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# ADVISORY CIRCULAR

## DEPARTMENT OF TRANSPORTATION FEDERAL AVIATION ADMINISTRATION

**SUBJECT:** LABOR REQUIREMENTS FOR AIRPORT DEVELOPMENT  
AID PROGRAM (ADAP) CONTRACTS

1. **PURPOSE.** This circular covers the basic labor requirements for the Airport Development Aid Program (ADAP). It is intended primarily for all public agencies sponsoring projects under the ADAP program and for contractors and subcontractors working on projects under the program.
2. **CANCELLATION.** Advisory Circular AC 150/5100-6, Labor Requirements in Federal-aid Airport Program Contracts dated 6 June 1969.
3. **REFERENCES.**
  - a. Section 22(b)(c) Airport and Airway Development Act of 1970, 49 U.S.C. 1701.
  - b. Part 152, Federal Aviation Regulations.
  - c. Parts 1, 3, 5, Regulations of the Secretary of Labor (29 CFR 1, 3, 5, 7).
4. **SCOPE.** In addition to procedures and requirements, this circular sets forth observance and enforcement responsibilities of parties involved in the program. The appendixes include required contract provisions and formats.
5. **HOW TO GET THIS PUBLICATION.** Interested persons may obtain additional copies of this advisory circular AC 150/5100-6A, from the Department of Transportation, Distribution Unit, TAD-484.3, Washington, D.C. 20590.

  
CLYDE W. PACE, JR.  
Director, Airports Service

- (2) Project or Contract. This is a restricted work determination for a specific 120 days which is not automatically renewed. This request is submitted to the appropriate regional office of the Department of Labor for rates. The determination applies only to the project or contract work for which requested and issued and may not be used for any other work or any other project. If it appears that a contract cannot be awarded during the effective period of the wage determination, the sponsor should so notify the appropriate FAA field office far enough in advance so that a new project or contract wage determination can be obtained before the opening of bids or the award of contract. The determination should be examined immediately so that the request for additional classifications can be made in time to allow the Department of Labor 30 days to process (consider 55 days prior to advertisement for bids or negotiations for the contract).

- (b) If sufficient time does not remain to obtain a modification, use the incomplete wage determination with a notification to bidders (by addendum if necessary) as reflected in appendix 3.

(2) After Award of Contract.

- (a) The sponsor and contractor may establish a classification at an appropriate rate to the most comparable classification in the determination.
- (b) Reclassify to new rates, after receipt, any class of laborers or mechanics employed.
- (c) The sponsor will send a report of the action taken to the appropriate FAA field office for transmittal to the Secretary of Labor.
- (d) If employees cannot be reclassified as above, the sponsor and contractor, with FAA approval, determines the proper rates to use. Use prevailing area practice, bargaining agreements and experience in determining rates. The sponsor again sends a report of action taken with all available wage payment data to the appropriate FAA field office for transmittal to the Secretary of Labor.
- (e) If the Secretary of Labor takes no exception in 30 days, it may be assumed the established rates are acceptable.

g. Protests of Wage Determinations.

- (1) Either the sponsor or the contractor may protest a classification or a wage rate in a determination by presenting evidence to the appropriate FAA field office as follows:
  - (a) Statement of wage rates paid on projects. (Names, addresses, locations, costs, dates, type of work, number of workers in each classification and rate.)
  - (b) Wage rates determined for public construction by state and local officials based on prevailing wage legislation.
  - (c) Copies of payrolls from projects for similar work in the area where the work is to be performed.
  - (d) General statements from contractors that a certain classification was paid a certain amount per hour is not acceptable unless the number of workers on each job is included.

STANDARD FORM- 308 JUNE 1972  
U.S. DEPARTMENT OF LABOR  
(29 CFR) Subtitle A, Part 5

INSTRUCTIONS FOR PREPARING  
REQUEST FOR DETERMINATION AND RESPONSE TO REQUEST STANDARD FORM 308  
(Heavy and highway work such as landing areas)

1. The sponsor prepares as the sample indicates (including classification needed) and submits to the appropriate FAA field office.
2. The sponsor's engineer, who is familiar with area labor practices, should render assistance to the FAA field office chief for any questions on labor needs for the form.
3. Craft classifications on the form are a guide and are not all inclusive. Craft classifications recognized by area custom and practice will be included in the wage determinations.
4. Check only the classifications needed to accomplish the described work.
5. Blank spaces are provided for classifications not provided. Classifications needed in excess of blank spaces should be listed on a separate sheet of paper.
6. Do not list either "all classifications applicable" or "entire schedule as requirements. Specific classifications should be listed.
7. Absence of a requested classification in the wage determination means the Department of Labor does not have sufficient current wage data from the area on which to base a determination.
8. The Department of Labor will provide an additional classification via a modification provided the request is accompanied by sufficient wage data on which to base the determination.
9. This Standard Form 308 is also used to request rates for building type construction.

