



Department of Energy
Washington, DC 20585

JM Chronology
JM RECEIVED - 1/16/14
OUT FOR REVIEW - 1/24/14
DRB DISCUSSION - 2/6/14

1/16/2014

MEMORANDUM FOR: INGRID KOLB
DIRECTOR, OFFICE OF MANAGEMENT

THROUGH: KEVIN T. HAGERTY
DIRECTOR, OFFICE OF INFORMATION RESOURCES

FROM: GENA E. CADIEUX
DEPUTY GENERAL COUNSEL FOR TECHNOLOGY TRANSFER AND
PROCUREMENT, OFFICE OF THE GENERAL COUNSEL

SUBJECT: Notice of Intent to Move Chapters I and II from Department of Energy
Order 350.1, Contractor Human Resources Management Programs,
into a Separate DOE Order

PURPOSE: This Memorandum seeks approval to remove Chapter I, Labor Relations, and Chapter II Labor Standards from DOE Order 350.1, Contractor Human Resources Management Programs, and place them into a separate DOE Order [DOE O 350.3]. Thus, this new Order will cancel and supersede Chapters I and II in DOE O 350.1. In so doing, we seek to revise and update those chapters to reflect the Secretarial determination transferring functions for contractor labor relations and labor standards from the Office of Legacy Management (LM) to the Office of the General Counsel (GC). We also request that the Contractor Requirements Documents (CRDs) be removed from the end of each chapter, to remove duplication with existing contract clause language and regulations and to achieve consistency with the recent removal of CRDs from Chapters IV, V, and VI of DOE O 350.1.

JUSTIFICATION:

When Department of Energy (DOE or the Department) Order 350.1 was issued in September 1996, Chapters I, II, and III were under the jurisdiction of the Office of Worker and Community Transition and later transferred to LM when that Office was created in 2003; Chapter IV, V, VI, VII, VIII, and IX were under the jurisdiction of the Office of Contractor Human Resource Management. Jurisdiction over Chapters VIII and IX was later transferred to the Office of Health, Safety and Security (HSS). Thus, since DOE O 350.1 was issued in 1996, the management and programmatic responsibility of the various chapters was splintered among at least two and (for the last several years) three different offices, with the result that necessary updates and changes have been difficult to accomplish in a concerted effort.

By Secretarial determination dated January 14, 2010, responsibility for contractor human resource labor relations and labor standards was transferred from LM to GC for the express purpose of establishing a "single organizational point of contact" and thereby "improv[ing] coordination and communication." (See EXEC-2009-019181, "Secretarial Approval of a Transfer of Function for Contractor Labor Relations and Labor Standards from the Office of Legacy Management to the Office of the General Counsel," approved Jan 14, 2010, hereafter "Secretarial Determination.")



RECEIVED
1/16/2014

Justification Memorandum (Continued)

Chapters 1 and 2 of Order 350.1 have not been updated since the Secretarial Determination and this action is being taken to address operational concerns resulting from that fact. Breaking Chapters I and II out of DOE O 350.1 and putting them into a new order would ensure a single point of organizational contact and improve management and oversight of contractor labor relations and labor standards, two critical subject areas in contractor human resource management. The new Order will clarify that disputed labor standards determinations will be submitted to the DOL after review by GC-63 and that GC-63 will represent the Department in any further proceedings with DOL. This action implements the Secretarial Determination, which expressed the need for a single, clear organizational point of contact in place of LM (as set out in the existing Order), as well as the past practice of disputed labor standards determinations being cleared by the Department's senior labor advisors, formerly LM and now GC-63. Revisions to these chapters are also needed, not just to reflect the transfer of functions to GC and to clarify GC-63's responsibilities, but also to correct and update citations to statutes and forms. The new Order will save Departmental resources by reducing the risk of inconsistent and erroneous decisions, while also avoiding otherwise unnecessary briefings and other costs and supporting the strategic goal of achieving management and operational excellence by updating and better aligning requirements related to Federal oversight of contractor labor relations and labor standards issues.

Additionally, the CRDs in Chapter I and II should be removed to eliminate potential variance and/or duplication among the CRDs and the contract special H clauses and applicable DOL regulations, the Federal Acquisition Regulation (FAR), and the Department of Energy Acquisition Regulation (DEAR). Specifically, the material set forth in the CRD for Chapter I is duplicative of the model H clause for Labor Relations in STRIPES (DOE-H-1003). The material in the CRDs for Chapter II duplicates requirements set out in regulations of the DOL, the FAR and the DEAR, which must be included in Departmental contracts. Thus, removal of these CRDs is necessary to alleviate possible confusion, excess costs, and delays in mission execution. Removing the CRDS's in Chapter I and II will also ensure consistency with the recent determination to remove the CRDs from Chapters IV, V, and VI of DOE O 350.1.

The new Order is applicable to all departmental elements managing contracts that require Departmental approval of labor relations and labor standards issues for reimbursement purposes.

There are no valid external, consensus or other "Standards" (e.g., ISO, VPP, etc.) available for use in place of the directive itself (as opposed to the CRDs in existing Chapters I and II).

