



WAGE AND HOUR DIVISION

**Government Contracts
Training Program**

Davis-Bacon Act Presentation

Presenters:

Internet Sites

1) Wage and Hour Division

<http://www.dol.gov/dol/esa>

2) Office of Administrative Law Judges Law
Library

<http://www.oalj.dol.gov>

3) Debarred Bidders List

<http://www.ArNet.gov/eplb>

4) Government Printing Office

<http://www.access.gpo.gov>

Code of Federal Regulations

Labor Standards Provisions

- Part 1 - Procedures for Predetermination of Wage Rates under the Davis-Bacon Act
- Part 3 - Payment & Reporting of Wages on Federal Construction Contracts
- Part 4 - Federal Service Contracts
- Part 5 - Federal Construction Contracts
- Part 541 - Professional, Administrative, and Executive Employees
- Part 778 - Overtime
- Part 785 - Hours Worked
- Part 531 - Wage Payment (credit for meals & lodging)

Labor Standards Statutes

- **The Davis-Bacon Act** (DBA)
- **Davis-Bacon And Related Acts** (DBRA)
- **Contract Work Hours And Safety Standards Act** (CWHSSA)
- **Copeland “Anti-Kickback” Act** (CA)
- **Walsh-Healey Public Contracts Act** (PCA)
- **McNamara-O’Hara Service Contract Act** (SCA)

The Davis-Bacon Act

(DBA)

DBA

- Enacted in 1931
- Amended in 1935 and 1964
- Protects communities and workers from non-local contractors underbidding local wage levels

Davis-Bacon Act (DBA)

Requirements

- Payment of locally “prevailing wages” and “fringe benefits” (FB’s) to laborers and mechanics, as determined by the U.S. Department of Labor (DOL)
- Applies to direct Federal and District of Columbia contracts

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Davis-Bacon Act Requirements

- Applies to laborers and mechanics of contractors and subcontractors
- Performing work on the “site of the work”
- Must be paid not less often than weekly
- Wage scale must be posted at the job site

Coverage of the DBA

- Applies to contracts in excess of \$2,000 to which the U.S. or the District of Columbia is a party for construction, alteration, and/or repair, including painting and decorating, of public buildings or public works.

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Criteria For Considering DBA Coverage:

1. Is the agreement a contract to which the U.S. or District of Columbia is a party?
2. Is the agreement a “contract for construction”?
3. Is the “contract for construction” a contract for construction of a public building or public work of the U.S. or the District of Columbia?

Coverage of the DBA: Lease Construction Contracts

- Factors to be considered in determining whether a lease contract is subject to DBA include:
 - length of the lease
 - extent of government involvement in the construction project
 - extent to which the construction will be used for private rather than public purposes
 - extent to which the costs of the construction will be paid for by the lease payments, and
 - whether the contract is written to avoid application of DBA

The Davis-Bacon and Related Acts

(DBRA)

Davis-Bacon Related Acts (DBRA)

- Davis-Bacon (DB) requirements are extended to over 60 “related acts” that provide Federal assistance for construction through:
 - Grants
 - Loans
 - Loan Guarantees
 - Insurance

DBRA Examples

- HUD financed construction of low-income housing projects
- Federal Highway Administration provides grants to states for reconstruction of roads and bridges on the interstate highway system

Distinguishing DBA and DBRA

- Examples of Direct DBA Projects

- VA hospital
- Federal office building (GSA)
- Military base housing (DOD)
- National Park road (Dept. of Interior)

- Examples of DBRA Projects

- HUD - assisted housing construction project
- EPA - assisted water treatment plant construction project

Contract Work Hours and Safety Standards Act

(CWHSSA)

Purpose of CWHSSA

(40 U.S.C. 327, *et seq.*)

- Enacted in 1962 - consolidated a number of “eight hour” laws, which provided for overtime pay after 8 hours a day and 40 hours a week on Federally financed contracts which require the employment of laborers and mechanics
- In 1986, the daily overtime requirement was repealed to require overtime pay only after 40 hours a week
- The overtime pay requirements of CWHSSA and the Fair Labor Standards Act (FLSA) are the same

Requirements of CWHSSA

- Requires overtime pay for laborers and mechanics at a rate of one and a half times the basic rate of pay for hours worked on covered contracts in excess of 40 in a workweek
- Liquidated damages can be assessed at a rate of \$10 per day for each laborer or mechanic not paid proper overtime

