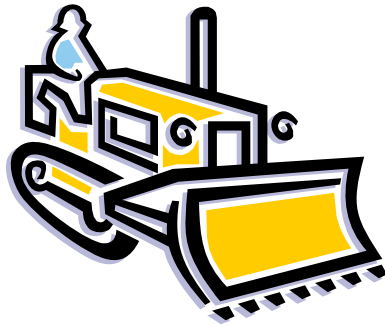


*An Advisors Guide to Understanding
Davis-Bacon Wage Requirements and
Certified Payroll Reporting –
How to Help your clients deal with the mountain
of paperwork!*



*Provided by
Nancy Smyth, CQA
Sunburst Software Solutions, Inc.*

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An Advisors Guide to Understanding Davis-Bacon Requirements and Certified Payroll Reporting – 1st Edition

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Forward:

The purpose of this booklet is to help Certified QuickBooks ProAdvisors understand the complexities that Contractors who perform work on Federal or State funded construction contracts face and the payroll reporting mandates that are involved with these projects.

Let me first start by saying that the "Certified Payroll Box 1 Report" available in the QuickBooks Premier Contractors Edition will in no way meet the required reporting mandates of Certified Payroll Report submission, as you will soon see.

This booklet defines the reporting mandates of the US Department of Labor's WH-347 Certified Payroll Report and WH-348 Statement of Compliance, however, please be aware that there are 23 states that have their own specific requirements which have all been derived from the original mandates published by the US Department of Labor and reviewed here.

For state specific information visit the website of the states Department of Labor, once there look for the Wage & Hours division, and then look for the Prevailing wage laws.

For a complete listing of the certified payroll reporting requirements for each state visit <http://www.sunburstsoftwaresolutions.com/status-by-state.htm>

Who Makes The Laws and What Are They?

The Davis-Bacon Act (DBA) - requires the payment of “prevailing wage rates” (determined by the US Department of Labor) to all laborers and mechanics on Federal construction projects in excess of \$2000.00. Construction includes alteration and/or repair, including painting and decorating, of public buildings or public works.

The Contract Work Hours and Safety Standards Act (CWHSSA) – requires that time and on-half pay for overtime (OT) hours (over 40 hours in any given workweek) worked on the covered project (does not apply to contracts \$100,000 or less). The CWHSSA applies to both direct Federal contracts and to indirect Federally-assisted contracts *except* where the assistance is solely in the nature of a loan guarantee or insurance.

The Copeland Act (Anti-Kickback Act) - makes it a crime for any employer to require any laborer or mechanic (employed on a Federally or Federally-assisted project) to *kickback* any part of his or her wages. It also requires every employer (contractor and subcontractor) to submit weekly-certified payroll reports (CPSs).

The Fair Labor Standards Act (FLSA) - contains Federal minimum wage rates and overtime (OT) requirements. These requirements generally apply to **any** labor performed and may be *pre-empted* by other Federal standards such as the DBRA prevailing wage requirements and CWHSSA OT provisions. Only the DOL has the authority to administer and enforce FLSA.

Davis-Bacon Regulations

The US Department of Labor has published rules and instructions concerning Davis-Bacon and other labor laws on their website in the Code of Federal Regulations (CFR). These regulations can be found in detail in Title 29 CFR Parts 1, 3, 5, 6, and 7 at <http://www.dol.gov/esa/whd/contracts/dbra.htm>

Part 1 explains how the DOL establishes and publishes DBA wage determinations and provides instruction on how to use the determinations.

Part 3 describes Copeland Act requirements for payroll deductions and the submission of weekly-certified payroll reports.

Part 5 covers the labor standards provisions that are in the contract relating to the Davis-Bacon Act wage rates and the responsibilities of contractors and contracting agencies to administer and enforce the provisions.

Part 6 provides the administrative proceedings enforcing Federal labor standards on construction and service contracts.

Part 7 sets parameters for practice before the Wage Appeals Board (Administrative Review Board). These regulations are used as the basis for administering and enforcing the laws.

Construction Contract Provisions

Each contract that is subject to Federal (Davis Bacon) labor standards requirements must contain contract provisions containing labor standards clauses and a Davis-Bacon Wage decision. These documents are normally bound into the contract specifications.

