon Act (DBA)

Labor Disputes (FAR52.222-14)

Threatened or actual work stoppages, strikes, labor disputes, and related labor controversies that affect the construction progress in any way are to be reported immediately to the Area/Resident Engineer. Contractors furnish a daily report on any loss of time due to a labor dispute.

1. Contractors are obligated to take necessary steps to resolve any dispute.
2. Picketing is not permitted on Government installations. Installation Commanders are responsible for all activities at an installation. If picketing occurs at an installation, the installation commander may establish controlled entrances. Contractors must comply with installation directives on the use of any controlled entrances.

Representatives of Labor Organizations

Representatives of labor organizations are normally permitted to visit construction sites, provided clearance is obtained.

Working Owners

An owner of a company performing mechanic or labor work at the jobsite is reported on the CPR as any other mechanic or laborer, except the amount of pay is not shown. The classification and daily hours of work are shown with a notation, "Owner," or applicable title, in lieu of wage rate and payment. An "Owner", "Co-Owner", or "Partner" must own at least 20% of the company in order to be exempt from the labor provisions.

Foremen and Superintendents

Foreman and superintendents who perform mechanic or laborer duties more than twenty (20) percent of their time are subject to the labor provisions. They are to be classified for work they perform as any other "mechanic" or, "laborer" and paid no less than the contract rate for that classification, including pay for overtime hours.

Owner/Operator Truck Drivers

Owner/Operator Truck Drivers, mainly dump trucks, are exempt from the Davis-Bacon Act requirements. The contractor paying the owner-operator reports the owner-operator on the CPR, listing their name, last 4 digits of their Social Security number, and classification, with certification, that he is the owner-operator. The hours of work and amount of pay are not required.

Child Labor

Area/Resident Offices are to control the employment of minors because of the safety factors involved. The basic guidelines are addressed below:

1. A person under sixteen (16) years of age is not permitted to work on construction of any kind.
2. A person under eighteen (18) years of age is not permitted to work on "hazardous" construction projects. Questions regarding hazardous should be referred to the Safety Officer, Kansas City District, COE.

Convict Labor (FAR 22.201)

This clause prohibits the employment of persons undergoing sentences of imprisonment at hard labor imposed by state or municipal criminal courts. The requirement does not prohibit the employment of persons on parole or probation, or of persons pardoned or who have served their terms.

Forms & Instructions

How to Complete SF1444

Request for Authorization of Additional Classification and Rate

The contractor completes blocks 3-15:

Box 3: Enter complete name **AND** mailing address of PRIME contractor.

Box 4: Enter date of request.

Box 5: Enter contract number. (EX: W91278-07-D-0001, Task Order 0003 OR W91278-07-C-0005)

Box 6: Enter date bid opened. If not sure, call Contracting Officer to obtain.

Box 7: Enter date of contract award. If not sure, call Contracting Officer to obtain.

Box 8: Enter date contract work started.

Box 9: Enter date contract option was exercised (if applicable).

Box 10: Enter name and address of subcontractor (if any). This is frequently the company actually requesting the change.

Box 11: Enter summary of project's statement of work.

Box 12: Enter location of project work (**city, county, and state**).

Box 13: List numbers **AND** dates of all applicable wage determinations (consult contract).

Identifying the requested additional Classifications.

Box 13a: Proposed Classification: For each position:

- List the classification title that you are proposing be added to your Wage Determination.
- Provide the job description / duties for the work of the class being conformed. (**NOTE: THE Department of Labor IS LIKELY TO REJECT THE REQUEST WITHOUT AN ADEQUATE DESCRIPTION**)

Box 13b: Enter the proposed wage rate.

Box 13c: Enter the required fringe benefits already established on the applicable wage determination.

Box 14: Enter the signature **AND** title of the subcontractor's representative, if the request is from a subcontractor. (Attach additional sheet if necessary.)

Box 15: The PRIME Contractor will enter appropriate information and sign.

Box 16: If there is an official representative of the employees affected (such as a union rep or bargaining group rep), and inform him/her of the conformance proposal. That individual signs item Number 16 on SF-1444, indicate their title in the block to the right, **AND** indicate whether or not they are in agreement by checking a block ("Agree" or "Disagree") in line 16.

NOTE: If there is no employee representative, then the employee working in the class being conformed should sign block 16 and, indicate agreement or disagreement with the proposal. This employee (s) also must be offered an opportunity to explain their position(s).

NOTE: If no employees have been hired yet, indicate in item 16 by entering NONE

Once the contractor has completed the form, send it to the Labor Relations Representative (or deliver it to the responsible field office that will review and forward the request). For Kansas City District, the Labor Relations Representative is:

Dale E. Coleman
Contractor Industrial Relations Specialist
U.S. Army Corps of Engineers, Office of Counsel
601 12th E. Street STE 665
Kansas City, Missouri 64106

Do not send directly to the Department of Labor's Wage and Hour Division.

The Federal agency Contracting Officer (or representative) completes the bottom of the form, checking the applicable box, signing, dating, providing a commercial telephone number at which he/she may be reached, and presenting the agency recommendation and other relevant information as an attachment. If the Contracting Officer does not agree with any proposed classes or rates, a statement of the agency's position and rationale must be attached.

NOTE: After receipt/review of SF 1444, Contracting Officer (or representative) completes bottom of form and forwards, with contractor supporting documentation, to the DOL address listed in Block #1.

A fill-able pdf of the form is available thru: <http://www.dol.gov/whd/recovery/dbsurvey/conformance.htm>.

NOTE: Due to limited space on the pdf, the contract number will need to be written or typed in.

