

**SUPPORTING STATEMENT FOR
Davis-Bacon Certified Payroll
OMB CONTROL NO. 1235-0008**

This is a proposed revision to a currently approved collection. The Department of Labor (Department) proposes to revise its information collection request (ICR) related to the Davis-Bacon Certified Payroll. The Department proposes substantive revisions to form WH-347.

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 collection of information.

The Copeland Act requires contractors and subcontractors performing work on federally financed or assisted construction contracts to furnish weekly a statement on the wages paid each covered worker during the prior week. See 40 U.S.C. 3145; 29 CFR 3.3(b). This Copeland Act provision specifically requires the regulations to “include a provision that each contractor and subcontractor each week must furnish a statement on the wages paid each worker during the prior week.” This requirement is implemented by [29 CFR 3.3](#) and [3.4](#) and the standard Davis-Bacon contract clauses set forth at [29 CFR 5.5](#). The regulation at 29 CFR 5.5 (a)(3)(ii)(A) (“Frequency and method of submission”) requires contractors to submit weekly a copy of all payrolls to the federal agency contracting for or financing the construction project. If the agency is not a party to the contract, the contractor will submit the payrolls to the applicant, sponsor, or owner, as the case may be, for transmission to the contracting agency. This provision requires that the payrolls submitted shall set out accurately and completely information required to be maintained under 29 CFR 5.5(a)(3)(ii)(B) (“Information required”).

The information that must be included in the weekly transmittals includes the name of each covered worker; each worker's correct classification(s) of work actually performed; hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in 40 U.S.C. 3141(2)(B) of the Davis-Bacon Act); daily and weekly number of hours actually worked in total and on each covered contract; deductions made; and actual wages paid. See 29 CFR 5.5(a)(3)(i)(B); 29 CFR 5.5(a)(3)(ii)(B). The weekly transmittals also must include an individually identifying number for each employee (e.g., the last four digits of the employee’s Social Security number). See 29 CFR 5.5(a)(3)(ii)(B).

The provision at 29 CFR 5.5(a)(3)(ii)(B) also states what must not be included in the weekly transmittal. The weekly transmittal must not include workers’ full social security numbers, last known addresses, telephone numbers, and email addresses. That information must be recorded and maintained by the contractors as part of the record-keeping provisions in the regulations at 29 CFR 5.5(a)(3)(i)(B), but it must not be included in the weekly transmittals.

The regulations at 29 CFR 5.5(a)(3)(ii)(C) and 29 CFR 3.3(b) require each contractor to furnish weekly a signed “Statement of Compliance” accompanying the payroll indicating the payrolls

are correct and complete and that each covered worker has been paid not less than the proper Davis-Bacon Act prevailing wage rate for the work performed.

The required weekly payroll information may be submitted in any form desired. The information collection request that is the subject of this notice, Optional Form WH-347, is designed to include fields for all of the necessary information so as to satisfy the regulatory and contractual requirements. The weekly submission of a properly executed certification, with the prescribed language set forth on page 2 of Optional Form WH-347, satisfies the requirement for submission of the required "Statement of Compliance." 29 CFR 5.5(a)(3)(ii)(C).

In addition to the weekly transmittal requirements, the regulations contain separate record retention requirements that require the retention of the weekly transmittals themselves as well as a broader subset of documents and information. Regulations 29 CFR 3.4(b) and 5.5(a)(3)(ii)(G) require contractors to maintain copies of these transmitted weekly certified payrolls for three years after all the work on the prime contract is completed. The record retention provision at 29 CFR 5.5(a)(3)(i) requires contractors performing work on projects subject to the Davis-Bacon and Related Acts (DBRA) to retain the address, telephone number, email address, and social security number of each covered worker, in addition to all of the worker-specific information that must be included on the weekly certified payroll. In addition, whenever a contractor seeks to provide a portion of its required fringe benefits through an unfunded plan (as described in 29 CFR 5.5(a)(1)(v)), the contractor must maintain records showing that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, that the plan or program has been communicated in writing to the laborers or mechanics affected, and the costs anticipated or the actual cost incurred in providing such benefits. See 29 CFR 5.5(a)(3)(i)(C). Contractors employing apprentices or trainees under approved programs also must maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs. *Id.* § 5.5(a)(3)(i)(D). 29 CFR 5.5(a)(3)(iii) provides that contractors and subcontractors must maintain copies of covered contracts, subcontracts, and related documents.

29 CFR 5.5(a)(3)(iii) clarifies that regular payrolls and other basic records required by this section must be preserved for a period of at least three years after all the work on the prime contract is completed. In other words, even if a project takes more than three years to complete, contractors and subcontractors must keep payroll and basic records for at least three years after all the work on the prime contract has been completed. This is in line with the Department's longstanding interpretation and practice concerning the period of time that contractors and subcontractors must keep payroll and basic records required by § 5.5(a)(3). The Department also notes that it is a normal business practice to keep such documents and does not expect an increase in burden associated with this requirement.

DBA contract clauses at 29 CFR 5.5(a)(5) and (8) obligate contractors to comply with requirements of 29 CFR part 3 on covered contracts and incorporate into such contracts, by reference, the requirements of 29 CFR parts 1, 3, and 5.

The Department periodically reviews its information collection requests to ensure that they are

necessary and sufficient to effectively and efficiently fulfill the Department's statutory directive to oversee and enforce the Davis-Bacon Act. Substantive edits to the WH-347 form were last made in 2011. The Department reviewed the current form WH-347 and proposed a number of edits, which are listed below:

Name:

- The proposed form changes the name from "Payroll" to "Davis-Bacon and Related Acts Weekly Certified Payroll Form" for clarity.

Project and Contractor/Subcontractor Information:

- The proposed form provides check boxes for "Prime Contractor" or "Subcontractor" instead of "Contractor" or "Subcontractor"
- The proposed form replaces "Project or Contract No." with two separate entries: "Project Name" and "Project No."
- The proposed form replaces "Project and Location" with "Project Location."
- The proposed form adds "Wage Determination No."

- The Proposed form changes "For Week Ending" to "Week Ending Date."

Wage Payment and Deductions:

- Column 1, Name and Individual Identifying Number: The proposed form divides Column 1 into five (5) sub-columns (1A-1E):
 - 1) 1A: Worker Entry No.
 - 2) 1B: Worker Last Name
 - 3) 1C: Worker First Name
 - 4) 1D: Worker Middle Initial
 - 5) 1E: Worker Identifying No.
- Column 2: The proposed form replaces "No. of Withholdings Exemptions" with "(J) Journeyworker (A) Apprentice" to indicate whether the worker is a journeyworker or apprentice.
- Column 3: The proposed form replaces "Work Classification" with "Name of Labor Classification."
- Column 4: The proposed form replaces "OT. OR ST." with "Over/Straight Time", "O" with "ST", "S" with "OT", "Day and Date" with "(TOP) Days of Work Week (BOTTOM) Dates", and "Hours Worked Each Day" remains the same.
- Column 5: The proposed form replaces "Total Hours" with "Total Hours Worked for Week."
- Column 6, Rate of Pay: The proposed form divides Column 6 into three (3) sub-columns:
 - 1) 6A: Hourly Wage Rate Paid
 - 2) 6B: Total Fringe Benefit Cost
 - 3) 6C: Payment in Lieu of Fringe Benefits
- Column 7, Gross Amount Earned: The proposed form divides Column 7 into 2 sub-columns:

- 1) 7A: Gross Amt Earned
 - 2) 7B: Gross Amt Earned for All Work
- Column 8, Deductions: The proposed form changes the title of column 8 from “Deductions” to “Deductions for All Work”, removes two (2) blank columns, rearranges and renames the existing columns from “FICA” to “Tax With-Holdings”, “Withholding Tax” to “FICA”, and “Other” to “Other (See Instructions)”, “Total Deductions” remains the same.
 - Column 9: The proposed form replaces “Net Wages Paid for Week” with “Net Pay to Worker for All Work.”