The labor standards clauses describe the responsibilities of the contractor concerning Davis-Bacon Wages and obligate the contractor to comply with the labor requirements. This clause also provides for remedies in the event of violations, including withholding from payments due to the contractor to ensure the payment of wages or liquidated damages, which may be found due. These clauses enable the contract administrator to enforce the Federal labor standards applicable to the project.

Davis-Bacon Wage Decisions provides a listing of various construction work classifications such as Carpenter, Plumber, Electrician and the minimum wage rates and fringe benefits (where prevailing) that employees performing work in those classifications must be paid.

Responsibilities of the Principal Contractor

The principal contractor, also referred to as the *prime* or *general contractor*, is responsible for the full compliance of all employers (the contractor, subcontractors and any lower-tier subcontractors) with the labor standards provisions applicable to the project. Because of the contractual relationship between a prime contractor and his/her subcontractors, questions to, from, or about subcontractors should always be channeled through the prime contractor.

Responsibilities of the Contract Administrator

The contract administrator is responsible for the proper administration and enforcement of the Federal labor standards provisions on the contracts covered by Davis-Bacon requirements. The administrator will provide labor standards preconstruction advice and support to the contractor and other project principals (owner, sponsor, architect), including providing the correct Davis-Bacon wage decision and ensuring that the wage decision and contract clauses are incorporated into the contract for construction. The contract administrator also monitors labor standards compliance by conducting interviews with construction workers at the job site and reviewing payroll reports, and oversees any enforcement actions that may be required.

The Department of Labor (DOL) also has a role in monitoring Davis-Bacon administration and enforcement. A DOL investigator or other representative may visit the construction site and interview workers or review payroll information.

How To Comply With Labor Standards & Payroll Reporting Requirements

The Basics

The Wage Decision - Davis-Bacon labor standards stipulate the wage payment requirements for *Carpenters, Electricians, Plumbers, Roofers, Laborers and other construction work classifications* that may be needed for the project. The Davis-Bacon wage decision that applies to the project contains a schedule of work classifications and wage rates that must be followed.

- a. **Work Classifications & Pay Rates** – a Davis-Bacon wage decision is simply a listing of different work classifications and the minimum wage rates that must be paid to anyone performing work in those classifications. Make sure that the work classifications you need are contained in the wage decision and make certain you know exactly what wage rates you will need to pay. Some wage decisions cover several counties and/or types of construction work (residential and commercial) and can be difficult to read. Many times the contract administrator may prepare a Project Wage Rate Sheet, which will show only the classifications, and wage rates for a particular project.
- b. **Posting the Wage Decision** – The prime contractor is responsible for posting a copy of the wage decision or project wage rate sheet and a copy of a DOL poster called “Notice to Employees” at the job site in a place that is easily accessible to all construction workers employed at the project and where the wage decision and poster won’t be destroyed by wind, rain, etc.

Additional “Trade” Classifications & Wage Rates

If the work classifications that you need do not appear on the wage decision or project wage sheet, you will need to request an additional classification and wage rate. This process is usually very simple, but has different rules for contractors and subcontractors.

As the contractor you will start with a written request to the contract administrator and identify the work classification that is missing and recommend a wage rate (usually the same rate that you are paying on similar projects) and a description of the work that the new classification will be performing. If the classification was missing the contract administrator will make the correction and issue a revised project wage sheet. If the classification was not included on the original DOL wage decision the administrator will make the request for the addition of the requested work classification and rate of pay to the DOL. The DOL will either approve the request and issue a revised determination or if the request is rejected the contract administrator will be notified of what work classification and wage rate should be used.

As a subcontractor you will start with a written request to the prime contractor, identifying the work classification that is missing, recommend a wage rate and provide a description of the work that the work classification will be performing. The prime contractor will notify the contract administrator. And if necessary the contract administrator will make the request to the DOL for the inclusion of the request work classification and rate of pay.

Certified Payroll Reports

Requirements - A contractor or subcontractor performing work on these types of construction projects are required to submit a weekly certified payroll report beginning with the first week that the company works on the project and for every week afterward until they have completed their work on the project. Payroll reports should be numbered beginning with #1 and the last report for the project should be clearly marked as "Final".

Payroll Formats – For fully Federal funded projects submit the US DOL Form WH-347: Certified Payroll Report and Form WH-348: Statement of Compliance. For fully State funded projects you will be required to submit a State Department of Labor mandated report. The contract will specify if you are required to submit the Federal or state specific reporting format.

