

# Implementing Recent Updates to DBRA

ADOT DBE Task Force

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# DBRA New Rules – Effective 10/23/2023

- Updated definitions, compliance principles and enforcement
- Addressed multiple counties for site of work
- Defined responsibilities of Contractor and Sub
- Prevailing wages can be updated for change orders or supplemental agreements

# DBRA New Rules (continued)

- Expanding Agency's role in determining "reasonableness" of wage conformance requests
- Requiring Employee email and phone number
- Allowing valid digital signatures

# What to look for in contract docs

- FHWA 1273 – Addresses federal requirements, including DBRA
  - Weekly pay and reporting requirements
  - Prevailing wage requirement
  - Recordkeeping
- Wage Decision
  - Type, location, effective date
  - Classification and rates
  - Prevailing practices and rates
- SF-1444 Conformance Requests

# How to read a Wage Decision

- Example: General Decision Number: AZ20210008 01/01/2021
- [Sample Wage Decision](#)
- [Sample Conformance Request](#)

State: Arizona

Construction Type: Highway

Counties: Coconino, Maricopa, Mohave, Pima, Pinal, Yavapai and Yuma Counties in Arizona.

## HIGHWAY CONSTRUCTION PROJECTS

Note: Under Executive Order (EO) 13658, an hourly minimum wage of \$10.95 for calendar year 2021 applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2015. If this contract is covered by the EO, the contractor must pay all workers in any classification listed on this wage determination at least \$10.95 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in calendar year 2021. If this contract is covered by the EO and a classification considered necessary for performance of work on the contract does not appear on this wage determination, the contractor must pay workers in that classification at least the wage rate determined through the conformance process set forth in 29 CFR 5.5(a)(1)(ii) (or the EO minimum wage rate, if it is higher than the conformed wage rate). The EO minimum wage rate will be adjusted annually. Please note that this EO applies to the above-mentioned types of contracts entered into by the federal government that are subject to the Davis-Bacon Act itself, but it does not apply to contracts subject only to the Davis-Bacon Related Acts, including those set forth at 29 CFR 5.1(a)(2)-(60). Additional information on contractor requirements and worker protections under the EO is available at [www.dol.gov/whd/govcontracts](http://www.dol.gov/whd/govcontracts).

Modification Number	Publication Date
0	01/01/2021

CARP0408-005 07/01/2019

	Rates	Fringes
CARPENTER (Including Cement Form Work).....	\$ 28.08	12.74

\* ENGI0428-001 06/01/2020

	Rates	Fringes
POWER EQUIPMENT OPERATOR		
Group 1.....	\$ 27.04	11.72
Group 2.....	\$ 30.31	11.72
Group 3.....	\$ 31.39	11.72
Group 4.....	\$ 32.42	11.72

POWER EQUIPMENT OPERATORS CLASSIFICATIONS:

# Bidding

- Identify classifications
- Understand prevailing wages and practices
- Overtime rates (one-and-a-half times B+R plus FB)
- Loaded rates (direct labor, burden, overhead, profit)
  - Especially important for subs supplying labor prices!
- Applies to all subs performing labor/mechanic work on site
- Consider administrative costs

# Start of Work

- Expect Posted Notification of Rules and Wages
- Understand Site of work
  - Work at yard or plant
  - Flaggers, truckers, and other specialties
- Recordkeeping
  - Worker information
  - Timekeeping
- Multiple classifications require good documentation
- Employees versus contractor
- Employee Interviews

# Reporting

- Weekly pay
- Weekly certified payroll
- All workers, hours, and payments for project site
- Authorization to deduct employee wages
- Fringe benefits
- Apprentice/trainee certificates
- Apprentice/trainee plan and approved ratios



# LCPtracker

- eSignature for Authorized person
- Employee setup
- eDocuments
- Consecutive week end dates (every 7 days)
- Numbering 1-final
- Apprentice rates must be requested
- Fringe versus Cash "In Lieu of Fringe"
- Statement of Compliance – Certifies the payroll

Project Assignments

Project Code	Project Name	Sub To	Contract ID	Assignment Start Date
H680001C 017-A-(228)A - UNIT 4511	H680001C - KIEWIT-FANN JOINT VENTURE - NEW RIVER TI TO JCT SR 69			

Date \_\_\_\_\_

I, \_\_\_\_\_  
(Name of Signatory Party) (Title)

do hereby state:

(1) That I pay or supervise the payment of the persons employed by

\_\_\_\_\_ on the  
(Contractor or Subcontractor)

\_\_\_\_\_ ; that during the payroll period commencing on the  
(Building or Work)

\_\_\_\_\_ 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

\_\_\_\_\_ from the full  
(Contractor or Subcontractor)

weekly wages earned by any person and that no deductions have been made either directly or indirectly from the full wages earned by any person, other than permissible deductions as defined in Regulations, Part 3 (29 C.F.R. Subtitle A), issued by the Secretary of Labor under the Copeland Act, as amended (48 Stat. 948, 63 Stat. 108, 72 Stat. 967; 76 Stat. 357; 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.

(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.

(c) EXCEPTIONS

EXCEPTION (CRAFT)	EXPLANATION

REMARKS:

NAME AND TITLE	SIGNATURE

THE WILLFUL 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 3729 OF TITLE 31 OF THE UNITED STATES CODE.

# ADOT Review

- Statement of Compliance is part 2 (requires signature)
- Box Checked: Fringe paid to (a) plan or (b) in cash
- Payroll information (date, number, pay dates)
- Work classifications and pay rates
- Apprentice certificates, rates, and ratios
- Other deductions noted and documented (Employee Authorized Deduction)
- Other red flags (biweekly, multiple classification, excessive gross wages)

# Enforcement

- ADOT review monthly by 15<sup>th</sup>
- Withholding \$2500 per missing or inaccurate payroll report
- 10 days to submit missing or corrected payroll or money is withheld
- After 90 days, \$500 is withheld in liquidated damages (\$2,000 is returned)
- DOL liquidated damages for failure to pay overtime, \$25 per person per day owed
- DOL investigates Federal Labor Standards violations in addition to Davis Bacon and Related Acts

# Contractor Fails – Don't let this be you!

1. No employee records
2. Multiple classifications
3. Not paying weekly
4. Paying cash
5. Missing workers
6. Overtime
7. Per diem and subsistence payments/deductions
8. Wrong classification
9. Reporting shift work
10. Undisclosed subcontractor

# Survey for Updated Wage Decision

- Why this is important?

⑩ Construction Timeframe: 10/01/2022 to 12/29/2023

⑩ Collection Period Cutoff: 01/15/2024

- Construction Wage Survey link:

- <https://www.dol.gov/agencies/whd/government-contracts/construction/surveys>

- ADOT Field Reports Certified Payroll Reporting link:

- <https://azdot.gov/business/engineering-and-construction/construction/field-reports/certified-payroll-reporting>

