CHAPTER 7
DAVIS-BACON LABOR STANDARDS

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CHAPTER 7
DAVIS-BACON LABOR STANDARDS

7.0 Introduction

This chapter offers a brief description of the laws and regulations associated with federal labor standards administration and enforcement, including TxCDBG contract requirements for Davis-Bacon compliance and responsibilities of the Grant Recipient.

This chapter refers to HUD Handbook 1344.1. Information about each requirement can be found on HUD's website at the following link:

https://portal.hud.gov/hudportal/HUD?src=/program_offices/administration/hudclips/handbooks/sech/13441 .

Title I of the Housing and Community Development Act of 1974 requires the payment of Davis-Bacon Act prevailing wage rates (which are determined by the U.S. Department of Labor) to all workers on CDBG construction projects in excess of $2,000. (42 USC §5310; 40 USC 3142(d)). For assistance in determining whether Davis-Bacon wage rates apply to a particular project, please see the Davis-Bacon Coverage Chart **(Form A711)** or contact TDA. **These requirements apply regardless of whether or not the contract was acquired through the sealed bid, small purchase, or non-competitive proposals (sole source) procurement process.**

> **Even if** CDBG funds finance only a **portion** of a construction contract, Davis-Bacon requirements still apply to the **entire** construction contract.

Activities financed by CDBG that are not "construction work" do not trigger Davis-Bacon requirements, for example:

- Real property acquisition;
- Architectural and engineering fees;
- Other professional services (legal, accounting, testing******); and
- Other non-construction items (furniture, business licenses, real estate taxes).

(****Note:** Drilling a test well can be considered either a component of construction or a professional service. To determine if Davis-Bacon applies to a test well, please refer to DOL Field Operations handbook, 15d05, for additional guidance.**)**

7.1 Objectives of Davis-Bacon

The following five key labor standard objectives must be accomplished by the Grant Recipient and/or TDA in order to administer and enforce Davis-Bacon requirements and protect workers' rights.
All Labor related materials must be sent to the Labor's Inbox Labors@TexasAgriculture.gov**.** To ensure that labor materials are processed timely, do not submit to general inbox for a contract specialist or other party.

Objectives for Davis-Bacon Labor Standards Compliance

1. Apply Davis-Bacon requirements properly.
2. Support Grant Recipient compliance with labor standards through education and advice.
3. Monitor Grant Recipient performance.

4. Investigate probable violations and complaints of underpayment.
5. Pursue debarment and other available sanctions against repeat labor standards violators.

By executing the TxCDBG contract, Grant Recipients have agreed to administer and enforce Davis-Bacon requirements and have accepted the responsibilities described in this chapter.

7.2 Procedures for Labor Standards Compliance

A construction project covered by Federal labor standards requires a series of specific actions by labor standards personnel **prior to the actual start of construction**.

STEP 1 Designate an LSO for the project.
Submit the *Appointment of Labor Standards Officer (LSO)* **(Form A701)** by email to Labors@TexasAgriculture.gov.

The LSO is responsible for the proper administration and enforcement of the Federal labor standards provisions on contracts covered by Davis-Bacon requirements. Tasks include:

- Providing labor standards preconstruction advice and support to the Grant Recipient and other project principals (for example, the owner, sponsor, architect), including ensuring that no prime or sub-contract is awarded to a contractor that is ineligible (i.e., debarred) for federally-assisted work;
- Providing the proper Davis-Bacon wage decision and ensuring that the wage decision and contract clauses are incorporated into the contract for construction and any sub-contracts;
- Monitoring labor standards compliance by conducting interviews with construction workers at the job site, reviewing payroll reports; and ensuring that the applicable Davis-Bacon wage decision and the Department of Labor's "Notice to All Employees" are posted at the job site; and
- Overseeing any enforcement actions that may be required.

The LSO may be an employee of a city or county or a private consulting firm. An LSO is required for all grant contracts with construction activities, including those with force account approval.

STEP 2 Obtain an applicable Wage Decision for the project.
Wage decisions:

- Are established by the U.S. Department of Labor (DOL);
- List construction work classifications (such as Carpenter, Electrician, Plumber, Laborer, etc.) and the minimum wage rates, and fringe benefits where prevailing, that people performing work in those classifications must be paid;
- Are categorized into four groups (Heavy, Highway, Building, and Residential Construction);
- Apply to specific geographic areas, usually a county or group of counties; and
- Are modified from time to time to keep them current.