TABLE OF CONTENTS

	<u>Page No.</u>
1. Introduction.	1
2. Wage Rates.	1
3. Payment of Wages--Deductions.	5
4. Payrolls.	5
5. Sponsor's Review of Contractors' Records.	6
6. Sponsor Enforcement.	6
7. Sponsor Inspection of Contractors.	6
8. Apprentice and Trainee Programs.	7
9. Employee Testing.	8
10. Preconstruction Conferences.	8
11. Contract Provisions.	9
12. Sponsor Knowledge of Contractor Requirements.	9
APPENDIX 1. SAMPLE STANDARD FORM 308, REQUEST FOR DETERMINATION AND RESPONSE TO REQUEST.	
APPENDIX 2. LABOR PROVISIONS--FOR CONTRACTS (7 pages)	
APPENDIX 3. NOTIFICATION TO BIDDERS OF INCOMPLETE PROJECT DETERMINATIONS (1 page)	

LABOR REQUIREMENTS FOR AIRPORT DEVELOPMENT  
AID PROGRAM (ADAP) CONTRACTS

1. INTRODUCTION.

- a. Airport and Airway Development Act (Public Law 91-258). This Act provides for Federal grants to assist in the development of a national system of public airports in the United States. The Act authorizes development of a plan for at least a ten-year period to provide a system of public airports to anticipate and to meet the needs of civil aeronautics, postal service, and support national defense needs. The program under which such grants are made is known as the Airport Development Aid Program (ADAP).
- b. Title I, Part II, Section 22(b). This section of the new Act requires that ADAP assisted contracts in excess of \$2,000 for work on projects for airport development approved under this part which involve labor shall contain provisions establishing minimum rates of wages, to be predetermined by the Secretary of Labor, in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a--276a-5), which contractors shall pay to skilled and unskilled labor, and such minimum rates shall be stated in the invitation for bids and shall be included in proposals or bids for the work. Section 22(c) of the Act requires that ADAP contracts contain provisions regarding the use of convict labor and veterans preference in employment.
- c. ADAP Contracts. These contracts must contain labor standard provisions and the procedures to be followed for enforcement. The required contract provisions are included in appendix 2.

2. WAGE RATES. These rates include the basic hourly rate of pay plus any fringe benefits. An ADAP project must incorporate a valid wage determination in the invitation for bids, proposed contract, or reference to specifications which include the rates. When the contract is awarded, it must have the rates included.

a. Types of Determinations.

- (1) Area. A general determination automatically reissued by the Department of Labor each 120 days may include an entire state, county, multiple of counties, or other specified areas. This decision is known as a area decision. It must be used for the geographical area indicated. These decisions and modifications thereto are published periodically in the Federal Register.

- (2) Project or Contract. This is a restricted work determination for a specific 120 days which is not automatically renewed. This request is submitted to the appropriate regional office of the Department of Labor for rates. The determination applies only to the project or contract work for which requested and issued and may not be used for any other work or any other project. If it appears that a contract cannot be awarded during the effective period of the wage determination, the sponsor should so notify the appropriate FAA field office far enough in advance so that a new project or contract wage determination can be obtained before the opening of bids or the award of contract. The determination should be examined immediately so that the request for additional classifications can be made in time to allow the Department of Labor 30 days to process (consider 45 days prior to advertisement for bids or negotiations for the contract).

b. Employees Covered.