Checklist for DBA Conformances

1. The classification must be appropriate for the contract work, and must be a classification that is utilized in that locality by the construction industry.
2. The contractor cannot propose a new classification by combining job duties from two or more existing classifications on the wage determination, or propose a new classification that performs only part of the duties of an existing classification.
3. The proposed classification cannot be a "trainee". Generally a proposed classification of "helper" will not be approved. Under DBA provisions, a "helper" will not be approved by DOL unless the contractor establishes in his proposal that a "helper" is an established industry area practice.
4. The proposed wage rate for the new classification should generally be no lower than the wage rate of the lowest skilled classification on the determination. (The proposed rate must be higher than a truck driver or laborer.)
5. Conformance requests should not be submitted for exempt classifications (project managers, full-time supervisors, professionals such as engineers), nor for classifications other than "laborers or mechanics" employed on the site of work, as covered by the Wage Rate Requirement (construction) (formerly Davis Bacon).
6. The proposed rate should bear a reasonable relationship to the wage rates listed on the wage determination. The proposed fringe benefits should be the same as listed on the wage determination.
7. The contractor must attach a brief job description to each SFI444 request submitted for classifications that are not generally known and utilized in the construction industry in the locality. The contractor should include all pertinent documentation that supports his request for approval of an additional classification.
8. Welders are usually classified in the same classification as the employees who are performing the duties to which the welding work is incidental (for example: ironworkers, plumbers, sheet metal workers, etc.).

SF1444 Example

AUTHORIZED FOR LOCAL REPRODUCTION				
REQUEST FOR AUTHORIZATION OF ADDITIONAL CLASSIFICATION AND RATE			CHECK APPROPRIATE BOX <input type="checkbox"/> SERVICE CONTRACT <input checked="" type="checkbox"/> CONSTRUCTION CONTRACT	OMB Number: 9000-0089 Expiration Date: 9/30/2017
PAPERWORK REDUCTION ACT STATEMENT: Public reporting burden for this collection of information is estimated to average .5 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspects of this collection of information, including suggestions for reducing this burden, to U.S. General Services Administration, Regulatory Secretariat (MVCB)/IC 9000-0089, Office of Governmentwide Acquisition Policy, 1800 F Street, NW, Washington, DC 20405.				
INSTRUCTIONS: THE CONTRACTOR SHALL COMPLETE ITEMS 3 THROUGH 16, KEEP A PENDING COPY, AND SUBMIT THE REQUEST, IN QUADRUPPLICATE, TO THE CONTRACTING OFFICER.				
1. TO: ADMINISTRATOR, WAGE AND HOUR DIVISION U.S. DEPARTMENT OF LABOR WASHINGTON, DC 20210			2. FROM: (REPORTING OFFICE)	
3. CONTRACTOR Prime Contractor, Full Business Address, City, State, Zip code			4. DATE OF REQUEST Request Date	
5. CONTRACT NUMBER W912dq-15-d-1234	6. DATE BID OPENED (SEALED BIDDING) 01/01/2015	7. DATE OF AWARD 01/02/2015	8. DATE CONTRACT WORK STARTED 03/01/2015	9. DATE OPTION EXERCISED (IF APPLICABLE) (SERVICE CONTRACT ONLY)
10. SUBCONTRACTOR (IF ANY) Sub Contractors Name, Full Business Address, City, State, Zip Code				
11. PROJECT AND DESCRIPTION OF WORK (ATTACH ADDITIONAL SHEET IF NEEDED) Put full description of project work in this block. Include scope of work, location, and any related details.				
12. LOCATION (CITY, COUNTY AND STATE) Include project address in this section				
13. IN ORDER TO COMPLETE THE WORK PROVIDED FOR UNDER THE ABOVE CONTRACT, IT IS NECESSARY TO ESTABLISH THE FOLLOWING RATE(S) FOR THE INDICATED CLASSIFICATION(S) NOT INCLUDED IN THE DEPARTMENT OF LABOR DETERMINATION				
NUMBER: <u>Wage Determination Listed in Contract Document</u> DATED:				
a. LIST IN ORDER: PROPOSED CLASSIFICATION TITLE(S); JOB DESCRIPTION(S); DUTIES; AND RATIONALE FOR PROPOSED CLASSIFICATIONS (Service contracts only) <i>(Use reverse or attach additional sheets, if necessary)</i>		b. WAGE RATE(S) \$ Proposed hourly wage	c. FRINGE BENEFITS PAYMENTS \$ Proposed fringe rate	
Include accurate description of additional classification. Give a brief description of the work to be performed and the equipment used. List everything that would be helpful in making a determination of the proper wage rate Provide a locally established wage rate in block b. that is comparable to the work performed in the new task.				
14. SIGNATURE AND TITLE OF SUBCONTRACTOR REPRESENTATIVE (IF ANY) Representative from Sub Contractor			15. SIGNATURE AND TITLE OF PRIME CONTRACTOR REPRESENTATIVE Representative from Prime Contractor	
16. SIGNATURE OF EMPLOYEE OR REPRESENTATIVE Employee Representative.		TITLE Prime Cont. Employee Title	CHECK APPROPRIATE BOX-REFERENCING BLOCK 13. <input checked="" type="checkbox"/> AGREE <input type="checkbox"/> DISAGREE	
TO BE COMPLETED BY CONTRACTING OFFICER (CHECK AS APPROPRIATE - SEE FAR 22.1019 (SERVICE CONTRACT LABOR STANDARDS) OR FAR 22.406-3 (CONSTRUCTION WAGE RATE REQUIREMENTS))				
<input type="checkbox"/> THE INTERESTED PARTIES AGREE AND THE CONTRACTING OFFICER RECOMMENDS APPROVAL BY THE WAGE AND HOUR DIVISION. AVAILABLE INFORMATION AND RECOMMENDATIONS ARE ATTACHED.				
<input type="checkbox"/> THE INTERESTED PARTIES CANNOT AGREE ON THE PROPOSED CLASSIFICATION AND WAGE RATE. A DETERMINATION OF THE QUESTION BY THE WAGE AND HOUR DIVISION IS THEREFORE REQUESTED. AVAILABLE INFORMATION AND RECOMMENDATIONS ARE ATTACHED. <i>(Send 3 copies to the Department of Labor)</i>				
SIGNATURE OF CONTRACTING OFFICER OR REPRESENTATIVE		TITLE AND COMMERCIAL TELEPHONE NUMBER	DATE SUBMITTED	

PREVIOUS EDITION IS USABLE

STANDARD FORM 1444 (REV. 4/2013)
Prescribed by GSA-FAR (48 CFR) 53.222(f)

SF1444 Blank Form

AUTHORIZED FOR LOCAL REPRODUCTION

REQUEST FOR AUTHORIZATION OF ADDITIONAL CLASSIFICATION AND RATE	CHECK APPROPRIATE BOX <input type="checkbox"/> SERVICE CONTRACT <input type="checkbox"/> CONSTRUCTION CONTRACT	OMB Number: 9000-0089 Expiration Date: 9/30/2017
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PAPERWORK REDUCTION ACT STATEMENT: Public reporting burden for this collection of information is estimated to average .5 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspects of this collection of information, including suggestions for reducing this burden, to U.S. General Services Administration, Regulatory Secretariat (MVCB)/IC 9000-0089, Office of Governmentwide Acquisition Policy, 1800 F Street, NW, Washington, DC 20405.

