

U.S. Department of Energy

Oak Ridge Office

ORO O 350
Chapter III
Change 4

DATE: 05/09/2006

SUBJECT: FEDERAL LABOR STANDARDS

1. **PURPOSE.** This Chapter correlates to DOE O 350.1, Change 1, CONTRACTOR HUMAN RESOURCE MANAGEMENT PROGRAMS, Chapter II, "*Labor Standards*," dated May 8, 1998, by assigning responsibility and accountability and providing administrative and/or contractual guidance to Oak Ridge Office (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 3, FEDERAL LABOR STANDARDS, dated January 26, 2004.
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 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).
- d. Assistant Manager, Administration, NNSA YSO.
- (1) Ensures that contracts let by 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) 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 under Paragraph 5 of this Chapter 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 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.

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.

5. REQUIREMENTS AND PROCEDURES.

a. Determination of Labor Standards Coverage.

- (1) Contractors will provide the following information to the Labor Standards Committee through 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 of this Chapter), 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 of this Chapter).
 - (d) Includes the following members: Chief Operating Officer (Chairperson); Team Leader, CHRG (Alternate Chairperson); two Engineers Representing DOE/ORO (members); Contractor Human Resources Specialist, CHRG (member); and NNSA YSO Representative (member). The Office of the Chief Counsel and the Committee Advisor provides advice to the Committee upon request.

b. Obtaining SCA Wage Determinations.

- (1) Contracting Officers/Contract Specialist shall use the DOL website for the purpose of obtaining SCA wage determinations for DOE prime contract actions.
- (2) Contractors/subcontractors shall obtain SCA wage determinations in accordance with the following:
 - (a) Prepare Standard Form (SF) 98 and 98a and submit to CHRG or the CORs at least 30 calendar days prior to release of the Request for Proposal or contract renewal date.
 - (b) Contact CHRG at (865) 576-0660 to obtain an electronic copy of the SF 98 and the appropriate e-mail address to submit the SF 98. See Attachment 3 of this Chapter.
 - (c) 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, SF-1444 should be submitted to CHRG. See Attachment 4 of this Chapter. The projected number of employees to be employed in each job category shall be included.
 - (d) The letter of transmittal shall 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 <http://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 LM 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. 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.
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 – ORO Form OR-635, “*Labor Standards Committee Case Report.*”
 - c. Attachment 3 – ORO Form SF-98 and 98a, “*Notice of Intention to Make a Service Contract and Response to Notice.*”
 - d. Attachment 4 – Standard Form SF-1444, “*Request for Authorization of Additional Classification and Rate.*”

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 Department of Energy (DOE) Labor Standards Committee.
2. Submit to Contractor Human Resources Group (CHRG) on a timely basis, requests for Davis-Bacon Act (DBA) and Service Contract Act 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 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. 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.

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 (by Department of Energy)	
		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).	
9. OFFICIAL SUBMITTING NOTICE			
TYPE NAME		DATE	
10. TYPE NAME AND TITLE OF PERSON TO WHOM RESPONSE IS TO BE SENT		TELEPHONE NO.	
		SIGNED:	
		(U.S. Department of Energy)	
		(Date)	

AUTHORIZED FOR LOCAL REPRODUCTION

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
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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)
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3. CONTRACTOR	4. DATE OF REQUEST
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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)
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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) (Use reverse or attach additional sheets, if necessary)	b. WAGE RATE(S)	c. FRINGE BENEFITS PAYMENTS

14. SIGNATURE AND TITLE OF SUBCONTRACTOR REPRESENTATIVE (IF ANY)	15. SIGNATURE AND TITLE OF PRIME CONTRACTOR REPRESENTATIVE
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16. SIGNATURE OF EMPLOYEE OR REPRESENTATIVE	TITLE	CHECK APPROPRIATE BOX-REFERENCING BLOCK 13. <input type="checkbox"/> AGREE <input type="checkbox"/> DISAGREE
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TO BE COMPLETED BY CONTRACTING OFFICER (CHECK AS APPROPRIATE - SEE FAR 22.1019 (SCA) OR FAR 22.406-3 (DBA))

- THE INTERESTED PARTIES AGREE AND THE CONTRACTING OFFICER RECOMMENDS APPROVAL BY THE WAGE AND HOUR DIVISION. AVAILABLE INFORMATION AND RECOMMENDATIONS ARE ATTACHED.
- 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
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PREVIOUS EDITION IS USABLE

STANDARD FORM 1444 (REV. 12-2001)
Prescribed by GSA-FAR (48 CFR) 53.222(f)