Payroll Certification – the weekly payrolls are called *certified* because each payroll is signed and contains language certifying that the information is true and correct. The payroll *certification* language is either on the reverse side of the report or on a separate sheet.

"No Work" Payrolls – should be submitted whenever there is a temporary break in contractors work on the project. If the contractor knows that he will not be on the project for an extended period of time you should inform the prime contractor in writing to let them know about the break in work and give an approximate return date. Sometimes if a written note is given, the contractor will not have to file the "No Work" payrolls.

Payroll review and submission – the prime contractor should review each subcontractor's payroll reports for compliance prior to submitting the reports to the contract administrator. Remember, the prime contractor is responsible for the full compliance of all subcontractors on the contract and will be held accountable for any wage restitution that may be found due to any laborer or mechanic that is underpaid and for any liquidated damages that may be assessed for overtime violations. All of the payroll reports for any project must be submitted to the contract administrator through the prime contractor.

Payroll retention – every contractor and subcontractor must keep a complete set of their own payrolls and other basic records such as time cards, for Davis-Bacon project for at least 3 years after the project is completed. The prime contractor must keep a complete set of all of the payrolls from every contractor and subcontractor, for at least 3 years after completion of the project.

Payroll inspection – in addition to submitting payrolls to the contract administrator, every contractor and subcontractor must make their own copy of the payrolls available for review or copying to any authorized representative of the DOL.

Davis-Bacon Definitions

Laborer or Mechanic – means anyone who is performing work on the project, including trade journeymen (carpenters, plumbers, sheet metal workers, etc.) apprentices, trainees and for CWHSSA purposes, watchmen and guards. These groups must not be paid less than Davis-Bacon wage rates.

Working foremen – foremen or supervisors that regularly spend more than 20% of their time performing construction work are covered “laborers or mechanics” for labor standards purposes.

Exclusions – people whose duties are primarily administrative, managerial or clerical are not laborers or mechanics. For example office staff, timekeepers, messengers, etc.

Employee – every person who performs the work of a laborer or mechanic is “employed” regardless of any contractual relationship, which may be alleged to exist between a contractor or subcontractor and such person. This means that even if there is a contract between a contractor and a worker, the contractor must make sure that the worker is paid at least as much as the wage rate on the wage decision for the classification of work they perform.

Apprentices and trainees – are the only workers who can be paid less than the wage rate on the wage decisions for their work classification, they must be registered in an approved apprenticeship or training program. An approved program is one that has been registered with the DOL Bureau of Apprenticeship and Training (BAT) or with a BAT-recognized State Apprenticeship Agency (SAC). Apprentices and trainees are paid wage rates in accordance with the wage schedule in the approved program.

Most often the apprentice/trainee wage rate is expressed as a series of percentages tied to the amount of time spent in the program. For example: 0-6 months=65%, 6-12 months=70%. The percentage is applied to the journeyman's wage rate for that particular craft. For example if an Electrician is to be paid \$22.00 an hour a 65% Apprentice would be paid \$14.30 per hour.

Probationary apprentice can be paid as an apprentice if the BAT or SAC has certified that the person is eligible for probationary employment as an apprentice.

Pre-apprentice is someone who is not registered in a program and that hasn't been BAT-or-SAC-certified for probationary apprenticeship and cannot be considered an “apprentice” and must be paid the full rate on the wage decision for the classification of work they perform.

Ratio of apprentices and trainees to journeymen – the maximum number of apprentices or trainees that you can use on the job site cannot be more than the ratio of apprentices or trainees to the journeymen allowed in the approved program.

Prevailing wages or wage rates – are the wage rates listed on the wage decision for the project. The wage decision will list a minimum basic hourly rate of pay for each work classification. Some wage decisions include fringe benefits, which are usually listed as an hourly fringe rate. If the wage decision includes a fringe benefit rate for a classification, you will need to add the fringe benefit rate to the basic hourly rate *unless* you provide bona fide fringe benefits for your employees or you are a member of a Union.

Fringe Benefits – can include health insurance, retirement, life insurance, vacation and some contributions to training funds – but they must be made to “approved” plans or the Union. Fringe benefits do not include employer contributions to Social Security or some disability insurance payments or any that is required by another Federal, State or Local agency.

Site of Work – is where the Davis-Bacon wage rates apply. Usually this is the boundary of the project of a fabrication site.

Overtime – are defined as all hours worked on the site of the work in excess of 40 hours in any workweek. 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 – unless fringe benefits are paid to a bona fide plan or a Union.