Statement of Compliance:

- The proposed form provides the following fields at the top of page 2 of the WH-347: “Project Name”, “Project No.”, “Payroll No.”, “Prime Contractor’s/Subcontractor’s Business Name”, “Project Location”, “Week Ending Date”, and “Certifying Official’s Name and Title.”
- The proposed form replaces the certified statements (1)-(4) with check boxes and fillable fields:
 - 1) Replacing statements (1) and (2) with check boxes 1-3;
 - 2) Replacing statement (3) with a check box and fillable fields for Apprenticeship Program – Apprenticeship Program Name, Registered with OA or SAA, and Name of Labor Classification.
 - 3) Replacing statement (4) with a check box and fillable fields for Hourly Cost of Fringe Benefits – Name of Worker, Fringe Benefit Plan Name, Plan No., Funded or Unfunded, Hourly Cost, and Total Hourly Credit.
- The proposed form now requests the Certifying Official’s telephone number.

Other

- While the proposed form has not made substantive changes on the “fine print” (page 1, the paragraph above the Public Burden Statement), it is revised for plain language and to ensure consistency with the relevant regulatory language.
- The instructions for form WH-347 will be revised to correspond to the aforementioned changes.

The majority of the above edits were adopted, and the ones that were not, or were adopted in an altered form are listed below. A full discussion of the comments and the subsequent changes to WH-347 can be found in #8.

- Wage Payment and Deductions:
 - In Column 2, the proposed “Apprentice” to “Registered Apprentice” in the final form.
 - In column 3, “Name of Labor Classification” is “Labor Classification” in the final form.

- In column 4, the proposed “Over/Straight Time is “straight / overtime” in the final form.
 - In column 5, the proposed "Total Hours Worked for Week" is " Total Hours Worked in Week" in the final form.
 - In column 6, "Total Fringe Benefit Cost" is now "Total Fringe Benefit Credit", and where the term “fringe benefit cost” is used in a similar manner on page two of the proposed WH-347 form, it is instead "total fringe benefit" in the final form.
 - In column 6, the column title and formatting have been adjusted to clarify that both the straight-time and overtime rates of pay should be entered in this column in the final form.
 - In column 7, the sub-column title has been adjusted to "List Other Deductions (See Instructions)" in the final form.
- Statement of Compliance
 - The Department adopted all of the fields at the top of page two, as proposed, with the exception of “Payroll No.” which was changed to ““Certified Payroll No.” in the final form.
 - The Department has added a sentence to note for contractors that the information reported in certified payrolls may be subject to disclosure in response to a FOIA this effect to page two of this form.
 - The Department has added a field for the type of benefit plan in the final form.
 - The Department has added an additional field for the certifying official’s email address in the final form.
 - Instructions
 - Box five added instructions regarding the entry of the hourly fringe benefit credit for each plan to clarify that such credit must be computed using the method set forth at 29 CFR 5.25(c)(1).

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.

Contractors and subcontractors must certify their payrolls by attesting that persons performing work on DBRA covered contracts have received the proper payment of wages and fringe benefits. See 29 CFR 5.5(a)(3)(ii). Contracting officials and Wage and Hour Division (WHD) staff use the records and certified payrolls discussed in Item 1 of this supporting statement in verifying that contractors have paid the required rates for the work performed.

The Department has developed optional use form WH-347, Certified Payroll form, that contractors may use to meet the regulatory and contractual payroll reporting requirements. 29 CFR 5.5(a)(3)(ii)(A) and 5.5(a)(3)(ii)(B). See also 29 CFR 3.3(b). The form contains the basic payroll information that contractors must furnish each week they perform any work subject to DBA labor standards. The contractor also completes, dates, and signs a statement on page 2 of the form to meet the certification requirement in 29 CFR 5.5(a)(ii)(C). The contractor submits

the completed form weekly to the contracting agency, not to WHD. The contractor may substitute copies of its payroll containing all of the required information and provide the required certification.

Contracting agencies review certified payrolls when conducting Davis-Bacon compliance investigations. Similarly, if a complaint is filed or a WHD investigation is otherwise initiated, WHD will request certified payrolls from the contracting agency to assist in determining whether workers were paid correctly. Certified payrolls may also be used in the calculation of prevailing wages under WHD's Davis-Bacon wage survey program.

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, and the basis for the decision for adopting this means of collection. Also, describe any consideration of using information technology to reduce burden.

In accordance with the Government Paperwork Elimination Act (GPEA), 44 U.S.C. 3504, the Department has posted optional use form WH-347 on the internet (<https://www.dol.gov/sites/dolgov/files/WHD/legacy/files/wh347.pdf>), in a printable and fillable format that automatically performs some mathematical calculations. Individual contracting agencies determine any electronic submission options because contractors submit the information directly to each contracting agency and not to WHD. 29 CFR 5.5(a)(3)(ii)(A). The submission of photocopies or other automated duplication of the contractor's regular payrolls containing all of the required information pertinent to the government construction project(s) is sufficient to satisfy this payroll submission requirement. *Id.*

Under § 5.5(a)(3)(ii)(A), where a contracting agency encourages or requires contractors to submit their certified payroll through a particular electronic submission system, the contracting agency must also ensure that the system allows the contractor, the contracting agency, and the Department to access the certified payrolls upon request for at least three years after the work on the prime contract has been completed.

4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Item A.2 above.

The submission of weekly certified payroll is required by the Copeland Act statute at 40 U.S.C. 3145, and the regulations that have been promulgated by authority of that statutory provision. Requirements at 29 CFR 5.5(a)(3)(ii) for weekly reporting of DBA required payroll items are already approved under OMB control number 1235-0008. The Optional Form WH-347 represents one method by which contractors can comply with these statutory and regulatory requirements. Contractors may also submit the required information and statement of compliance in any other format, as long as it complies with the underlying regulatory requirements. If the contractor submits the WH-347 form, it need not submit the information in another form. Accordingly, the submission of information in the WH-347 does not require the duplication of submission of the same information.

The information that is solicited on the WH-347 (and required to be submitted by regulation) is also already required to be retained in record-keeping requirements under the DBRA regulations and regulations issued pursuant to other statutes. The fact that this information must be retained under multiple statutes or regulations does not necessarily represent additional burden. Where the same information is required to be retained by two different regulatory provisions, it does not double the amount of information that needs to be retained. For example, the Optional Form 347 includes fields for information about apprenticeship training programs. The Employment and Training Administration of the Department administers these apprenticeship or training programs and also requires the maintenance of detailed records on the part of the contractor. (For an example of these requirements, see 29 CFR 29.6, approved under OMB control number 1205-0223). Accordingly, the request for information about apprenticeship programs in the Optional WH-347 form does not require a contractor to retain any information that it is not already required to retain.

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

This information collection does not have a significant economic impact on a substantial number of small entities. Small business contractors and subcontractors are required by statute and regulation to submit weekly certified payroll containing the information that is solicited in the Optional Form WH-347. The Department's creation of the Optional Form WH-347 is intended to minimize the burden on these small businesses by providing them with a form and detailed instructions to help them make the required submission. The Form has been designed to include check boxes and auto-calculation tool in order to further minimize burden. The use of a standardized form also assists other small businesses and small-entity local agencies in auditing payroll for DBRA compliance.

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.

WHD and contracting agencies have a statutory obligation to determine and ensure that contractors performing work on DBRA covered construction projects comply with the requirements discussed in Item 1 of this supporting statement. Certified payrolls are an essential tool used to aid in determining compliance.

In addition, the collection is required by law. Contractors must submit the information each week in which their workers perform any work on covered construction projects because Copeland Act provisions preclude less frequent submission. A court injunction requires the Department to maintain the weekly submission of payroll information for each worker. The Department published revised final regulations in the *Federal Register* on May 28, 1982 (29 CFR part 5, 47 FR 23658; 29 CFR part 3, 47 FR 23678) to require only a weekly submission certifying compliance with the DBA and Copeland Act provisions, instead of the requirement for contractors to submit weekly a copy of the actual payroll information for each worker performing DBRA covered work. On December 23, 1982, the U.S. District Court for the District of Columbia permanently enjoined the Secretary of Labor from implementing those provisions.