IMPACT: The proposed movement of Chapters 1 and 2 of Order 350.1 into a new directive does not duplicate existing laws, regulations, or national standards, and it does not create undue burden on the Department. The revisions sought will reduce the risks that were created after the transfer of functions from LM to GC-63. Elimination of the CRDs will also eliminate confusing duplication and inconsistencies between certain contractual provisions set forth in the CRDs of the existing Order and the Special H Clauses incorporated in STRIPES, as well as applicable DOL, FAR and DEAR regulations (see attached Revision Cross-Walk).

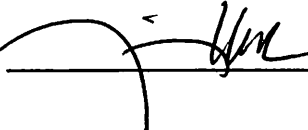
Justification Memorandum (Continued)

In addition to reducing existing risks to the Department by eliminating confusion and inconsistencies, the proposed revisions will create no additional risks to the Department as the changes to Chapters 1 and 2 of 350.1 will not create any new Departmental policy or practice.

WRITER: Eva Auman, 202-287-5630.

OPI/OPI CONTACT: Office of the Assistant General Counsel for Labor and Pension Law, Eva Auman, 202-287-5630.

Ingrid Kolb, Director, Office of Management (MA-1):

Concur:  Nonconcur: _____ Date: 2-6-14

Unless determined otherwise by the Directives Review Board (DRB), writers will have up to 60 days in which to develop their first draft and submit to the Office of Information Resources, MA-90

<u>Standard Schedule for Directives Development</u>	<u>Days</u>
Draft Development	Up to 60 days
Review and Comment (RevCom)	30
Comment Resolution	30
Final Review	30
Total	150

(NOTE: The standard schedule of up to 150 days will be used unless otherwise specified by the Directives Review Board.)

Attachment 1		Risk Assessment			Appropriate to accept risk?	Appropriate to transfer risk to Contractor?			
Subject Area	Risk	Probability	Impact	Risk Level	Yes/No	Yes/No	Control	Explanation	Reference
	Mission; Reputation and Trust	Likely	Medium	Significant	No	No	<p><u>4. RESPONSIBILITIES</u></p> <p>b. Heads of Contracting Activities (HCA).</p> <p>(4012) Investigate complaints under the Davis-Bacon Act to determine compliance and proceed as follows:</p> <p>(a) If no violation is discovered, advise the complainant of the reasons for the conclusion.</p> <p>(b) If a violation is discovered:</p> <p>(i) determine the amount of back wages, fringe benefits, and overtime pay due each employee, and request the contractor to make restitution;</p> <p>(ii) determine the amount of liquidated damages due, if any, and request the contractor to make restitution;</p> <p>(iii) withhold sufficient funds to compensate employees and to cover any liquidated damages that may be due when the contractor does not cooperate or does not agree with the findings and refuses to make restitution;</p> <p>(iv) notify GC-63 of DBA non-compliance findings furnish an enforcement report to the Administrator, Wage and Hour Division, Department of Labor within 60 days after completion of an investigation where the Davis-Bacon Act underpayments by a contractor totals \$1,000.00 or more; there is reason to believe the violations are willful; the contractor does not agree with the findings and refuses to make restitution; or the Department of Labor requested the investigation; and</p> <p>(v) ensure that funds withheld to compensate employees for back wages are forwarded to the Comptroller General for disbursement if restitution has not been made.</p>	The purpose of this section as written is to state the HCA's role in the investigation of DBA complaints. The proposed changes are suggested for clarity. This change also reflects the transfer of function for contractor labor relations and labor standards from the Office of Legacy Management to the Office of the General Counsel (see Secretarial Determination).	Chapter 2, Section 4.b.(12)
	Mission; Reputation and Trust	Likely	Medium	Significant	No	No	<p><u>4. RESPONSIBILITIES</u></p> <p>b. Heads of Contracting Activities (HCA).</p> <p>(4113) Prepare and submit the Davis-Bacon Act Semi-Annual Enforcement Report to GC-63 the Director, Office of Worker and Community Transition by April 21 and October 21 of each year.</p>	The purpose of this section as written is to state the HCA's role in the preparation and submission of the DBA Semi-Annual Enforcement Report. This change reflects the transfer of function for contractor labor relations and labor standards from the Office of Legacy Management to the Office of the General Counsel (see the Memorandum for the Secretary of December 8th, 2009 [EXEC-2009-019181], approved by the Secretary on January 14th, 2010).	Chapter 2, Section 4.b.(13)
	Mission; Reputation and Trust	Unlikely	Low	Minor	No	No	<p><u>5. REFERENCES</u></p> <p>a. Department of Labor Regulations at 29 C.F.R. Parts 4 and 5, which provide labor standards for federal service contracts, and labor standards provisions applicable to contracts covering federally financed and assisted construction.</p>	No language currently exists to this effect. These changes are suggested for the sake of clarity.	Chapter 2, Section 5.a.

