

ORO CONTROL FORM - FINAL DIRECTIVE

PART A (To be completed by the Division of Primary Interest (DPI))

1. NUMBER AND TITLE OF DIRECTIVE: **ORO O 350, Chapter III, Change 3, FEDERAL LABOR STANDARDS**

2. PURPOSE OF TRANSMITTAL: New Directive Revised Directive

3. THIS DOCUMENT MAY AFFECT THE WORK PERFORMED BY THE FOLLOWING CONTRACTORS: (Check appropriate boxes)

No (all contractors)

Yes If yes, whom? Bechtel Jacobs Co. ORAU UT-Battelle

Other contractors (list by type) As directed by CORs.

Many ORO contractors have approved Standards/Requirements Identification Documents (S/RIDs) or Work Smart Standards (WSS) Sets that may affect applicability of contractor requirements from this directive. Applicability of contractor requirements must take into account the approved standards set for each particular contract.

4. SIGNIFICANT PROVISIONS: Are there any significant changes or impacts? No Yes
If yes, describe: Changes to this Chapter include editorial revisions to indicate (1) organizational name changes; (2) correlating DOE Directive number update; (3) updates to requirements and procedures; (4) revise Attachment 2; and (5) reflect change to Paragraph 3 to add statement regarding NNSA Y-12 Site Office applicability.

5. CONTACT POINT: Maurice Davis Contractor Human Resources Group, AD-441 576-0664
Name Organization Telephone

PART B (To be completed by the Directives Management Group (DMG)):

6. FILING INSTRUCTIONS:

<u>Remove</u>	<u>Dated</u>	<u>Insert</u>	<u>Dated</u>
ORO Control Form	04/15/2002	ORO Control Form	01/26/2004
ORO O 350, Ch. III, Chg. 2	04/15/2002	ORO O 350, Ch. III, Chg. 3	01/26/2004

ORO Directives are available on the ORO Directives Management Home Page at http://www.ornl.gov/doe/doe_oro_dmg/oro_dir.htm. The ORO Directives will no longer be mailed in printed copy unless you do not have Internet capabilities.

7. APPROVED FOR DISTRIBUTION IN ACCORDANCE WITH THE OFFICIAL DIRECTIVES DISTRIBUTION LIST:

Original Signed By
Wayne H. Albaugh 01/26/2004
Signature: DMG Team Leader, AD-440 Date

INSTRUCTIONS TO ADDRESSEES: THIS FORM IS TO BE FILED WITH THE DIRECTIVE AND RETAINED

Rev. 11/06/2003

NNSA/YSO CONTROL FORM – FINAL DIRECTIVE

PART A (To be completed by the ORO DIRECTIVES MANAGEMENT GROUP, AD-440):

DIRECTIVE NUMBER, TITLE, AND DATE:

ORO O 350, Chapter III, Change 3, FEDERAL LABOR STANDARDS, dated 01/26/2004

PURPOSE OF TRANSMITTAL: New Directive Revised Directive

DOES THIS DIRECTIVE CANCEL/REPLACE OR EXTEND ANY OTHER DIRECTIVES? Yes No

If "Yes," list what action (cancel/replace or extend) and list the Directive(s), including the number(s), title(s), and date(s):

This Directive cancels ORO O 350, Chapter III, Change 2, FEDERAL LABOR STANDARDS, dated 04/15/2002

The attached Directive is forwarded for review and action. Complete Part B and forward this form to ORO DMG, AD-440, by 02/19/2004.

PART B (To be completed by the NNSA Y-12 SITE OFFICE, Y12-01):

CONTRACTOR APPLICABILITY:

Does this Directive affect the work performed by BWXT Y-12, L.L.C.? Yes No

Does this Directive affect the work performed by BWXT Y-12, L.L.C., subcontractors? Yes No

If "Yes," list the subcontractors:

Many contractors have approved Standards/Requirements Identification Documents (S/RID) or Work Smart Standards (WSS) Sets that may affect applicability of contractor requirements from this Directive. Applicability of contractor requirements must take into account the approved standards set for each particular contract.

SIGNIFICANT PROVISIONS: Are there any significant changes or impacts? Yes No

List summary of Directive changes and, if "Yes" above, describe the significant changes or impacts:

(1) Org. name changes; (2) correlating DOE Directive number update; (3) updates to requirements and procedures; (4) revise Attachment 2; and (5) reflect change to Paragraph 3 to add statement regarding NNSA YSO applicability.

IMPLEMENTATION: Does the Directive contain special implementation requirements and/or dates? Yes No

If "Yes," describe:

FOR DOE DIRECTIVE – SUPPLEMENTAL DIRECTIVE REQUIRED?