INSTRUCTIONS: THE CONTRACTOR SHALL COMPLETE ITEMS 3 THROUGH 16, KEEP A PENDING COPY, AND SUBMIT THE REQUEST, IN QUADRUPLICATE, TO THE CONTRACTING OFFICER.

1. TO: ADMINISTRATOR, WAGE AND HOUR DIVISION U.S. DEPARTMENT OF LABOR WASHINGTON, DC 20210	2. FROM: (REPORTING OFFICE)
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3. CONTRACTOR	4. DATE OF REQUEST
---------------	--------------------

5. CONTRACT NUMBER	6. DATE BID OPENED (SEALED BIDDING)	7. DATE OF AWARD	8. DATE CONTRACT WORK STARTED	9. DATE OPTION EXERCISED (IF APPLICABLE) (SERVICE CONTRACT ONLY)
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10. SUBCONTRACTOR (IF ANY)

11. PROJECT AND DESCRIPTION OF WORK (ATTACH ADDITIONAL SHEET IF NEEDED)

12. LOCATION (CITY, COUNTY AND STATE)

13. IN ORDER TO COMPLETE THE WORK PROVIDED FOR UNDER THE ABOVE CONTRACT, IT IS NECESSARY TO ESTABLISH THE FOLLOWING RATE(S) FOR THE INDICATED CLASSIFICATION(S) NOT INCLUDED IN THE DEPARTMENT OF LABOR DETERMINATION

NUMBER: _____ DATED: _____

a. LIST IN ORDER: PROPOSED CLASSIFICATION TITLE(S); JOB DESCRIPTION(S); DUTIES; AND RATIONALE FOR PROPOSED CLASSIFICATIONS (Service contracts only)	b. WAGE RATE(S)	c. FRINGE BENEFITS PAYMENTS
(Use reverse or attach additional sheets, if necessary)		

14. SIGNATURE AND TITLE OF SUBCONTRACTOR REPRESENTATIVE (IF ANY)	15. SIGNATURE AND TITLE OF PRIME CONTRACTOR REPRESENTATIVE
--	--

16. SIGNATURE OF EMPLOYEE OR REPRESENTATIVE	TITLE	CHECK APPROPRIATE BOX-REFERENCING BLOCK 13. <input type="checkbox"/> AGREE <input type="checkbox"/> DISAGREE
---	-------	---

TO BE COMPLETED BY CONTRACTING OFFICER (CHECK AS APPROPRIATE - SEE FAR 22.1019 (SERVICE CONTRACT LABOR STANDARDS) OR FAR 22.406-3 (CONSTRUCTION WAGE RATE REQUIREMENTS))

- THE INTERESTED PARTIES AGREE AND THE CONTRACTING OFFICER RECOMMENDS APPROVAL BY THE WAGE AND HOUR DIVISION. AVAILABLE INFORMATION AND RECOMMENDATIONS ARE ATTACHED.
- THE INTERESTED PARTIES CANNOT AGREE ON THE PROPOSED CLASSIFICATION AND WAGE RATE. A DETERMINATION OF THE QUESTION BY THE WAGE AND HOUR DIVISION IS THEREFORE REQUESTED. AVAILABLE INFORMATION AND RECOMMENDATIONS ARE ATTACHED.
(Send 3 copies to the Department of Labor)

SIGNATURE OF CONTRACTING OFFICER OR REPRESENTATIVE	TITLE AND COMMERCIAL TELEPHONE NUMBER	DATE SUBMITTED
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How to Complete SF1413 Statement and Acknowledgement

The prime contractor is required to submit the SF 1413 within 14 days after award of any part of the contract to a subcontractor. (This applies to any tier subcontract and must be submitted within 14 days of THAT award). The prime or another subcontractor may make the award. Please see the samples on pages 38 to 44. Page 40 contains a blank form that may be re-produced if desired.

Check the form for completeness:

- Block 1: Must contain the correct contract number (and Task Order Number if applicable).
- Blocks 2 and 3: Must be completed. Self-explanatory
- Block 4 (a-e): Must be completed by the Prime. The Prime's info will always be in these blocks.
- Block 5 (a-e): Must be completed. This is info on the subcontractor (regardless of the tier) to whom **this portion** of the contract is being awarded.
- Block 6: Must be checked. If the base contract is more than \$150,000, check the "does" block.
- Block 7a: Must be completed: This is the name of the AWARDING firm. This must be the name of the company that hired the subcontractor shown in block 5. (For example, on the original contract, block 7a would reflect the Prime Contractor since they are AWARDING to their first subcontractor (who is in block 5). After the initial startup, frequently, it is a subcontractor that will be listed here and not the Prime.
- Block 7b: Must contain a description of the work to be performed (by the subcontractor in block 5. (Please note that the description must be in layman's terms, and may not simply state a particular section of the contract.)
- Block 8: Must be the name of the contract project as written in the Prime's Notice of Award. (May be abbreviated to fit in block.)
- Block 9: The location of the project. (Installation/Hospital/Facility, City and State)
- Blocks 10a, 10b, 11, and 12: Must always be completed by the Prime Contractor (or his/her **authorized** official) since it is the Prime who is ultimately responsible to ensure that the clauses (Shown in Part II, # 13) have be provided to the newly hired sub.

- Blocks 14 A-D. Enter one of the following:
 - None, if there are no lower tier subcontractors.
 - TBD (To Be Determined), if lower tier subcontractors have not been determined.
 - Once lower tier subcontractors have been determined, a new SF1413 will be required.

(List all known lower tier subcontractors. If more than 4, continue on a separate sheet of paper that has all the information from Section 1 included.)