Coverage of CWHSSA

- Covers Federal contracts over \$100,000 that require or involve the employment of laborers and mechanics on:
 - DBA covered construction contracts
 - DBRA covered construction contracts
 - SCA covered service contracts
- CWHSSA is self-executing (need not be in the contract)
- CWHSSA has no “site of work” limitation

Copeland “Anti-Kickback” Act

(CA)

Purpose and Requirements of CA

- Prohibits “kickback” of wages and back wages
- Requires contractors on DBA/DBRA covered projects to submit weekly a “statement of compliance”
- Regulates payroll deductions
- Kickback is a criminal violation punishable by fine of \$5,000 or 5 years in prison, or both

Permissible Deductions Without DOL's Approval (29 CFR 3.5)

- Deductions for social security or Federal or state income tax withholding
- Deductions for bona fide prepayment of wages
- Deductions for court ordered payments
- Deductions for fringe benefits that are voluntarily consented to in writing by the employee before work begins, or are provided for in a collective bargaining agreement (CBA), provided that no profit or other benefit is obtained by the contractor, and the deduction serves the convenience of the employee

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Permissible Deductions (29 CFR 3.5) Cont'd.

- Deductions for purchase of U.S. savings bonds
- Deductions to repay loans or purchase shares in a credit union
- Deductions for authorized contributions to organizations such as Red Cross, United Way, or similar charitable organizations
- Deductions for the “reasonable cost” of board, lodging or other facilities meeting the requirements of section 3(m) of FLSA
- Deduction for safety equipment - if not prohibited by FLSA or required by law for employer to furnish; cost to the employee cannot exceed the cost incurred by the employer

Deductions Requiring DOL Approval (29 CFR 3.6)

- The DOL approves payroll deductions when the following criteria are met:
 - The contractor makes no direct or indirect profit
 - The deduction is not prohibited by law
 - The deduction is voluntarily consented to in writing before work begins, or the deduction is provided for under the terms of a CBA
 - The deduction serves the convenience and interest of the employee

Walsh-Healey Public Contracts Act

(PCA)

Purpose of PCA

- Provides labor standards for employees working on Federal contracts over \$10,000 for the manufacturing or furnishing of goods, supplies, articles, or equipment

PCA Requirements

- Establishes minimum wage, overtime, and safety and health standards
- Prohibits employment of children under 16, and convict labor

Contracts Requirements

Both PCA and DBA

- The DBA also applies to PCA contracts that require more than an incidental amount of construction work
- Example - a contract for the supply and installation of a security system
 - Replacement of existing conduit
 - Laying cable
 - Tearing out and replacing walls

McNamara-O'Hara Service Contract Act

(SCA)

Service Contract Act

- SCA became effective in January 1966
- The law was amended in 1972 and 1976
- It is the most recent of government contract labor standards laws administered by the Wage and Hour Division (WHD)

Legislative History and Purpose of SCA

- To “close the gap” in labor standards protection between supply contracts subject to PCA and construction contracts subject to DBA
- To remove wages as a bidding factor in the competition for Federal service contracts

Requirements of SCA

- Payment of prevailing wages and fringe benefits for service employees working on contracts over \$2,500
- Payment of FLSA minimum wage (\$5.15 per hour) for contracts of \$2,500 or less
- Posting and recordkeeping requirements
- Safety and health protection

SCA

- Coverage
- Exemptions
- SCA vs. DBA Coverage

Coverage Under SCA

- Most contracts entered into by the U.S. or the District of Columbia in excess of \$2,500 for the furnishing of services through the use of service employees
- Contract must contain the SCA labor provisions (29 CFR 4.6)
- Unlike DBA, DOL has sole enforcement authority for SCA

Federal Government Contracts

(29 CFR 4.107 & 4.108)

- Contracts entered into by an agency or instrumentality of the Federal government
 - **Examples: Departments of Defense and Labor**
- Contracts issued by wholly owned corporations of the government
 - **Examples: Tennessee Valley Authority, United States Postal Service**
- Contracts with non-appropriated fund activities
 - **Examples: Military post exchanges (PX's), cafeteria boards in Federal buildings**
- Contracts entered into by the District of Columbia

Elements of Coverage (29 CFR 4.110)

- Contracts principally for services
- Contracts performed in the United States
- Contracts performed through the use of service employees

Types of Service Contracts (29 CFR 4.111 & 4.130)

Examples of service contracts:

- Security and guard services
- Janitorial services
- Cafeteria and food services
- Support services at Government installations
- Research and development