Attachment 1		Risk Assessment			Appropriate to accept risk?	Appropriate to transfer risk to Contractor?			
Subject Area	Risk	Probability	Impact	Risk Level	Yes/No	Yes/No	Control	Explanation	Reference
	Mission; Reputation and Trust	Unlikely	Low	Minor	No	No	5. REFERENCES b. Federal Acquisition Regulations (FAR), Subpart 5.4, RELEASE OF INFORMATION.	No language currently exists to this effect. These changes are suggested for the sake of clarity.	Chapter 2, Section 5.b.
	Mission; Reputation and Trust	Unlikely	Low	Minor	No	No	5. REFERENCES ac. Federal Acquisition Regulations (FAR), Subpart 22.4, LABOR STANDARDS FOR CONTRACTS INVOLVING CONSTRUCTION, which explains the applicability of the Davis-Bacon Act.	The purpose of this section as written is to provide reference to applicable regulations. The proposed changes are suggested for clarity.	Chapter 2, Section 5.c.
	Mission; Reputation and Trust	Unlikely	Low	Minor	No	No	5. REFERENCES bd. Federal Acquisition Regulations (FAR), Subpart 22.10, SERVICE CONTRACT ACT OF 1965, AS AMENDED, which explains the applicability of the Service Contract Act.	The purpose of this section as written is to provide reference to applicable regulations. The proposed changes are suggested for clarity.	Chapter 2, Section 5.d.
	Mission; Reputation and Trust	Unlikely	Low	Minor	No	No	5. REFERENCES ec. Department of Energy Acquisition Regulation (DEAR) 970.2204-1-173, ADMINISTRATIVE CONTROLS AND CRITERIA FOR APPLICATION OF THE DAVIS-BACON ACT IN OPERATIONAL OR MAINTENANCE ACTIVITIES.	The purpose of this section as written is to provide reference to applicable regulations. The proposed changes are suggested for clarity.	Chapter 2, Section 5.e.
	Mission; Reputation and Trust	Unlikely	Low	Minor	No	No	5. REFERENCES f. DEAR Subpart 970.52, SOLICITATION PROVISIONS AND CONTRACT CLAUSES FOR MANAGEMENT AND OPERATING CONTRACTS.	No language currently exists to this effect. These changes are suggested for the sake of clarity.	Chapter 2, Section 5.f.
	Mission; Reputation and Trust	Unlikely	Low	Minor	No	No	5. REFERENCES g. DOE Acquisition Guide, Chapter 22.1, Labor Standards for Construction and Services.	No language currently exists to this effect. These changes are suggested for the sake of clarity.	Chapter 2, Section 5.g.
	Mission; Reputation and Trust	Unlikely	Low	Minor	No	No	6. CONTACT. Office of the Assistant General Counsel for Labor and Pension Law (GC-63) Worker and Community Transition, at (202) 586-7532/50.	The purpose of this section as written is to provide contact information for the Office of Worker and Community Transition. The proposed changes reflect the transfer of function for contractor labor relations and labor standards from the Office of Legacy Management to the Office of the General Counsel (see Secretarial Determination).	Chapter 2, Section 6.

Attachment 1		Risk Assessment			Appropriate to accept risk?	Appropriate to transfer risk to Contractor?			
Subject Area	Risk	Probability	Impact	Risk Level	Yes/No	Yes/No	Control	Explanation	Reference
	Mission; Reputation and Trust	Rare	Negligible	Minor	Yes	Yes	CONTRACTOR REQUIREMENTS DOCUMENT LABOR STANDARDS The following requirements apply to contractors who perform work subject to the Davis-Bacon Act and the Service Contract Act. 1. Request labor standards coverage determinations from the contracting officer by submitting proposed work authorizations for contracts in excess of \$2,000 for construction, alteration, or repair, including painting and decorating, of public buildings and public works that involve the employment of laborers and mechanics. (See FAR 22.401 for definition of terms.)	It is well established that contracting agencies have the initial responsibility for making labor standards determinations (see Reorganization Plan No. 14 of 1950, 5 U.S.C. App. at 1261; 48 C.F.R. 970.2204-1-1(b)(3); and 29 C.F.R. § 1.6(b); see also <u>Reconsideration of Applicability of the Davis-Bacon Act to the Veteran Administration's Lease of Medical Facilities</u> , 18 Op. Off. Legal Counsel 109, 122 (1994); "U.S. Department of Labor Prevailing Wage Resource Book: Interactions Among PCA & SCA & DBA on Federal Contracts" at 11 (2013); and "U.S. Department of Energy Acquisition Guide: chapter 22.1 Labor Standards for Construction and Services" (2012)). This change is also necessary to ensure consistency with the updated versions of DOE O 350.1 Chapters IV, V, and VI, which no longer include a CRD.	Chapter 2, CRD 1.
	Mission; Reputation and Trust	Rare	Negligible	Minor	Yes	Yes	CONTRACTOR REQUIREMENTS DOCUMENT LABOR STANDARDS 2. Accomplish work tasks in accordance with the labor standards determination.	The purpose of this section as written is to repeat contractor requirements in regards to labor standards. The proposed changes are suggested because this is legally unnecessary language (see 48 C.F.R. § 970.5204-2). This change is also necessary to ensure consistency with the updated versions of DOE O 350.1 Chapters IV, V, and VI, each of which no longer include a CRD.	Chapter 2, CRD 2.

