

Supporting Statement
Davis-Bacon Semi-Annual Enforcement Report
OMB Control Number 1910-New

This supporting statement provides additional information regarding the Department of Energy (DOE) request for processing of the proposed information collection, *Davis-Bacon Semi-Annual Enforcement Report*. The numbered questions correspond to the order shown on the Office of Management and Budget (OMB) Form 83-I, "Instructions for Completing OMB Form 83-I."

A. Justification

- 1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the information collection.**

All Federal agencies administering programs subject to Davis-Bacon wage provisions are required by 29 CFR Part 5, Section 5.7(b) to submit to the Department of Labor (DOL) a report of all new covered contracts/projects and all compliance and enforcement activities every six months. In order for the Department of Energy (DOE) to comply with this reporting requirement, it must collect contract and enforcement information from Recipients of Recovery Act funded grants, including state and local agencies; Recovery Act funded Loan and Loan Guarantee Borrowers, DOE direct contractors, and other prime contractors that administer DOE programs subject to Davis-Bacon requirements. DOE will require that such entities complete and submit a Semi-Annual Enforcement Report each six months.

Department of Labor (DOL) regulations, 29 CFR 5.7(b) provides:

(b) Semi-annual enforcement reports. To assist the Secretary in fulfilling the responsibilities under Reorganization Plan No. 15 of 1950, Federal agencies shall furnish to the Administrator by April 30 and October 31 of each calendar year semi-annual reports on compliance with and enforcement of the labor standards provisions of the Davis-Bacon Act and its related acts covering the periods of October 1 through March 31 and April 1 through September 30, respectively. Such reports shall be prepared in the manner prescribed in memoranda issued to Federal agencies by the Administrator.

The DOL has a standard reporting format for the required Semi-Annual Enforcement Report. The format was communicated to federal agencies via DOL's all-agency memorandum number 189, issued on February 5, 1998.

The following link leads to a PDF copy of the memorandum:

<http://www.wdol.gov/aam/AAM189.pdf>

The reporting format outlined in the memorandum is also copied below:

1. Period Covered
2. Number of Prime Contracts Awarded
3. Total Dollar Amount of Prime Contracts Awarded
4. Number of Contractors/Subcontractors Against Whom Complaints Were Received
5. Number of Investigations Completed
6. Number of Contractors/Subcontractors Found in Violation
7. Amount of Back Wages found due
 - (a) Davis-Bacon Act (prevailing wage violations):
 - (b) Contract Work Hours and Safety Standards Act, or CWHSSA (overtime violations):
8. Amount of back wages paid
 - (a) Davis-Bacon Act (prevailing wage violations):
 - (b) CWHSSA (overtime violations):
9. Total number of employees paid wage restitution under the Davis-Bacon and related Acts and/or CWHSSA
10. Amount of Liquidated Damages Assessed Under the CHWSSA

Please note that DOE recipients of Recovery Act-funded financial assistance will only be asked to answer questions 1 and 4-10 above; DOE will not collect information to answer questions 2 and 3 above. DOE will ask recipients of financial assistance questions 1 and 4-10 because in many cases, DOE has delegated a degree of Davis-Bacon oversight and enforcement to recipients of the Recovery Act-funded financial assistance. For example, a local government that received DOE Recovery Act-funded financial assistance would be responsible for investigating complaints received against construction contractors hired by the local government to work on the DOE-assisted project (see question 4 above).

DOE Loan and Loan Guarantee Program borrowers, other program grantees, along with DOE Prime contractors will be asked questions 1 through 10 and those Programs and contractors will report DBA enforcement activity through the use of the fillable PDF collection instrument. The fillable PDF Form for Loan, Loan Guarantee borrowers, other program grantees, and DOE Prime contractors was developed to ensure that respondents can easily understand the questions they must answer.

DOE expects to administer projects that require compliance with the Davis-Bacon Act on a long-term, ongoing basis. Therefore, DOE expects this to be an ongoing collection.

The volume of Davis-Bacon covered projects that DOE administers may vary from year-to-year depending on funding levels and statutory requirements.

DOE previously applied for emergency approval for this Davis-Bacon Act semi-annual report information collection. The request for emergency approval has since been withdrawn. There are no substantive differences between the emergency request and the new request, except for the timeline with which DOE hoped to gain approval for the request. We always planned to pursue regular long-term approval, even if the emergency request was approved.

2. Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection

The information is collected for two purposes:

- 1) It is used by DOE to compile a report to DOL required by DOL regulations 29 CFR 5.7(b). DOE consolidates the data collected from respondents and submits the data to DOL in its report.
- 2) It is used by DOE program staff to help assess respondent's compliance with Davis-Bacon Act and CWHSSA overtime requirements. DOE Program Staff will review responses and look into cases where a respondent's reported data does not seem to match the projects they are undertaking.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

DOE will use electronic data collection to gather this information. Data collection techniques will vary by DOE program office. Wherever possible, the data collection will be integrated into existing reporting processes for recipients of DOE financial assistance and prime contractors use.

Recipients of Weatherization Assistance Program (WAP), State Energy Program (SEP), and Energy Efficiency Conservation Block Grant Program (EECBG) grants will be asked to report the required data via a web-based form that will be housed in the Performance and Accountability for Grants in Energy (PAGE) system. Recipients of these grant programs are already required to report performance and financial data in the PAGE system on a quarterly basis. By integrating this required Davis-Bacon information collection into PAGE, recipients will be able to enter the Davis-Bacon data at the same time and into the same reporting interface as they enter all other required reporting data. PAGE will also allow DOE program staff to quickly compile the data into a format that matches the DOL's Semi-Annual Enforcement Report.