Contracts “in the United States” (29 CFR 4.112)

- 50 States, the District of Columbia, Puerto Rico, the Virgin Islands, Outer Continental Shelf, American Samoa, Guam, Wake Island, and the Northern Marianas (Canton Island, Eniwetok Atoll, and Kwajalein Atoll are no longer a part of the United States)
- Contracts outside of the United States are not covered (e.g., weather service vessel operating exclusively in foreign/international waters)

Contracts “through the use of service employees” (29 CFR 4.113)

- SCA defines service employee as any person engaged in the performance of a covered contract except those that qualify for exemption as *bona fide* executive, administrative or professional employees under the FLSA (29 CFR Part 541)
- Employee coverage does not depend upon contractual relationship (See 29 CFR 4.155)

Contracts Not SCA Covered

- Contracts whose principal purpose is something other than services, e.g., construction and manufacturing
- Contracts for leasing of space
- Contracts for professional and medical services (Part 541 exemption)
- Contracts for services entered into by State or local public bodies that have received grants or funds from the Federal government, e.g. Medicaid and Medicare programs

SCA Statutory Exemptions (29 CFR 4.115 - 4.122)

SCA does not apply to the following:

- Contracts for construction, alteration and/or repair of public buildings or public works
- Work performed under the provisions of the Walsh-Healey Public Contracts Act
- Contracts for the carriage of freight by vessel, airplane, bus, etc., where published tariff rates are in effect (mail-haulers are not exempt)

SCA Statutory Exemptions

- Any contract for the furnishing of services by radio, telephone, telegraph or cable companies, subject to the Communications Act of 1934
- Contracts for public utility services, including electric power, water, steam, and gas
- Employment contracts providing for direct services to a Federal agency by an individual or individuals
- Contracts with the U.S. Postal Service to operate postal contract stations

SCA Regulatory Exemptions

(29 CFR 4.6(o)(1))

“Workers with Disabilities”

- Contractors allowed to pay less than the wage rate for class of work listed in wage determination (WD)
- Contractors must obtain certificates from the Wage and Hour Division pursuant to Section 14 of the FLSA
- Certificates authorize “commensurate rate” that is a % of the WD rate based on skill and productivity
- Contractors must pay fringe benefits in WD - health and welfare in full; vacation and holiday benefits based on “commensurate rate” and hours worked
- Certificates may not be retroactively issued/renewed

SCA Regulatory Exemptions (29 CFR 4.123(d) & (e))

SCA does not apply to the following:

- 1) Postal Service contracts with common carriers
- 2) Postal Service mail contracts with owner-operators (i.e., individuals, not partnerships)
- 3) Certain items for “commercial services”
(29 CFR 4.123(e)(1)(i) and (2)(i))

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“Commercial Services” (29 CFR 4.123(e)(1)(i))

- Contracts and subcontracts for maintenance, calibration, and repair of:
 - ▶ ADP & office information/word processing systems
 - ▶ Scientific & medical apparatus or equipment where the application of microelectronic circuitry or other technology of at least similar sophistication
 - ▶ Office/business machines performed by supplier or manufacturer

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“Commercial Services” (29 CFR 4.123(e)(1)(ii) - (iv))

- Criteria for equipment items exemption:
 - ▶ Equipment items are commercial items offered and sold regularly to non-Governmental customers
 - ▶ Award based on market prices in a catalog or price list
 - ▶ The contractor utilizes the same compensation plan for contract and for commercial customers
- Contracting officer (or prime contractor for subcontract) determines applicability of exemption
- Prime contractor certifies compliance

“Commercial Services” (29 CFR 4.123(e)(2)(i))

Contracts & subcontracts for the following seven services:

- Maintenance and servicing of motorized vehicles owned by Federal agencies
- Issuance and servicing of credit, debit, or similar cards by Federal employees
- Lodging, meals, and space in hotels/motels for conferences
- Real estate services
- Maintenance services for specialized equipment obtained from the manufacturer or supplier
- Transportation on regularly scheduled routes
- Relocation services

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“Commercial Services” (29 CFR 4.123(e)(2)(ii) & (iii))

- Criteria to apply exemption:
 - ▶ Commercial services offered and sold regularly to non-Governmental customers
 - ▶ Contract will be awarded on a “sole source basis” or on basis of factors in addition to price
 - ▶ Services furnished at market or catalog prices
 - ▶ Each service employee will spend less than 20 percent of available hours servicing the government contract
 - ▶ The contractor utilizes the same compensation plan for contract and for commercial customers
- Contracting officer (or prime contractor for subcontract) certifies criteria can be met
- Prime contractor certifies compliance