Attachment 1		Risk Assessment			Appropriate to accept risk?	Appropriate to transfer risk to Contractor?			
Subject Area	Risk	Probability	Impact	Risk Level	Yes/No	Yes/No	Control	Explanation	Reference
	Mission; Reputation and Trust	Rare	Negligible	Minor	Yes	Yes	<p>CONTRACTOR REQUIREMENTS DOCUMENT</p> <p>LABOR STANDARDS</p> <p>3. Ensure that subcontractors comply with the Davis-Bacon Act and conduct payroll and job-site audits as requested or authorized by the Head of Contracting Activity.</p>	The purpose of this section as written is to repeat contractor requirements in regards to labor standards. Changed to eliminate redundancy with 29 C.F.R. §§ 5.5(a)(3)(ii)(A), 5.5(a)(3)(iii), 5.5(a)(6) and 48 C.F.R. §§ 970.5204-2 and 970.5244-1(x). This change is also necessary to ensure consistency with the updated versions of DOE O 350.1 Chapters IV, V, and VI, each of which no longer include a CRD.	Chapter 2, CRD 3.
	Mission; Reputation and Trust	Rare	Negligible	Minor	Yes	Yes	<p>CONTRACTOR REQUIREMENTS DOCUMENT</p> <p>LABOR STANDARDS</p> <p>4. Maintain accurate and complete Davis-Bacon Act payrolls for 3 years from completion of contract when performing as the construction contractor.</p>	The purpose of this section as written is to repeat contractor requirements in regards to labor standards. The proposed changes are suggested to eliminate redundancy with 29 C.F.R. § 5.5(a)(3)(i). This change is also necessary to ensure consistency with the updated versions of DOE O 350.1 Chapters IV, V, and VI, each of which no longer include a CRD.	Chapter 2, CRD 4.
	Mission; Reputation and Trust	Rare	Negligible	Minor	Yes	Yes	<p>CONTRACTOR REQUIREMENTS DOCUMENT</p> <p>LABOR STANDARDS</p> <p>5. Post in a prominent job-site location the following Department of Labor Publications:</p> <p>a. WH 1321, Notice to Employees Working on Federal or Federally Financed Construction Projects.</p>	The purpose of this section as written is to repeat contractor requirements in regards to labor standards. The proposed changes are suggested to eliminate redundancy with 29 C.F.R. § 5.5(a)(1)(i). This change is also necessary to ensure consistency with the updated versions of DOE O 350.1 Chapters IV, V, and VI, each of which no longer include a CRD.	Chapter 2, CRD 5.a.

Attachment 1		Risk Assessment			Appropriate to accept risk?	Appropriate to transfer risk to Contractor?			
Subject Area	Risk	Probability	Impact	Risk Level	Yes/No	Yes/No	Control	Explanation	Reference
	Mission; Reputation and Trust	Rare	Negligible	Minor	Yes	Yes	CONTRACTOR REQUIREMENTS DOCUMENT LABOR STANDARDS 5. Post in a prominent job site location the following Department of Labor Publications: b. WH 1313, Notice to Employees Working on Government Contracts.	The purpose of this section as written is to repeat contractor requirements in regards to labor standards. The proposed changes are suggested to eliminate redundancy with 29 C.F.R. §§ 4.6(e) & 4.184. This change is also necessary to ensure consistency with the updated versions of DOE O 350.1 Chapters IV, V, and VI, each of which no longer include a CRD.	Chapter 2, CRD 5.b.
	Mission; Reputation and Trust	Rare	Negligible	Minor	Yes	Yes	CONTRACTOR REQUIREMENTS DOCUMENT LABOR STANDARDS 6. Prepare Standard Form 98, "Notice of Intention to Make a Service Contract and Response to Notice" for all subcontracts subject to the Service Contract Act and forward to the contracting officer.	The purpose of this section as written is to repeat contractor requirements in regards to labor standards. The proposed changes are suggested to eliminate redundancy with 29 C.F.R. § 4.4(a)(2) and 48 C.F.R. § 22.1008-1. This change is also necessary to ensure consistency with the updated versions of DOE O 350.1 Chapters IV, V, and VI, each of which no longer include a CRD.	Chapter 2, CRD 6.
	Mission; Reputation and Trust	Rare	Negligible	Minor	Yes	Yes	CONTRACTOR REQUIREMENTS DOCUMENT LABOR STANDARDS 7. Provide information requested by the Head of Contracting Activity for its responses to inquiries received from Congress and Headquarters.	The purpose of this section as written is to repeat contractor requirements in regards to labor standards. The proposed changes are suggested to eliminate redundancy with 48 C.F.R. §§ 5.403 & 22.406-7. This change is also necessary to ensure consistency with the updated versions of DOE O 350.1 Chapters IV, V, and VI, each of which no longer include a CRD.	Chapter 2, CRD 7.

Attachment 1		Risk Assessment			Appropriate to accept risk?	Appropriate to transfer risk to Contractor?			
Subject Area	Risk	Probability	Impact	Risk Level	Yes/No	Yes/No	Control	Explanation	Reference
	Mission; Reputation and Trust	Rare	Negligible	Minor	Yes	Yes	CONTRACTOR REQUIREMENTS DOCUMENT LABOR STANDARDS 8. Provide information requested by the Head of Contracting Activity for its reporting requirements.	The purpose of this section as written is to repeat contractor requirements in regards to labor standards. The proposed changes are suggested to eliminate redundancy with 29 C.F.R. § 5.7 and 48 C.F.R. §§ 22.406-1, 22.406-7, & 22.406-13. This change is also necessary to ensure consistency with the updated versions of DOE O 350.1 Chapters IV, V, and VI, each of which no longer include a CRD.	Chapter 2, CRD 8.

