

HUMAN RESOURCES SERVICES RESPONSIBILITIES

DATED: 11/24/2008

SUBJECT: FEDERAL LABOR STANDARDS

1. PURPOSE. This document addresses responsibility and accountability and provides administrative guidance to Oak Ridge Office (ORO).
2. APPLICABILITY. The provisions of this document apply to ORO Principal Staff.
3. RESPONSIBILITIES.
 - a. Chief Operating Officer establishes, chairs, and ensures effective operation of the DOE Labor Standards Committee.
 - b. Director, Human Resources Division (HRD).
 - (1) Performs those tasks identified in DOE O 350.1, Change 1, Chapter II, Paragraphs 4b(2), (6), and (8)-(11).
 - (2) In coordination with the Director, Procurement and Contracts Division, issues operational guidelines to appropriate ORO organizations and contractors on the requirements for compliance with Federal labor standards.
 - (3) Ensures that investigations of alleged violations of the labor standards are conducted in a timely manner and that appropriate enforcement actions are taken.
 - (4) Ensures that Service Contract Act (SCA) and Davis-Bacon Act (DBA) wage determinations are requested and obtained from the U.S. Department of Labor (DOL) for distribution to the appropriate organization(s) for inclusion in contracts/subcontracts.
 - (5) Maintains coordination with DOE Headquarters (HQ), Office of Legacy Management (LM) on questions of labor standards coverage with DOE-wide significance, and for assistance in coordinating with DOL, as necessary.
 - (6) Appraises contractor performance in carrying out labor standards administration responsibilities.
 - (7) Prepares the ORO Semiannual Enforcement Report for submission to DOE HQ LM.
 - c. Director, Procurement and Contracts Division.
 - (1) Ensures that contracts let by ORO contain the appropriate labor standards provisions.
 - (2) Ensures that bidders and contractors are provided with applicable labor standards information and, where necessary, that conferences or contract orientation meetings are held to review the contractors' responsibilities and those of their subcontractors.
 - (3) Performs those tasks identified in DOE O 350.1, Change 1, Chapter II, Paragraphs 4b(4), (5) and (7).

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- d. Assistant Manager, Administration.
 - (1) Ensures that bidders and contractors are provided with applicable labor standards information and, where necessary, that conferences or contract orientation meetings are held to review the contractors' responsibilities and those of their subcontractors.
 - (2) Perform those tasks identified in DOE O 350.1, Change, 1, Chapter II, Paragraphs 4b(4), (5) and (7).
- e. Team Leader, Contractor Human Resources Group (CHRG), ensures that information requested is provided for review by the DOE Labor Standards Committee on a weekly basis.
- f. Contracting Officer's Representatives (CORs).
 - (1) Ensure that contractors understand their responsibilities for compliance with all Federal labor standards, rules, regulations, and laws. This includes contractor responsibility to ensure compliance by their subcontractors and lower-tier subcontractors, including construction.
 - (2) Inform contractors of the established procedures for submission of planned work projects for coverage determination under applicable Federal labor standards.
 - (3) Ensure that all contractors/subcontractors are aware of their responsibility to report the existence of noncompliance or violations of the labor standards rules, regulations, and laws in (4) Arrange for the timely submittal of copies of contractor work authorizations and directives to the DOE Labor Standards Committee; assure that prompt written notification is provided separately to each contractor under their jurisdiction as to the Committee's or Head of Contracting Activity's (HCA) determinations affecting each such contractor; and take appropriate follow-up action to ensure that contractors under their jurisdiction comply with the Committee's or HCA's determinations.
 - (5) Ensure that all contractors submit to the Director, HRD, and Team Leader, CHRG, the required information for the preparation of the Semiannual Enforcement Report, in accordance with the instructions contained in 29 Code of Federal Regulations (CFR), Part 5, Subpart A, Section 5.7(b).
 - (6) Submit the following to CHRG for review by the DOE Labor Standards Committee:
 - (a) All work authorizations and requests for issuance of directives for work by or under operating, research and development, project management, and service contractors when the total costs of field labor and materials exceed an estimated \$2,000 in value.
 - (b) Proposals and solicitations of bids for similarly situated work proposed to be performed by laborers and mechanics at DBA or other wage rate.