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“Commercial Services” (29 CFR 4.123(e)(2)(iv))

- Exemption does not apply to solicitations and contracts for any of the seven commercial services that are:
 - ▶ entered into under the Javits-Wagner-O’Day Act
 - ▶ for the operation of a Government facility or portion thereof (“GOCO” or “GOPO”) (but may apply to sub-contracts)
 - ▶ subject to section 4(c) of the SCA, as well as options or extensions under such contract

SCA vs. DBA

Coverage Issues

Contracts Covered by SCA and DBA

- SCA contracts that also require **substantial** and **segregable** amounts of construction activity must also include the DBA (29 CFR 4.116(c)(2))
 - **Substantial:** the type and quantity of the construction work, not merely the dollar value
 - **Segregable:** the construction work being physically and functionally separate
- Examples:
 - DOD base maintenance contracts that require construction work, i.e., painting or repainting, refinishing floors, or reroofing facilities
 - Hazardous waste cleanup contracts that require landscaping activities that constitute construction work such as elaborate earthmoving or soil removal

SCA Maintenance vs. DBA Repair

- SCA Maintenance

- Scheduled, regular and recurring
- Routine to keep something in state of continuous utilization

- DBA Repair

- Restoration, replacement, overhaul
- One time fix to something not functioning

Common Problems Areas

- Carpet and drapery installation

- Scheduled carpet replacement as routine maintenance **(SCA)**
- Carpet laying & drapery hanging as part of a new construction **(DBA)**

- Clean-up work

- Routine clean-up **(SCA)**
- Clean-up as part of construction **(DBA)**

- Demolition

- Standing alone -- **(SCA)**
- With subsequent construction -- **(DBA)**

- Drilling

- Exploratory drilling -- **(SCA)**
- Drilling of wells - water, oil -- **(DBA)**

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Common Problems Areas

- Landscaping

- With construction: elaborate landscaping; substantial earth moving & reclamation at hazardous waste sites (**DBA**)
- Other landscaping, i.e., planting trees, mowing, seeding, unrelated to a construction project (**SCA**)

Coverage Determination

- Contracting agencies have initial responsibility for determining which labor statute applies
- DOL has authority for final determination on coverage
- Final rulings may be appealed to the Administrative Review Board (ARB)

DBA/DBRA

Compliance Principles

- Laborers and mechanics
- Site of the work
- Truck drivers
- Apprentices and Trainees
- Helpers
- Fringe benefits

Laborers and Mechanics

- Includes workers whose duties are manual or physical in nature
- Includes apprentices, trainees, and helpers
- For CWHSSA, includes watchmen and guards

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Laborers and Mechanics

- Does Not Include:
 - Timekeepers, inspectors, architects, and engineers
 - *Bona fide* executive, administrative, or professional employees as defined by the FLSA
- Working foremen are generally non-exempt and must be paid the Davis Bacon (DB) rate for the classification of work performed

Site of the Work

- The definition for “site of the work” is set forth in regulations, Title 29 of the Code of Federal Regulations, at 29 CFR Part 5.2(l)
- These regulations were revised in January 2001

Site of the Work

- DBA/DBRA applies only to workers on the “site of the work”
 - Limited to the physical place or places where the construction remains after work has been completed
 - Any other site where a significant portion of the building or work is constructed, provided such site is established specifically for the contract

Site of the Work

- Also includes fabrication plants, mobile factories, batch plants, borrow pits, tool yards, headquarters, etc., *provided* they
 - are located adjacent or virtually adjacent to the “site of the work” described above, and
 - are dedicated exclusively or nearly so to the performance of the contract or project

Truck Drivers

- Truck drivers are covered in the following circumstances:
 - Drivers of a contractor or sub-contractor for the time spent working on the site of the work
 - Drivers of a contractor or subcontractor for the time spent loading or unloading on the site if such time is more than *de minimis*

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Truck Drivers

- Drivers transporting materials and supplies between a facility that is part of the “site of the work” and the actual construction site
- Drivers transporting portions of a building or work between a site where a significant portion of the project is being constructed and the physical place where the building or work will remain

Truck Drivers

- Truck drivers are not covered in the following instances:
 - Material delivery truck drivers while off the “site of the work”
 - Drivers of a contractor or subcontractor traveling between a commercial facility and a DB job when they are off the “site of the work”
 - Drivers whose time spent on the “site of the work” is *de minimis*, such as only a few minutes at a time to merely pick up or drop off materials or supplies

Truck Drivers

- In addition, DOL has an enforcement position with respect to bona fide owner-operators of trucks who are independent contractors [an owner-operator is a person who owns and drives a truck]. Certified payrolls including the names of such owner-operators do not need to show the hours worked or the rates paid, only the notation “owner-operator”. This position does not apply to owner-operators of other equipment such as bulldozers, cranes, etc.