DOE Management and Operation Contractors and other Facility Contractors will be required to report the required data via an existing web-based program. The Work Force Information System (WFIS) is already used by such contractors for reporting information about their work force to DOE. Other programs may use either a web-based program or a fillable PDF form to collect and submit the data.

DOE included a link to view a mock-up of the collection instrument in the 60 Day Federal Register Notice for this information collection. The link is copied below:

http://www1.eere.energy.gov/wip/davis-bacon_act.html#ICR_draftcollectioninstrument

4. Describe efforts to identify duplication.

The information that will be collected from respondents is not currently collected by DOE or by any other entities.

5. If the collection of information impacts small businesses or other small entities, describe any methods used to minimize burden.

The information collection will not have a significant impact on small businesses or other small entities.

6. Describe the consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.

DOE would be in violation of DOL regulations requiring semi-annual reporting. These regulations govern all Federal agencies administering programs subject to Davis-Bacon prevailing wage rates.

7. Explain any special circumstances that require the collection to be conducted in a manner inconsistent with OMB guidelines. (a) requiring respondents to report information to the agency more often than quarterly; (b) requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it; (c) requiring respondents to submit more than an original and two copies of any document; (d) requiring respondents to retain records, other than health, medical government contract, grant-in-aid, or tax records, for more than three years; (e) in connection with a statistical survey, that is not designed to product valid and reliable results that can be generalized to the universe of study; (f) requiring the use of statistical data classification that has not been reviewed and approved by OMB; (g) that includes a pledge of confidentiality that is not supported by authority established in stature of regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use; (h) requiring respondents to submit proprietary trade secrets, or other confidential information unless the agency can

demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.

None known.

- 8. If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice, required by 5CFR 320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and describe actions taken in response to the comments. Specifically address comments received on cost and hour burden. Describe efforts to consult with persons outside DOE to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or report.**

The Department published a 60-day Federal Register Notice and Request for Comments concerning this collection in the Federal Register on May 24, 2011, volume 76, number 100, and page number 30143. The notice described the collection and invited interested parties to submit comments or recommendations regarding the collection. No comments were received.

The Department published a 30-day Federal Register Notice and Request for Comments concerning this collection in the Federal Register on August 24, 2011, volume 76, number 164, and page number 52943. The notice described the collection and invited interested parties to submit comments or recommendations regarding the collection. No comments were received.

- 9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.**

No payment or gift has been or will be provided to respondents.

- 10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.**

No identifiable confidential information is being requested. There is no assurance of confidentiality provided to respondents.

- 11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why DOE considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.**

There are no questions of a sensitive nature related to this information collection.

12. Provide estimates of the hour burden of the collection of information. The statement should indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. Unless directed to do so, DOE should not conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample fewer than 10 potential respondents is desirable.

Estimated Burden Hours to Respondents

Estimated Number of Respondents:	2,709
Frequency of Response (per annum):	2
Total Number of Responses:	5,418
Burden Hours per Response (including Recordkeeping):	2*
Total Annual Burden Hours:	10,836

*HUD must collect the exact same information as DOE for HUD's required semi-annual report to DOL. DOE developed the burden hours per response number by reviewing HUD's information collection application to OMB. HUD has years of experience collecting this information for programs that are similar to many of the DOE programs that are now implementing Davis-Bacon.

13. Provide an estimate for the total annual cost burden to respondents or record-keepers resulting from the collection of information.

There is no additional cost burden associated with this collection.

14. Provide estimates of annualized cost to the Federal government.

The designated individual that compiles the Davis-Bacon Act Semi-Annual Enforcement Report is a GS-15. We estimate a range of 6 to 8 hours related to this activity. DOE anticipates a maximum level of effort of 8 hours x 2 reports at a rate of \$95/hour, including the hourly rate and fringe benefits. The total federal labor burden is estimated at \$1,520 (8 hours x \$95/hour - GS15 x 2 reporting cycles = \$1,520/full time equivalent (FTE)).

The development of the electronic form is part of an ongoing maintenance contract to sustain the PAGE system. This contract is a firm fixed price contract and the DBA Semi-Annual Enforcement Report is only one module that is part of the overall system. PAGE supports three separate programs that are covered under separate ICRs.

DOE estimates \$150,000/month for total PAGE maintenance costs. The electronic collection form development, release, and maintenance is part of this ongoing maintenance contract and there no itemized costs to report. DOE estimates one half of one percent of the monthly cost or \$750 per reporting period or \$1,500 per year (\$150,000/month x .005 x 2 reporting cycles per

year = \$1,500/year for PAGE maintenance). The annualized burden cost to the Federal government is estimated at \$3,020 (\$1,520 FTE + \$1,500 PAGE maintenance = \$3,020/year).

15. Explain the reasons for any program changes or adjustments reported in Items 13 (or 14) of OMB Form 83-I.

This is a new collection. The number of respondents was increased from 2,400 to 2,709 to ensure all recipients and contractors are considered as part of this request. This increased the total number of annual responses to 5,418. The associated annual hourly burden is estimated at 10,836.

16. For collections whose results will be published, outline the plans for tabulation and publication.

There are no plans to publish results.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons why display would be inappropriate.

DOE is not seeking approval not to display expiration date.

18. Explain each exception to the certification statement identified in Item 19 of OMB Form 83-I.

No exceptions are being requested.