CRD Section		Duplicated by	
CRD Chapter 1 Section 1.a.	<p>The following requirements apply to prime contractors that perform work under cost reimbursement contracts at DOE-owned installations to the extent set forth in the prime contract.</p> <p>1. Develop and implement labor relations policies that will promote orderly collective bargaining relationships, equitable resolution of disputes, efficiency and economy in operations, and the judicious expenditure of public funds.</p> <p>a. Consult with the contracting officer prior to and during the course of negotiations with labor unions, and during the term of resultant contracts, on economic issues and other matters that have a potentially significant impact on work rules, make- or-buy decisions, or other matters that may cause a significant deviation from past customs or practices.</p>	DOE-H-1003(b)	<p>(b) The Contractor shall meet with the Contracting Officer or designee(s) for the purpose of reviewing the Contractor's bargaining objectives prior to negotiations of any collective bargaining agreement or revision thereto and shall consult with and obtain the approval of the Contracting Officer regarding appropriate economic bargaining parameters, including those for pension and medical benefit costs, prior to the Contractor entering into the collective bargaining process. During the collective bargaining process, the Contractor shall notify the Contracting Officer before submitting or agreeing to any collective bargaining proposal which can be calculated to affect allowable costs under this Contract or which could involve other items of special interest to the Government. During the collective bargaining process, the Contractor shall obtain the approval of the Contracting Officer before proposing or agreeing to changes in any pension or other benefit plans.</p>
CRD Chapter 1 Section 1.b.	<p>b. Provide the contracting officer with a settlement summary within 30 to 60 days after formal ratification of the agreement, using the "Report of Settlement" form.</p>	DOE-H-1003(d)	<p>(d) The Contractor will notify the Contracting Officer or designee in a timely fashion of all labor relations issues and matters of local interest including organizing initiatives, unfair labor practice, work stoppages, picketing, labor arbitrations, and settlement agreements and will furnish such additional information as may be required from time to time by the Contracting Officer.</p>
CRD Chapter 1 Section 1.c. and d.	<p>c. Immediately advise the DOE Field Element of the following:</p> <p>d. Possible strike situations or other job actions affecting the continuity of operations; in the event of work stoppage, the contractor is responsible for completing Bureau of Labor Statistics (BLS) Form 817 and forwarding two copies to the DOE Field Element.</p>	DOE-H-1003(d)	<p>(d) The Contractor will notify the Contracting Officer or designee in a timely fashion of all labor relations issues and matters of local interest including organizing initiatives, unfair labor practice, work stoppages, picketing, labor arbitrations, and settlement agreements and will furnish such additional information as may be required from time to time by the Contracting Officer.</p>

CRD Section		Duplicated by	
CRD Chapter 1 Section 1.c. and e.	c. Immediately advise the DOE Field Element of the following: e. Formal action by the National Labor Relations Board or the National Mediation Board (copies of the Board correspondence shall be provided to the Field Element).	DOE-H-1003(d)	(d) The Contractor will notify the Contracting Officer or designee in a timely fashion of all labor relations issues and matters of local interest including organizing initiatives, unfair labor practice, work stoppages, picketing, labor arbitrations, and settlement agreements and will furnish such additional information as may be required from time to time by the Contracting Officer.
CRD Chapter 1 Section 2	2. Recourse to procedures under the Labor-Management Relations Act of 1947, as amended, or any other federal or state law.	DOE-H-1003(d)	(d) The Contractor will notify the Contracting Officer or designee in a timely fashion of all labor relations issues and matters of local interest including organizing initiatives, unfair labor practice, work stoppages, picketing, labor arbitrations, and settlement agreements and will furnish such additional information as may be required from time to time by the Contracting Officer.
CRD Chapter 1 Section 3	3. Any grievance scheduled for arbitration under a collective bargaining agreement that has the potential for significant economic or other impact.	DOE-H-1003(d)	(d) The Contractor will notify the Contracting Officer or designee in a timely fashion of all labor relations issues and matters of local interest including organizing initiatives, unfair labor practice, work stoppages, picketing, labor arbitrations, and settlement agreements and will furnish such additional information as may be required from time to time by the Contracting Officer.
CRD Chapter 1 Section 4	4. Other significant issues that may involve review by other federal or state agencies.	DOE-H-1003(d)	(d) The Contractor will notify the Contracting Officer or designee in a timely fashion of all labor relations issues and matters of local interest including organizing initiatives, unfair labor practice, work stoppages, picketing, labor arbitrations, and settlement agreements and will furnish such additional information as may be required from time to time by the Contracting Officer.