- **EVERY contractor and subcontractor must complete and sign their own SF 1413.** ⁶
- Blocks 15a-17 Must be completed (name, title, signature and date) of the subcontractor listed in block 5.

⁶ Changed from “Leave Blank”, now block 14 must contain text.

Blank SF1413
Statement and Acknowledgement

STATEMENT AND ACKNOWLEDGMENT						OMB Control Number: 9000-0014 Expiration Date: 12/31/2017	
<small>PAPERWORK REDUCTION ACT STATEMENT: Public reporting burden for this collection of information is estimated to average .05 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspects of this collection of information, including suggestions for reducing this burden, to U.S. General Services Administration, Regulatory Secretariat (MVCB)/IC 9000-0014, Office of Governmentwide Acquisition Policy, 1800 F Street, NW, Washington, DC 20405.</small>							
PART I - STATEMENT OF PRIME CONTRACTOR							
1. PRIME CONTRACT NO.		2. DATE SUBCONTRACT AWARDED		3. SUBCONTRACT NUMBER			
4. PRIME CONTRACTOR				5. SUBCONTRACTOR			
a. NAME		a. NAME					
b. STREET ADDRESS		b. STREET ADDRESS					
c. CITY		d. STATE		e. ZIP CODE		c. CITY	
6. The prime contract <input type="checkbox"/> does, <input type="checkbox"/> does not contain the clause entitled "Contract Work Hours and Safety Standards Act – Overtime Compensation."							
7. The prime contractor states that under the contract shown in Item 1, a subcontract was awarded on the date shown in Item 2 to the subcontractor identified in item 5 by the following firm:							
a. NAME OF AWARDING FIRM							
b. DESCRIPTION OF WORK BY SUBCONTRACTOR							
8. PROJECT				9. LOCATION			
10a. NAME OF PERSON SIGNING		11. BY (Signature)				12. DATE SIGNED	
10b. TITLE OF PERSON SIGNING							
PART II - ACKNOWLEDGMENT OF SUBCONTRACTOR							
13. The subcontractor acknowledges that the following clauses of the contract shown in Item 1 are included in this subcontract:							
Contract Work Hours and Safety Standards Act - Overtime Compensation (If included in prime contract see Block 6) Payrolls and Basic Records Withholding of Funds Disputes Concerning Labor Standards Compliance with Construction Wage Rate Requirements and Related Regulations				Construction Wage Rate Requirements Apprentices and Trainees Compliance with Copeland Act Requirements Subcontracts (Labor Standards) Contract Termination - Debarment Certification of Eligibility			
14. NAME(S) OF ANY INTERMEDIATE SUBCONTRACTORS, IF ANY							
A		C					
B		D					
15a. NAME OF PERSON SIGNING		16. BY (Signature)				17. DATE SIGNED	
15b. TITLE OF PERSON SIGNING							

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Prescribed by GSA/FAR (48 CFR) 53.222(e)

SF1413 First Tier Example

STATEMENT AND ACKNOWLEDGMENT					OMB Control Number: 9000-0014 Expiration Date: 12/31/2017	
<p>PAPERWORK REDUCTION ACT STATEMENT: Public reporting burden for this collection of information is estimated to average .05 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspects of this collection of information, including suggestions for reducing this burden, to U.S. General Services Administration, Regulatory Secretariat (MVCB)/IC 9000-0014, Office of Governmentwide Acquisition Policy, 1800 F Street, NW, Washington, DC 20405.</p>						
PART I - STATEMENT OF PRIME CONTRACTOR						
1. PRIME CONTRACT NO. W912DQ-15-D-1234		2. DATE SUBCONTRACT AWARDED MM/DD/YYYY		3. SUBCONTRACT NUMBER CONTRACT NUMBER BETWEEN Prime and Sub		
4. PRIME CONTRACTOR				5. SUBCONTRACTOR		
a. NAME PRIME CONTRACT INFO				a. NAME SUB CONTRACTOR INFO		
b. STREET ADDRESS PRIME CONTRACT INFO				b. STREET ADDRESS SUB CONTRACTOR INFO		
c. CITY PRIME CONTRACT INFO		d. STATE MO	e. ZIP CODE 12345-1234	c. CITY SUB CONTRACTOR INFO		e. ZIP CODE MO 12345-1234
6. The prime contract <input checked="" type="checkbox"/> does, <input type="checkbox"/> does not contain the clause entitled "Contract Work Hours and Safety Standards Act -- Overtime Compensation."						
7. The prime contractor states that under the contract shown in Item 1, a subcontract was awarded on the date shown in Item 2 to the subcontractor identified in item 5 by the following firm:						
a. NAME OF AWARDING FIRM SUBCONTRACTOR NAME						
b. DESCRIPTION OF WORK BY SUBCONTRACTOR BRIEF DESCRIPTION OF THE WORK BEING PERFORMED BY THE SUBCONTRACTOR IN BLOCK 5a						
8. PROJECT Name Of The Contract Project As Listed In The Original Notice Of Award To The Prime Contractor				9. LOCATION City, County, State That Work Is Being Performed		
10a. NAME OF PERSON SIGNING Name of Prime Contract Official		<i>Prime Contractor Official Signature</i>			12. DATE SIGNED mm/dd/yyyy	
10b. TITLE OF PERSON SIGNING Title of Prime Contract Official						
PART II - ACKNOWLEDGMENT OF SUBCONTRACTOR						
13. The subcontractor acknowledges that the following clauses of the contract shown in Item 1 are included in this subcontract:						
Contract Work Hours and Safety Standards Act - Overtime Compensation (If included in prime contract see Block 6)			Construction Wage Rate Requirements Apprentices and Trainees			
Payrolls and Basic Records			Compliance with Copeland Act Requirements			
Withholding of Funds			Subcontracts (Labor Standards)			
Disputes Concerning Labor Standards			Contract Termination - Debarment			
Compliance with Construction Wage Rate Requirements and Related Regulations			Certification of Eligibility			
14. NAME(S) OF ANY INTERMEDIATE SUBCONTRACTORS, IF ANY						
A	Enter Names or "None" here if there are none			C	Enter Names or "None" here if there are none	
B	Enter Names or "None" here if there are none			D	Enter Names or "None" here if there are none	
15a. NAME OF PERSON SIGNING Sub Contractor Official (same as in block 5)			<i>Subcontractor 1 Official Signature</i>		17. DATE SIGNED mm/dd/yyyy	
15b. TITLE OF PERSON SIGNING Sub Contractor Official						
<p>AUTHORIZED FOR LOCAL REPRODUCTION PREVIOUS EDITION IS NOT USABLE</p> <p style="text-align: right;">STANDARD FORM 1413 (REV. 4/2013) Prescribed by GSA/FAR (48 CFR) 53.222(e)</p>						