The LSO must obtain the applicable wage decision from the Department of Labor's website at www.wdol.gov for all construction contracts where Davis-Bacon and Related Acts (DBRA) applies that are greater than $2,000. The LSO must complete the *Wage Rate Issuance Notice* **(Form A702)** and retain a copy in the contract file. The date the wage rates were issued must be recorded on the *Ten Day Confirmation* (**Form A703).**

WAGE RATE CLASSIFICATIONS

The following descriptions and illustrations are provided as guidelines. The advertised and contract specifications should identify as specifically as possible the segments of work to which the schedules will apply.

HIGHWAY CONSTRUCTION -- Highway projects include the construction, alteration or repair of roads, streets, highways, runways, taxiways, alleys, trails, sidewalks, paths, parking areas, and other similar projects not incidental to building or heavy construction.

BUILDING CONSTRUCTION -- Building construction generally is the construction of sheltered enclosures with walk-in access for the purpose of housing persons, machinery, equipment, or supplies. It includes all construction such as structures, residential structures greater than four(4) stories, the installation of utilities and the installation of equipment, both above and below grade level, as well as incidental grading, utilities and paving. Additionally, such structures need not be "habitable" to be building construction. The installation of heavy machinery and/or equipment does not generally change the project's character as a building.

RESIDENTIAL CONSTRUCTION -- Residential projects for Davis-Bacon purposes are those involving the construction, alteration, or repair of single family houses or apartment buildings of no more than four (4) stories in height. This includes all incidental items such as site work, parking areas, utilities, streets and sidewalks.

HEAVY CONSTRUCTION -- Heavy projects are those projects that are not properly classified as either building, highway or residential. Unlike these classifications, heavy construction is not a consistent classification. Because of this catch-all nature, projects within the heavy classification may sometimes be distinguished on the basis of their particular project characteristics, and separate schedules issued. For example, separate schedules may be issued for dredging projects, water and sewer line projects, dams, major bridges, and flood control projects.

STEP 3 Include the wage decision in the bid documents

If the construction work will be procured through competitive bidding (either sealed bids or small purchase procurement), the wage decision (and any modifications) must be included in the bid package. See **Chapter 5: Procurement Procedures** for more information on the bid process and documents. Review the various Wage Decisions for each county and choose the one that is appropriate for the work to be done. The types of work and the locations where these decisions are applicable are listed in the first paragraphs of the decision.

STEP 4 Ensure that the wage decision is current before bid opening.

The LSO must confirm that the wage decision in the bid specifications for construction contracts in excess of $2,000 is still current for the bid opening date. The LSO must submit a completed *Ten Day Confirmation* **(Form A703)** no more than ten, but not less than five, days prior to the bid opening. If the LSO submits a Ten Day Confirmation less than five days prior to bid opening or requests for quotes, then the contractor could be responsible for the new wage decision if it is discovered that the decision changed. This could require the Grant Recipient/Contractor to repeat the bidding process. TDA considers 5 or more days prior to bid opening to be a "reasonable amount of time" to notify prospective bidders. HUD handbook 1344.1 (3-10(A)).

- A completed *Ten Day Confirmation* (also known as "Ten Day Call") (**Form A703),** signed by TDA's TxCDBG Labor Standards Officer, and a copy of the current wage decision must be retained in the local files with other labor standards documentation.
- The date the wage rates were confirmed by TDA's TxCDBG Labor Standards Specialist must be recorded on the Financial Interest Report (FIR)(Form A503).
- The Ten Day Confirmation does NOT "lock in" wage rates. Wage rates may be modified until bids are open. If TDA is notified of any changes to this confirmed wage rate prior to the bid opening, and if the agency finds that there is sufficient time to notify bidders of the change, TDA's TxCDBG Labor Standards Officer will notify the local LSO that the modified wage decision must be included in the bid and contract documents.

- If the construction contract is to be procured through means other than sealed bids, then the "**Bid Open Date**" on the **Form A703** is the due date for Requests for Quotes on the work to be done. This date is necessary to determine wage rate compliance and must be reported on the Semi-Annual report that goes to HUD and DOL. At minimum the Grant Recipient is required to confirm wages prior to the due date for the Quotes. Failure to comply with this process constitutes an unresolvable finding and costs may be disallowed.

