

Certified Payroll Requirements For Construction Contracts Standard Special Provision: Frequently Asked Questions

1. What is Colorado Senate Bill 19-196?

Colorado Senate Bill 19-196 (signed by the Governor in 2019) and the associated Colorado House Bill 21-1056 (signed by the Governor in May 2021) led to the creation of Colorado Revised Statute 24-92-202. CRS 24-92-202 states that “a contractor performing work on a public project for the department of transportation is required to pay employees performing work on any public project, regardless of the amount or funding source of the public project, in accordance with the wage requirements of the federal "Davis-Bacon Act", 40 U.S.C. sec. 3141 et seq., and related federal acts”. This statute applies to all projects advertised on or after July 1, 2021.

2. How does this impact CDOT Contractors?

The updates to the Colorado Revised Statutes as described above now require Davis-Bacon certified payrolls for state-funded projects advertised on or after July 1, 2021. This extends to all aspects of the Davis-Bacon and Related Acts including the Copeland Act, Contract Work Hours Safety Standards Act, etc. Projects advertised prior to July 1, 2021, required compliance with Davis-Bacon and Related Acts for federally-assisted projects only. This meant that only projects with federal funds were required to adhere to Davis-Bacon certified payroll requirements.

3. How do CDOT contractors know about the requirement?

CDOT updated its certified payroll standard special provision, now titled: “*Certified Payroll Requirements For Construction Contracts*” to align with the Colorado Revised Statute. The provision will apply to all CDOT construction contracts regardless of the amount or funding source of the public project. Wage decisions will also be attached to advertisement packages to ensure contractors are aware of the requirements.

4. What are the major changes associated with the certified payroll standard special provision update?

Minor updates were made to the certified payroll specification to document current practices already occurring in project administration and mirror US Department of Labor requirements like:

- All applicable contractors shall submit all payrolls weekly (at least once every seven days.)
 - This is a US DOL requirement for adherence to Davis-Bacon and Related Acts
 - *“Contractors and subcontractors are required to pay covered workers weekly and submit weekly certified payroll records to the contracting agency.”* ([DBRA Fact Sheet #66](#))
- Contractors shall submit a Contractor Fringe Benefit Statement (CFBS) once per project. If benefits change during the course of the project, a new CFBS will be submitted.
 - It is a US DOL requirement that benefits be described accurately for the sake of confirmation that prevailing wage is adhered to as it relates to DBRA and therefore, if information changes, a new submission is required.
 - *“Contractors and subcontractors on DBRA projects are required to pay laborers and mechanics weekly and to submit weekly certified payroll records to the contracting agency. DBRA contractors and subcontractors are also subject to rules concerning allowable payroll deductions.”* ([DOL E-Laws DBRA Project Payments](#))
- Deductions must be noted by type and amount within LCPtracker.
 - The contracting agency has the responsibility for enforcing labor standards in accordance with DBRA and CWHSSA. The only way to enforce this is to check what (amount) is being paid, when it is being paid (time frame), and what deductions are being made.
 - *“Under Reorganization Plan No. 14 of 1950 (64 Stat. 1267) the federal contracting or other administering agency has the primary responsibility for the enforcement of the DBRA/CWHSSA labor standards provisions included in its contracts.”* ([DOL FOH 15a\(b\)](#))
- Contractors shall establish and utilize a process that allows employees to verify the number of hours worked and the classification reported.
 - Employees are entitled to review the information submitted to ensure accuracy of records
 - *“...Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). 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.”* ([FHWA 1273 IV. DAVIS-BACON AND RELATED ACT PROVISIONS, 1. Minimum Wages](#))

- The prime approver shall approve or reject payrolls within seven days after submission into LCPtracker.
 - As listed above, it is a US DOL requirement for certified payrolls to be submitted to the contracting agency within 7 days. As the Prime Contractor is the responsible party for subcontractor and supplier compliance, they are permitted seven days to review the submitted payrolls from subcontractors and suppliers in order to ensure compliance with provisions of the Davis-Bacon and Related Acts.
 - *“The prime contractor shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.”* ([FHWA 1273, 1. GENERAL](#))

The major change is that the *“Certified Payroll Requirements for Construction Contracts”* standard special provision will now be incorporated into all CDOT construction contracts, not only those that are federally-assisted.

5. Will the FHWA 1273 also now apply to state-funded projects?

No. The FHWA 1273 requirements are now outlined in the *“Required Contract Provisions for Federal-Aid Construction Contracts”* specification and will be applied to contracts that are federally-assisted.

Resources:

For more questions or help with Davis-Bacon wages or DBRA, please review chapter 15 of the [Department of Labor \(DOL\) Field Operation Handbook \(FOH\)](#) or the [Prevailing Wage Resource Book](#).

For project specific questions, please reach out to your regional specialist that can be found [here](#).

For project setup, specific LCPtracker questions, or help with other Davis-Bacon concepts, please reach out to veronica.urbina@state.co.us.