
Supporting Statement for Semi-Annual Davis-Bacon Enforcement Report

Part A: Justification

OMB No. 1910-5165

DOE F 354: Semi-Annual Davis-Bacon Enforcement Report

September 2023

U.S. Department of Energy
Washington, DC 20585

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Introduction

The information collection requests a three-year extension of DOE's Semi-Annual Davis-Bacon Enforcement Report. 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 Borrowers, 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 (DOE F 354) every six months, by the 21st of April and the 21st of October each year.

A 60-Day Federal Register Notice was published on September 25, 2020 and a 30 day notice on December 4, 2020. No comments were received during these notice periods.

A.1. Legal Justification

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 Borrowers, Loan Guarantee Borrowers, DOE direct contractors, and other prime contractors that administer DOE programs subject to Davis-Bacon requirements.

Department contractors are reimbursed through their contracts for the costs of providing this information, as it is an allowable contract cost under Department of Energy Acquisition Regulations (DEAR) 970.5204-3, 970.5227-1, and 970.5232-3. Therefore, those contractors would not be adversely impacted by the requirement to provide the information. The collection of this information is unlike a request for information imposed upon the general public, for which the costs are not reimbursed.

No similar collections are conducted to which the General Counsel is aware. The data collected is not available from any other source and is not duplicated elsewhere.

A.2. Needs and Uses of Data

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

DOE will require that entities listed in A.1 complete and submit a Semi-Annual Enforcement Report every six months, between April 1st and 21st, and between October 1st and 21st each year. DOE compiles this data and delivers it to the Department of Labor (DOL) for review and record, pursuant to

DOL's all-agency memorandum number 189, issued on February 5, 1998.

<https://www.dol.gov/sites/dolgov/files/WHD/AAM/AAM189.pdf>

Additionally, the information is used by DOE program staff to help assess respondents' compliance with DBA and the subsumed Contract Work Hours and Safety Standards Act (CWHSSA) overtime requirements. DOE Program Staff will review responses and investigate cases where a respondent's reported data does not appear to match the projects they are undertaking.

Please refer to Section A.1 for the specific uses of this data. With use of this form and associated data collecting tools DOE has never fallen out of compliance with DOL requirements.

A.3. Use of Technology

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 offers two technology-based options for submission of the form. Respondents enter the data manually into the Semi-Annual Davis-Bacon Enforcement Report Form either in a fillable Microsoft Forms survey, or iBenefits module.

iBenefits is a web-based application found at <https://doeibenefits2.energy.gov/>. Access to the site is granted to users requiring access according to the Security Plan Process. The application hardware is operated, maintained, and controlled by the DOE Office of Chief Information Officer Application Hosting Environment. Users are located across the Department's complex of offices and facilities, and its hosted pages and relational database are in Germantown, Maryland. Operating within this overall architecture, iBenefits consists of several independent modules which share a common set of reference tables, user identification protocols, security mechanisms, data entry techniques, and other such operating conventions. This system was designed to reduce the information collection burden and improve the timeliness and usefulness of the information collected.

In the past, respondents submitted the form via PDF or iBenefits. However, the PDF option has been replaced with Microsoft Forms. Microsoft Forms is a web-based application found at (<https://forms.office.com/>) that is used to create surveys. With the passage of the Infrastructure Investment and Jobs Act (IIJA), an exponential increase in submitted forms is anticipated. The Microsoft Forms option makes it more efficient to aggregate the incoming data. Replacing the PDF option with Microsoft Forms will not impose an additional burden on respondents. The questions from the PDF are identical to the Microsoft Form, and the submission process is faster.

A.4. Efforts to Identify Duplication

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.

A.5. Provisions for Reducing Burden on Small Businesses

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

The collection of information will not have a significant economic impact on small businesses or other small entities. The respondent contractors generally exceed the Small Business Administration's (SBA) size standards for small businesses. DOE expects that any potential economic impact of the collection of information on small businesses would be minimal because DOE contractors are reimbursed through their contracts for the costs of providing the requested information.

A.6. Consequences of Less-Frequent Reporting

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.

If the information is not conducted or conducted less frequently, DOE would be in violation of DOL reporting regulations required by 29 CFR § 5.7(b). These regulations govern all Federal agencies administering programs subject to Davis-Bacon prevailing wage rates.

A.7. Compliance with 5 CFR 1320.5

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; or**

(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 collections are consistent with OMB guidelines and 5 CFR 1320.5.

A.8. Summary of Consultations Outside of the Agency

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 September 25, 2020, volume 85, number 187, and page numbers 60450-60451. 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 December 4, 2020, volume 85, number 234, and page numbers 78314-78315. No comments were received.

DOE consulted with respondents and found regarding the time burden associated with this collection. Based on these consultations DOE was able to decrease the time burden associated with the collection by half.

A.9. Payments or Gifts to Respondents

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

In providing this information, the contractor (respondent) is remunerated for costs expended fulfilling contractual requirements. This remuneration is consistent with the contract and does not constitute a payment or gift under 5 CFR 1320.5 (a)(1)(iii)(D).

