

GRANT ASSURANCE #14

Source: *Airport Sponsor Assurances* (4/2012)

[http://www.faa.gov/airports/aip/grant_assurances/media/airport_sponsor_assurances_2012.pdf]

14. Minimum Wage Rates. It shall include, in all contracts in excess of \$2,000 for work on any projects funded under this grant agreement which involve labor, provisions establishing minimum rates of wages, to be predetermined by the Secretary of Labor, in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a-276a-5), which contractors shall pay to skilled and unskilled labor, and such minimum rates shall be stated in the invitation for bids and shall be included in proposals or bids for the work.

Purpose:

All federally funded projects, in excess of \$2,000 and that involve the employment of mechanics or laborers, are subject to the Davis-Bacon Act of 1931, as amended. The U.S. Department of Labor issues the minimum prevailing wages for mechanics and laborers based on contract type and locality. Every federally funded project that is subject to the Davis-Bacon Act, is required to include standard language into every contract and subcontract that all mechanics and laborers on the project shall be paid at least the minimum prevailing wage rates unconditionally and at least once a week regardless of any contractual relationship the firm has with its employees.

The construction project bidding process is the first time contractors will learn about your project and the requirements that must be satisfied in order to be awarded the project and receive payment for work completed. Pre-bid meetings, pre-construction meetings, and construction progress meetings are additional times to reinforce these requirements or to provide references or explanations to “new” contractors.

Airport sponsors, usually delegated to their resident engineers, are required to monitor compliance with Davis-Bacon Act requirements as well as other federal labor compliance laws. Appropriate documentation, including FAA’s airport sponsor certifications, is an important way to demonstrate compliance with these requirements. Additional monitoring efforts include payroll surveys of laborers and mechanics.

“contractors are required to...pay wages to laborers and mechanics at a rate not less than the minimum wages specified in the wage determination made by the Secretary of Labor.”

Source: FAA Order 5100.38C

There are penalties for not complying with the Davis-Bacon Act requirements including stopping grant reimbursement payments, contract termination, debarment from any federally funded projects for up to three (3) years, in addition to possible civil or criminal prosecution that carries with it penalties of fines and imprisonment.

Resources:

- FAA Order 5100.38C, *Airport Improvement Program Handbook*, Chapters 9 \$14, (http://www.faa.gov/airports/aip/aip_handbook/)
- FAA’s Procurement and Contracting website (http://www.faa.gov/airports/aip/procurement/federal_contract_provisions/)
- The US Department of Labor’s Wage and Hour Division (<http://www.dol.gov/whd/govcontracts/index.htm>)
- Title 49 USC §47106(a) (<http://www.gpo.gov/fdsys/pkg/USCODE-2011-title49/pdf/USCODE-2011-title49-subtitleVII-partB-chap471-subchapl-sec47106.pdf>)
- NHDOT/Office of Federal Compliance document library for construction projects (<http://www.nh.gov/dot/org/administration/ofc/documents.htm>)
- NHDOT/Office of Federal Compliance training is available for labor compliance on an as needed basis. Contact Douglas Potter at 603-271-6752.

Key Concept to Remember:

- *All FAA-funded construction projects are likely to have Davis-Bacon Act requirements. Compliance is not optional.*