Deductions – Employers may make standard payroll deductions (FWH, FICA, MCARE, State Withholding, insurance, retirements, savings accounts, judgments, child support, etc.) as permitted by DOL Regulations 29 CFR Part 3. These regulations prohibit the employer from requiring employees to “kick-back” any of their earnings.

Proper designation of trade – A work classification shown on the wage decision or project wage sheet must be selected for each worker based on the actual type of work he/she performed and you must pay each worker no less than the wage rate shown regardless of their level of skill. For example, if someone is performing carpentry work on the project, they must be paid no less than the wage rate shown on the wage decision *even* if they aren't considered by you to be fully trained as a Carpenter. **Remember**, the only people who can be paid less than the wage rate for their classification is apprentices and trainees registered in approved programs.

Split-classification – If your client has employees that perform work in more than one classification, they can pay the wage rates specified for each classification *only* if they maintain accurate time records showing the amount of time spent in each classification of work. If accurate time records are not maintained, the client must pay these employees the *highest* wage rate of all the classifications of work performed.

Reporting Requirements

Completing A Payroll Report

What information has to be reported on the payroll form? The weekly certified payroll form doesn't ask for any information that your client doesn't already need to keep for wage payment and tax purposes. They will need to know each employee's ***name, address*** and ***social security number***; his or her work classification (who is working for them and what they do?), the ***hours worked*** during the week, his or her ***rate of pay***, the ***gross amount earned*** (how much did the employee earn?), the amounts of any ***deductions*** for taxes, etc., and the ***net amount paid*** (how much was the paycheck made out for?).

For most contractors, the weekly certified payroll report is all the paperwork that is required for a Davis-Bacon Project.

Project and contractor/subcontractor information – each certified payroll has to show the contractor or subcontractor's name and address, the project name and number, and the week ending date in the spaces provided. Numbering payrolls is optional but strongly recommended.

Employee Information – payrolls must contain the employee's name, address and Social Security Number.

of Withholding Exemptions – the number of Federal Withholding Exemptions that the employee claims.

Work Classifications – each employee must be classified in accordance with the wage decision based on the type of work they actually perform.

Apprentices or Trainees – the first payroll on which any apprentice or trainee appears must be accompanied by a copy of that apprentice or trainee's registration in an approved program. A copy of the portions of the approved program pertaining to the wage rates and ratios shall also accompany the first certified payroll report on which the first apprentice or trainee appears.

Split-Classifications - for employees in split classifications, list the employee once for each classification, distributing the hours worked according to the classification, reflecting the rate of pay and gross earnings for each classification.

Hours Worked, Day & Date – The certified payroll report for the project should only show the regular/straight time and overtime hours worked on this project broken down first by number of hours worked each day and then showing total hours for the week on this project.

Rate of Pay/Cash Fringes - this has 2 separate reporting requirements as follows:

- 1. Contractors paying Fringe Benefits in cash to employees** - for each type of wage; Straight Time (ST) or Over Time (OT) you must now show the actual base rate of pay PLUS the Fringe Benefit rate per hour as stated in the wage decision associated with the contract that are paid directly to the employee. For example per the wage decision an employee with a work classification of Laborer has a base rate of pay of \$10.00 per hour with a fringe benefit rate of \$5.00 per hour it is required that you report Straight Time earnings like this **\$10.00/\$5.00**. For Over Time earnings you are required to pay not less than the sum of the base rate, plus the half time premium on the base rate, plus the benefit rate for straight time and should be reported like this **\$15.00/\$5.00**.

2. Contractors paying all required fringe benefits to the Union or a Bona-fide plan - if you pay all required fringe benefits to approved plans, funds or programs in amounts not less than stated in the wage decision associated with the contract you are required to only show the base rate of pay for Straight Time and Over Time and should be shown as **\$10.00 and \$15.00.**

Gross Amount Earned – This Job/All Jobs - enter gross amount earned on this job. If part of the employees total weekly wage was earned on projects other than the project described on this payroll you are required to report gross wages on this project and then gross wages on all projects, thus **\$60.00/\$120.00.**

Deductions - there are a total of 5 columns for reporting deductions. Deductions that are classified as "Other Withholding" require an explanation. Deductions are based on the gross wages for all projects. All deductions must be in accordance with the provisions of the Copeland Act Regulations, 29 CFR, Part 3. Total Deductions from gross pay must be reported in the Total Deductions column.