Is a new or revised supplemental Directive required? Yes No

If "Yes," target date for submission of YSO Directive is _____.

IDENTIFY CONTACT POINT: James R. Martin 576-0868
Name Telephone

APPROVED BY COR FOR DIRECTIVES: Diane McCarten 02/19/2004 576-9330
Signature Date Telephone

PART C (To be completed by the ORO DIRECTIVES MANAGEMENT GROUP, AD-440):

DOE Directives are available on the DOE Directives Portal at <http://www.directives.doe.gov/>. ORO Directives are available on the ORO Directives Management Group Home Page at http://www.ornl.gov/roe/roe_oro_dmg/oro_dir.htm. Directives will no longer be mailed in printed copy unless you do not have Internet capabilities.

APPROVED FOR DISTRIBUTION IN ACCORDANCE WITH OFFICIAL DIRECTIVE DISTRIBUTION LIST:

Wayne H. Albaugh, AD-440 02/23/2004
Name Date

INSTRUCTIONS TO ADDRESSEES: THIS FORM IS TO BE FILED WITH THE DIRECTIVE AND RETAINED.

(Revised 11/06/2003)

U.S. Department of Energy

Oak Ridge Operations

ORO O 350
Chapter III
Change 3

DATE: 01/26/2004

SUBJECT: FEDERAL LABOR STANDARDS

1. PURPOSE. This Chapter correlates to DOE O 350.1, Change 1, CONTRACTOR HUMAN RESOURCE MANAGEMENT PROGRAMS, Chapter II, dated May 8, 1998, by assigning responsibility and accountability and providing administrative and/or contractual guidance to Oak Ridge Operations (ORO), National Nuclear Security Administration (NNSA) Y-12 Site Office (YSO) and its contractors and subcontractors. Nothing in this issuance changes any requirements contained in any Department of Energy (DOE) Directive.
2. CANCELLATION. This Chapter cancels and replaces ORO O 350, Chapter III, Change 2, FEDERAL LABOR STANDARDS, dated April 15, 2002.
3. APPLICABILITY. The provisions of this Chapter apply to ORO and NNSA YSO Principal Staff and all contractors, subcontractors, and lower-tier subcontractors performing work at ORO and NNSA YSO sites, to the extent set forth in their contract. References to the YSO are to clarify the interface between ORO and YSO and are not intended to indicate direction to YSO by ORO. This guidance does not assign responsibility or authority for the YSO to ORO.
4. 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 and NNSA YSO 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 Worker and Community Transition (WT-1) 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 WT-1.
- c. Director, Procurement and Contracts Division.
- (1) Ensures that contracts let by ORO and NNSA YSO 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).
- d. Team Leader, Contractor Human Resources Group (CHRG), ensures that information requested under Paragraph 5 of this Chapter is provided for review by the DOE Labor Standards Committee on a weekly basis.
- e. 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 a timely manner.
 - (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 rates.
 - (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.

f. 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.

5. REQUIREMENTS AND PROCEDURES.

a. Determination of Labor Standards Coverage.

- (1) Contractors will provide the following information to CHRG, as part of the submittal required by Attachment 1 of this Chapter:
 - (a) Name of submitting contractor/subcontractor, including location.
 - (b) The project contract/subcontract number, work order number, or other project identification.
 - (c) Title and location of project, if other than primary location of submitting organization.
 - (d) Special areas of consideration (e.g., Identify Material Access Area located at Y-12).

- (e) Scope of work, including a brief description of the work to be performed. The length of the description will vary with the complexity of the project but will normally be one or two short paragraphs. For large/complex projects, the submission of more complete descriptive information is encouraged.
 - (f) Proposed method of accomplishment of the work, including a complete breakdown of activities by the various organizations. In addition, for projects that include Management and Operating contractor mechanics and laborers, the proposed activities and estimated labor cost by craft will be presented.
 - (g) Estimated cost of the project. In this section, all labor classifications will be identified and estimates given for the labor and materials and other costs budgeted for each will be listed. A total contract dollar amount for the project will be identified on each submission.
 - (h) In the event that the requested ruling is part of a larger project or is a revision of an earlier case, a copy of the original Form OR-635 "Labor Standards Committee Case Report" (see Attachment 2), should be submitted with the latest submission, as background information.
- (2) DOE Labor Standards Committee.
- (a) Except for decisions required to be made by the HCA as specified in Chapter 22 of DOE Acquisition Guide, determines whether or not the work involved is within the scope of the DBA or covered by other labor standards acts.
 - (b) Provides recommendation to the Manager for those decisions that are required to be made by the HCA.
 - (c) Advises CORs and contractors of coverage determinations, normally by the workday following the date of the determinations, by letter with attached copy(s) of Form OR-635 (see Attachment 2).
 - (d) Includes the following members: Chief Operating Officer (Chairperson); Team Leader, CHRG (Alternate Chairperson); Project Manager Representing DOE/ORO; Contractor Human Resources Specialist, CHRG (member); NNSA YSO Representative (member); and Oak Ridge National Laboratory Site Office Representative (member). The Office of Chief Counsel provides advice to the Committee upon request.
- b. Obtaining SCA Wage Determinations.
- (1) Contractors/subcontractors will prepare needed wage determination requests, Standard Form (SF) 98 and 98a. They will be submitted to CHRG or the CORs at least 30 days prior to release of the Request for Proposal or contract renewal date.
 - (2) The SF 98a should contain the same identifying number as its matching SF 98. In all cases, the "authorizing signature" block should be the DOE Labor Standards Committee