SF1413 Second and Further Tier Example

STATEMENT AND ACKNOWLEDGMENT						OMB Control Number: 9000-0014 Expiration Date: 12/31/2017	
<small>PAPERWORK REDUCTION ACT STATEMENT: Public reporting burden for this collection of information is estimated to average .05 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspects of this collection of information, including suggestions for reducing this burden, to U.S. General Services Administration, Regulatory Secretariat (MVCB)/IC 9000-0014, Office of Governmentwide Acquisition Policy, 1800 F Street, NW, Washington, DC 20405.</small>							
PART I - STATEMENT OF PRIME CONTRACTOR							
1. PRIME CONTRACT NO.		2. DATE SUBCONTRACT AWARDED		3. SUBCONTRACT NUMBER			
W912DQ-15-D-1234		MM/DD/YYYY		CONTRACT NUMBER BETWEEN Sub 1 and Sub 2			
4. PRIME CONTRACTOR				5. SUBCONTRACTOR			
a. NAME PRIME CONTRACT INFO				a. NAME SUB CONTRACTOR 2 INFO			
b. STREET ADDRESS PRIME CONTRACT INFO				b. STREET ADDRESS SUB CONTRACTOR 2 INFO			
c. CITY PRIME CONTRACT INFO		d. STATE MO	e. ZIP CODE 12345-1234	c. CITY SUB CONTRACTOR2 INFO		d. STATE MO	e. ZIP CODE 12345-1234
6. The prime contract <input checked="" type="checkbox"/> does, <input type="checkbox"/> does not contain the clause entitled "Contract Work Hours and Safety Standards Act -- Overtime Compensation."							
7. The prime contractor states that under the contract shown in Item 1, a subcontract was awarded on the date shown in Item 2 to the subcontractor identified in item 5 by the following firm:							
a. NAME OF AWARING FIRM SUBCONTRACTOR NAME (1st tier)							
b. DESCRIPTION OF WORK BY SUBCONTRACTOR BRIEF DESCRIPTION OF THE WORK BEING PERFORMED BY THE SUBCONTRACTOR IN BLOCK 5a							
8. PROJECT Name Of The Contract Project As Listed In The Original Notice Of Award To The Prime Contractor				9. LOCATION City, County, State That Work Is Being Performed			
10a. NAME OF PERSON SIGNING Name of Prime Contract Official		11. BY (Signature) <i>Prime Contractor Official</i>			12. DATE SIGNED mm/dd/yyyy		
10b. TITLE OF PERSON SIGNING Title of Prime Contract Official							
PART II - ACKNOWLEDGMENT OF SUBCONTRACTOR							
13. The subcontractor acknowledges that the following clauses of the contract shown in Item 1 are included in this subcontract:							
Contract Work Hours and Safety Standards Act - Overtime Compensation (If included in prime contract see Block 6)				Construction Wage Rate Requirements			
Payrolls and Basic Records				Apprentices and Trainees			
Withholding of Funds				Compliance with Copeland Act Requirements			
Disputes Concerning Labor Standards				Subcontracts (Labor Standards)			
Compliance with Construction Wage Rate Requirements and Related Regulations				Contract Termination - Debarment			
				Certification of Eligibility			
14. NAME(S) OF ANY INTERMEDIATE SUBCONTRACTORS, IF ANY							
A Enter Names or "None" here if there are none		C Enter Names or "None" here if there are none		B Enter Names or "None" here if there are none		D Enter Names or "None" here if there are none	
15a. NAME OF PERSON SIGNING Sub 2 Contractor Official (same as in block 5)		15. BY (Signature) <i>Subcontractor 2 Official</i>			17. DATE SIGNED mm/dd/yyyy		
15b. TITLE OF PERSON SIGNING Sub 2 Contractor Official							
AUTHORIZED FOR LOCAL REPRODUCTION PREVIOUS EDITION IS NOT USABLE				STANDARD FORM 1413 (REV. 4/2013) Prescribed by GSA/FAR (48 CFR) 53.222(e)			

Certified Payroll Form WH-347

Wage and Hour Division (WHD)

Instructions For Completing Payroll Form, WH-347

General: Form WH-347 has been made available for the convenience of contractors and subcontractors required by their Federal or Federally-aided construction-type contracts and subcontracts to submit weekly payrolls. Properly filled out, this form will satisfy the requirements of Regulations, Parts 3 and 5 (29 C.F.R., Subtitle A), as to payrolls submitted in connection with contracts subject to the Wage Rates Requirements (construction) (Formerly Davis-Bacon and related Acts).

While completion of Form WH-347 is optional, it is mandatory for covered contractors and subcontractors performing work on Federally financed or assisted construction contracts to respond to the information collection contained in 29 C.F.R. §§ 3.3, 5.5(a). The Copeland Act (40 U.S.C. § 3145) requires contractors and subcontractors performing work on Federally financed or assisted construction contracts to "furnish weekly a statement with respect to the wages paid each employee during the preceding week." U.S. Department of Labor (DOL) Regulations at 29 C.F.R. § 5.5(a)(3)(ii) require contractors to submit weekly a copy of all payrolls to the Federal agency contracting for or financing the construction project, accompanied by a signed "Statement of Compliance" indicating that the payrolls are correct and complete and that each laborer or mechanic has been paid not less than the proper Davis-Bacon prevailing wage rate for the work performed. DOL and federal contracting agencies receiving this information review the information to determine that employees have received legally required wages and fringe benefits.