Net Wages Paid for Week - the employees Net Wages for the week and must agree with what he actually takes home as shown on his or her paycheck, this is the total of Gross Wages All Projects minus Total Deductions.

Statement of Compliance – The Statement of Compliance is the certification. Identifying information located at the top of the Statement of Compliance includes the name and title of the person who will be signing (certifying the information), the companies name submitting the payroll, the project name and the pay period. You must also complete parts 4 a, b, and c.

Signature – the Statement of Compliance must be signed with an original signature of a principal of the company (owner, President, Treasurer or Payroll Administrator) or by an authorized agent.

Payroll Reviews and Corrections

Compliance Reviews

The contract administrator or other inspector may visit the project site and interview some of the workers concerning their employment on the project. In addition, the contract administrator will periodically review payrolls and related submissions, comparing the interview information to the payrolls, to ensure that the labor standards requirements have been met. You will be notified by the contract administrator if these reviews find any discrepancies or errors. You will be given instructions about what steps must be taken to correct any problems.

Typical Errors and Required Corrections

Inadequate payroll information – if some other alternate form of payroll report does not contain ALL of that information that would be included on the USDOL Form WH-347, the employer will be asked to resubmit the payrolls on an acceptable form.

Missing addresses and Social Security Numbers – if the addresses and Social Security Numbers are not submitted on the payrolls, the employer will be asked to supply the missing information.

Incomplete payrolls – if the information on the certified payroll reports is not complete, for example, if work classifications or rates of pay are missing, the employer will be asked to send a corrected payroll.

Classifications – if the payrolls show work classifications that do not appear on the wage decision or the project wage sheet, the employer will be asked to reclassify the employees in accordance with the wage decision or the employer may request an ***additional classification and wage rate*** (see page 5). If reclassification results in an underpayment (the wage rate on the payroll is less than the wage rate required for the new classification, the employer will be asked to pay ***wage restitution*** to all affected reclassified employees. (See page 14 for more information about wage restitutions.)

Wage Rates – if the wage rates on the payroll are less than the wage rates on the wage decision for the work classification reported, the employer will be asked to pay wage restitution to all affected employees.

Apprentices and trainees – if a copy of the employee(s) registration or approved program ration and wage schedule is not submitted with the first payroll on which an apprentice or trainee appears, the employer will be asked to submit a copy of each apprentice's or trainees registration and/or the approved program ratio and wage schedule. If the ratio of apprentices or trainees to journeymen on the payroll is greater than the ratio in the approved program, the employer will be asked to pay wage restitution to any excess apprentices or trainees. Also, any apprentice or trainee that is *not* registered in an approved program must receive the journeyman's wage rate for the classification of work they performed.

Overtime – if the employees did not receive at least time and one-half for any overtime hours worked on the project, the following will occur:

1. If the project is subject to *CWHSSA overtime* requirements, the employer will be asked to pay wage restitution for all overtime hours worked on the project (overtime hours worked at other projects are not subject to CWHSSA). The employer may also be liable to the United States for liquidated damages computed at \$10 per day per violation. OR,
2. If the project is **not** subject to CWHSSA, the employer will be notified of the possible *FLSA overtime* violations. Also, the Labor Relations staff may refer the violations to the DOL for further review.

Computations – if the payroll computations (hours worked times rate of pay) or extensions (deductions, net pay) show frequent errors, the employer will be asked to take greater care. Wage restitution may be required if underpayments resulted from the errors.

Deductions – if there are any “Other” deductions that are not identified, or if employee authorization isn’t provided, or if there is any unusual (very high, or large numbers) deduction activity, the employer will be asked to further identify the deductions, provide employee authorization or explain unusual deductions, as necessary.

Fringe Benefits – if the wage decision contains fringe benefits but the payroll does not indicate how fringe benefits were paid (neither 4(a) nor 4(b) is marked on the Statement of Compliance), the employer may be asked to submit corrected payrolls **and** will be required to pay wage restitution if underpayments occurred. *However*, if the basic hourly rates for the employees are at least as much as the total wage rate on the wage decision (basic hourly rate *plus* the fringe benefit rate), no correction is necessary.

Signature – if the *Statement of Compliance* is not signed or is missing, the employer will be asked to submit a signed Statement of Compliance for each payroll affected.

On-site interview comparisons – if the comparison of on-site interviews to the payroll indicates any discrepancies (for example, the employee does not appear on the certified payroll report for the date of the interview), the employer will be asked to submit a corrected payroll report.