Secretary, and the return address should be Oak Ridge Operations, CHRG, P.O. Box 2001, Oak Ridge, TN 37831-8791.

- (3) Job classifications to be used in performing the work should be listed on the SF 98a and should be taken from the DOL publication, "Service Contract Act Directory of Occupations" to the maximum extent possible. These should include the numerical identifier as well as the title. Where the title is not listed in the Directory, a normal descriptive industrial job title should be used on the SF 98a. Include the projected number of employees to be employed in each job category.
- (4) The letter of transmittal should contain the name and telephone number of the person originating the SF 98 and SF 98a.

c. Obtaining DBA Wage Determinations.

- (1) DBA Wage Determinations may be obtained at <http://www.access.gpo.gov/davisbacon/> or www.wdol.gov.

d. Preparing Semiannual Enforcement Report.

- (1) 29 CFR, Part 5, Section 5.7, requires Federal agencies to submit a Semiannual Enforcement Report to the Secretary of Labor, on their administration and enforcement of the DBA and related acts.
- (2) Contractors provide, by April 15 and October 15 each year to CHRG, the information specified by the DOL (the April report will cover the previous six months, October - March; the October report will cover the previous six months, April - September).
- (3) CHRG consolidates all contractor input and submits one ORO report to DOE HQ WT-1 by April 21 and October 21 each year.

6. 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. SF-98, "*Notice of Intention to Make a Service Contract and Response to Notice.*"
- d. 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. Service Contract Act.

- g. U.S. Department of Labor, "*Service Contract Act Directory of Occupations.*"
 - h. Davis Bacon Act.
7. DEFINITIONS. None.
8. CONTRACTOR REQUIREMENTS DOCUMENT. See Contractor Requirements Document, Attachment 1 of this Chapter.
9. ATTACHMENTS.
- a. Attachment 1 - Contractor Requirements Document.
 - b. Attachment 2 - Form OR-635, "*Labor Standards Committee Case Report.*"

CONTRACTOR REQUIREMENTS DOCUMENT

Contractors identified in Paragraph 3 of this Chapter will accomplish the following, to the extent set forth in their contract:

1. Designate a point of contact/coordinator for labor standards issues who acts as the interface with the DOE Labor Standards Committee.
2. Submit to CHRG on a timely basis, requests for DBA and SCA wage determinations.
3. Conduct:
 - a. Pre-bid and pre-start meetings with subcontractors to advise them of their labor standards obligations.
 - b. Periodic job site audits and regular reviews of certified payrolls to assure that applicable labor standards contract provisions are effectively administered and implemented.
4. Submit information for the Semiannual Enforcement Report to CHRG.
5. Request labor standards coverage determinations by submitting to the Team Leader, CHRG:
 - 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. Planned work or projects proposed to be performed by laborers and mechanics at DBA or other wage rates.
 - c. Proposed employment of laborers and mechanics on all worksites where the project is a construction, alteration, or repair activity; or is a decontamination and decommissioning, remediation, clean-up or restoration activity.
 - d. Procurements that involve on-site installation or the use of laborers and mechanics on-site for any other purpose.
 - e. Any other planned work or project which involve, or may involve, work subject to one of the labor standards acts referenced in DOE O 350.1, Change 1, Chapter II.

**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.
- B. Installation involving substantial construction.
- C. Demolition when indispensable and preliminary to scheduled new 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
- B. Servicing or maintenance
- C. Decontamination
- D. Demolition
- E. Railroad and RR employees
- F. Performance outside USA
- G. State or political subdivision
- 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.