See Building and Construction Trades Department, AFL-CIO, et al. v. Raymond J. Donovan, et al., 553 F. Supp. 352. On July 5, 1983, the U.S. Court of Appeals for the District of Columbia Circuit held the regulatory change to allow the submission of statements of compliance, in lieu of actual payroll information on each worker, to be invalid. See Building and Construction Trades Department, AFL-CIO, et al. v. Raymond J. Donovan, et al., 712 F. 2d 611. On January 16, 1984, the U.S. Supreme Court declined to review the decision, allowing the appellate decision to become final and precluding the Department from eliminating this aspect of the information collection. See 464 U.S. 1069.

7. Explain any special circumstances that would cause an information collection to be conducted in a manner:

- **requiring respondents to report information to the agency more often than quarterly;**
- **requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;**
- **requiring respondents to submit more than an original and two copies of any document;**
- **requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records for more than three years;**
- **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;**
- **requiring the use of statistical data classification that has not been reviewed and approved by OMB;**
- **that includes a pledge of confidentiality that is not supported by authority established in statute or 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**
- **requiring respondents to submit proprietary trade secret, 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 Copeland Act and the court decisions described above are legal requirements that require weekly submission of the collection and therefore require respondents to report information more often than quarterly. This statutory requirement reflects Congress's judgment that weekly submission is necessary and appropriate to ensure compliance, given that particular structure of the construction labor market as described in the legislative history of the Davis-Bacon Act and its amendments. To the extent that contractors consider the wage and fringe benefits they provide to be confidential information or trade secrets, the collection of such information is likewise

required by statute and is necessary to ensure compliance with the DBRA. The Department's procedures for protection of the information is described below.

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 1320.8(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 by the agency in response to these comments. Specifically address comments received on cost and hour burden.

Describe efforts to consult with persons outside the agency 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 reported.

Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every 3 years -- even if the collection-of-information activity is the same as in prior periods. There may be circumstances that may preclude consultation in a specific situation. These circumstances should be explained.

WHD consulted with four people outside the agency who use form WH-347. WHD asked these persons for their feedback on burden estimates for information collection activities associated with requesting the aforementioned form. Two of the four people had no issue with the proposed changes, one had comments that were not pertinent to WH-347, and one had a few comments, which will be addressed below.

Table 1: List of Persons Consulted

Contact	Organization	Email	Phone
Thomas XXX	Global Constructors	xxx	xxx
James XXX	Watterson Construction	xxx	xxx
Luis XXX	J & J Electrical & Instrumentation Service	xxx	xxx
Carla XXX	Compliance Consultant	xxx	xxx

Note: For privacy reasons, we are not disclosing the emails and phone numbers of contacts.

The Department also published a notice in the *Federal Register* on August 30, 2024 ([89 FR 70670](#)), inviting public comments on the proposed revision of the information collection. The Department received 38 comments.

The Department received thirty-eight comments on the proposed revisions to form WH-347, with most commenters expressing strong support for the overall changes. These commenters agreed that the revisions would improve compliance, enhance enforcement, and better align federal and state practices to protect workers. Several commenters noted that the prevalence of wage violations in the construction industry makes the additional information included in the proposed revision particularly important for reviewers. Other commenters noted that the WH-347 has not been modernized for many years and welcomed the proposed revisions as a necessary modernization.

Two commenters opposed the proposed certified payroll form. One commenter stated that while they appreciated the Department's efforts to improve the form, they believed the requirement to pay workers weekly and submit accompanying certified payrolls is overly burdensome and not reflective of modern business practices. This commenter stated that statutory and regulatory revisions should be made to permit biweekly payment of workers and therefore biweekly submission of certified payrolls. The other commenter stated that the WH-347 itself should be eliminated, as it is excessively burdensome and exceeds statutory requirements, since the Copeland Act merely states that contractors must provide a statement on the wages paid to workers during the prior week without specifying the required contents of that statement. The commenter states that the information on the WH-347 is already included on payroll records that contractors are required to maintain, and that reviewing such records during enforcement actions is sufficient to maintain compliance, noting that certified payrolls are not required under the Service Contract Act. This commenter also challenged the DOL's estimate of the burden of the proposed collection of information as too low, stating that the estimate overlooks the time contractors must spend educating their staff on the Davis-Bacon regulatory requirements. However, it is unclear whether and to what extent the burden that this commenter refers to is properly apportioned to the collection of information in the WH-347 itself, as opposed to overall compliance with the Davis-Bacon requirements. For example, the commenter noted that it was particularly burdensome for contractors to identify the correct labor classifications for workers based on local area practice, but contractors would have to identify the applicable labor classifications to meet their prevailing wage obligations to workers whether the WH-347 existed or not.

As many commenters stated, wage violations are common in the construction industry, which underscores the importance of ensuring that contracting agencies and the Department of Labor have effective tools when attempting to improve compliance. The Department agrees with the commenters who stated that certified payrolls provide valuable assistance for monitoring ongoing compliance and correcting prevailing wage violations. The information submitted on certified payrolls allows violations to be more quickly identified and resolved, reducing the harm to workers and helping contractors to improve their compliance as soon as possible. The Department believes that the proposed revisions, as modified below, will further improve the effectiveness of certified payrolls in reducing prevailing wage violations and encouraging their swift resolution when they do occur. The Department further notes that the required frequency of prevailing wage payment and accompanying certified payroll submissions are determined by statutory and regulatory provisions that are outside the scope of proposed changes to the WH-347 form. *See Bldg. & Const. Trades Dep't, AFL_CIO v. Donovan*, 712 F.2d 611, 630-633 (D.C. Cir. 1983) (holding that the Department may not eliminate the requirement that contractors

provide payroll information on a weekly basis in addition to a statement of compliance). The Department understands commenters' concerns about the administrative burden faced by contractors and is committed to streamlining processes where feasible. However, the Department believes that the proposed WH-347, revised as noted below, is necessary for consistent enforcement of the statutory requirements.

Several commenters provided comments on additional issues that were not directly related to the proposed changes to the WH-347, such as the use of electronic certified payroll systems, the creation of public databases relating to apprenticeship or fringe benefit requirements, and the methods used to determine prevailing wage rates, which are not addressed here because they are beyond the scope of the proposed revisions to the form. However, the Department appreciates the thoughtful input that several commenters provided relating to electronic payroll systems and databases. While contracting and funding agencies are the entities that determine methods of payroll submission for their contractors (including whether to use electronic submission methods), the Department recognizes that electronic submission of certified payroll expands the ability of contractors and contracting agencies to comply with the requirements of the Davis-Bacon and Copeland Acts.

Header Rows

Renaming the form to "Certified Payroll Report (CPR) Form"

One commenter suggested changing the name of the form from "Certified Payroll Form" to "Certified Payroll Report (CPR) Form," noting that this abbreviation is commonly used in the industry. While the Department acknowledges the frequent use of this abbreviation, the Department declines to adopt this suggestion in order to maintain consistency with the terminology used in the implementing regulations.

Project No.

The Department received one comment on the Project No. requirement. The commenter suggested that this field should be renamed to "Project No. or Contract ID" and that contractors should be allowed to enter their internal contract identification number. The Department acknowledges that in some circumstances, the contracting agency will not have assigned a project number but will instead identify the project and sort certified payrolls by the prime contract identification number(s). Accordingly, the Department has adopted the suggested revision to the title of this field to improve the form's clarity. However, as the form instructions note, contractors should not enter their various internal contract identification numbers in this field, as this could cause confusion if multiple subcontractors all enter different numbers for the same project. This field is intended to reflect the project or prime contract identifying number assigned to the overall project by the contracting agency, as explained in the proposed instructions. This assists the reviewing agency to ensure that all certified payrolls for a particular project are collected and maintained together, particularly where project names may be similar across different years, by ensuring that related certified payrolls are identified uniformly across submissions.

Payroll No.

The Department received two comments on the Payroll No. field. One commenter suggested changing the field label to "Payroll Report Number" or "CPR Number" to reduce common

mistakes associated with the current label, "Payroll No.," as contractors sometimes interpret this as referring to their internal payroll numbers. The Department acknowledges the potential for confusion addressed by this commenter and has adjusted the title of this data field to "Certified Payroll No.". Additionally, the commenter deemed the inclusion of a Payroll Number on Page 2 unnecessary and mislabeled, as the week-ending date is already provided. The Department acknowledges this concern but believes that retaining the Certified Payroll No. on both pages is important for record-keeping purposes.