CRD Section		Duplicated by	
CRD Chapter 2 Section 1	<p>The following requirements apply to contractors who perform work subject to the Davis-Bacon Act and the Service Contract Act.</p> <p>1. Request labor standards coverage determinations from the contracting officer by submitting proposed work authorizations for contracts in excess of \$2,000 for construction, alteration, or repair, including painting and decorating, of public buildings and public works that involve the employment of laborers and mechanics. (See FAR 22.401 for definition of terms.)</p>	48 C.F.R. § 970.2204-1-1(b)(3)	<p>Controls provided for above include consideration by the Head of the Contracting Activity and the contractor, before work is begun or contracted out, of the relation of the Act to the annual programming of work; the contractor's work orders; and work contracted out in excess of \$2,000. The Head of the Contracting Activity may, if consistent with DOE's responsibilities as described in this subsection, prescribe from time to time classes of work as to which applicability or nonapplicability of the Act is clear, for which the Head of the Contracting Activity will require no further DOE determination on coverage in advance of the work. For all work, controls to be established by the Head of the Contracting Activity should provide for notification to the contractor before work is begun as to whether such work is covered. The Head of the Contracting Activity is responsible for submitting to the Wage and Hours Division, Employment Standards Administration, Department of Labor, Washington, D.C. 20210, all DOE requests for project area or installation wage determinations, or individual determinations, or extensions or modification thereto. Requests for such determinations shall be made on Standard Form 308, at least 30 calendar days before they are required for use in advertising for bids or requests for proposals.</p>
CRD Chapter 2 Section 2	2. Accomplish work tasks in accordance with the labor standards determination.	48 C.F.R. § 970.5204-2	In performing work under this contract, the Contractor shall comply with the requirements of applicable Federal, State, and local laws and regulations (including DOE regulations), unless relief has been granted in writing by the appropriate regulatory agency.
CRD Chapter 2 Section 3	3. Ensure that subcontractors comply with the Davis-Bacon Act and conduct payroll and job-site audits as requested or authorized by the Head of Contracting Activity.	48 C.F.R. § 970.5204-2	In performing work under this contract, the Contractor shall comply with the requirements of applicable Federal, State, and local laws and regulations (including DOE regulations), unless relief has been granted in writing by the appropriate regulatory agency.
CRD Chapter 2 Section 4	4. Maintain accurate and complete Davis-Bacon Act payrolls for 3 years from completion of contract when performing as the construction contractor.	29 C.F.R. § 5.5(a)(3)(i)	Payrolls and basic records. (i) Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter ...

CRD Section		Duplicated by	
CRD Chapter 2 Section 5.a.	5. Post in a prominent job-site location the following Department of Labor Publications. a. WH-1321, Notice to Employees Working on Federal or Federally Financed Construction Projects.	29 C.F.R. § 5.5(a)(1)(i)	Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph (a)(1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.
CRD Chapter 2 Section 5.b.	5. Post in a prominent job-site location the following Department of Labor Publications. b. WH-1313, Notice to Employees Working on Government Contracts.	29 C.F.R. § 4.6(e)	The contractor and any subcontractor under this contract shall notify each service employee commencing work on this contract of the minimum monetary wage and any fringe benefits required to be paid pursuant to this contract, or shall post the wage determination attached to this contract. The poster provided by the Department of Labor (Publication WH 1313) shall be posted in a prominent and accessible place at the worksite. Failure to comply with this requirement is a violation of section 2(a)(4) of the Act and of this contract.
CRD Chapter 2 Section 6	6. Prepare Standard Form 98, "Notice of Intention to Make a Service Contract and Response to Notice" for all subcontracts subject to the Service Contract Act and forward to the contracting officer.	29 C.F.R. § 4.4(a)(2)	As described in § 4.4(b), wage determinations may be obtained from the Department of Labor by electronically submitting an e98 describing the proposed contract and the occupations expected to be employed on the contract. Based upon the information provided on the e98, the Department of Labor will respond with the wage determination or wage determinations that the contracting agency may rely upon as the correct wage determination(s) for the contract described in the e98.

CRD Section		Duplicated by	
CRD Chapter 2 Section 7	7. Provide information requested by the Head of Contracting Activity for its responses to inquiries received from Congress and Headquarters.	48 C.F.R. § 22.406-7	<p>(a) General. The contracting officer shall make checks and investigations on all contracts covered by this subpart as may be necessary to ensure compliance with the labor standards requirement of the contract.</p> <p>(b) Regular compliance checks. Regular compliance checking includes the following activities:</p> <p>(1) Employee interviews to determine correctness of classifications, rates of pay, fringe benefits payments, and hours worked. (See Standard Form 1445.)</p> <p>(2) On-site inspections to check type of work performed, number and classification of workers, and fulfillment of posting requirements.</p> <p>(3) Payroll reviews to ensure that payrolls of prime contractors and subcontractors have been submitted on time and are complete and in compliance with contract requirements.</p> <p>(4) Comparison of the information in this paragraph (b) with available data, including daily inspector's report and daily logs of construction, to ensure consistency.</p>
CRD Chapter 2 Section 8	8. Provide information requested by the Head of Contracting Activity for its reporting requirements.	29 C.F.R. § 22.406-13	A semiannual report on compliance with and enforcement of the construction labor standards requirements of the Davis-Bacon Act and Contract Work Hours and Safety Standards Act is required from each contracting agency. The reporting periods are October 1 through March 31 and April 1 through September 30. The reports shall only contain information as to the enforcement actions of the contracting agency and shall be prepared as prescribed in Department of Labor memoranda and submitted to the Department of Labor within 30 days after the end of the reporting period. This report has been assigned interagency report control number 1482-DOL-SA.

