

**CEEP Program Guidance – Revised 2/16/2010:**  
Davis Bacon and Washington State Prevailing Wage Information

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The following revised program guidance contains significant policy revisions based on the most current information we have available from the Washington State Department of Commerce and the Washington State Department of Labor and Industries.

**FEDERAL DAVIS BACON ACT**

- Individual homeowners who contract for weatherization retrofits, and are subsidized with ARRA funds as rebates or incentives, are not subject to compliance with Davis Bacon.
  - See [letter from the U.S. Department of Labor](#) to General Council of the U.S. Department of Energy dated 11/19/09 posted on the CEEP website. (This does not preclude compliance with WA State Prevailing Wage, as noted below on page 2).
  - See [State Energy Program Notice 10-003](#) dated 12/30/09 posted on the CEEP website.
- Professional personnel and office staff are not subject to Davis Bacon compliance.
- Energy auditors and inspectors are not subject to Davis Bacon. However, if they do any sort of work in addition to their role as auditor or inspector, the labor part of their time at the project site is subject to Davis Bacon compliance. Keeping of timesheets distinguishing between auditing time and labor time is necessary in this case.
- “Ordinary” maintenance performed by in-house employees of federal, state, county, city, or local municipalities – including PUDs (public utility districts) – are excluded from compliance with Davis Bacon. If public funds (in this case, ARRA funds) are used for work contracted to and performed by persons or companies outside the federal, state, county, city, or local municipality, the work is subject to Davis Bacon.

**Important:** Davis Bacon requires weekly certified payroll reporting. All laborers and mechanics employed on the work site must be paid, unconditionally, *at least once a week*. Covered employers must submit a certified payroll on a weekly basis. The employer must sign the certified payroll, affirming that the information is complete and accurate. Falsification of the certified payroll record can result in debarment from future contracts for up to three years and /or criminal penalties.

These Certified Payroll reports must be completed by contractors and submitted WEEKLY to the WSU Energy Program.

A copy of a certified payroll form (WH-347) can be found on the U.S. Department of Labor’s Wage and Hour Division ARRA website at <http://www.dol.gov/esa/whd/recovery/>.

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**WA STATE PREVAILING WAGE (WSPW)**

**CEEP projects must comply with WSPW if:**

- ARRA award funds applied to this project are paid directly by the sub-awardee agency to a contractor performing work. E2SSB 5649 Sec. 102(2)(d) per RCW 39.12
- ARRA award funds applied to this project are used as incentive or rebates to the homeowner. E2SSB 5649 Sec. 102(2)(d) per RCW 39.12

**WSPW does not apply to:**

- “Professional personnel” and office staff; work that is professional or administrative is not subject to WSPW compliance. However, if individuals who are designated as “professional” or “office,” etc. actually perform tasks that are generally attributable to “laborers, workers or mechanics,” they must be paid prevailing wage rates consistent with the appropriate worker classification/scope of work for the tasks performed.
- Energy auditors and inspectors. However, if they do any sort of work on any one project in addition to their role as auditor or inspector, as with Davis Bacon, the labor part of their work is subject to WSPW. Keeping of timesheets distinguishing between auditing time and labor time is necessary in this case.
- “Ordinary” maintenance performed by in-house employees of federal, state, county, city, or local municipalities – including PUDs (public utility districts) – are excluded from compliance with WSPW, that is, “workers or other persons regularly employed by the state, or any county, municipality, or political subdivision created by its laws.” RCW 39.12.020(2) However, if these entities use public funds (in this case, ARRA funds) for work contracted to and performed by persons or companies outside the federal, state, county, city, or local municipality, the work is subject to WSPW.
- A homeowner who uses only his or her own funds or resources (“private”), including a loan from a financial institution, and does not receive public monies of any kind, is not subject to WSPW.

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**ADDITIONAL IMPORTANT INFORMATION:**

- If public funds (incl. ARRA) are used in conjunction with private funds for any one project, WSPW will apply to the entire project.
- WSPW does not require certified payroll. However, an interested party (see RCW 39.12.010(4) or L&I) may request such records, and if they do, the contractor or subcontractor must provide the records to L&I and the awarding agency within 10 days of the request. See <http://www.lni.wa.gov/Forms/pdf/F700-065-000inst.pdf> for instructions. Payroll records must be kept for three years from the date of acceptance of the public works project by the contract awarding agency WAC 296-127-320.
- CFL installations may be made by an auditor or inspector, who must be paid at a minimum prevailing wage rates for work so performed. (The classification of work would be “Residential Laborer” for merely replacing light bulbs, but for any repair or replacement of a light fixture, the “Residential Inside Electrician” rate must be used and the worker must be a licensed electrician.). Installation of a showerhead must be performed by a certified plumber.
- Apprenticeship programs must be registered and approved by WA State Apprenticeship & Training Council (WSATC).
- Apprentices are defined as those workers for whom an apprenticeship agreement has been registered and approved by the state apprenticeship council. Any “helper” or other type of assistant who is not registered with the State Apprenticeship and Training Council (WSATC) is to be considered a fully qualified journey level worker, and must be paid the full journey level wage. Workers registered with the WSATC are entitled to the prevailing wage rates for an apprentice of that trade. The state PW Intent asks whether you intend to use apprentice employees. Answer appropriately to this question on the Intent, but do not list the apprentices on the Intent. When you file the Affidavit, however, you must list all apprentices who worked on the project, and include their registration numbers and other pertinent information. In addition to the registration requirement for the apprentice, the contractor who files an Intent and/or Affidavit indicating apprentices must be registered as an apprentice trainer with WSATC.