Another commenter proposed adding a checkbox to indicate whether the payroll is the final payroll for the project and also suggested providing space for contractors to specify if certified payrolls have not been filed for weeks when no work was performed. The Department appreciates these suggestions and has modified the form to include a checkbox to mark for the contractor's final payroll on the project. However, the Department did not adopt the suggestion to provide space to note intervening weeks where no work was performed. While the regulations do not require the submission of certified payrolls when no work is performed on sites, many agencies have their own documentation requirements for weeks in which no work is performed, in accordance with the needs of their programs.

Prime/Subcontractor's Business Name

The Department received three comments related to Prime/Subcontractor's Business Name. Two commenters suggested including information on lower-tier subcontractors following the subcontractor's information, emphasizing that this would assist prime contractors to ensure all workers are paid according to the applicable wage determinations. Additionally, the commenter believed this information could assist reviewing agencies in addressing compliance issues. While the Department appreciates these suggestions, it declines to implement them as they would introduce additional complexity and administrative burdens to the proposed form. Contractors are required to maintain copies of their subcontracts as set forth at 29 CFR 5.5(a)(iii), and to produce those copies upon the request of the contracting or funding agency or the request of the Department of Labor. This requirement is sufficient to allow reviewing officials to cross-check the lower-tier contractors if a potential problem arises.

Another commenter proposed using the term "General Contractor" instead of "Prime Contractor," stating that "Prime Contractor" is rarely used in the construction industry. The Department has not adopted this suggestion, as the term "Prime Contractor" has long been used in the Davis-Bacon context and is familiar to contractors and reviewing officials.

Wage Determination No.

The Department received nine comments regarding the proposed requirement to enter the Wage Determination Number. Most commenters strongly supported including the Wage Determination Number on the WH-347 form, noting that it would streamline the identification of wage rates and enhance compliance among contractors and subcontractors, thereby reducing instances of wage fraud. One commenter also suggested adding a space for the title or name of the applicable wage determination(s). The Department declines to adopt this suggestion, as the title or name is unnecessary for searching wage determinations on SAM.gov; the Wage Determination Number is the relevant identifier.

Only one commenter opposed the requirement for the "Wage Determination Number," arguing that many contractors, especially smaller ones, may not know this information, leading to incorrect entries and unnecessary burdens. The commenter also pointed out that having multiple wage determinations complicates data entry for this field, and that current electronic submission systems can manage this information, making its inclusion redundant. However, the Department declines to adopt the suggestion to eliminate this requirement. It is ultimately the contractor's responsibility to familiarize themselves with the wage determination(s) provided by the contracting agency or the prime contractor and to ensure that workers are paid in accordance with those specific wage determination(s). In addition, 29 CFR 5.5(a)(1)(i) requires that the applicable wage determinations be posted in a prominent and accessible place on the site of the work, so all contractors should have access to this information at all times. The Department agrees with commenters who stated that requiring this information to be listed on the certified payroll will help reviewing officials recognize whether contractors are fulfilling their obligation to be familiar with and use the applicable wage determination(s).

Prime/Subcontractors Business Address

The Department received one comment on Prime Contractor's/Subcontractor's Business Address. The commenter recommended changing the field label to "Address of Contractor or Subcontractor." The Department appreciates the suggestion but declines to adopt this change, for the reasons discussed above. The current terminology effectively conveys the required information and altering it would not provide any significant benefit.

Other Additions

One commenter suggested that the form be revised to include the contractor's Employer Identification Number (EIN), as this would make it easier to find 5500 forms for fringe benefit plans. However, the Department declines to adopt this suggestion. The EIN is not the only unique identifying number used to identify Davis-Bacon contractors (for example, sam.gov has a unique identifier and state agencies may also require unique state identifiers); adopting this suggestion could as a result potentially cause confusion. Form 5500s are also searchable by the plan name and plan number, which the Department has proposed to require on page two of this form.

Page One

Columns 1(A) - 1(E)

Three comments were received suggesting changes to proposed Columns 1(A) through 1(E) that collectively identify the worker. One commenter did not understand the purpose of Column 1(A), Worker Entry No., and questioned the need for the column. The Department believes this column is necessary and helpful in reviewing certified payroll as it allows a reviewer to quickly determine the total number of workers working in any given work week. This column may also be helpful when reviewing journeyworker to apprentice ratios and may help a reviewer identify potential violations with a cursory glance.

Another commenter did not agree that Column 1 should be divided into several different fields, citing concerns that it would overcomplicate identifying workers and may be burdensome for smaller contractors. The Department believes that using separate fields for different information to identify each worker is necessary to ensure that workers are accurately identified.

Consolidating information from five columns into one single column would likely result in confusion in circumstances where several workers have similar names or identical surnames. Ensuring workers are correctly identified is paramount when determining whether a contractor is properly accounting for each worker on a project and that each worker is receiving the correct wages and benefits. For example, if an investigator visits a worksite and counts 10 workers performing work on a project, but the certified payroll only accounts for six workers, knowing which workers are being documented on a certified payroll and which workers are being excluded from the reporting requirement is crucial to determining compliance and enforcement actions.

One commenter commended the Department's use of the term "worker" instead of "employee" as it better encompasses the category of individuals covered by the DBRA, including independent contractors.

One commenter suggested that the fillable fields on the form should be updated to only allow names and identifiers to ensure addresses are not incorrectly reported in column 1 fields. The Department believes this comment was directed at the current version of the form. The proposed updated form separates column 1 into five different columns (1(A)-1(E)), some of which require entry of numbers such as Column 1(A) Worker Entry No. and Column 1(E) Worker Identifying No.

Column 2

The Department received seven comments on Column 2. A number of the comments recommended changing the text in Column 2 from "Apprentice" to "Registered Apprentice" to clarify that for a worker to be an apprentice they must be participating in a registered apprenticeship program. The Department agrees with the commenters and accepts this suggestion to emphasize that apprentices must be participating in a registered apprenticeship program. Other commenters suggested deleting this column as they found it unnecessary, including one commenter who erroneously referenced the column as having the title "No of Withholding Exemptions." The Department believes these comments were referencing the current form and are not relevant to the proposed updated form, as the proposed form eliminates the requirement to list the number of withholding exemptions. Accordingly, the Department chooses not to follow these recommendations.

Column 3

The Department received five comments on Column 3. The commenters recommended retaining the term "Worker Classification" instead of "Name of Labor Classification" to maintain consistency and reduce potential confusion among contractors, who might view this as eliminating the distinction between laborers and mechanics. The Department declines this suggestion, as the proposed change was intended to promote greater consistency in terminology across WHD forms. One commenter also suggested that "Name of Labor Classification" be shortened to "Labor Classification" for improved readability, and this change was adopted. One commenter suggested adding another column for entering the wage classification code, to enable reviewers to more easily distinguish which group a worker is in when a labor classification includes multiple groups. This commenter is familiar with state wage determinations that provide different wage classification codes not only for the classifications, but for groups within the

classifications. Federal wage determinations do not provide wage classification codes for subgroups of worker classifications; therefore, accepting the proposed change would not address the issue the commenter hopes to address. The Department accordingly declines the commenter's recommendation.

Column 4

The Department received three comments proposing changes to column 4. One commenter suggested using the phrase "Day of the Week and Date" instead of "Day and Date." The Department had already revised this phrase in the proposed form to "(Top) Days of the Work Week/(Bottom) Dates." One commenter suggested changing the order of straight-time and overtime on the form so that straight-time always precedes overtime to minimize confusion. The intent of the form was not to put overtime ahead of straight-time, indeed the entry fields have straight-time over overtime boxes. However, given the other columns all read bottom to top and the text is rotated, the Department acknowledges this can be confusing given the text reads "over / straight time" when read in context of the other column text boxes. To reduce confusion and keep Column 4 consistent with the other columns, the Department accepts the suggestion that the text will instead read "straight / overtime." One commenter recommended adding a requirement for contractors to list non-DBA work hours. While this would be useful for ensuring overtime is paid correctly and to verify annualization of fringe benefits in some circumstances, it would require more space on the form and increase the reporting burden for contractors. The Department declines to adopt this suggestion as the increased reporting requirement would not provide a substantial enforcement benefit. One commenter suggested adding a column for double time. The Department declines to adopt this suggestion because the DBA does not require payment of double time.