Under the Davis-Bacon and related Acts, the contractor is required to pay not less than prevailing wage, including fringe benefits, as predetermined by the Department of Labor. The contractor's obligation to pay fringe benefits may be met either by payment of the fringe benefits to bona fide benefit plans, funds or programs or by making payments to the covered workers (laborers and mechanics) as cash in lieu of fringe benefits.

This payroll provides for the contractor to show on the face of the payroll all monies to each worker, whether as basic rates or as cash in lieu of fringe benefits, and provides for the contractor's representation in the statement of compliance on the payroll (as shown on page 2) that he/she is paying for fringe benefits required by the contract and

not paid as cash in lieu of fringe benefits. Detailed instructions concerning the preparation of the payroll follow:

Contractor or Subcontractor: Fill in your firm's name and check appropriate box.

Address: Fill in your firm's address.

Payroll No.: Beginning with the number "1", list the payroll number for the submission.

For Week Ending: List the workweek ending date.

Project and Location: Self-explanatory.

Project or Contract No.: Self-explanatory.

Column 1 - Name and Individual Identifying Number of Worker: Enter each worker's full name and an individual identifying number (e.g., last four digits of worker's social security number) on each weekly payroll submitted.

Column 2 - No. of Withholding Exemptions: This column is merely inserted for the employer's convenience and is not a requirement of Regulations, Part 3 and 5.

Column 3 - Work Classifications: List classification descriptive of work actually performed by each laborer or mechanic. Consult classification and minimum wage schedule set forth in contract specifications. If additional classifications are deemed necessary, see Contracting Officer or Agency representative. An individual may be shown as having worked in more than one classification provided an accurate breakdown of hours worked in each classification is maintained and shown on the submitted payroll by use of separate entries.

Column 4 - Hours worked: List the day and date and straight time and overtime hours worked in the applicable boxes. On all contracts subject to the Contract Work Hours Standard Act, enter hours worked in excess of 40 hours a week as "overtime".

Column 5 - Total: Self-explanatory

Column 6 - Rate of Pay (Including Fringe Benefits): In the "straight time" box for each worker, list the actual hourly rate paid for straight time worked, plus cash paid in lieu of fringe benefits paid. When recording the straight time hourly rate, any cash paid in lieu of fringe benefits may be shown separately from the basic rate. For example, "\$12.25/.40" would reflect a \$12.25 base hourly rate plus \$0.40 for fringe benefits. This is of assistance in correctly computing overtime. See "Fringe Benefits" below. When overtime is worked, show the overtime hourly rate paid plus any cash in lieu of fringe benefits paid in the "overtime" box for each worker; otherwise, you may skip this box. See "Fringe Benefits" below. Payment of not less than time and one-half the basic or regular rate paid is required for overtime under the Contract Work Hours Standard Act of 1962 if the

prime contract exceeds \$100,000. In addition to paying no less than the predetermined rate for the classification which an individual works, the contractor must pay amounts predetermined as fringe benefits in the wage decision made part of the contract to approved fringe benefit plans, funds or programs or shall pay as cash in lieu of fringe benefits. See "FRINGE BENEFITS" below.

Column 7 - Gross Amount Earned: Enter gross amount earned on this project. If part of a worker's weekly wage was earned on projects other than the project described on this payroll, enter in column 7 first the amount earned on the Federal or Federally assisted project and then the gross amount earned during the week on all projects, thus "\$163.00/\$420.00" would reflect the earnings of a worker who earned \$163.00 on a Federally assisted construction project during a week in which \$420.00 was earned on all work.

Column 8 - Deductions: Five columns are provided for showing deductions made. If more than five deduction are involved, use the first four columns and show the balance deductions under "Other" column; show actual total under "Total Deductions" column; and in the attachment to the payroll describe the deduction(s) contained in the "Other" column. All deductions must be in accordance with the provisions of the Copeland Act Regulations, 29 C.F.R., Part 3. If an individual worked on other jobs in addition to this project, show actual deductions from his/her weekly gross wage, and indicate that deductions are based on his gross wages.

Column 9 - Net Wages Paid for Week: Self-explanatory.

Totals - Space has been left at the bottom of the columns so that totals may be shown if the contractor so desires.

Statement Required by Regulations, Parts 3 and 5: While the "statement of compliance" need not be notarized, the statement (on page 2 of the payroll form) is subject to the penalties provided by 18 U.S.C. § 1001, namely, a fine, possible imprisonment of not more than 5 years, or both. Accordingly, the party signing this statement should have knowledge of the facts represented as true.

Items 1 and 2: Space has been provided between items (1) and (2) of the statement for describing any deductions made. If all deductions made are adequately described in the "Deductions" column above, state "See Deductions column in this payroll." See "FRINGE BENEFITS" below for instructions concerning filling out paragraph 4 of the statement.

Item 4 FRINGE BENEFITS - Contractors who pay all required fringe benefits: If paying all fringe benefits to approved plans, funds, or programs in amounts not less than were determined in the applicable wage decision of the Secretary of Labor, show the basic cash hourly rate and overtime rate paid to each worker on the face of the payroll and

check paragraph 4(a) of the statement on page 2 of the WH-347 payroll form to indicate the payment. Note any exceptions in section 4(c).

Contractors who pay no fringe benefits: If not paying all fringe benefits to approved plans, funds, or programs in amounts of at least those that were determined in the applicable wage decision of the Secretary of Labor, pay any remaining fringe benefit amount to each laborer and mechanic and insert in the "straight time" of the "Rate of Pay" column of the payroll an amount not less than the predetermined rate for each classification plus the amount of fringe benefits determined for each classification in the application wage decision. Inasmuch as it is not necessary to pay time and a half on cash paid in lieu of fringe benefits, the overtime rate shall be not less than the sum of the basic predetermined rate, plus the half time premium on basic or regular rate, plus the required cash in lieu of fringe benefits at the straight time rate. In addition, check paragraph 4(b) of the statement on page 2 the payroll form to indicate the payment of fringe benefits in cash directly to the workers. Note any exceptions in section 4(c).

