



#24-03: DAVIS-BACON REGULATIONS UPDATE

Purpose

In response to recent updates to federal regulations related to the Davis-Bacon and Related Acts (DBRA), the Local Assistance Procedures Manual (LAPM) Chapter 12: Plans, Specifications & Estimate, Chapter 15: Advertise and Award Project, LAPM Exhibit 15-C: Local Agency Project Advertising Checklist, and LAPM Exhibit 15-L: Local Agency Contract Award Checklist need to be updated to provide greater procedural clarity.

Policy

Updates to DBRA require LPAs to monitor federal wage rate determinations up until bid opening. If federal prevailing wage rates are modified, LPAs are required to either issue an addendum to incorporate the modified version of the federal prevailing wage rates into the contract or document in the project files that there is not a reasonable time still available before bid opening to notify bidders of the revision. If the contract is not awarded within 90 calendar days of bid opening, the LPA must insert the most current federal prevailing wage rates into the contract.

The procedure for LAPM Exhibit 15-L has not changed. The LPA will continue to submit the completed Exhibit 15-L as part of the Award Package to the DLAE prior to submitting the first invoice for the construction phase. However, the procedure for Exhibit 15-C will change; Exhibit 15-C is to be completed and retained in the project files prior to advertisement rather than prior to the request for an Authorization to Proceed.

This Office Bulletin is applicable to all aspects of the federal-aid program whenever the Davis-Bacon requirements are applicable.

Publication Changes

The following table lists the changes to the January 2024 LAPM, Exhibit 15-C, and Exhibit 15-L. LAPM chapter changes noted below supersede the existing 2024 LAPM publication and will be hard-coded in the January 2025 version. Revisions to LAPM Exhibits 15-C and Exhibit 15-L will be released upon publication of this Office Bulletin.



Chapter Section / Exhibit	Changes that Supersede Current Publication
<p>LAPM Chapter 12 Section 12.8 Federal Contract Requirements</p>	<p>Federal Wage Rates Determinations (29 CFR 1.6) ...</p> <p>The federal prevailing wage rates must be physically inserted into the contract or referenced by an internet website address the applicable Wage Determination (WD) # website address in the project special provisions during advertisement. and must be physically attached to the contract signed by the LPA and the contractor on all federal aid construction projects exceeding \$2,000 and to all related subcontracts (regardless of tier or subcontract size). Projects located on roads classified as local roads or rural minor collectors are exempt from this requirement.</p> <p>For contracts entered pursuant to competitive bidding procedures, LPAs must be in conformance with the federal 10-day rule. LPAs must monitor the minimum federal wage rate determinations posted at https://www.sam.gov/ to determine if project's applicable federal prevailing wage rates have been modified from the time of initial advertisement to 10 calendar days prior to bid opening. If federal prevailing wage rates are modified, LPAs are required to issue an addendum to incorporate the modified version of the federal prevailing wage rates to the contract.</p> <p>It is important to ensure the project's applicable federal prevailing wage rates physically be attached as an exhibit to the final contract agreement package prior to its execution by the contractor and LPA. The same provision set forth applies to the contractor's subcontracted works as well.</p> <p>See Chapter 15.3 for conformance with 29 CFR 1.6.</p>
<p>LAPM Chapter 15 Section 15.3 Project Advertisement</p>	<p>Procedures</p> <p>Upon receipt of Authorization to Proceed for construction from Caltrans, the LPA can proceed to advertise the project. Prior to project advertisement, the LPA must certify that their final PS&E package complies with all applicable federal and state regulations and procedures. LPAs should also complete and retain the Exhibit 15-C: Local Agency Project Advertising Checklist in the project files prior to requesting an Authorization to Proceed advertisement. All LPAs must submit a completed Request for Authorization with the PS&E Certification before they can receive verification that construction has been authorized by Caltrans.</p> <p>Upon receipt of Authorization to Proceed for construction from Caltrans, the LPA can proceed to advertise the project.</p>



