

Supporting Statement
Davis-Bacon Semi-Annual Labor Compliance Report
OMB Control Number 1910-5165

This supporting statement provides additional information regarding the Department of Energy (DOE) request for processing of the extension of the 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 § 5.7(b) to submit a report of all new covered contracts/projects and all compliance and enforcement activities every six months to the Department of Labor (DOL). In order for DOE to comply with this reporting requirement, it must collect contract and enforcement information from the 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 every six months, by the 21st of April and the 21st of October each year.

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.

DOL has a standard reporting format for the required Semi-Annual Enforcement Report, 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, or DBA (prevailing wage violations)
 - (b) Contract Work Hours and Safety Standards Act, or CWHSSA (overtime violations)
- 8) Amount of back wages paid
 - (a) DBA (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

DOE Loan and Loan Guarantee Program borrowers, other program grantees, and DOE Prime contractors will complete questions 1 through 10, and those Programs and contractors will report DBA enforcement activity through the use of the fillable PDF collection instrument.

DOE expects to administer projects that require compliance with the DBA on a long-term, ongoing basis. The volume of Davis-Bacon covered projects that DOE administers may vary from year-to-year, depending on funding levels and statutory requirements.

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 as required by DOL regulations 29 CFR § 5.7(b). DOE consolidates the data collected from respondents and submits one consolidated report to DOL.

2) It is used by DOE program staff to help assess respondents' compliance with DBA and CWHSSA overtime requirements. DOE Program Staff will review responses and look into cases where a respondent's reported data does not appear 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.

Those reporting the information will complete the fillable PDF, save it, and submit the form to the electronic mailbox DOE has set up for receipt of the reports.

4. Describe efforts to identify duplication.

There is only one office within DOE authorized to collect this information, and no other entity collects this information related to DOE contracts and financial assistance agreements. Since this information is unique to DOE, duplication is not possible for this collection.

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. In cases where a small business may be a contractor, the costs incurred by the small business in supplying the information are an allowable cost on DOE contracts.

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 produce 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.

The information collection is consistent with OMB guidelines.

- 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 5 CFR 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 extension in the Federal Register on September 26, 2017 (Volume 82, Number 185, and page number 44762). 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:	75
State, Local or Tribal Government:	20
Private Sector:	55
Frequency of Response (per annum):	2
Total Number of Responses:	150
Burden Hours per Response (including Recordkeeping):	2
Total Annual Burden Hours:	300

* To verify that this number remains valid, DOE consulted with respondents and found they agreed that preparation of the report took them between one and two hours.

$$\text{Average Burden per Collection} = \text{Average Burden per Applicant} \div \text{Reports Filed Per Person}$$

1 hr. = 2 hrs ÷ 2 report per respondent

$$\text{Average Burden per Applicant} = \text{Average Burden per Collection} \times \text{Reports Filed Per Person}$$

4 hrs. = 2 hrs x 2 report per respondent

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. The information collection is an allowable contract and grant administrative cost.

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

DOE will incur no additional costs by continuing this information collection because this is inherently a governmental function being performed by a DOE Federal employee. DOE estimates 8 hours for each semi-annual reporting cycle to compile the information. The annualized burden cost to the Federal government is estimated at \$730 (8hrs to compile * \$45.50/hr). There are no additional costs related to the development of the electronic form because it is not substantially changed from the original submission in 2012 and the 2015 extension.

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

No changes.

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

There are no plans to publish results, however, DOE uses the information received from respondents to create the required report for submission to the DOL. Each submission is entered into a spreadsheet in order to produce the final numbers submitted to DOL.

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 will continue to display the expiration date on the information collection form.

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

No exceptions are requested.