Use of Section 4(c), Exceptions

Any contractor who is making payment to approved plans, funds, or programs in amounts less than the wage determination requires is obliged to pay the deficiency directly to the covered worker as cash in lieu of fringe benefits. Enter any exceptions to section 4(a) or 4(b) in section 4(c). Enter in the Exception column the craft, and enter in the Explanation column the hourly amount paid each worker as cash in lieu of fringe benefits and the hourly amount paid to plans, funds, or programs as fringe benefits. The contractor must pay an amount not less than the predetermined rate plus cash in lieu of fringe benefits as shown in section 4(c) to each such individual for all hours worked (unless otherwise provided by applicable wage determination) on the Federal or Federally assisted project. Enter the rate paid and amount of cash paid in lieu of fringe benefits per hour in column 6 on the payroll. See paragraph on "Contractors who pay no fringe benefits" for computation of overtime rate.

Blank WH-347 Certified Payroll Form Page 2

(b) WHERE FRINGE BENEFITS ARE PAID IN CASH

- Each laborer or mechanic listed in the above referenced payroll has been paid, as indicated on the payroll, an amount not less than the sum of the applicable basic hourly wage rate plus the amount of the required fringe benefits as listed in the contract, except as noted in section 4(c) below.

(d) EXCEPTIONS

EXCEPTION (CRAFT)	EXPLANATION

REMARKS:

NAME AND TITLE	SIGNATURE
THE WHOLE, FALSIFICATION OF ANY OF THE ABOVE STATEMENTS MAY SUBJECT THE CONTRACTOR OR SUBCONTRACTOR TO CIVIL OR CRIMINAL PROSECUTION. SEE SECTION 1001 OF TITLE 18 AND SECTION 201 OF TITLE 31 OF THE UNITED STATES CODE.	

Date _____
 I, _____ (Name of Signatory Party) _____ (Title)
 do hereby state:

(1) That I pay or supervise the payment of the persons employed by _____ (Contractor or Subcontractor) _____ on the _____ (Building or Work) _____; that during the payroll period commencing on the _____ day of _____, and ending the _____ day of _____, all persons employed on said project have been paid the full weekly wages earned, that no rebates have been or will be made either directly or indirectly to or on behalf of said _____ (Contractor or Subcontractor) _____ from the full weekly wages earned by any person and that no deductions have been made either directly or indirectly from the full wages paid by any person, other than permissible deductions as defined in Regulations 201 CFR 54.101-10, issued by the Secretary of Labor under the Copeland Act, as amended (48 Stat. 948, 63 Stat. 108, 72 Stat. 967, 76 Stat. 307, 40 U.S.C. § 3145), and described below.

(2) That any payrolls otherwise under this contract required to be submitted for the above period are correct and complete; that the wage rates for laborers or mechanics contained therein are not less than the applicable wage rates contained in any wage determination incorporated into the contract; that the classifications set forth therein for each laborer or mechanic conform with the work he performed.

(3) That any apprentices employed in the above period are duly registered in a bona fide apprenticeship program registered with a State apprenticeship agency recognized by the Bureau of Apprenticeship and Training, United States Department of Labor, or if no such recognized agency exists in a State, are registered with the Bureau of Apprenticeship and Training, United States Department of Labor.

(4) That:
 (a) WHERE FRINGE BENEFITS ARE PAID TO APPROVED PLANS, FUNDS, OR PROGRAMS
 - In addition to the basic hourly wage rates paid to each laborer or mechanic listed in the above referenced payroll, payments of fringe benefits as listed in the contract have been or will be made to appropriate programs for the benefit of such employees, except as noted in section 4(c) below.

Restitution Requirements

The following procedures cover the requirements for restitution of minimum wages payable in accordance with the applicable Davis-Bacon wage determination. These requirements cover all restitution to be paid by a contractor, regardless of the action that prompted it.

1. A fully completed restitution package shall consist of the following items:
 - a. Employee Restitution /Receipt
 - i. Must be fully completed. A separate worksheet is required for each worker in which an underpayment was made. Up to 6 pay periods can be entered on one sheet
 - ii. Must be signed by employee
 - iii. Must be signed by **authorized** representative
 - b. Copy of restitution check (or other bona fide proof of payment if your company does not issue paper checks.) ⁷ **IMPORTANT:** Contractors cannot combine restitution with any other pay received. Restitution must be made on a separate check or spate electronic deposit. In addition, checks shall clearly indicate that it is for the purpose of restitution and should list the project name and project number. One single check can be used to provide restitution for multiple pay periods as long as totals indicated on the worksheets equal the check amount.
2. Completed restitution packages must be given to the Corps Of Engineers site office and a copy must be mailed to the District Labor Relations Advisor:

Dale E. Coleman, Labor Relations Advisor
U. S. Army Corps of Engineers
Office of Counsel, Rm 665
601 E. 12th St
Kansas City, MO 64106

Additional Notes:

- Subcontractor Certification of Restitution Payment: This can only be signed by a person who has **written designated authority** from the president or vice president of the company. ⁸
- An Excel spreadsheet version of the Restitution Receipt is available for use by contacting the District Labor Relations Advisor

If you have any questions regarding restitution payments, please contact the local U.S. Army Corps of Engineers Office responsible for administering your contract or the Labor Advisor at 251-690-2479.

⁷ Statement regarding usage of “Other boni fide proof” added since last version

⁸ Note on “designated authority” added since last version.

Employee Restitution Form

EMPLOYEE RESTITUTION RECEIPT								
Prime Contractor (Name & Address)				Subcontractor (Name & Address)				
COE Office: _____			Wage Determination #: _____					
Contract #: _____			Wage Determination Date: _____					
Project: _____								
Employee Name & ID #: _____								
Week Ending Date	Work Classification	Hours Worked	Wages Paid			Davis Bacon Rates Due		
			Hourly Rate	Hourly Fringe to Cash	Hourly Fringe To Plans	Hourly Rate	Hourly Fringe to Cash	Hourly Fringe To Plans
		Straight						
		Overtime						
		Straight						
		Overtime						
		Straight						
		Overtime						
		Straight						
		Overtime						
		Straight						
		Overtime						
		Straight						
		Overtime						
WAGES PAID & DUE TO EMPLOYEE								
Amount of gross wages earned from hours indicated above:							\$0.00	
Amount of gross wages ACTUALLY paid for hours indicated above:							\$0.00	
GROSS AMOUNT OF RESTITUTION DUE:							_____	
LESS FEDERAL & STATE INCOME TAX WITHHOLDING								
Less FICA (Social Security & Medicare):								
Less Federal Withholding:								
Less State Withholding:								
Less Other Deductions:								
NET RESTITUTION AMOUNT DUE EMPLOYEE:							_____	
RESTITUTION CHECK INFORMATION								
Net restitution paid to employee via check # _____				Dated: _____				
The above represents full restitution for the hours worked as indicated above.								
Signature of Employee & Date								
SUBCONTRACTOR CERTIFICATION OF RESTITUTION PAYMENT								
As a representative of the above named contractor, I do hereby certify that payment has been made to the above employee for wages due as indicated above. A copy of the Bank Cleared restitution check is attached.								
Representative Name: _____								
Representative Title: _____								
Representative Signature _____			Date: _____					