STEP 5 Check the recommended construction contractor for eligibility status.

The LSO must verify prior to awarding and executing the construction contract that all prime contractors (and their subcontractors) are not listed as "debarred" in the System for Award Management (SAM) https://www.sam.gov/portal/public/SAM/.

- The LSO must print a record of the verification from the SAM website and retain a copy in the local files.
- The date the contractor is "cleared" must be recorded on the Financial Interest Report (FIR) (Form A503).

All contractors must be verified prior to being eligible for funding**.** Eligibility of all contractors must be verified through the SAM website prior to any formal action authorizing the award of the construction contract to the contractor.

STEP 6 Award the construction contract.

Each contract subject to Davis-Bacon labor standards requirements must include contract provisions containing labor standards clauses and a Davis-Bacon wage decision. A sample construction contract that may be used for TxCDBG projects can be found in **Appendix F**.
The labor standards clauses:

- Describe the responsibilities of the construction contractor concerning Davis-Bacon wages;
- Obligate the construction contractor to comply with the labor requirements;
- Provide for remedies in the event of violations, including withholding payments due to the construction contractor to ensure the payment of wages or liquidated damages; and
- Enable the LSO to enforce the Federal labor standards applicable to the project.
- Best Practice: Incorporate HUD Labor Standards Form 4010 in the construction contract and provide to contractor with preconstruction information. HUD Labor Standards Form 4010 –See Appendix A for link to form.

If the construction contract has not been awarded within 90 days after bid opening, any wage decision modification published prior to the award of the construction contract shall be effective for that construction contract.

<u>Additional Classification and Wage Rate</u>

The LSO may request an additional classification in writing through the *Request for Additional Classification and Rate* **(Form A705),** along with a copy of the applicable wage decision for that particular construction contract. The request will represent what the employer (prime contractor or subcontractor) wants to pay workers performing a particular set of duties and must meet the following U.S. Department of Labor (DOL) regulations:

1) The work to be performed by the additional classification is not performed by a classification already on the applicable wage decision;
2) The classification is used by the construction industry in the area of the project; and
3) The proposed wage rate and any fringe benefits bear a reasonable resemblance to the rates on the wage decision.

NOTE: As a general guide, 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. "Trade classifications" are generally all work classifications,

excluding Laborers, Truck Drivers, and Power Equipment Operators. Additional classifications proposed for Power Equipment Operators must specify the type(s) of power equipment involved and the proposed wage rate(s) must be at least as much as the lowest wage rate for any Power Equipment Operator that appears on the wage decision.

TDA's TxCDBG Labor Standards Officer will review the requested classification and wage rate to ensure that all required information is submitted.

- TDA's TxCDBG Labor Standards Officer will refer it to the DOL for final approval. The LSO will receive a copy of the final determination letter once the DOL has reviewed the request.
- If the DOL *does not* approve the request, the LSO will be notified about what classification and wage rate should be used for the work in question. The LSO will also receive instructions about how to ask for DOL reconsideration if the Grant Recipient would like to pursue the issue further.
- *The TxCDBG contract does not need to be held open if DOL has not responded before the close of the TxCDBG contract. The LSO will be informed of how to proceed if this does occur.*

STEP 7 Contractor Posts Wage Decision at the Job Site

The prime contractor must post a copy of the wage decision and a copy of the DOL Davis-Bacon poster entitled "Employee Rights under the Davis-Bacon Act" (See Appendix A for link to Form WH-1321) at the job site in a place that is easily accessible to all of the construction workers employed at the project. If the contractor requests additional classification(s) as described above, the contractor must also post the notice of the request and the associated wage decision on the job site.

STEP 8 Hold a preconstruction conference to explain labor standards.

A preconstruction conference by phone, conference call, or in person should be held with the engineer/architect, prime contractor, subcontractor(s), inspector(s), LSO, and all applicable utility companies prior to the start of construction. The Grant Recipient must document and retain preconstruction conference minutes, including a list of attendees and an outline of the required federal/state labor requirements (a sample checklist is included as **Form A704**).