Column 5

Two comments were received suggesting changes to proposed Column 5, Total Hours Worked for Week. One commenter suggested that the name of this column be changed to Total Hours Worked in Week, as that phrasing more clearly expresses the information to be included in this column. The Department accepts this suggested change to improve the clarity of the form. The other commenter proposed that Column 5 should be reconfigured to show hours by type of hours worked and total hours. It was not entirely clear what distinction the commenter was attempting to capture with a separate breakout for the "type of hours worked." To the extent that the commenter was referring to the total hours worked by the worker by labor classification, the proposed certified payroll form requires contractor to enter the required information for workers on separate rows for each labor classification worked, with each row containing the total hours worked in that labor classification. As the proposed form already captures the total hours worked in each labor classification, the Department declines to adopt this change.

Columns 6A – 6C

Multiple commenters supported the Department's proposal to expand the current Column 6, Rate of Pay (Including Fringe Benefits) into multiple columns to more accurately capture hourly wage and fringe benefit rate information, but several of those commenters suggested further modifications to the proposed new columns. Two commenters suggested that Column 6B, Total Fringe Benefit Cost, instead be titled Total Hourly Fringe Benefit Credit, as the inconsistent use of the terms "fringe benefit cost" and "fringe benefit credit" in the WH-347 could lead to

confusion for contractors. One commenter further noted that contractors could even misinterpret the term “costs” as including non-creditable costs related to fringe benefit plans, such as administrative costs or fees. Similarly, one commenter did not propose an alternative title, but noted that the term “Total Fringe Benefit Cost” could be interpreted as referring to the weekly total of fringe benefit payments, rather than the total hourly credit claimed. Another commenter stated that Column 6B should be deleted entirely and only Columns 6A, Hourly Wage Rate Paid, and 6B, Payment in Lieu of Fringe Benefits, should be retained. This commenter stated that Column 6B unnecessarily cluttered the form and added an additional administrative burden to contractors, who would now be required to add up the total amount of fringe benefit credit claimed for all plans, without providing meaningful information to reviewing officials. This commenter also agreed with the previous commenter that if this column were retained, contractors may be tempted to include costs in this column that are not properly creditable against the applicable prevailing wage obligation. Additionally, two commenters suggested that the title of proposed Column 6C, Payment in Lieu of Fringe Benefits, be revised to “Total Hourly Wage Payment in Lieu of Fringe Benefits” for greater clarity.

When using the separate terms fringe benefit cost rather than fringe benefit credit in the proposed form, the Department intended to provide that in Column 6B contractors enter the total costs, not the total credit claimed. This was in recognition of the fact that contractors may choose to claim less than the maximum allowable credit based on the permissible contributions or costs as annualized (where appropriate), particularly where workers may already have a regular rate that exceeds the base hourly rate for a particular project, while still needing to report the full permissible credit based on their actual permissible contributions or costs for accuracy and to provide some margin in case of error. Nevertheless, the Department appreciates commenters’ concerns as to the potential confusion that might result from the use of the two different terms and agrees that the potential risk of confusion outweighs the possible benefit of attempting to maintain that potential distinction. The Department therefore accepts the suggestion to change the heading of this column from Total Fringe Benefit Cost to Total Fringe Benefit Credit, and to make corresponding changes where the term “fringe benefit cost” is used in a similar manner on page two of the proposed WH-347 form. The Department will also add a sentence to the instructions to emphasize there that contractors are not required to claim the full fringe benefit credit for all of their fringe benefit costs against their prevailing wage obligation.

However, the Department does not accept suggestions to change the wording of the titles for proposed Columns 6B and 6C to specify that the information in these columns reflects the hourly credit claimed or hourly rate of payment in lieu of fringe benefits, because these columns are not intended to solely reflect hourly rates, but instead reflect the total amounts paid or credited, to provide contractors and reviewers with an additional cross-check as to the accuracy of the calculated fringe benefit credit and payment in lieu of fringe benefits. For example, the total hourly fringe benefit credit for each worker is already captured on proposed page two under Total Hourly Cost (now revised to Total Hourly Credit, as discussed above), where the hourly fringe benefit credits for each worker under each plan is totaled. Column 6B reflects the total amount of fringe benefit credit claimed for that workweek. Thus, the contractor and reviewer can cross-check to make sure that the amount listed in this column does equal the total hourly fringe benefit credit (as listed on page two) claimed for all hours worked that week, and if not, follow-up to determine the source of the disconnect.

For similar reasons, the Department declines to adopt the commenter's suggestion that Column 6B be deleted. In many instances, contributions or reasonably anticipated costs for a particular worker can change over time, and sometimes those changes are not reflected in the contractor's calculation of that worker's hourly fringe benefit credit for payroll purposes. By requiring contractors to also state the total amount of credit for that week for fringe benefits provided, this column encourages contractors to regularly review the accuracy of their hourly fringe benefit credit computations, while providing reviewers with additional information to identify potential discrepancies.

In addition to the foregoing comments, one commenter separately suggested that Column 6 should be reconfigured to show the total rates of pay by type of hours worked and the total pay rate. While it was not entirely clear to the Department what this commenter meant by referring to the type of hours worked, the Department notes that because the proposed certified payroll form requires contractors to use multiple rows for each worker where the worker worked in multiple labor classifications in the same week, the rates paid and gross amounts earned will already be separated when workers performed work in more than one labor classification in the same workweek. To the extent that the commenter was referring to entering both the straight time and overtime rates of pay, as in the current WH-347 form, the Department agrees that the inclusion of the overtime rate paid can assist reviewers to determine whether an error in overtime payment has been made. The Department has accordingly adjusted the column title and formatting to clarify that both the straight-time and overtime rates of pay should be entered in this column.

Columns 7A – 7B

Two commenters indicated that they support the proposal to divide current Column 7 into two Columns, 7A and 7B, to more clearly require contractors to provide both the total gross amount earned by workers on that particular project and the total gross amount earned for all work during that week, with one commenter even opining that the current single column is the most frequently misunderstood point of data entry in the existing WH-347 form. One of these commenters further suggested that the title of Column 7A be changed to specifically note on the form itself that this column is for the gross amount earned just on that project, in addition to the explanation in the instructions. The Department declines to accept this suggestion, as a sentence has already been added at the top of the proposed form clearly stating that all information requested is specific to the named project, unless otherwise noted, which should address this concern. This commenter also suggested that the title of 7B be changed to Gross Amount Paid for All Work. However, the Department declines to change the title of Column 7B to Gross Amount Paid for All Work, as the amount in this column reflects the total amount earned by the worker prior to any deductions being taken and thus is not in fact an amount paid to the worker.

Column 8

While one commenter stated that itemizing the different types of deductions was unnecessarily cumbersome and that a column for the total deduction amount would be preferable, multiple commenters not only supported the continued requirement to itemize different types of deductions, but suggested that the title of the sub-column for other deductions (other than tax withholdings and FICA) be modified to make it plain on the face of the form that contractors are required to separately list each type of other deduction. Several of these commenters noted that many state certified payroll forms require the separate listing of other deductions, and that this

specificity more easily allows reviewers to identify when impermissible deductions are being taken from wages.

The Department agrees with commenters that it is necessary to require itemization of all deductions to enable reviewers to determine whether those deductions are permissible. Although the proposed sub-column title already refers contractors to the instructions, which explain that contractors must itemize each deduction, attaching an additional page if necessary, the Department has adjusted the sub-column title to List Other Deductions (See Instructions). For the same reason, the Department also declines to adopt the suggestion that the sub-columns for deductions be combined into a single column for total deductions, as the itemization of deductions provides valuable information to reviewers.

One commenter also suggested that if there is sufficient space on the form, it would be preferable to split the FICA sub-column into separate sub-columns for Social Security and Medicare, as not all contractors recognize that FICA includes both items. This commenter suggested that it was unnecessary for the title of Column 8 to be Deductions for All Work, as contractors already understand that they are required to include all deductions in this column. While the Department understands the commenter's rationale for suggesting that the FICA column be split out, the commenter is unfortunately correct in noting that the form simply does not have sufficient space to break that sub-column out and still maintain the sub-column for other deductions. As the Department believes that it is more important to highlight the necessity for providing information on the various other deductions taken for the reasons discussed above, the Department declines to make this change. The Department also declines to return the proposed title of Column 8 from Deductions for All Work to its current title of Deductions. Based on questions that the Department has received and issues that have been encountered when reviewing certified payrolls on the existing form, it was not unusual for contractors to attempt to pro-rate workers' deductions between the workers' pay earned for that project and their pay earned for all work, and only report a portion of the total deduction amount on the certified payroll form. The proposed column title is intended to reduce this confusion.