Restitution for Underpayment of Wages

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

Notification to the prime contractor – the contract administrator will notify the prime contractor in writing of any underpayments that are found during payroll or other reviews. The notice will 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. Note that the prime contractor is responsible to the contract administrator 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 worked equals gross amount of restitution due.

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-#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 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 signed Statement of Compliance must be attached to the correction certified payroll.

Employee signature – each employee who has received restitution signs the certified payroll as evidence of his or her receipt of the payment.

Review of correction CPR – the contract administrator will review the correction 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, documented on a supplemental correction payroll within 30 days.

Unfound workers – 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 contract administrator will continue to attempt to locate the unfound workers for 3 years after the completion of the project.

Other Reporting Requirements

Union or Bona-fide Plan Fringe Benefit Reports – if a contractor pays all required fringe benefits to approved plans, funds or programs in amounts not less than stated in the wage decision associated with the contract, liability reports will need to be filed with either the Union or the Administrator of the bona-fide plan along with the check for the proper amounts. Fringe benefits are usually calculated on an hourly rate times the number of hours worked by each employee at each classification over a specific time frame (usually a full calendar month). These reports can range from simple to complex.

Union Dues Reports – if the contractor is a member of a Union, and hires only Union Employees the contractor will be required to submit liability reports showing the Union Dues withheld from the employees paycheck, along with the check for the proper amounts. Union Dues are usually reported and submitted by week and are based on the number of hours worked times the appropriate union dues hourly rates.

EEOC/Work Utilization Reports – are sometimes also required to be submitted on a weekly, monthly or annual basis depending upon the specifications written into the contract. These reports are governed by the Equal Employment Opportunity Commission and report the number of employees working on a specified project based on Work Classification, Sex, and Race. There are several commonly used reporting forms on the Federal level as well as some state specific ones.

What Happens When Things Go Wrong?

Even in the best of circumstances, things can go wrong. In this case it means that there is a difference of opinion – a dispute – about whether and to what extent underpayments have occurred. These disputes are usually between the contract administrator and one or more employers (the prime contractor and/or subcontractors). The dispute may involve something simple such as an additional classification request that is pending; or something as significant as investigative findings following a complaint of underpayment.

Administrative Review on Labor Standards Disputes – a dispute about labor standards and compliance can arise for a number of reasons. The labor standards clause in the contract and DOL regulations provide for administrative review of issues where there is a difference of views between the contract administrator and any employer. The most common circumstances include:

Additional classifications and wage rates – additional classification and wage rate requests are sometimes denied. An employer that is dissatisfied with the denial can request reconsideration. The employer may continue to pay the wage rate, as requested, until a final decision is made. When the final decision is known, the employer will be required to pay any additional wages that may be necessary to satisfy the wage rate that is established.

Reconsideration – normally identification for the reasons for denial are indicated in the response for the request. Any interested person (the contract administrator, employer, representatives of the employees) may request reconsideration of the decision on the additional classification request. The request for reconsideration should be made in writing and should thoroughly address the denial reasons. Requests for reconsideration should be made through the contract administrator.

Administrative Review Board – any interested party may request a review of the Administrator's decision on reconsideration.

Findings of underpayment – compliance reviews and other investigations may result in findings of underpayment. The primary goal in every case and at every step in this process is to reach agreements about who may have been underpaid and how much wage restitution may be due and, of course, to deliver restitution to any underpaid workers. The contract administrator will usually work informally with contractors to reach such agreements. Contractors will have an opportunity to provide additional information to the contract administrator that may explain apparent inconsistencies and/or resolve the discrepancies.

If informal exchanges do not result in an agreement, the final determinations and schedule of wages due will be presented to the contractor in writing and the contractor will be permitted 30 days in which to correct the underpayment(s) or to request a hearing on the matter before the DOL. The request for hearing should be made in writing and should explain what findings are in dispute and the reasons. The request should be made through the contract administrator. The contract

administrator will submit a report of the findings and the hearing request to the DOL for review and further consideration.

DOL Review – the DOL will review the contract administrator's report and the arguments against the findings presented in the hearing request. The DOL may affirm or modify the findings based upon the materials presented. You will be notified in writing by the DOL of the results of its reviews; you will be given an opportunity to correct any underpayments or to continue with the hearing request.