The preconstruction conference should include:

- Advice to all parties regarding their responsibilities and obligations on a federally funded or federally assisted project;
- Discussion of applicable federal, state, local, and program guidelines;
- Discussion of all construction details, time frame of project, payment requirements, and labor standards;
- Delivery of all bonds and certificates of insurance to the Grant Recipient; and
- Delivery of all necessary General Wage Decisions, labor posters, and any additional classifications to the contractor along with instructions that will assist in completing the project.

The forms and posters must be posted by the contractor at the work site in a prominent and accessible place where the workers can easily read them. These posters are available from the HUD (Labor Standards and Enforcement) or DOL's websites.

STEP 9 See Ch. 5 - **Submit the Financial Interest Report (A503)**

[As of September 1, 2017, the updated Financial Interest Report (FIR) now includes information previously required in the Labor Standards Report (LSR) (former Form A706); the Labor Standards Report (LSR) is no longer a requirement. See Chapter 5 for details.]

STEP 10 Review project payrolls during construction.

The LSO or other designated inspector must conduct an on-site visit to the project site and interview some of the workers concerning their employment on the project. In addition, the LSO must periodically review payrolls and related submissions to ensure that the labor standards requirements

have been met. The LSO will notify the Grant Recipient if these reviews find any discrepancies or errors and will provide instructions about what steps must be taken to correct any problems.

On-site Interviews. Every employer (contractor, subcontractor, etc.) must make their employees available for interview at the job site with the LSO, TDA's TxCDBG representative, HUD representative or DOL representative.

- Employee Interviews should be representative of all classifications of employees on the project. The number and quality of interviews documented should reflect that the LSO is diligently ensuring that workers are paid at least minimum prevailing wage rates.
- For each prime contractor and each subcontractor, a minimum of 1 employee in each classification must be interviewed, with at least 25% of the total number of the employees interviewed.
- 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.
- Interview information must be recorded on the *Record of Employee Interview* **(Form A707)** or HUD FORM 11 available at http://portal.hud.gov/hudportal/documents/huddoc?id=11.pdf
- If employees are not available for interview during the LSO's on-site visit, the LSO must document the date of the on-site visit, the reason employees were not available, and the attempt to obtain the required information through other means, such as mailed questionnaires.

Project payroll reviews. A weekly certified payroll report for all prime and subcontractors must be completed and kept in the local contract files, beginning with the first week in which construction begins on the project and for every week after until the work is complete (unless construction is suspended with documentation). The LSO must review the payroll submissions to ensure that:

- Workers are properly listed on the payrolls for the days, work classification, and rate of pay (compare to interview forms);
- The payrolls are complete and signed;
- Employees are paid no less than the wage rate for the work classification shown;
- Apprentice and trainee certifications are submitted (where needed); and
- Employee authorizations for other deductions are submitted (where needed).

Form A708 is the suggested payroll format for TxCDBG projects. Employers may use any other type of payroll, such as computerized formats, as long as all required information from **Form A708** is included. See Appendix A for link to DOL's fillable WH- FORM 347.

STEP 11 Submit construction completion reports (COCC & FWCR)

Upon completion of the construction contract, after all work has been completed including punch list items, a final inspection must be conducted and all parties must agree that the work is acceptable.

- **A *Certificate of Construction Completion (COCC)* (Form A709)** is required for each prime construction contract and documents acceptance of the project by the Grant Recipient, engineer, and contractor.
- **A *Final Wage Compliance Report (FWCR)* (Form A710)** signed by the LSO is required for each prime construction contract subject to Davis-Bacon.

The COCC and FWCR must be received and approved prior to reimbursement of the final draw for each prime construction contract and the final engineering draw. Both documents are required to satisfy the construction contractor's obligations, and should therefore be completed prior to the Grant Recipient's payment of the final pay estimate.

Submit electronic copies of the COCC and the FWCR to: Labors@TexasAgriculture.gov**.**

7.2.1 Restitution for Underpayment of Wages.

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

Notification to the prime contractor

The LSO must notify the prime contractor in writing of any underpayments found during payroll or other reviews (**See Form A712**).

- The notice must 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.
- The prime contractor is responsible to the LSO for ensuring that restitution is paid. If the employer is a subcontractor, 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.