- (1) Laborers and Mechanics. Wage determinations apply to laborers and mechanics but excludes clerical and supervisory or non-manual workers. The decision to include or exclude is based on the duties performed rather than an arbitrary classification.
- (2) Force Account--Owner Removal. No minimum rates are required for work accomplished by sponsor force account or contracts for the removal of structures or facilities by the owner. Demolition work performed concurrently with a construction project may be subject to Davis-Bacon standards but when performed under a separate contract not aided and disassociated with a covered contract, it may not be subject to such standards.

c. Proper Classification. The contractor and each subcontractor will assure that laborers and mechanics are classified in accordance with the appropriate schedule of classifications in the contract by:

- (1) Using only classifications in a wage determination or effective modifications to the determination.
- (2) Using classifications which accurately describe duties of work.
- (3) Reclassifying workers whose duties have changed.
- (4) Maintaining a record of time spent in separate classifications of work.

d. Request for Rates. If there is no area determination applicable to the project, a project determination is requested from the appropriate regional office of the Department of Labor by submitting Standard Form 308.



- (1) The Standard Form 308 is prepared for building type construction and for landing area work considered to be heavy and highway.
  - (2) Preparation. The above request should be prepared by the sponsor at least 60 days prior to advertising for bids or beginning negotiations for any contract. The completed request is sent to the appropriate FAA field office. Normally, the Department of Labor takes a minimum of 30 days to issue a determination.
- e. Modification of Rates. The Secretary of Labor may modify a wage determination at any time during its life of 120 days. A modification does not extend beyond the expiration date of the basic wage determination it modifies.
- (1) Area Determinations. Modifications are published in the Federal Register and must be used if opening of bids is to be 10 days or more from the date of the Federal Register in which it is published.
  - (2) Project Determinations. Modifications received by any FAA office must be used if received by them 10 days or more from bid opening. If received less than 10 days before bid opening, the appropriate FAA field office determines if they have a reasonable time in which to notify bidders of the modification. If so, the modification is effective and shall be used.
  - (3) Inclusion in Contract. Failure to include an effective modification in a contract is a violation of both the Federal Aviation Administration and Department of Labor Regulations and may result in suspension of Federal assistance until corrective action is taken.
- f. Incomplete Project Determinations. This occurs when a project wage determination does not provide rates for all classifications to be employed in project work.
- (1) Prior to Bid Opening.
    - (a) If sufficient time remains to obtain a modification, request missing classifications from the appropriate regional office of the Department of Labor supported by wage payment data of prevailing rates for needed classifications.

- (2) The Secretary of Labor, upon the request of the FAA, may direct that a hearing be held to determine prevailing classifications or rates of pay when projects involve significant sums of money, several employees, or unusual situations.

h. Posting of Wage Determinations. The sponsor will have the contractor post in a prominent place for examination by laborers and mechanics the Wage Rate Information Bulletin and the wage determination.

3. PAYMENT OF WAGES--DEDUCTIONS.

- a. Wage Disposition. Mechanics and laborers must have complete freedom in wage disposition.
- b. Pay Periods. Employees must be paid at least weekly.
- c. Deductions or Rebates. These cannot be made except in accordance with Federal or local law as:
  - (1) provided in Section 3.5 of the Copeland Regulations, and
  - (2) provided in Section 3.6 of the Copeland Regulations by applying to the Secretary of Labor.
- d. Contractor Weekly Statement of Compliance. All deductions must be listed in the weekly statement by the contractor.

4. PAYROLLS.

- a. The contractor prepares, maintains, and makes available accurate payroll records and in so doing should:
  - (1) accurately record name, address, classification, rate of pay, daily and weekly hours worked, deductions, and actual wages paid for each employee;
  - (2) furnish the sponsor a certified copy of weekly payrolls each week;
  - (3) furnish sponsor weekly statement of wage compliance (deductions specified) for the prior week;
  - (4) upon request show that labor provisions are in the prime contract and each subcontract;

- (5) certify before final payment that he and his subcontractors have complied with labor standard provisions of the contract; and
- (6) furnish payrolls, certifications, and weekly statements of compliance for all subcontractors.

b. The sponsor retains contractor-furnished records for three years for use of the FAA or Department of Labor upon request.