A.10. Provisions for Protection of Information

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

When the collection of confidential information is involved, the provisions for handling the information are set forth in the contract documents, related Departmental regulations, and the Privacy Act of 1974 (5 U.S.C. § 552a). The iBenefits application includes processes designed to ensure the integrity and access of the data. Each contractor has unlimited access to its own data, and its personnel cannot

access the data of any other contractor. DOE Field and Headquarters personnel can view the data entered by assigned contractors but are unable to change the data.

A.11. Justification for Sensitive Questions

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 collections in this package involving questions that are sensitive, personal, or private in nature.

A.12A. Estimate of Respondent Burden Hours

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.

The burden provided represents the number of estimated labor hours for the contractor to furnish the data for each of the data collection categories.

There are an estimated 75 respondents. The collection of information is required twice a year by each respondent. Each respondent is estimated to require one hour per response, totaling two hours per annum per respondent. The two hours is multiplied by the 75 respondents to equal 150 hours annually.

Table A1. Estimated Respondent Hour Burden

Form Number/Title (and/or other Collection Instrument name)	Type of Respondents	Number of Respondents	Annual Number of Responses	Burden Hours Per Response	Annual Burden Hours	Annual Reporting Frequency
Semi-Annual Davis-Bacon Enforcement Report (1910-5165)	Contractor Human Resources Specialist	75	150	1	150	2
TOTAL		75	150		150	

A.12B. Estimate of Annual Cost to Respondent for Burden Hours

Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories. The cost of contracting out or paying outside parties for information collection activities should not be included here. Instead, this cost should be included under 'Annual Cost to Federal Government'.

Privately employed Contractor Human Resources Specialists will fill out and submit the reports. The

average hourly wage rate published by the U.S. Department of Labor for this personnel type is \$33.74 per hour.¹ DOE estimated the fully burdened wage rate ($\$33.74 * 1.4$)² as \$47.24. By multiplying this fully burdened wage rate by the total annual burden hours that respondents will incur (150 hours), we calculate that the total per respondent cost amounts to \$7,086.

Table A2. Estimated Respondent Cost Burden

Type of Respondents	Total Annual Burden Hours	Hourly Wage Rate	Total Respondent Costs
Contractor Human Resources Specialist	150	\$47.24	\$7,086
TOTAL	150		\$7,086

A.13. Other Estimated Annual Cost to Respondents

Provide an estimate for the total annual cost burden to respondents or recordkeepers resulting from the collection of information.

There are no other additional or secondary costs to Respondents.

A.14. Annual Cost to the Federal Government

Provide estimates of annualized cost to the Federal government.

The iBenefits application is already in existence and there is no additional cost to run the Semi-Annual Davis-Bacon Enforcement Report module. The government must reimburse the contractor for these collection costs pursuant to their contracts. The average expense of \$94.47 per contractor per year, multiplied by 75 contractors, equals a total of \$7,086 per year. There is one Federal employee who reviews and analyzes the data submitted by respondents. The fully burdened hourly wage is about \$97.39, and it is estimated that approximately 10 hours are expended by the Federal employees reviewing and analyzing the data for a total of \$973.90 per year.³

Thus, the total annual cost is estimated to be \$8,060 per year.

A.15. Reasons for Changes in Burden

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

¹ Annual salary of \$70,180 from U.S. Bureau of Labor Statistics. <https://www.bls.gov/ooh/business-and-financial/human-resources-specialists.htm#tab-5>

² GC-63 was directed by the Department of Energy Paperwork Reduction Act Desk Officer to use a multiplier of 1.4% to arrive at the fully burdened wage rate for non-government workers.

³ Fully burdened rate for GS-14-02 conducting this work, $\$60.87 * 1.6 = \97.39 . <https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2021/DCB.pdf>

Information on the 1.6 multiplier used, <http://www.bls.gov/news.release/ecec.nr0.htm>

A policy decision was made to include costs that were previously excluded here and only accounted for within the award of each DOE contract. We understand that many collections were previously submitted without a cost. Apart from wage growth, there has been no monetary change in this collection, merely a change in an internal accounting policy.

DOE consulted with respondents and found they agreed that preparation of the report took them closer to one hour, therefore we are reporting a decrease in total time burden of 150.

Table A3. ICR Summary of Burden

	Requested	Program Change Due to Agency Discretion	Change Due to Adjustment in Agency Estimate	Previously Approved
Total Number of Responses	150		0	150
Total Time Burden (Hr)	150		-150	300
Total Cost Burden	7086		7086	0

A.16. Collection, Tabulation, and Publication Plans

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

This package contains no collections whose results will be published, tabulated, or used for statistical purposes. The information collection is used to ensure Department compliance with DOL regulations.

A.17. OMB Number and Expiration Date

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

The Department is not seeking approval to not display the expiration date for OMB approval of the information collections.

A.18. Certification Statement

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

No exceptions have been taken. This collection of information has been reviewed and justified by Departmental management requirements, statutes, external regulations, interagency reporting requirements, Departmental orders, or other internal DOE requirements, and meets the requirements listed in the “Certification for Paperwork Reduction Act Submissions.”