Column 9

The proposed form retained column 9 from the current form, only slightly changing the column title to emphasize that this column should list the net pay for all work, not only for work performed on that particular project. Several commenters suggested that an additional column should be added to require contractors to provide the check number or direct deposit (ACH) confirmation number used to provide the net wages paid, as this would assist enforcement agencies in tracking and verifying wages paid to workers. One such commenter also noted that where states such as California have required contractors to provide such information, it has aided them to uncover wage violations.

The Department acknowledges that information such as paycheck or ACH numbers can be useful in confirming violations or verifying that corrective wage payments have in fact been made. Nevertheless, the Department declines to adopt this suggestion for several reasons. First, 29 CFR 5.5(a)(3)(i)(B) requires the contractor to maintain documentation of actual wages paid to workers, and to the extent that reviewing agencies (including the Department of Labor) have reason to believe that wage payments listed on the certified payrolls have not actually been paid

to the workers, the agencies would be entitled to request this additional documentation for verification on those occasions. Moreover, certified payrolls are likely to be seen by multiple individuals during the submission and review process. While check numbers are fairly generic, ACH confirmation numbers, do contain specific banking information, which can lead to privacy concerns. Finally, it is important to note that payment methods are not strictly limited to check or direct deposit, posing a serious challenge for the Department to succinctly incorporate options for all possible payment methods.

One commenter also suggested that Net Wages Paid would be a sufficient title for the column without specifying that the column represents net wages paid for all work. As discussed in the section on Column 7B, Gross Amount Earned for All Work, in the Department's enforcement experience, contractors have sometimes been confused as to whether they should include only net pay for work performed on that particular project in this column or whether they should include the total net pay for all work performed that week. The Department therefore retains the proposed change to ameliorate this potential confusion.

Page 2

Compliance Statement Language

Two commenters specifically noted the use of checkboxes in the proposed compliance statement, indicating that the use of checkboxes provides more clarity as to the information that is being certified. One commenter further suggested that the compliance statement in the current form should be rewritten in plain language to be more generally comprehensible, providing a sample compliance statement. The Department agrees that plain language is preferable, and indeed had already revised the compliance statement in the proposed form with this goal in mind. Although these revisions are not identical to the sample language provided by the commenter, the Department believes its proposed language is similarly straightforward and in at least some instances simplified to an even greater degree. This commenter also recommended that the statement of compliance be revised to eliminate references to employees and employment to reflect that the prevailing wage requirement applies to independent contractors as well as employees. This change had also already been made in the proposed form, and the proposed compliance statement only refers to "workers". One commenter suggested that the Department simplify the language stating that the wage rates paid to laborers or mechanics "are not less than the applicable wage rates contained in any wage determination incorporated into the contract" to reflect that the wages rates may still apply in some circumstances where the wage determination was not fully incorporated into the contract or subcontract. This change had also been incorporated into the proposed form already.

In addition, one commenter suggested that the statement of compliance should be rephrased to eliminate the language stating that the certifying official paid or supervised the payment of workers, stating that this language does not reflect modern payroll practices where many contractors have their certified payrolls prepared and submitted by third parties who are completely remote from the payment of the workers. The Department recognizes that payrolls, including certified payrolls, are frequently prepared by third party contractors who have limited, if any, information as to whether the information on those certified payrolls is accurate, particularly when it comes to the correct classification of workers. However, when the certifying official signs the statement of compliance, they are making an affirmation to a federal agency on behalf of the contractor that the information in that certified payroll is accurate. Third party

payroll companies are generally not going to have sufficient knowledge to make such an affirmation, so that even when certified payroll is prepared by a third party, it should still be reviewed and certified by someone who pays or supervises the payment of the listed workers, as required by 29 CFR 3.4(b). Accordingly, the Department declines to adopt this suggestion. Multiple commenters also suggested that this portion of the proposed WH-347 include a separate statement indicating that the information contained in certified payroll reports is not confidential and will be disclosed under a Freedom of Information Act (FOIA) request. While the Department declines to include the suggested statement, the Department agrees that it would be beneficial to note for contractors that the information reported in certified payrolls may be subject to disclosure in response to a FOIA. Accordingly, the Department has added a sentence to this effect to proposed page two of this form. One commenter also suggested that a line be added to identify the prime contractor (if the certified payroll report is being submitted by a subcontractor) to facilitate recovery of back wages, as the prime contractor would be ultimately responsible for any Davis-Bacon violations regarding the subcontractor's workers. While the commenter correctly emphasizes that the prime contractor(s) is strictly liable for any unpaid wages or other monetary relief, the definition of prime contractor at 29 CFR 5.2 is clear that multiple entities may be considered to be prime contractors and are thus ultimately responsible for remedying violations. Lower-tier subcontractors may not be aware of the identity of at least some, if not all, of these entities. The Department is concerned that the partial identification of prime contractors by subcontractors on their certified payrolls could cause confusion as to whether the other prime contractors for that project, if any, are also liable for any violations arising out of that subcontractor's work on the project. Moreover, the identification of the project name, location, and identifying number is generally sufficient to enable the Department of Labor and other reviewing officials to identify the prime contractors for the project. The Department therefore declines to make this change.

Apprenticeship Information

Commenters generally supported the proposed change to require contractors to list additional information regarding apprenticeship programs for workers identified as apprentices, including the program name, labor classification to which the program applies, and whether the program was approved by the Employment Training Administration Office of Apprenticeship (ETA OA) or an authorized State Apprenticeship Agency (SAA). Most commenters indicated that including this additional information would make it easier for reviewing agencies to confirm that the listed apprentices were enrolled in bona fide programs. However, one commenter indicated that this additional information was unnecessarily burdensome because contractors were already required to provide all of this information with the submission of their initial certified payroll submission. There is actually no current requirement that this information all be submitted with the initial certified payroll submission under the Davis-Bacon certified payroll requirements (although it may be required by state prevailing wage requirements in the state where the commenter works), and moreover workers' apprenticeship status can change over the course of the project. Another commenter indicated that requiring contractors to enter the name of the apprenticeship program and whether the program had been registered by ETA OA or an SAA is unduly burdensome, as contractors frequently do not know that information and neither reviewing agencies nor the Department of Labor have any need of that information. However, 29 CFR 5.5(a)(4) specifically states that contractors may only pay workers an "apprentice" rate when the workers in question

are registered in a program that has been registered with either ETA OA or an SAA. Therefore, contractors are required to be aware of this information if they choose to pay workers at a lower apprentice rate in accordance with the terms of such programs, and this information is similarly key for reviewing officials to be able to determine whether contractors have correctly identified workers as apprentices, and if not, to take any necessary corrective action promptly. The Department therefore is retaining the proposed addition.

Two commenters suggested that contractors should also be required to provide point of contact (POC) information for each apprenticeship plan on the certified payroll reports to make verification of apprenticeship information even easier. While the Department appreciates the commenters' focus on making this verification as simple as possible for reviewing agencies, the Department also notes that apprenticeship programs do periodically change their POCs, and because the contractor is attesting to the accuracy of the information providing in the statement of compliance, adding this requirement would require the contractor to re-verify the program POC information each week. Contact information for apprenticeship programs is reasonably easy to obtain from the internet when the program name and the registering authority (ETA OA or the SAA) is known. For example, apprenticeship.gov maintains a registry of apprenticeship programs that includes phone number and email information for the programs. The Department believes that it is more appropriate for the reviewing agency to obtain program POC information on those occasions where the certified payrolls and other available information indicate a potential violation rather than requiring contractors to perform this additional task on a weekly basis, and therefore declines to make this change.

Finally, one commenter suggested that the form be revised to update references to the Bureau of Apprenticeship and Training to the Office of Apprenticeship. The Department recognizes the necessity for making this update and had already revised these references in the proposed form.