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- (c) Proposed employment of laborers and mechanics on all worksites where the project is a “construction, alteration or repair” activity.
 - (d) Purchases that involve labor for installation.
 - (e) Any other work which involves, or may involve, work subject to one of the labor standards acts.
- g. Oak Ridge DOE Labor Standards Committee.
- (1) Reviews requests and makes coverage determinations based upon information supplied by the originating organization.
 - (2) Provides to the HCA a recommendation and pertinent information for making decisions required by the HCA under Chapter 22 of the DOE Acquisition Guide.
 - (3) Provides written notification of its determinations, and those of the HCA, directly to contractors, or to the appropriate CORs.

4. REFERENCES.

- a. 29 Code of Federal Regulations, Part 5, LABOR STANDARDS PROVISIONS APPLICABLE TO CONTRACTS COVERING FEDERALLY FINANCED AND ASSISTED CONSTRUCTION (ALSO LABOR STANDARDS PROVISIONS APPLICABLE TO NONCONSTRUCTION CONTRACTS SUBJECT TO THE CONTRACT WORK HOURS AND SAFETY STANDARDS ACT).
- b. DOE Acquisition Guide, Chapter 22, “*Application of Labor Laws to Government Acquisitions.*”
- c. ORO SF-98, “*Notice of Intention to Make a Service Contract and Response to Notice.*”
- d. ORO SF-98a, “*Notice of Intention to Make a Service Contract and Response to Notice, (Attachment A).*”
- e. SF-308, “*Request for Wage Determination and Response to Request.*”
- f. SF-1444, “*Request for Authorization of Additional Classification and Rate.*”
- g. Service Contract Act.
- h. U.S. Department of Labor, “*Service Contract Act Directory of Occupations.*”
- i. Davis Bacon Act.

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5. ATTACHMENTS.

- a. Attachment 1 – ORO Form OR-635, “*Labor Standards Committee Case Report.*”
- b. Attachment 2 – ORO Form SF-98 and 98a, “*Notice of Intention to Make a Service Contract and Response to Notice.*”
- c. Attachment 3 – Standard Form SF-1444, “*Request for Authorization of Additional Classification and Rate.*”

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Attachment 1

DATED: 11/24/2008

DEPARTMENT OF ENERGY OAK RIDGE RESERVATION LABOR STANDARDS COMMITTEE CASE REPORT

IDENTIFICATION No. (Work Order, Etc.)	LABOR STANDARDS CASE No.
DATE	DATE REVIEWED
CONTRACTOR/LOCATION	PREVIOUS CASE
SUBJECT:	

I. DAVIS-BACON ACT COVERED

- A. Construction, alteration, repair, including painting over \$2,000. C. Demolition when indispensable and preliminary to scheduled new construction.
 B. Installation involving substantial construction. D. Other _____

II. DAVIS-BACON ACT APPLICABLE

Section 1804 of the Atomic Energy Act:

Work determined to be non-construction, however, pursuant to Section 1804 of the Atomic Energy Act as amended by the National Energy Policy Act of 1992 (PL 102-486) the DBA will apply.