	<p>...</p> <p>Federal Wage Rates Determinations (29 CFR 1.6)</p> <p>For contracts entered pursuant to competitive bidding procedures, LPAs must monitor the federal wage rate determinations to determine if federal prevailing wage rates have been modified from the time of initial advertisement to 10 calendar days prior to bid opening. If federal prevailing wage rates are modified, LPAs are required to issue an addendum to incorporate the modified version of the federal prevailing wage rates into the contract.</p> <p>LPAs are also required to monitor federal wage rate determinations up until bid opening. If federal prevailing wage rates are modified, LPAs are required to either issue an addendum to incorporate the modified version of the federal prevailing wage rates to the contract or document in the project files that there is not a reasonable time still available before bid opening to notify bidders of the revision.</p> <p>The federal prevailing wage rates must be physically attached to the executed contract signed by the LPA and the contractor on all federal-aid construction projects exceeding \$2,000 and to all related subcontracts (regardless of tier or subcontract size). Projects located on roads classified as local roads or rural minor collectors may be exempt from this requirement.</p> <p>If the contract is not awarded within 90 calendar days of bid opening, the LPA must insert the most current federal prevailing wage rates into the contract.</p>
<p>LAPM Chapter 15 Section 15.4 Contract Bid Opening</p>	<p>Requirements</p> <p>...</p> <p>Just as the bid may be rejected for being irregular or unresponsive, a bid may also be rejected on the grounds that the bidder is not a responsible bidder. A bidder may be deemed not responsible because of past unsatisfactory performance, as evidenced by failure to meet the LPA's qualification requirements, or because of state or federal suspension/debarment action. The LPA should check to see if a contractor is suspended or debarred from federal contracts and document in the project file that the LPA has verified that the low bidder and subcontractors have not been suspended or debarred. A publication titled "A Listing of Parties Excluded from Federal Procurement and Non-procurement Programs" is available at www.sam.gov.</p> <p>...</p>



LAPM Exhibit 15-C:
Local Agency Project
Advertising Checklist

Reformatted by the removal of nonessential project information and addition of new check boxes and data entry field for greater consistency the updates to DBRA and grouping of check boxes based on subject.

Removal of:

- DIST—CO—RTE—PM—Agency data entry field
- Location data entry field
- Limits data entry field
- PS&E Review and related plan check boxes
- Design exception approval check box
- DBE Contract Goal included check box
- Submittal of complete set of PS&E to DLAE check box

Addition of:

- Environmental Clearance date for NEPA and CEQA data entry field
- Environmental Permits Obtained check box
- Right of Way Certification Date data entry field
- Date of CTC Allocation for Construction funding data entry field
- Engineer's Estimate data entry field
- DBE Goal data entry field
- Advertising period data entry field
- Pre-bid meeting has been scheduled check box
- Federal prevailing wage rates have been incorporated in the advertised contract check box
- Addendum will be issued for updated federal wage determination 10 days prior to bid opening check box
- Federal prevailing wage rates will be monitored up until bid opening check box
- Bid protest policy in place check box
- Signature of Local Agency Representative

LAPM Exhibit 15-L:
Local Agency Contract
Award Checklist

Reformatted by combining data entry fields to the beginning of the form and check boxes to the main body of the form, removal of nonessential or redundant project information, and addition of new check boxes and data entry field for greater consistency the updates to DBRA and grouping of check boxes based on subject.

Removal of:

- Project Locator data entry field
- Project Limits data entry field
- Copy of engineers estimate to be attached
- Is material testing and sampling arranged check box
- Low Bid signed in ink check box
- Is the Non-Collusion Affidavit included in the low bidders' proposal check box
- TIP information, Authorized amount data entry field
- TIP page number or amendment number data entry field
- Date DLA's Federal Wage Rate website was checked for updates data entry field



- Detail Estimate (Exhibit 15-M) attached check box
- Administered Agency Representative Phone Number data entry field

Addition of:

- Project name data entry field
- Contractor name data entry field
- Advertise Date data entry field
- Engineer's Estimate amount data entry field
- DBE Goal data entry field
- DBE Commitment data entry field
- Addendum issued for updated federal wage rate determination 10 days prior to bid opening check box
- Federal wage rate determinations monitored up until bid opening check box
- Project was awarded to the apparent low bidder check box
- Bid protests were filed check box
- Evaluation of Good Faith Effort (Exhibit 9-E) attached check box
- Results of Administrative Reconsideration in project files check box

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