Apprentices and Trainees

- Apprentices and trainees are two categories of laborers and mechanics not listed on a Wage Determination (WD). Such categories are permitted to be used on DB projects and paid less than the journeyman rate when:
 - The individual is registered in an approved apprenticeship or trainee plan
 - Paid the percentage specified in the approved plan of the basic hourly rate required by the WD

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Apprentices and Trainees

- The ratio of apprentices/trainees to journeyman on the job site meets the allowable ratio specified in the approved plan
- Fringe benefits (FB's) are paid in accordance with the approved plan. If the plan does not specify FB's, apprentices/trainees are paid the full amount of FB's listed on the WD
- Apprenticeship plans are portable, training plans are not

Apprentices

- A person individually registered in a *bona fide* apprenticeship program registered with DOL
- An individual in his or her first 90 days of probationary employment as an apprentice
- DOL Regulations, 29 CFR Part 5.2(n)(1) and 5.5(a)(4)(i)

Trainees

- A person registered and receiving on-the-job training in a construction occupation under a program which has been approved in advance by DOL's Employment Training Administration (ETA)
- DOL Regulations, 29 CFR Part 5.2(n)(2) and 5.5(a)(4)(ii)

Helpers

- Helpers may be employed only if:
 - Duties are clearly defined and distinct from laborers and journeymen,
 - Helpers are prevailing in the area,
 - Not in an informal training program,
 - The helper classification is listed on the applicable DB WD, or approved by DOL as an additional classification

Fringe Benefits

- “Prevailing wage” is made up of two interchangeable components:
 - basic hourly wages
 - fringe benefits (FB’s)
- Prevailing wages may be satisfied by:
 - Paying wages and FB’s in cash
 - Contributing payments to a *bona fide* plan
 - Any combination of the two

Fringe Benefits

- The term “Wages” means:
 - The basic hourly rate of pay
 - Contributions *irrevocably* made by a contractor or subcontractor to a trustee or third party pursuant to a *bona fide* FB’s fund, plan or program
 - The rate of costs to the contractor or subcontractor which may be reasonably anticipated in providing *bona fide* FB’s pursuant to an enforceable commitment to carry out a financially responsible plan or program, which was communicated to the employees in writing

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Fringe Benefits

- Must be paid for all hours worked
- Cash wages paid in excess of basic hourly rate may be used to offset, credit, or satisfy the FB's obligation (Note: Not permitted under SCA)

Fringe Benefit Example

- **Basic Hourly Rate:** **\$10.00**
 - **Fringe Benefits:** **\$ 1.00**
 - **Total Prevailing Rate is:** **\$11.00**
-
- **The contractor may comply by paying:**
 - **\$11.00 in cash wages**
 - **\$10.00 in cash wages plus \$1.00 in FB's**
 - **\$ 9.00 in cash wages plus \$2.00 in FB's**

Examples of Fringe Benefits

- Life Insurance
- Health Insurance
- Pension
- Vacation
- Holiday
- Sick Leave

Funded Fringe Benefit Plans

- Contractor can take prevailing wage credit, without prior DOL approval, for FB's contributions at an "annualized" rate to third party trusts and plans
- The amount of contribution for FB's must be paid to a trustee or third party *irrevocably*
- Contributions must be made no less often than quarterly
- Credit cannot be taken for those employees not eligible to participate in the plan

Unfunded Fringe Benefit Plans

- Secretary of Labor has authority to direct a contractor to set aside, in a separate account, sufficient assets to meet future obligations of plan
- Criteria For An Unfunded Plan Include:
 - It can be reasonably anticipated to provide benefits described in the Act
 - It represents a commitment that can be legally enforced
 - It is carried out under a financially responsible plan
 - The plan has been communicated in writing to the workers affected