Overtime and underpayment

Overtime hours are defined as all hours worked on the work site in excess of 40 hours in any work week. Overtime hours must be paid at no less than one and one-half times the regular rate of basic pay plus the straight-time rate of any required fringe benefits. If the employees did not receive at least time and one-half for any overtime hours worked on the project, the following will occur:

- If the project is greater than $100,000 and is therefore subject to Contract Work Hours and Safety Standards Act (*CWHSSA) overtime* requirements, the employer will be asked to pay wage restitution for all overtime hours worked on the project.
- The employer will also be liable to the Department of Labor (DOL) for liquidated damages (overtime violation dollar penalty) computed at the current monetary penalty established by DOL for each calendar day on which an overtime violation occurred. DOL publishes adjustments to penalties not later than January 15 of every year in accordance with the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015. A table of DOL's current monetary penalties may be found at **https://www.dol.gov/whd/resources/cmp.htm**. Contact the Labor Specialist at TDA for further information.
- Once liquidated damages are computed, **the Grant Recipient shall notify the prime contractor in** writing of the fine and wage restitution owed. **A sample letter entitled *Notice of Determination to Assess Liquidated Damages* is provided (See Form A713).** A check (payable to TDA) in the amount of the liquidated damages should be forwarded to TDA to be processed for HUD.

> Employers are not required to submit checks (certified or otherwise) to TDA to correct underpayments. The employer reports and certifies restitution payments on a correction payroll, which is kept in local files.

- The employer may request a reduction or waiver of liquidated damages under one or both of the following reasons: 1) The computation of liquidated damages is incorrect; and/or 2) that the violation(s) occurred inadvertently notwithstanding the exercise of due care on the part of the employer. The employer's request must be made in writing within 60 days after the date of the notice and must explain the reason(s) why a reduction or waiver is warranted. See Form A714 for a sample of a waiver request. (HUD Handbook 1344.1 (5-12(B)).
- If Liquidated Damages are equal to or less than $100.00, the employer is encouraged to seek a reduction or waiver of liquidated damages.

Correction payrolls
The employer 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 is due 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 to be paid. A verified signed Payroll **(Form A708)** must be sent to the LSO.

Review of corrected payroll
The contractor administrator will review the corrected 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, and documented on a supplemental correction payroll, within 30 days.

Inability to locate worker
Sometimes wage restitution cannot be paid to an affected employee because, for example, the employee has moved and can't be located. In these cases, at the end of the project the prime contractor will be required to place in a deposit or escrow account an amount equal to the total amount of restitution that could not be paid because the employee(s) could not be located. The LSO will continue to attempt to locate workers entitled to restitution for 3 years after the completion of the project. After 3 years, any amount remaining in the account for workers restitution will be credited and/or forwarded by the LSO to TDA.

7.2.2 Labor Disputes

Administrative Review on Labor Standards Disputes
The labor standards clauses in the TxCDBG contract and DOL regulations provide for administrative review of issues by TDA where there is a difference of views between the LSO and any employer. The most common situations include:

Findings of underpayment Compliance reviews and other investigations may result in findings of underpayment. The employer will have an opportunity to provide additional information to the LSO that may explain apparent inconsistencies and/or resolve the discrepancies.

Withholding The LSO may cause withholding of payments due to the prime contractor to ensure the payment of wages which are believed to be due and unpaid, for example, if wage underpayments or other violations are not corrected within 30 days after notification to the prime contractor.

> 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.

Deposits and Escrows
If corrective actions or disputes continue after the project is completed, provisions must be made to ensure that funds are available to pay any wage restitution that is found due. In these cases, TDA allows the project to proceed to final closings and payments *provided* the prime contractor deposits an amount equal to the potential liability for wage restitution and liquidated damages, if necessary, in a special account. The deposit or escrow account is controlled by the LSO. When a final decision is rendered, the LSO makes disbursements from the account in accordance with the decision. Deposit/escrow accounts are established for one or more of the following reasons:

- Where the parties have agreed to amounts of wage restitution that are due *but* the employer has not yet furnished evidence that all of the underpaid workers have received their back wages. The deposit is equal to the amount of restitution due to workers not supported by

adequate documentation of payment. As proper documentation is received, amounts corresponding to the documentation are returned to the prime contractor. Amounts for any workers who cannot be located are held in the escrow account for three years and disbursed as described above (See Restitution on Underpayment of Wages).