Administrative Review Board – contractors and/or subcontractors may request a review by the Administrative review board or its equivalent of the decision(s) rendered in the administrative hearing process.

Withholding – the contract administrator may cause withholding from 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. Withholding is considered to be serious and is not taken unless warranted. Very often, the amount kept in retentions is sufficient to cover any back wage liability so withholding from payments is not considered necessary. However, if withholding is deemed necessary, you will be notified in writing. Only the amounts necessary to meet the contractor's (and/or subcontractor's) liability shall be withheld.

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 and any lower-tier subcontractors.

Deposits & Escrows – in every case, it is attempted to complete compliance actions and resolve any disputes before the project is completed and final payments are made. However, sometimes, corrective actions or disputes continue after project completion and provisions must be made to ensure that funds are available to pay any wage restitution that is ultimately found due. In these cases, the project is allowed to proceed to final closing 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 contract administrator. When a final decision is rendered, the contract administrator makes disbursements from the account in accordance with the decision. Deposit/escrow accounts are established for one or more of the following reasons:

- a. Where the parties have agreed to amounts of wage restitution that are due *but* the employer hasn't furnished evidence yet that all of the underpaid workers have received their back wages. The deposit is equal to the amount of restitution due to workers lacking payment evidence. As proper documentation is received, amounts corresponding to the documentation is returned to the depositor. Amounts for any workers who cannot be located are held in escrow for 3 years.

- b. Where underpayments are suspected 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 account will be reduced to the final amount and the difference will be returned to the depositor. 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.
 - c. 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 made, disbursements from the account are made in accordance with the decision.
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Debarment – contractors and/or subcontractors that are found 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 or Davis-Bacon Act 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 contract administrator or can be initiated by the DOL.

About Sunburst Software Solutions, Inc.

Nancy Smyth, President of Sunburst Software Solutions, Inc., has utilized Intuit products in a variety of industries since 1986, specializing in the construction industry, and has been a Certified QuickBooks ProAdvisor since 1999.

Providing bookkeeping services for several small Union and Non-Union construction firms, Nancy knew QuickBooks® was a great tool to be used not only for herself, but also by the small business owner. While completing a job-costed payroll for 10 employees or a progress invoice within QuickBooks® was a fast and efficient process, completing the required Certified Payroll Reports and AIA billing would take hours to complete. Distaste for these tedious task led to a lengthy search for someone to extract this information from QuickBooks® and assemble these forms ready to be signed and submitted.

In August 2000, a method was found for retrieving QuickBooks® information through the use of the OfficeQ Pro product developed by DataBlox, Inc. Ben Smyth, a Software Engineer who had written software programs since 1980 for use in Municipal, Retail, Restaurant, Web Services, GPS/Imaging, and Travel Industries (many involving complex payroll products for use in the Commercial and Municipal arenas), was willing to embark on this project and Sunburst Software Solutions, Inc. was born in Lakeside, MT.

Already familiar with the Federal Prevailing Wage Laws, and Connecticut Specific Prevailing Wage mandates, research began to make Certified Payroll Solution compliant with the requirements of all 50 states, and coding began. By late 2000 Nancy's tedious task was testing the program with live payroll data.

In March 2001 Certified Payroll Solution was released, and has since grown to include various EEOC/Work Utilization Reports and a flexible Benefit Report that can be used to report Union Fringe Benefit or "bona fide" plan contributions.

In August 2001 Sunburst Software Solutions, Inc. became a Premier Member of the Intuit Developer Network knowing that the Software Development Kit offered by Intuit would provide a more direct and therefore sanctioned means of accessing QuickBooks® data. They retain their Premier Member status to date. Additionally, the design for the Construction Application for Payment Solution application began; to automate AIA billing from Estimates and Progress Invoices created in QuickBooks® with it's initial release in January 2002.

Certified Payroll Solution was entirely rewritten in January 2003, when the Intuit Software Development Kit was updated to include access to Payroll Information for their 2003 product line. Sunburst still maintains their original version 4.9 of the program for use with QuickBooks 2002 and prior versions.

Both software products were designed to meet the market need of QuickBooks users in the construction industry, and Sunburst is committed to bring high-end functionality to the smaller contractor at a reasonable price. As of December 31, 2003 over 75% of their customers have remained users by purchasing an Annual Maintenance Contract, which provides compatibility and/or conversion updates for the latest releases of the QuickBooks product line, as well as user requested enhancements.