



Department of Energy
Washington, DC 20585

**STATE ENERGY PROGRAM
PROGRAM NOTICE 10-010
EFFECTIVE DATE: May 6, 2010**

SUBJECT: DAVIS-BACON ACT WAGE RATES FOR ARRA-FUNDED STATE ENERGY PROGRAM PROJECTS INVOLVING RESIDENTIAL WEATHERIZATION WORK

PURPOSE: To provide guidance on using appropriate prevailing wage rates for Davis-Bacon Act (DBA) covered weatherization work performed under the State Energy Program (SEP) using American Recovery and Reinvestment Act of 2009 (ARRA) funds.

SCOPE: The provisions of this guidance apply only to residential weatherization work performed by recipients of SEP funds as named in a Notification of Grant Award (Grant Award) from the Department of Energy (DOE) under the SEP and their subrecipients. This guidance does not apply to U.S. Territories. Tribal governments are only exempt from DBA provisions when the Tribal government performs work using its own employees. The DBA applies to all contractors and subcontractors employing laborers and/or mechanics performing work under a Grant Award.

BACKGROUND: DOE asked the Department of Labor (DOL) to consider a request to permit ARRA-funded SEP recipients and subrecipients (contractors and subcontractors) performing residential weatherization work similar to that performed by local community action agencies and their contractors under ARRA-funded Weatherization Assistance Program (WAP) grants to use the Residential Weatherization Worker project wage determinations (WDs) newly created for the WAP. After consideration of DOE's request, DOL determined that SEP ARRA-funded recipients and subrecipients **MAY NOT USE** the Residential Weatherization Worker WDs created for WAP work.

GUIDANCE: DBA-covered work performed by laborers and mechanics employed by contractors and subcontractors on SEP ARRA-funded projects, including residential weatherization work, **must use the existing residential construction prevailing wage rates** as published by DOL on its website at www.wdol.gov.

To assist recipients and subrecipients in determining the appropriate residential construction classifications to use for weatherization work, DOL developed user-friendly spreadsheets. Each state's spreadsheet is organized by county and lists the relevant work classifications for a jurisdiction; for example Laborer, Insulator, Carpenter, Electrician,

Plumber, HVAC-Pipe Installation, and HVAC-Duct Installation. These spreadsheets (current as of April 30, 2010) may be found at:

http://eere.energy.gov/wip/dol_wage_determinations_sep_eecbg.html

DOL has indicated that in many cases the laborer classification in the residential construction WD will be the appropriate classification for most of the tasks defined under the Weatherization Worker category contained in the WAP project decisions. However, all SEP recipients and subrecipients must be aware that a “one size fits all” approach cannot be applied in all situations. For example, in some counties there may be a classification for an “Insulator” or a “Batt, Blown, Foam Insulator,” and for insulator work performed in those counties the wage rate for that classification must be paid to employees for the hours spent performing that work. By contrast, the Weatherization Worker Classification includes insulator work performed on a WAP project. Local area practice determines the applicable classification for specific work activities.

The wage rates set forth in the spreadsheets, dated April 30, 2010, are current as of that date. However, DOL periodically updates wage rates to reflect the prevailing wages in a particular locality. While these spreadsheets will be updated periodically, recipients and subrecipients are responsible for checking the residential construction WDs published on the www.wdol.gov website to ensure that the most recent WD is incorporated into a contract or subcontract.

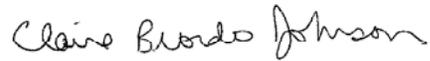
These spreadsheets are only to be used as guidance documents for checking the DOL website to determine appropriate worker classifications, and not as evidence of the correct wage rate to be paid to contractor and subcontractor employees. DOE will not be responsible for incorrect wages paid to a contractor or subcontractor employee based on wage rates set forth in the spreadsheets.

Once a WD is applied to a specific contract or subcontract, the wage rates set forth in that WD will remain effective for the entire term of that contract even if DOL updates its wage determinations during the period of the contract. For example: If an SEP recipient hires a contractor to weatherize 50 houses, the WD set forth in the contract is valid through the 50th house. However, if a recipient or subrecipient thereafter enters into a new contract, (e.g., an additional 50 houses), the www.wdol.gov web site should be checked to ensure the incorporation of the most current wage determination is inserted into the new contract.

Recipients and subrecipients are encouraged to contact DOL’s Wage and Hour Division at 1-866-487-9243, or their local DOL Wage and Hour office, with questions concerning choosing the correct wage rates to be paid to a contractor or subcontractor.

In instances where wage rates do not appear for certain classifications of work to be performed, or where wage rates are not listed for certain counties, a recipient or subrecipient must request a Wage Conformance from DOL through the appropriate Contracting Officer. Specific instructions on the conformance process are available on the DOL website.

CONCLUSION: Questions regarding this guidance should be directed to a recipient's Project Officer. SEP Program Notice 10-003, dated December 30, 2009, provides guidance on the overall implementation of DBA prevailing wage requirements. Recipients and subrecipients should refer to this guidance to ensure full compliance with all DBA requirements. In addition, the DOE SEP website provides updated information on many DBA-related subjects as well as other ARRA-related information.



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