- Where underpayments are suspected or alleged and an investigation has not yet been completed. The deposit is equal to the amount of wage restitution and any liquidated damages, if applicable, that is estimated to be due. If the final determination of wages due is less than the amount estimated and placed in the escrow account, the escrow will be reduced to the final amount and the difference will be returned to the prime contractor. If the parties agree to the investigative findings, the amounts due to the workers will be disbursed from the escrow account in accordance with the schedule of wages due. Amounts for unfound workers will be retained as described above. If the parties *do not* agree and an administrative hearing is requested, the escrow will be maintained as explained earlier.

- Where the parties are waiting for the outcome of an administrative hearing that has been or will be filed contesting a final determination of wages due. The deposit shall be equal to the amount of wage restitution and liquidated damages, if applicable, that have been determined due. Once a final decision is rendered, disbursements from the escrow account are made in accordance with the decision.

Debarment
Contractors and/or subcontractors that are found by the Secretary of Labor to be in aggravated or willful violation of the labor standards provisions of the Davis-Bacon and Related Acts (DBRA) will be ineligible (debarred) to participate in any DBRA contracts for up to 3 years. Debarment includes the contractor or subcontractor and any firm, corporation, partnership or association in which the contractor or subcontractor has a substantial interest. Debarment proceedings can be recommended by the LSO or can be initiated by the DOL on its motion. Debarment proceedings are described at 29 CFR 5.12.

7.3 Exemptions

The following contracts and activities are exempt from Davis-Bacon requirements except where indicated:

NOTE: The Fair Labor Standards Act (FLSA) is usually applicable, whether or not the DBRA or CWHSSA apply.

- Construction contracts of $2,000 or less;
- Construction contracts of $100,000 or less are exempt from CWHSSA only;
- Single-family homeowner residences (*Making Davis Bacon Work-A Practical Guide for States, Indian Tribes and Local Agencies* (September 2011);
- Rehabilitation of residential property designed for fewer than eight families; (*Making Davis Bacon Work-A Practical Guide for States, Indian Tribes and Local Agencies* (September 2011);
- Demolition and/or clearance activities (for example, debris removal), unless related to construction (demolition and clearance as independent functions are not considered construction);
- Labor/installation charges on equipment or materials purchases, if that portion of the contract is less than 13% of the total cost of the item(s) purchased;
- Construction work performed by the employees of the Grant Recipient (force account) that are engaged on an otherwise covered project; and
- Construction work performed by a public utility extending its own utility system

The Grant Recipient must notify TDA if pursuing this method. TDA may request documentation prior to authorizing payment that the price charged by the public utility is less than the price that would be anticipated if the construction had been procured by sealed bids. With the exception of the situations listed in this section, all workers employed by contractors or subcontractors in the performance of construction work financed in whole or in part with assistance received under the TxCDBG program

shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended.

7.4 Recordkeeping Requirements

To show compliance with Davis Bacon regulations, the Grant Recipient must maintain a file with the following documentation for each construction contract:
*(*Must be submitted to TDA)*

- Appointment of Labor Standards Officer*
- Copy of Wage Rate Issuance(s)
- Ten-Day Confirmation Forms*
- Additional Classification request(s)*
- Contractor Eligibility Verification printouts from SAM (for each prime and/or subcontractor)
- Pre-construction conference minutes and sign-in sheet(s)
- (from Chapter 5, Financial Interest Report (A503)*
- Payrolls, with evidence of compliance review
- Employee interviews
- Wage violations (amount of restitution, number of hours and days)*
- Interim inspection reports
- Certificate(s) of Construction Completion*
- Final Wage Compliance Report(s)*

7.5 Laws and Regulations

7.5.1 Laws Regarding Labor Standards

DAVIS-BACON ACT (40 USC Chapter 31, Subchapter IV)

CONTRACT WORK HOURS & SAFETY STANDARDS ACT (CWHSSA)

COPELAND (ANTI-KICKBACK) ACT (18 USC 874; 40 USC 3145)

FAIR LABOR STANDARDS ACT

7.5.2 Davis-Bacon Regulations

The Department of Labor has published rules and instructions concerning Davis-Bacon and other labor laws in the Code of Federal Regulations (CFR).

29 CFR Parts 1, 3, 5, 6 and 7