Examples of Unfunded Plans

- **Holiday plans**
- **Vacation plans**
- **Sick pay plans**

Investigative Procedures

Under

DBA/DBRA/CWHSSA

Investigation Procedures

- Reorganization Plan No. 14 of 1950
- Davis-Bacon (DB) Labor Standards Contract Stipulations
- Specific Steps in Conducting DBA/DBRA/CWHSSA Investigations
- Conclusion of Investigation
- Report Writing
- The Hearing Process

Reorganization Plan No. 14 of 1950

- DOL Functions/Responsibilities
 - Determining prevailing Wages & FB's
 - Issuing regulations and standards to be observed by contracting agencies
 - Perform oversight function and has independent authority to conduct investigations

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Reorganization Plan No. 14 of 1950

- Contracting Agency Functions/Responsibilities
 - Contracting agency has day-to-day enforcement responsibility. This includes insuring DB requirements and applicable WD are included in covered contracts;
 - Conducting investigations, employee interviews, and reviewing certified payroll records
 - Submitting enforcement reports and semi-annual enforcement reports to DOL
 - Cannot contract out enforcement of DB requirements
 - Insuring that grant recipients enforce DBRA

Davis-Bacon Labor Standards/Contract Stipulations

- The Term “labor standards” means the requirements of:
 - The Davis-Bacon Act
 - The Contract Work Hours and Safety Standards Act
 - The Copeland Act
 - The prevailing wage provision of the Davis-Bacon and “related Acts”
 - The Regulations, 29 CFR 1, 3, and 5

Davis-Bacon Labor Standards/Contract Stipulations

- Labor standards include:

- Minimum wages (MW's)
- Withholding
- Maintaining basic payroll records
- Submission of certified payroll records
- Apprentices
- Trainees

- Copeland requirements
- Subcontractors
- Contract termination and debarment
- Rulings and interpretations
- Disputes
- Certification of eligibility

Specific Steps in Conducting Investigations

Not necessarily in this
order:

- Obtain copy of labor standards clauses in contract, WD, and copies of certified payrolls
- Contact employer (includes contractor and subcontractor), hold initial conference and obtain information
- Examine certified payrolls
- Examine basic payroll records
- Check for apprenticeship/trainee compliance
- Determine if conformance is necessary
- Interview Employees

Conducting Investigations

- Determine compliance with DB, MW's, and FB's requirements
- Determine compliance with CWHSSA
- Compute back wages and liquidated damages
- Final Conference
- Withholding of funds
- Debarment
- Report Writing
- Hearing process for refusal-to-pay cases and debarments

DBA/DBRA/CWHSSA

Withholding of Funds

- Back wages generally have priority over any competing claims against the contractor, including:
 - Internal Revenue Service
 - Reprourement of costs after contractor default
 - Assignments made under the Assignment of Claims Act
 - Claims by a trustee in bankruptcy

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DBA/DBRA/CWHSSA

- Withholding of funds from contractor by contracting agency in refusal-to-pay (including refusal to cooperate with investigation) cases under DBA/DBRA/CWHSSA
- Contracting agency can withhold funds from other contracts which have same prime contractor (cross-withholding)
- Agency should notify WH immediately if contractor may file bankruptcy

DBA/DBRA/CWHSSA

Debarment Criteria

- Debarment is considered when contractor has:
 - Submitted falsified certified payrolls
 - Required kickbacks of wages or back wages
 - Committed repeat violations

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DBA/DBRA/CWHSSA

- Contractor or subcontractor is declared ineligible for up to 3 years from receiving DBA/DBRA contracts if:
 - Violations were in disregard of the contractor's obligations to employees and subcontractor's (DBA)
 - Violations were aggravated or willful (DBRA)

DBA/DBRA/CWHSSA

Hearing Process

- Refusal-to-pay cases

- If factual issues are in dispute WH notifies contractors in writing of findings and offers opportunity to request a hearing before the Administrative Law Judge (ALJ)
- If only questions of law are in dispute, WH issues ruling which may be appealed to DOL's Administrative Review Board (ARB)
- Where debarment criteria is met, contractor is offered the opportunity to request ALJ hearing

DBA/DBRA/CWHSSA Administrative Review Board

- Consists of members appointed by Secretary of labor
- Hears appeals of ALJ decisions
- Acts on petitions to review rulings of WH Administrator on coverage interpretations, and WD matters
- Appeals may be in the form of oral hearing in Washington, D.C., but typically are by review of record in closed session

The End



Wage and Hour Division

Midwest Region