

LABOR NOTES

**A Newsletter for Air Force Contracting Personnel on
Contract Labor Standards and Contractor Labor Relations**

Please share with all interested parties. Knowledge is power!

Base/Site Access Protocol:

Due to recent Air Force installation and work site access incidents involving Department of Labor (DoL) investigators, we must remain vigilant in communicating and enforcing access procedures.

DoL has enforcement authority for the Service Contract Act (SCA) and to conduct independent Davis-Bacon Act (DBA) compliance investigations. However, this enforcement responsibility does not confer access privileges to DoL investigators without adherence to established Air Force procedures. The Air Force retains exclusive authority for establishing and enforcing installation and work site access procedures. Simply put, DoL investigators must comply with those procedures.

In coordination with Security Forces, the following general access procedures summary was developed to clarify confusion that may exist with respect to installation and work site access by DoL investigators and other Federal (e.g., Occupational Safety and Health Administration, National Labor Relations Board, etc.) or State non-law enforcement agencies. The same procedures also apply to unionized contractors in which union representatives are seeking access.

As previously discussed, there are two types of access. The first is "Base Access" which grants access to the installation and only requires official government issued credentials. The second type is "Site Access" which requires formal written notification requesting access to a particular work site (e.g., construction site, etc.) and approval from the Contracting Officer (CO) or other designated approving official. Site access is limited to the work site associated with SCA or DBA contract performance. Prior to gaining site access, to include access to controlled/restricted areas, the approving official will discuss with the DoL investigator the conditions (e.g., security, safety, escorts, etc.) upon which access is being granted. An Air Force escort is required to/from any controlled/restricted areas and at all times while in the controlled/restricted areas. In addition, authorization must be granted in advance of all photography, video, etc. consistent with applicable security instructions and directives.

Please check with your local Security Forces for any additional local requirements, and promptly notify your Air Force Regional Labor Advisor if a DoL investigator refuses to adhere to, or otherwise willfully circumvents, established access procedures.

Executive Order 13706, “Sick Leave”:

The proposed DoL rules (proposed 29 CFR 13) have been released to implement this EO. The proposed rules are attracting a lot of attention. The Federal Register at <https://www.federalregister.gov/articles/2016/03/14/2016-05410/establishing-paid-sick-leave-for-federal-contractors> contains the proposed rules. So far, the only significant change we have seen involves allowing accrual of sick leave for all hours spent in some paid status instead of just hours worked. Similar to the seniority lists required by 52.222-41(n) and the employee lists required by 52.222-17, the EO will require a list of employees and sick leave balances to be passed from the predecessor contractor to a successor contractor via the contracting officer. Enforcement will be by DoL, similar to Nondisplacement.

SCA Contracts Performed by Employees Represented by a Union

Contracting Officers are required by FAR 22.1010 to send notice to both the contractor and the union stating (1) the date a contract is expected to be awarded or option/extension exercised and (2) the date performance will start on the new contract period. Notice must be given at least 30 days prior to the earliest of these dates. The notice is important because it provides the contractor and the union the information needed to complete any revisions to their CBAs and provide them to the Contracting Officer on a timely basis to be effective in the next contract period. Failure to send the notice can make the Air Force liable for the contractor’s labor cost escalation.

DoL Prevailing Wage Seminars:

DoL is putting on several Prevailing Wage Seminars at various locations this summer.

<u>Location</u>	<u>Date</u>
Minneapolis, MN	May 3 - 5, 2016
Charlotte, NC	May 23 - 25, 2016
Stamford, CT	June 7 - 9, 2016
Albuquerque, NM	June 14 - 16, 2016
Portland, OR	August 23 - 25, 2016

Material to be covered includes the Davis-Bacon Act and McNamara O’Hara Service Contract Acts, Executive Order 13658 “Establishing a Minimum Wage for Contractors”, how to obtain wage determinations and add classifications, compliance assistance and enforcement processes, how to appeal wage rates, coverage and compliance determinations, the Davis-Bacon prevailing wage survey process, and Executive Order 13495 “Nondisplacement of Qualified Workers.” There will likely be some site-specific and unique breakout sessions as well. It’s all free. For more information and registration information, check out:

<http://www.dol.gov/whd/govcontracts/PrevailingWageConferences.htm>.

Training Corner:

The Air Force Labor Advisors welcome the opportunity to conduct labor standards training for your Contracting Office. Please contact us and let us know how we can accommodate your training needs. The training is free (other than possible TDY funding for the Labor Advisor). We look forward to hearing from you. Don’t need a “full blown” training session? We can arrange to tailor labor standards training on a specific topic such as SCA collective bargaining agreement issues or DBA

compliance enforcement, etc. We understand that travel money is limited and our office is more than willing to give training via video conferencing or some other source.

The Labor Advisors would like to thank the men and women of the 502nd CONS who hosted the training at both Lackland AFB and Randolph AFB. Mr. Stephen Kelly of the 502nd did an excellent job coordinating the training sessions at both locations.



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