#### 5. SPONSOR'S REVIEW OF CONTRACTORS' RECORDS.

a. The sponsor should assure that:

- (1) Classifications used are authorized.
- (2) All necessary classifications are in the contract.
- (3) Weekly payrolls contain the required minimum information.
- (4) Certified weekly payrolls are received within one week after close of a pay period and should be compared with the inspectors report reflecting the work actually performed.
- (5) Deductions made are legal and permissible by the Secretary of Labor.
- (6) Computations are correct and accurate wages paid.
- (7) There was the proper apportionment of laborers, helpers, trainees and apprentices.

b. The sponsor should tell the contractor of clerical errors and inaccuracies, and the contractor should correct them by preparing a supplemental payroll for the same period. The original payroll is not to be returned to the contractor.

#### 6. SPONSOR ENFORCEMENT.

- a. The FAA expects the sponsor to assure contractual compliance with labor standards.
- b. The sponsor should keep the appropriate FAA field office advised of all examinations, investigations, determinations, and efforts made to enforce compliance with labor provisions.

#### 7. SPONSOR INSPECTION OF CONTRACTORS.

- a. The sponsor should regularly inspect contractors' operations for proper classification of workers. The inspection should include:

- (1) Observation of the actual duties being performed by at least a representative number of the workers.
  - (2) Assurance that worker classification shown on the payrolls is consistent with duties performed.
  - (3) Employee interviews and immediate investigation of complaints.
- b. Early discovery and prompt correction of discrepancies should be accomplished.

## 8. APPRENTICE AND TRAINEE PROGRAMS.

### a. Definitions.

#### (1) Apprentice.

- (a) A person registered with the U.S. Department of Labor, Bureau of Apprenticeship and Training, or with a state apprenticeship agency recognized by the Bureau.
  - (b) A person in his first 90 days of probationary employment as an apprentice in an apprenticeship program, not individually registered but certified by the Bureau of Apprenticeship and Training or a State apprenticeship council for such employment.
- (2) Trainee. A person receiving on-the-job training in a construction occupation under a program which is approved by the U.S. Department of Labor, Manpower Administration, Bureau of Apprenticeship and Training.

### b. Apprentice--Ratios and Rates.

- (1) Ratios of apprentices to journeymen in any craft classification shall not be greater than the ratio permitted to the contractor as to his entire work force under the registered program.
- (2) Any employee listed on a payroll at an apprentice wage rate who is not a trainee or is not registered as an apprentice shall be paid the rate determined by the Secretary of Labor for the work actually performed.
- (3) Prior to using any apprentices on contract work, the contractor or subcontractor will furnish the sponsor written evidence of the registration of his program along with the appropriate ratios and wage rates for the area of construction.

- (4) Prior to using any trainees on contract work, the contractor or subcontractor shall furnish the sponsor written evidence that the program under which the trainees are working has been approved in accordance with Section 8a(2).

c. Apprentices and Trainees.

- (1) Minimum Wages. The sponsor shall require apprentices and trainees who are to be employed and are not in the wage determination to be classified or reclassified to the wage determination. A report of action taken shall be sent to the Secretary of Labor. If interested parties cannot agree on classification or reclassification, the question with the sponsor's and FAA's recommendation shall be referred to the Secretary of Labor for final determination.
- (2) Withholding Payments. The Federal Aviation Administration (FAA) may withhold or cause to be withheld from the contractor/subcontractor the amount of accrued payments or advances as necessary to pay apprentices or trainees the full amount of wages required by the contract. The FAA may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to suspend any further payment of funds until such violations have ceased.

- d. Contract Clauses. The necessary apprentice and trainee contract clauses for each Federal or federally assisted construction contract in excess of \$10,000 are included in appendix 2.

9. EMPLOYEE TESTING. The sponsor will insure contractor and subcontractor compliance with the Code of Federal Regulations, Title 41, Chapter 60, Part 60-3, which outlines employee testing and other selection procedures.
10. PRECONSTRUCTION CONFERENCES. These conferences should include the sponsor, authorized representatives of the sponsor and their administrative personnel (if desirable), the prime contractor, and his subcontractors.

a. The sponsor should:

- (1) Review wage rates and labor provisions.
- (2) Determine if additional wage classifications are needed.
- (3) Explain necessity for only the properly authorized classifications.
- (4) Inform contractor of the full requirements in the use of apprentices, trainees, or helpers.