The work is essentially with or for:

- A. Supplies and Equipment E. Railroad and RR employees
 B. Servicing or maintenance F. Performance outside USA
 C. Decontamination G. State or political subdivision
 D. Demolition H. Other _____

III. DAVIS-BACON ACT NON-COVERED

- A. Estimated to cost \$2,000 or less [970.2204(a)(1)]
 B. Operational and maintenance activities or very closely and directly involved therewith [970.2204(a)(2)]
 C. Of a routine or recurring nature to preserve usefulness.
 D. Assembly, modification, installation, replacement, rearrangement, connection, etc., of machinery and equipment [970.2273(a)(3)]
 E. Experimental development of equipment processes and devices, including installation [970.2204(a)(4) & 970.2204(c)]
 F. Experimental work - Peaceful uses [970.2204(a)(5) & 970.2204(c)(4)]
 G. Emergency work - Fire, Flood, etc., and to restart operations [970.2204(a)(6)]
 H. Decontamination [970.2204(a)(7)]
 I. Demolition (No construction activity is anticipated or contemplated at the site within five years)
 J. Burial of Contaminated Material [970.2204(a)(8)]
 K. Supplies and Equipment
 L. Servicing or maintenance [970.2210]
 M. Railroad and RR employees
 N. Performance outside USA
 O. State or political subdivision
 P. Other _____

Note: The Service Contract Act applies to most contracts entered into by the United States or the District of Columbia, the principal purpose of which is to furnish services in the United States through the use of service employees. DOE M&O contractors are exempted from the SCA, but M&I contractors and M&O subcontractors are not exempted from the SCA. [970.2210]

IV. PROFESSIONAL SERVICES

- A. Engineering
 B. Procurement
 C. Project Management and Oversight
 D. Other _____

V. EXCEPTION

The Committee recommends that the Head of Contracting Activity determine that _____ participation includes work and services which involve material risk to continuity of operations, to life or property, or to DOE operating requirements [970.2204(a)(2)]
 Approves Disapproves

 Manager

 Date

*Reference numbers in parenthesis denote subparts under Part 970 of DOE Acquisition Regulations.

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Attachment 2
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STANDARD FORM 98		NOTICE OF INTENTION TO MAKE A SERVICE CONTRACT AND RESPONSE TO NOTICE		1. NOTICE NO. A	
E-MAIL TO:			2. Estimated solicitation date (use numerals)		
			Month	Day	Year
			3. Estimated date bids or proposals to be opened or negotiations begun (use numerals)		
			Month	Day	Year
			4. Date contract performance to begin (use numerals)		
			Month	Day	Year
5. PLACE(s) OF PERFORMANCE			6. SERVICES TO BE PERFORMED (describe)		
7. INFORMATION ABOUT PERFORMANCE					
A. <input type="checkbox"/> Services now performed by a contractor		B. <input type="checkbox"/> Services now performed by Federal employees		C. <input type="checkbox"/> Services not presently being performed	
8. IF BOX A IN ITEM 7 IS MARKED, COMPLETE ITEM 8 AS APPLICABLE					
a. Name and address of incumbent contractor			b. Number(s) of any wage determination(s) in incumbent's contract		
C. Name(s) of union(s) if services are being performed under collective bargaining agreement(s). <i>Important:</i> Attach copies of current applicable collective bargaining agreements			RESPONSE TO NOTICE <i>(by Department of Energy)</i> A. <input type="checkbox"/> The attached wage determination(s) listed below apply to procurement. _____ _____ B. <input type="checkbox"/> As of this date, no wage determination applicable to the specified locality and classes of employees is in effect. C. <input type="checkbox"/> From information supplied, the Service Contract Act does not apply (see attached explanation). D. <input type="checkbox"/> Notice returned for additional information (see attached explanation). SIGNED: (U.S. Department of Energy) (Date)		
9. OFFICIAL SUBMITTING NOTICE					
TYPE NAME		DATE		TELEPHONE NO.	
10. TYPE NAME AND TITLE OF PERSON TO WHOM RESPONSE IS TO BE SENT					