Onsite Labor Interview Form SF 1445

LABOR STANDARDS INTERVIEW						
CONTRACT NUMBER		EMPLOYEE INFORMATION				
NAME OF PRIME CONTRACTOR		LAST NAME	FIRST NAME	MI		
NAME OF EMPLOYER		STREET ADDRESS				
SUPERVISOR'S NAME		CITY	STATE	ZIP CODE		
LAST NAME	FIRST NAME	MI	WORK CLASSIFICATION	WAGE RATE		
ACTION					CHECK BELOW	
					YES	NO
Do you work over 8 hours per day?					<input type="checkbox"/>	<input type="checkbox"/>
Do you work over 40 hours per week?					<input type="checkbox"/>	<input type="checkbox"/>
Are you paid at least time and a half for overtime hours?					<input type="checkbox"/>	<input type="checkbox"/>
Are you receiving any cash payments for fringe benefits required by the posted wage determination decision?					<input type="checkbox"/>	<input type="checkbox"/>
WHAT DEDUCTIONS OTHER THAN TAXES AND SOCIAL SECURITY ARE MADE FROM YOUR PAY?						
HOW MANY HOURS DID YOU WORK ON YOUR LAST WORK DAY BEFORE THIS INTERVIEW?		TOOLS YOU USE				
DATE OF LAST WORK DAY BEFORE INTERVIEW (YYMMDD)						
DATE YOU BEGAN WORK ON THIS PROJECT (YYMMDD)						
THE ABOVE IS CORRECT TO THE BEST OF MY KNOWLEDGE						
EMPLOYEE'S SIGNATURE		SIGNATURE			DATE (YYMMDD)	
INTERVIEWER	SIGNATURE	TYPED OR PRINTED NAME			DATE (YYMMDD)	
INTERVIEWER'S COMMENTS						
WORK EMPLOYEE WAS DOING WHEN INTERVIEWED		ACTION (if explanation is needed, use comments section)		YES	NO	
		IS EMPLOYEE PROPERLY CLASSIFIED AND PAID?		<input type="checkbox"/>	<input type="checkbox"/>	
		ARE WAGE RATES AND POSTERS DISPLAYED?		<input type="checkbox"/>	<input type="checkbox"/>	
FOR USE BY PAYROLL CHECKER						
IS ABOVE INFORMATION IN AGREEMENT WITH PAYROLL DATA?						
<input type="checkbox"/> YES <input type="checkbox"/> NO						
COMMENTS						
CHECKER						
LAST NAME	FIRST NAME	MI	JOB TITLE			
SIGNATURE		SIGNATURE			DATE (YYMMDD)	

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Acronyms

BAT	Bureau of Apprenticeship and Training
CFR	Code of Federal Regulations
COE	Corps of Engineers
CPR	Certified Payroll Report
CWHSSA	Contract Work Hours and Safety Standards Act
DBA	Davis-Bacon Act
DBRA	Davis-Bacon and Related Acts
DOL	Department of Labor
FLSA	Fair Labor Standards Act
OFCCP	Office of Federal Contract Compliance Program
O/T	Overtime
RE	Resident Engineer
S/T	Straight-time

Wage Rate Requirements (Construction) (Davis-Bacon) Related Web Sites

As of March 2014

DOL Davis-Bacon and Related Acts Homepage: www.dol.gov

Davis-Bacon Wage Determinations: www.wdol.gov Wage decisions, Labor Regulations, Contract Clauses, etc.

Forms:

WH-347 (payroll form): <http://www.dol.gov/whd/programs/dbra/wh347.htm>

SF 1444, Request for Additional Classification and Rate:
<http://www.dol.gov/whd/recovery/dbsurvey/conformance.htm>

SF 1413, Statement and Acknowledgement:
<http://www.gsa.gov/portal/forms/download/115794>

Significant Updates to This Handbook

(Note: All updates are indicated by footnotes even if not on this list)

<u>UPDATED</u>	<u>CONTENT ADDED / DELETED / MODIFIED</u>
July 2012	Checklist for SF 1444 (Additional Classification Request)
Jan 2013	Far Reference for submission of SF 1413 BY ALL LEVELS OF SUBCONTRACTORS. (pg 8, #10)
Jan 2013	Added: Additional comments as to the distribution of the "Restitution Worksheet" and documentation. (pages 21 & 54)
Apr 2013	PAYROLL AND BASIC RECORDS section. Added additional comments regarding payroll submission deadlines. (page 8)
Apr 2013	Added statement regarding electronic or other non-paper submission of payrolls and Statement of Compliance (page 9)
Apr 2013	New section on 1099 employees on payrolls (pages 17-18)
Apr 2013	Added requirement regarding Statement of Compliance and Fringe Benefits (page 14)
March 2014	Change to block 14 of SF 1413 (pages 38-39)
March 2014	Changes in format of WH347 (Payroll form) instructions (page 46-52)
March 2014	Deleted expired form 879 Statement of Compliance
March 2014	Changes in the Restitution Worksheet and instruction (page 54-56)
March 2014	Added segments on "Onsite Labor Interviews" (pages 21-22 & 58)
June 2015	Updated SF 1413 WH 347 and SF 1444 to new forms
June 2015	Removed form expiration dates from text
Jan 2016	Added Positive Law Codification section. Updated text with new titles of laws and standards
Jan 2016	Updated web links to related web sites.