CRD Section		Duplicated by	
CRD Chapter 1 Section 1.a.	<p>The following requirements apply to prime contractors that perform work under cost reimbursement contracts at DOE-owned installations to the extent set forth in the prime contract.</p> <p>1. Develop and implement labor relations policies that will promote orderly collective bargaining relationships, equitable resolution of disputes, efficiency and economy in operations, and the judicious expenditure of public funds.</p> <p>a. Consult with the contracting officer prior to and during the course of negotiations with labor unions, and during the term of resultant contracts, on economic issues and other matters that have a potentially significant impact on work rules, make- or-buy decisions, or other matters that may cause a significant deviation from past customs or practices.</p>	DOE-H-1003(b)	<p>(b) The Contractor shall meet with the Contracting Officer or designee(s) for the purpose of reviewing the Contractor's bargaining objectives prior to negotiations of any collective bargaining agreement or revision thereto and shall consult with and obtain the approval of the Contracting Officer regarding appropriate economic bargaining parameters, including those for pension and medical benefit costs, prior to the Contractor entering into the collective bargaining process. During the collective bargaining process, the Contractor shall notify the Contracting Officer before submitting or agreeing to any collective bargaining proposal which can be calculated to affect allowable costs under this Contract or which could involve other items of special interest to the Government. During the collective bargaining process, the Contractor shall obtain the approval of the Contracting Officer before proposing or agreeing to changes in any pension or other benefit plans.</p>
CRD Chapter 1 Section 1.b.	<p>b. Provide the contracting officer with a settlement summary within 30 to 60 days after formal ratification of the agreement, using the "Report of Settlement" form.</p>	DOE-H-1003(d)	<p>(d) The Contractor will notify the Contracting Officer or designee in a timely fashion of all labor relations issues and matters of local interest including organizing initiatives, unfair labor practice, work stoppages, picketing, labor arbitrations, and settlement agreements and will furnish such additional information as may be required from time to time by the Contracting Officer.</p>
CRD Chapter 1 Section 1.c. and d.	<p>c. Immediately advise the DOE Field Element of the following:</p> <p>d. Possible strike situations or other job actions affecting the continuity of operations; in the event of work stoppage, the contractor is responsible for completing Bureau of Labor Statistics (BLS) Form 817 and forwarding two copies to the DOE Field Element.</p>	DOE-H-1003(d)	<p>(d) The Contractor will notify the Contracting Officer or designee in a timely fashion of all labor relations issues and matters of local interest including organizing initiatives, unfair labor practice, work stoppages, picketing, labor arbitrations, and settlement agreements and will furnish such additional information as may be required from time to time by the Contracting Officer.</p>

CRD Section		Duplicated by	
CRD Chapter 1 Section 1.c. and e.	c. Immediately advise the DOE Field Element of the following: e. Formal action by the National Labor Relations Board or the National Mediation Board (copies of the Board correspondence shall be provided to the Field Element).	DOE-H-1003(d)	(d) The Contractor will notify the Contracting Officer or designee in a timely fashion of all labor relations issues and matters of local interest including organizing initiatives, unfair labor practice, work stoppages, picketing, labor arbitrations, and settlement agreements and will furnish such additional information as may be required from time to time by the Contracting Officer.
CRD Chapter 1 Section 2	2. Recourse to procedures under the Labor-Management Relations Act of 1947, as amended, or any other federal or state law.	DOE-H-1003(d)	(d) The Contractor will notify the Contracting Officer or designee in a timely fashion of all labor relations issues and matters of local interest including organizing initiatives, unfair labor practice, work stoppages, picketing, labor arbitrations, and settlement agreements and will furnish such additional information as may be required from time to time by the Contracting Officer.
CRD Chapter 1 Section 3	3. Any grievance scheduled for arbitration under a collective bargaining agreement that has the potential for significant economic or other impact.	DOE-H-1003(d)	(d) The Contractor will notify the Contracting Officer or designee in a timely fashion of all labor relations issues and matters of local interest including organizing initiatives, unfair labor practice, work stoppages, picketing, labor arbitrations, and settlement agreements and will furnish such additional information as may be required from time to time by the Contracting Officer.
CRD Chapter 1 Section 4	4. Other significant issues that may involve review by other federal or state agencies.	DOE-H-1003(d)	(d) The Contractor will notify the Contracting Officer or designee in a timely fashion of all labor relations issues and matters of local interest including organizing initiatives, unfair labor practice, work stoppages, picketing, labor arbitrations, and settlement agreements and will furnish such additional information as may be required from time to time by the Contracting Officer.