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Attachment 3

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REQUEST FOR AUTHORIZATION OF ADDITIONAL CLASSIFICATION AND RATE					CHECK APPROPRIATE BOX <input type="checkbox"/> SERVICE CONTRACT <input type="checkbox"/> CONSTRUCTION CONTRACT	OMB No.: 9000-0089 Expires: 04/30/2005
AUTHORIZED FOR LOCAL REPRODUCTION Public reporting burden for this collection of information is estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the FAR Secretariat (MVP), Office of Acquisition Policy, GSA, Washington, DC 20405; and to the Office of Management and Budget, Paperwork Reduction Project (9000-0089), Washington, DC 20503.						
INSTRUCTIONS: THE CONTRACTOR SHALL COMPLETE ITEMS 3 THROUGH 16, KEEP A PENDING COPY, AND SUBMIT THE REQUEST, IN QUADRUPPLICATE, TO THE CONTRACTING OFFICER.						
1. TO: ADMINISTRATOR, Employment Standards Administration WAGE AND HOUR DIVISION U.S. DEPARTMENT OF LABOR WASHINGTON, D.C. 20210				2. FROM: (REPORTING OFFICE)		
3. CONTRACTOR					4. DATE OF REQUEST	
5. CONTRACT NUMBER	6. DATE BID OPENED (SEALED BIDDING)	7. DATE OF AWARD	8. DATE CONTRACT WORK STARTED	9. DATE OPTION EXERCISED (IF APPLICABLE) (SCA ONLY)		
10. SUBCONTRACTOR (IF ANY)						
11. PROJECT AND DESCRIPTION OF WORK (ATTACH ADDITIONAL SHEET IF NEEDED)						
12. LOCATION (CITY, COUNTY AND STATE)						
13. IN ORDER TO COMPLETE THE WORK PROVIDED FOR UNDER THE ABOVE CONTRACT, IT IS NECESSARY TO ESTABLISH THE FOLLOWING RATE(S) FOR THE INDICATED CLASSIFICATION(S) NOT INCLUDED IN THE DEPARTMENT OF LABOR DETERMINATION						
NUMBER: _____			DATED: _____			
a. LIST IN ORDER: PROPOSED CLASSIFICATION TITLE(S); JOB DESCRIPTION(S); DUTIES; AND RATIONALE FOR PROPOSED CLASSIFICATIONS (SCA ONLY) <i>(Use reverse or attach additional sheets, if necessary)</i>			b. WAGE RATE(S)		c. FRINGE BENEFITS PAYMENTS	
14. SIGNATURE AND TITLE OF SUBCONTRACTOR REPRESENTATIVE <i>(IF ANY)</i>			15. SIGNATURE AND TITLE OF PRIME CONTRACTOR REPRESENTATIVE			
16. SIGNATURE OF EMPLOYEE OR REPRESENTATIVE			TITLE		CHECK APPROPRIATE BOX-REFERENCING BLOCK 13. <input type="checkbox"/> AGREE <input type="checkbox"/> DISAGREE	
TO BE COMPLETED BY CONTRACTING OFFICER (CHECK AS APPROPRIATE - SEE FAR 22.1019 (SCA) OR FAR 22.406-3 (DBA))						
<input type="checkbox"/> THE INTERESTED PARTIES AGREE AND THE CONTRACTING OFFICER RECOMMENDS APPROVAL BY THE WAGE AND HOUR DIVISION. AVAILABLE INFORMATION AND RECOMMENDATIONS ARE ATTACHED.						
<input type="checkbox"/> THE INTERESTED PARTIES CANNOT AGREE ON THE PROPOSED CLASSIFICATION AND WAGE RATE. A DETERMINATION OF THE QUESTION BY THE WAGE AND HOUR DIVISION IS THEREFORE REQUESTED. AVAILABLE INFORMATION AND RECOMMENDATIONS ARE ATTACHED.						
(Send copies 1, 2, and 3 to Department of Labor)						
SIGNATURE OF CONTRACTING OFFICER OR REPRESENTATIVE			TITLE AND COMMERCIAL TELEPHONE NO.		DATE SUBMITTED	
PREVIOUS EDITION IS USABLE STANDARD FORM 1444 (REV. 12-2001) Prescribed by GSA-FAR (48 CFR) 53.222(f)						