Fringe Benefit Plan Information

Most commenters supported the inclusion of more specific information related to fringe benefit credit, including plan name, plan number, and the fringe benefit credit claimed for each worker for the contractor's contributions to or reasonably anticipated costs of such plans. One commenter agreed that more detailed information on fringe benefit plans and any related fringe benefit credit was useful but suggested that instead a similar breakdown of information be provided only once as an accompaniment to the contractor's first certified payroll. One commenter stated that the requirement to even list the plans and whether they were funded or unfunded was too cumbersome a requirement for contractors. Another commenter stated that listing the fringe benefit credit claimed for each worker under each plan was too burdensome for contractors, and instead suggested that the certified payroll form should only require the contractor to list each plan name and number along with a brief statement that the appropriate fringe benefit contributions are being made for such plans.

The Department agrees with the commenters who supported the inclusion of specific fringe benefit information, including fringe benefit credit, with each certified payroll submission. As multiple commenters noted, fringe benefit violations are among the most common DBRA violations and can be difficult to investigate without specific fringe benefit information; ensuring that certified payrolls include sufficient information for reviewers to identify potential issues is

therefore key to enforcement. Moreover, permissible fringe benefit credit for a particular worker can vary over the course of the project as the worker's participation in one or more fringe benefit plans varies and annualization calculations are updated based on more recent representative periods. Therefore, merely submitting this information once at the onset of the contractor's work on the project will not sufficiently enable reviewers to identify potential violations over the course of the work.

While most commenters were generally supportive of the proposal to include more specific fringe benefit information on the WH-347, many commenters provided suggestions as to additional fringe benefit information to be included on the form. Twenty-two commenters indicated that although the plan name and number would be very helpful, the inclusion of the type of benefit plan would be potentially even more helpful in allowing reviewers to more easily identify when credit is being claimed for plans that might not qualify as bona fide fringe benefit plans, with some commenters noting that it is not always possible to determine the type of benefit plan from the plan name. The Department agrees that the type of benefit plan is useful information for reviewers and can be easily included with the plan name and number, and has therefore revised the proposed form to include this information. Thirteen commenters also suggested that the proposed form be altered to require contractors to provide a POC, including telephone number and/or email address, for each fringe benefit plan listed. As noted in the above discussion on apprenticeship information, such a requirement would require the contractor to re-verify the program POC information each week as they are attesting to its accuracy. Moreover, information on fringe benefit plan POCs is similarly easy to obtain if the plan name and plan number are known, should any concerns arise regarding a particular plan. For example, the Employment Benefit Security Administration maintains a database of Form 5500s, required for most fringe benefit plans, which is searchable by either plan name or plan number. The Department therefore declines to accept this proposed change.

A few commenters also had suggestions regarding the proposal to require contractors to indicate whether the listed fringe benefit plans are funded fringe benefit plans or unfunded fringe benefit plans, which would be subject to the requirements set forth at 29 CFR 5.28. Two commenters suggested that the Department should remove the requirement to indicate whether the plan is funded or unfunded, with one commenter stating that this information would no longer be necessary if the Department decides to include the type of plan on the form. In contrast, another commenter recommended that contractors should also be required to accompany their initial certified payroll submission with documentation that they have received the required approval for their unfunded plan from the Department of Labor and that the contractor has met the requirement that unfunded plans be communicated in writing to workers. This commenter also suggested that the results of the unfunded plan approval process should be made publicly available. While the Department of Labor appreciates this commenter's input as to the benefits of making the results of the unfunded plan approval process publicly available, that suggestion does not involve proposed changes to the WH-347 form and therefore is out of scope of these revisions.

The Department believes that it is appropriate to retain the proposed requirement that contractors indicate whether their fringe benefit plans are funded or unfunded. The distinction is an important one for reviewers, as additional requirements apply to unfunded plans, and it is

comparatively easy for contractors to merely select the appropriate box. Moreover, without the proposed requirement, reviewers would not necessarily be able to tell whether the plan is funded or unfunded, since some types of plans, such as health insurance plans or supplemental unemployment benefit plans, can be of either type. The Department also declines to expressly require contractors to submit documentation of the Department of Labor's approval of their unfunded plan with the initial certified payroll submission. (Such an approval would also serve as documentation that the plan was provided in writing to workers, as this is one of the factors that the Department of Labor examines during the approval process.) Contractors are required under 29 CFR 5.5(a)(3)(i)(C) to maintain records demonstrating that an unfunded plan meets the regulatory requirements, and contracting or funding agencies may require contractors to provide such documentation, including documentation of approval, upon request at any point during the record retention period.

Signature

Several commenters also had suggestions for additions to the signature panel for the certified payrolls. Seven commenters suggested that the WH-347 should include the phone number and email address for the certifying official to the signature line, to make it easier for reviewing officials to contact them in case a question arises as to any of the listed information. The Department had already added a data field for the certifying official's phone number in the proposed form, and agrees that including the certifying official's email address would also facilitate more efficient communication. The Department has therefore added an additional field for the certifying official's email address. One commenter suggested that the signature field be reconfigured to include a statement that the compliance statement is made under the penalty of perjury. The Department notes that the signature field already has a statement notifying certifying officials that the willful falsification of the statements on the certified payroll may subject the contractor or subcontractor to criminal penalties, in accordance with Section 1001 of Title 18 and Section 3729 of Title 31 of the United States Code. The Department believes that this statement accurately alerts certifying officials to the potential penalties for falsifying the form, and therefore declines to accept this suggestion. Another commenter suggested that a space be added for the contractor to indicate whether they are an owner-operator, as provided on the Alaska certified payroll form. The Department notes that the Field Operations Handbook already provides guidance as to the circumstances under which owner-operators may be noted on the certified payroll form, and therefore declines to adopt this request.

Instruction Page

Where commenters recommended changes to the proposed WH-347 and those changes were adopted, the corresponding instructions have also been revised to reflect the changes. However, a few commenters requested additional revisions to the instructions not related to any other form revision. One commenter suggested that a sentence be added to the instructions regarding the entry of the hourly fringe benefit credit for each plan to clarify that such credit must be computed using the method set forth at 29 CFR 5.25(c)(1). The Department agrees that such a reference could increase contractors' awareness of these requirements and would not impair clarity. Accordingly, the Department has added a brief sentence to this effect in the instructions for box five. Another commenter stated that the Department should revise the instructions stating that contractors must "submit weekly a copy of all payrolls to the Federal agency contracting for or financing the construction project," as this language causes some contractors who are working on

federally funded contracts awarded by state or local entities to believe that they do not need to submit weekly certified payrolls. The Department has already modified this language in the instructions for the proposed form to specify that contractors must generally submit certified payrolls to non-Federal entities when performing work on federally funded projects. Although the revised wording is not identical to the commenter's proposed language (to allow for the possibility that some Federal funding agencies may prefer for contractors to submit certified payrolls directly to the Federal funding agency (or its electronic system) rather than to the funding recipient who has entered into the federally funded contracts), the Department believes that the proposed adjustment reflects the commenter's concerns. Another commenter proposed revisions to the instructions regarding boxes 4(a) and 4(b), but as those boxes have not been retained on the current form, the Department did not adopt this suggestion.

9. Explain any decision to provide any payments or gifts to respondents, other than remuneration of contractors or grantees.

The Department offers no payments or gifts to respondents in connection with this information collection.

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

The Department makes no assurances of confidentiality to respondents. As a practical matter, the Department would only disclose information collected under these requests in accordance with the provisions of the Freedom of Information Act (FOIA), 5 U.S.C. 552; and the attendant regulations, [29 CFR part 70](#), and the Privacy Act, 5 U.S.C. 552a; and related regulations, [29 CFR part 71](#).

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 the agency 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.

The Department requires Social Security numbers, addresses, email addresses and telephone numbers, be maintained by the employer. The weekly payroll submission explicitly excludes such private data.

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, agencies should not conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample (fewer than 10) of potential respondents is desirable. If the hour burden on respondents is expected to vary widely because of differences in activity,

size, or complexity, show the range of estimated hour burden, and explain the reasons for the variance. Generally estimates should not include burden hours for customary and usual business practices.