CRD Section		Duplicated by	
CRD Chapter 2 Section 1	<p>The following requirements apply to contractors who perform work subject to the Davis-Bacon Act and the Service Contract Act.</p> <p>1. Request labor standards coverage determinations from the contracting officer by submitting proposed work authorizations for contracts in excess of \$2,000 for construction, alteration, or repair, including painting and decorating, of public buildings and public works that involve the employment of laborers and mechanics. (See FAR 22.401 for definition of terms.)</p>	48 C.F.R. § 970.2204-1-1(b)(3)	<p>Controls provided for above include consideration by the Head of the Contracting Activity and the contractor, before work is begun or contracted out, of the relation of the Act to the annual programming of work; the contractor's work orders; and work contracted out in excess of \$2,000. The Head of the Contracting Activity may, if consistent with DOE's responsibilities as described in this subsection, prescribe from time to time classes of work as to which applicability or nonapplicability of the Act is clear, for which the Head of the Contracting Activity will require no further DOE determination on coverage in advance of the work. For all work, controls to be established by the Head of the Contracting Activity should provide for notification to the contractor before work is begun as to whether such work is covered. The Head of the Contracting Activity is responsible for submitting to the Wage and Hours Division, Employment Standards Administration, Department of Labor, Washington, D.C. 20210, all DOE requests for project area or installation wage determinations, or individual determinations, or extensions or modification thereto. Requests for such determinations shall be made on Standard Form 308, at least 30 calendar days before they are required for use in advertising for bids or requests for proposals.</p>
CRD Chapter 2 Section 2	2. Accomplish work tasks in accordance with the labor standards determination.	48 C.F.R. § 970.5204-2	In performing work under this contract, the Contractor shall comply with the requirements of applicable Federal, State, and local laws and regulations (including DOE regulations), unless relief has been granted in writing by the appropriate regulatory agency.
CRD Chapter 2 Section 3	3. Ensure that subcontractors comply with the Davis-Bacon Act and conduct payroll and job-site audits as requested or authorized by the Head of Contracting Activity.	48 C.F.R. § 970.5204-2	In performing work under this contract, the Contractor shall comply with the requirements of applicable Federal, State, and local laws and regulations (including DOE regulations), unless relief has been granted in writing by the appropriate regulatory agency.
CRD Chapter 2 Section 4	4. Maintain accurate and complete Davis-Bacon Act payrolls for 3 years from completion of contract when performing as the construction contractor.	29 C.F.R. § 5.5(a)(3)(i)	Payrolls and basic records. (i) Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter ...

CRD Section		Duplicated by	
CRD Chapter 2 Section 5.a.	<p>5. Post in a prominent job-site location the following Department of Labor Publications.</p> <p>a. WH-1321, Notice to Employees Working on Federal or Federally Financed Construction Projects.</p>	29 C.F.R. § 5.5(a)(1)(i)	<p>Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph (a)(1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.</p>
CRD Chapter 2 Section 5.b.	<p>5. Post in a prominent job-site location the following Department of Labor Publications.</p> <p>b. WH-1313, Notice to Employees Working on Government Contracts.</p>	29 C.F.R. § 4.6(e)	<p>The contractor and any subcontractor under this contract shall notify each service employee commencing work on this contract of the minimum monetary wage and any fringe benefits required to be paid pursuant to this contract, or shall post the wage determination attached to this contract. The poster provided by the Department of Labor (Publication WH 1313) shall be posted in a prominent and accessible place at the worksite. Failure to comply with this requirement is a violation of section 2(a)(4) of the Act and of this contract.</p>
CRD Chapter 2 Section 6	<p>6. Prepare Standard Form 98, "Notice of Intention to Make a Service Contract and Response to Notice" for all subcontracts subject to the Service Contract Act and forward to the contracting officer.</p>	29 C.F.R. § 4.4(a)(2)	<p>As described in § 4.4(b), wage determinations may be obtained from the Department of Labor by electronically submitting an e98 describing the proposed contract and the occupations expected to be employed on the contract. Based upon the information provided on the e98, the Department of Labor will respond with the wage determination or wage determinations that the contracting agency may rely upon as the correct wage determination(s) for the contract described in the e98.</p>

CRD Section		Duplicated by	
CRD Chapter 2 Section 7	7. Provide information requested by the Head of Contracting Activity for its responses to inquiries received from Congress and Headquarters.	48 C.F.R. § 22.406-7	<p>(a) General. The contracting officer shall make checks and investigations on all contracts covered by this subpart as may be necessary to ensure compliance with the labor standards requirement of the contract.</p> <p>(b) Regular compliance checks. Regular compliance checking includes the following activities:</p> <p>(1) Employee interviews to determine correctness of classifications, rates of pay, fringe benefits payments, and hours worked. (See Standard Form 1445.)</p> <p>(2) On-site inspections to check type of work performed, number and classification of workers, and fulfillment of posting requirements.</p> <p>(3) Payroll reviews to ensure that payrolls of prime contractors and subcontractors have been submitted on time and are complete and in compliance with contract requirements.</p> <p>(4) Comparison of the information in this paragraph (b) with available data, including daily inspector's report and daily logs of construction, to ensure consistency.</p>
CRD Chapter 2 Section 8	8. Provide information requested by the Head of Contracting Activity for its reporting requirements.	29 C.F.R. § 22.406-13	A semiannual report on compliance with and enforcement of the construction labor standards requirements of the Davis-Bacon Act and Contract Work Hours and Safety Standards Act is required from each contracting agency. The reporting periods are October 1 through March 31 and April 1 through September 30. The reports shall only contain information as to the enforcement actions of the contracting agency and shall be prepared as prescribed in Department of Labor memoranda and submitted to the Department of Labor within 30 days after the end of the reporting period. This report has been assigned interagency report control number 1482-DOL-SA.