

REAL LIFE LESSONS FROM A COMPLIANCE TEAM

Davis-Bacon



PAYROLL



Q: Do I really have to pay Davis-Bacon weekly?

A: YES!

If your normal payroll schedule is different, you can still pay for all other work performed in accordance with your normal payroll schedule (this is where the gross amount for the project would be different than the gross for all work performed in Elations).

Davis-Bacon must be paid weekly, with separate checks cut.

Compliance tip: Timecards submitted by employees should match the time in Elations for the week. If you pay for other work on other projects, we should be able to look at all timecards and have everything match-up. Try to stick to one type of timecard for tracking hours. Using multiple styles of timecards can be a red flag.

Q: If we have several projects occurring during the primary project, does over-time only apply to the Davis-Bacon portion of the employee's time?

A: NO

Regardless of how many projects the employee is on, if they work on the primary project during the week, at the 40th hour of work over-time of 1.5 rate of pay applies.

Q: I have salaried employees on the primary project, does over-time apply to them?

A: YES

Once they work over 40 hours on all projects, they are to be paid over-time as well. They should also have a job description that supports being a salaried employee (i.e., supervisor, manager). When using a "supervisor" classification on the job, they must be supervising two or more employees.

Q: Can I just use my Certified Payroll Report as the "timecard" for the employee?

A: NO

This is a report that should match with methods for which time is collected by the company and therefore, generating a check.

Q: Is it okay if my employees just call their time into me at the end of the week?

A: NO

You must have records that are completed by the employee verifying the hours they worked on the project.

Q: If my company pays in cash, is that okay on the primary project?

A: If you pay in cash, the employee needs to sign some sort of document that shows they received the cash in accordance with the gross/net pay. We have the right to request your financials to see if you truly paid your employee in cash.

MONITORING



Q: How long do I have to maintain all my records related to the project for Davis-Bacon compliance?

A: You need to keep them for three-years after your final payment from the General Contractor. All records must be stored and locked up in a safe place. Having your records at a friend's house, sitting on the dining room table is not okay.

Q: Who are the “compliance related parties” on this project?

A: The General Contractor verifies all weekly submissions by the subcontractors. Development team verifies the General Contractor and subcontractors. City of Boise will conduct on-site labor interviews & compare against Certified Payroll Reports in Elations.

Q: Wait, what is an “on-site labor interview”?

A: City staff will conduct labor interviews of employees on the project. Each interview will take approximately 10 minutes. Employees must participate if selected. Employees are to be paid for this interview time and cannot say, “I do not have time to complete the interview.”

Please note: The City of Boise has some bilingual staff that can assist with the interviews if needed.

Q: What are the top three things non-compliance issues?

A: The top three, in no particular order, are:

1. Not withholding taxes (e.g., FICA, Federal, or State).

Compliance tip: One of the quickest inactions that will cause the City to ask more questions is seeing no taxes withheld.

2. Gross pay for all projects matches gross pay for Davis-Bacon project, but the hours don't match up to the timecards submitted by employees.
3. Not seeing employees who were interviewed on-site in the Certified Payroll Report.

Q: Can the bookkeeper also be an employee on the project, but never work on the project?

A: NO

Q: Is it imperative that I submit the payroll weekly in Elations?

A: Since you are paying the employees weekly, this should be done weekly (including “No Work Performed”).

CLASSIFICATIONS



Q: What if I know that I am going to need additional classifications?

A: Please, get those into the General Contractor as soon as possible.

Please note: It can take the Department of Labor up to 8-weeks to turn these requests around. Regardless of skill set and experience you must be paid at minimum the wage that is determined.

Q: If I have a wage determination request waiting for approval, do I have to pay employees and/or submit Certified Payroll Reports?

A: YES

If the wage determination will be higher than what you have been paying, you will need to do an “amendment” to those payroll reports. However, not paying employees and/or submitting Certified Payroll Reports is not an appropriate action.

Q: If an employee has different classifications, do I need to update each time their classification changes on the Certified Payroll Reports?

A: YES

This ensures that the employee is paid correctly for the trade that he or she is performing.

Q: Is it okay that every employee on the job has the same classification?

A: IT DEPENDS

If they are all truly performing that work, then it is possible.

Q: How do our contracts play into the determination of classifications?

A: The General Contractor, Developer and the City will review all contracts and do the best scan to ensure that everything aligns correctly.

For example: If the contract for work is “earthwork,” but all employees were put into the system as “laborers,” it’s a red flag. Typically, you have additional contracts for items such as backhoes, machine operators, trenchers, and more. As such, a “laborer” alone does not fit the classification.

Compliance Tip: Review your contract and look at the wage classifications. This is an easy way to determine if you need to ask for additional classifications from the Department of Labor.

Q: Are there additional certifications and requirements for “apprentices”?

A: YES

Please make sure that you have a certifying document from the Idaho Department of Labor approving the apprentice.

Please note: The ratio should be 1 Journeyman to 1 Apprentice.

MISCELLANEOUS



1. If you have questions, please ask! It is easier to problem solve earlier on than after an issue occurs.
2. If there is an additional request from the General Contractor, Developer, or City for documentation, please be responsive. Multiple week delays increase non-compliance concerns.
3. If monitoring involves interviewing the person responsible for payroll and they possess a nervous demeanor and appear to struggle with questions about the payroll reports they certified, it raises red flags.
4. Please be aware that, as an entity that oversees federal funds and compliance of those funds, the City is obligated to report to the Department of Labor if there is concern. In most instances, the issue is a matter of record keeping that we can attempt to remedy if we become aware early on in the process. That said, egregious non-compliance must be reported. This may lead to an investigation by the Department of Labor and/or disbarment from federally funded projects.

Additional technical assistance can be provided upon request. Please contact your General Contractor for further assistance.



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