If this request for approval covers more than one form, provide separate hour burden estimates for each form.

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 in Item 14.

The Department bases burden estimates for certified payrolls on agency experience, except as otherwise noted. F.W. Dodge report data for the period January 1, 2022, through December 31, 2023, indicates there were an annual average of 112,526 state and local construction projects and 5,205 federal and military construction projects during that period. The Department estimates that 50 percent of those state and local construction projects use federal funds.

A. Projects Subject to the DBRA

112,526 state and local projects \times 50% = 56,263 state and local construction projects that use federal funds (rounded).

To this amount, the Department adds all the federal construction projects subject to DBRA labor standards.

56,263 + 5,205 = 61,468 projects subject to DBRA labor standards.

B. Respondents

To calculate the number of respondents, the Department first calculates the number of individual contractor and subcontractor projects, which is estimated at 8 contractors and subcontractors per project.

61,468 projects \times 8 contractors and subcontractors per project = 491,744 individual contractor and subcontractor projects.

The Department estimates 4 Davis-Bacon projects per contractor.

491,744 projects \div 4 projects per contractor = 122,936 respondents.

C. Responses

To calculate the number of responses (weekly certified payrolls submitted), the Department estimates that each individual contractor's or subcontractor's project will last an average of 23 weeks. This is an average that includes projects of significantly shorter as well as longer

durations. Accordingly, the Department estimates that there will be 92 responses per respondent annually.

4 projects per respondent x 23 weeks per project = 92 responses per respondent.

122,936 respondents × 92 responses = 11,310,112 annual responses.

D. Burden Hours

The Department estimates 55 minutes to complete the WH-347 form or its equivalent plus 1 minute for recordkeeping (total of 56 minutes per form). Under the 2023 final rule, *Updating the Davis-Bacon and Related Acts Regulations* (RIN 1235-AA40), the Department added two recordkeeping requirements (telephone number and email address) that are not required to be submitted with the certified payroll, but are included under OMB Control Number 1235-0008. See 29 CFR 5.5(a)(3)(ii). The Department believes that such records are kept as the normal course of business, and so estimated only a limited average additional recordkeeping burden of 10 seconds per response. This additional burden is included in these calculations.

11,310,112 annual responses × 56 minutes per/60 min per hour = 10,556,105 annual burden hours (rounded).

E. Respondent Costs

Absent specific data on salaries of workers in the construction industry who complete form WH-347 or its equivalent, the Department has used the seasonally adjusted average hourly earnings of construction workers on private nonfarm payrolls to determine respondent costs. The rate as of July 2024 is \$38.26.¹ The Department adds a 45% benefit cost and a 17% overhead cost to this rate in order to calculate the total loaded wage rate.

$\$38.26 \times 1 = \38.26

$\$38.26 \times 45\% = \17.22 (rounded)

$\$38.26 \times 17\% = \6.50 (rounded)

$\$38.26 + \$17.22 + \$6.50 = \61.98 total wage rate.

The Department calculates respondent costs by multiplying the number of annual burden hours by the total wage rate.

10,556,105 annual burden hours × \$61.98 = \$654,267,388 respondent costs.

Total Estimated Annualized Respondent Burden and Costs

Activity	No. of Respondents	No. of Responses per	Total Responses	Average Burden (Hours)	Total Burden (Hours)	Hourly Wage	Total Burden Cost
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¹ See The Employment Situation, August 2024, DOL, Bureau of Labor Statistics, Table B-3. Accessed on 08/21/24 at <https://www.bls.gov/news.release/empsit.t19.htm>.

		Respondent				Rate	
Form WH-347	122,936	92	11,310,112	.933	10,556,105	\$61.98	\$654,267,388

13. Provide an estimate of the total annual cost burden to respondents or recordkeepers resulting from the collection of information. (Do not include the cost of any hour burden shown in Items 12 and 14).

- The cost estimate should be split into two components: (a) a total capital and start up cost component (annualized over its expected useful life); and (b) a total operation and maintenance and purchase of service component. The estimates should take into account costs associated with generating, maintaining, and disclosing or providing the information. Include descriptions of methods used to estimate major cost factors including system and technology acquisition, expected useful life of capital equipment, the discount rate(s), and the time period over which costs will be incurred. Capital and start-up costs include, among other items, preparations for collecting information such as purchasing computers and software; monitoring, sampling, drilling and testing equipment; and record storage facilities.
- If cost estimates are expected to vary widely, agencies should present ranges of cost burdens and explain the reasons for the variance. The cost of purchasing or contracting out information collection services should be a part of this cost burden estimate. In developing cost burden estimates, agencies may consult with a sample of respondents (fewer than 10), utilize the 60-day pre-OMB submission public comment process and use existing economic or regulatory impact analysis associated with the rulemaking containing the information collection, as appropriate.
- Generally, estimates should not include purchases of equipment or services, or portions thereof, made: (1) prior to October 1, 1995, (2) to achieve regulatory compliance with requirements not associated with the information collection, (3) for reasons other than to provide information or keep records for the government, or (4) as part of customary and usual business or private practices.

A. Mailing Costs

Due to modernization, most contractors submit their weekly certified payrolls electronically. The Department estimates that approximately 10% of responses are mailed in, at a cost of \$0.73 for a first-class stamp as of October 2024, and \$0.03 for an envelope.

11,310,112 responses × 10% = 1,131,012 responses sent via mail (rounded).

1,131,012 × \$0.76 (\$0.73 cents postage + \$0.03 cents envelope) = \$859,570 total mailing costs (rounded).

B. Printing Costs

Additionally, contractors may print and copy the certified payroll, which the Department estimates at a cost of \$0.04 a copy, with two copies per response, (an original and one for recordkeeping).

$11,310,112 \times 2 \text{ copies} \times \$0.04 = \$904,809$ printing costs (rounded).

$\$859,570 + \$904,809 = \$1,764,379$ total maintenance and operations cost.

14. Provide estimates of the annualized cost to the Federal Government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff), any other expense that would not have been incurred without this collection of information. Agencies also may aggregate cost estimates from Items 12, 13, and 14 into a single table.

A. Reviewing and Verifying Costs

In calculating federal costs, the Department estimates that contracting agencies on average use an employee paid at the GS-5, Step 4 rate², which is \$20.86 an hour. The Department estimates an employee devotes approximately 10 minutes to reviewing and verifying every third submitted payroll.

$11,310,112 \text{ responses} \div 3 = 3,770,037$ responses reviewed annually.

$3,770,037 \text{ responses reviewed} \times 10 \text{ minutes per response} / 60 \text{ min per hour} = 628,340$ hours (rounded).

$628,340 \text{ hours} \times \$20.86 = \$13,107,172$ (rounded).

B. Filing Costs

Additionally, the Department estimates that a federal worker paid at a GS-2, Step 4 rate³, which is \$15.01 an hour, files the agency copy of certified payrolls, which takes one minute.

$11,310,112 \text{ responses} \times 1 \text{ minute} \div 60 \text{ min per hour} = 188,502$ hours (rounded).

$188,502 \text{ hours} \times \$15.01 = \$2,829,415$ (rounded).

$\$13,107,172 + \$2,829,415 = \$15,936,587$ total federal cost.

15. Explain the reasons for any program changes or adjustments.

The increase in cost can be attributed to the increase in DBRA projects. Previously, the Department estimated 9,194,616 responses and for this package, the Department estimates

² https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2024/RUS_h.pdf

³ https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2024/RUS_h.pdf

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11,310,212 responses. In addition, wages increased as did the cost of a first-class stamp.

16. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.

The Department will not publish the results of these information collections, except where they are used in the calculation of prevailing wages under WHD's Davis-Bacon wage survey program. That program is outlined in information collection request OMB No. 1235-0015 and the regulatory provisions at 29 CFR 1.2 and 1.3. The primary purpose of the weekly payroll submission collection, however, is not for use in the wage survey program, but rather to comply with the statutory requirement for submission of weekly certified payroll described above.

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

The Department does not seek an exception to the requirement to display the expiration date for OMB approval of these information collections.

18. Explain each exception to the certification statement.

The Department is not requesting an exception to any of the certification requirements for these information collections.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS.

This information collection does not employ statistical methods.