- (5) Explain records and reports required, when required, and what must be included.
- (6) Determine payroll deductions, request a copy of authority for deductions, and require that the deductions be listed on the weekly statement of compliance.
- (7) Explain all labor stipulations, Copeland Regulations, and wage determinations which must be included in contracts/subcontracts.
- (8) State the sanctions provided for in the case of willful or aggravated violations.
- (9) Indicate that Federal assistance may be withheld by the FAA from the sponsor if all minimum wage requirements are not met.
- (10) Point out that the contractor is fully responsible for any acts of omission or commission (including subcontractors).
- (11) Advise of the applicability of the Fair Labor Standards Act and that enforcement will be by the Department of Labor.
- (12) Explain provisions of Contract Work Hours and Safety Standards Act.

b. The basic purpose of this conference is to achieve a general understanding between the sponsor and the contractor of each other's responsibility.

11. CONTRACT PROVISIONS. Required labor provisions which must be physically incorporated in ADAP assisted contracts and subcontracts are set forth in appendix 2.
12. SPONSOR KNOWLEDGE OF CONTRACTOR REQUIREMENTS. Sponsors should be conversant with all applicable laws, practices, or policies and fully understand their relationship to the minimum requirements of the Airport Development Aid Program contracts.

## APPENDIX 2. LABOR PROVISIONS--FOR CONTRACTS

Each sponsor entering into a construction contract for an airport development project is required to insert in the contract the following provisions except that contracts for \$2,000 or less need not contain the provisions set forth in paragraphs 5 and 10 through 19 (except 13d through i).

1. AIRPORT DEVELOPMENT AID PROJECT. The work in this contract is included in Airport Development Aid Project No. \_\_\_\_\_ which is being undertaken and accomplished by the (insert sponsor's name) in accordance with the terms and conditions of a grant agreement between the (insert sponsor's name) and the United States under the Airport and Airway Development Act (49 U.S.C. 1701) and Part 152 of the Federal Aviation Regulations (14 CFR Part 152), pursuant to which the United States has agreed to pay a certain percentage of the costs of the project that are determined to be allowable project costs under that Act. The United States is not a party to this contract and no reference in this contract to the FAA or any representative thereof, or to any rights granted to the FAA or any representative thereof, or the United States by the contract makes the United States a party to this contract.
2. CONSENT TO ASSIGNMENT. The contractor shall obtain the prior written consent of the (insert sponsor's name) to any proposed assignment of any interest in or part of this contract.
3. CONVICT LABOR. No convict labor may be employed under this contract.
4. VETERANS PREFERENCE. In the employment of labor (except in executive, administrative, and supervisory positions), preference shall be given to qualified individuals who have served in the military service of the United States (as defined in section 101(1) of the Soldiers' and Sailors' Civil Relief Act of 1940) and have been honorably discharged from that service, except that preference may be given only where that labor is available locally and is qualified to perform the work to which the employment relates.
5. WITHHOLDING: SPONSOR FROM CONTRACTOR. Whether or not payments or advances to the (insert sponsor's name) are withheld or suspended by the FAA, the (insert sponsor's name) may withhold or cause to be withheld from the contractor so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics employed by the contractor or any subcontractor on the work the full amount of wages required by this contract.

6. NONPAYMENT OF WAGES. If the contractor or subcontractor fails to pay any laborer or mechanic employed or working on the site of the work any of the wages required by this contract, the (insert sponsor's name) may, after written notice to the contractor, take such action as may be necessary to cause the suspension of any further payment or advance of funds until the violations cease.
7. FAA INSPECTION AND REVIEW. The contractor shall allow any authorized representative of the FAA or Department of Labor to inspect and review any work or materials used in the performance of this contract.
8. SUBCONTRACTS. The contractor shall insert in each of his subcontracts the provisions contained in paragraphs 1, 3, 4, 5, 6, and 7, and also a clause requiring the subcontractors to include these provisions in any lower tier subcontracts which they may enter into together with a clause requiring this insertion in any further subcontracts that may in turn be made.
9. CONTRACT TERMINATION. A breach of paragraphs 6, 7, and 8 may be grounds for termination of the contract.
10. MINIMUM WAGES.
  - a. All mechanics and laborers employed or working upon the site of the work will be paid unconditionally and not less often than once a week, and without subsequent deductions or rebate on any account (except such payroll deduction as is permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR Part 3)), the full amounts due at time of payment computed at wage rates not less than those contained in the wage determination decision(s) of the Secretary of Labor which is (are) attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics; and the wage determination decision(s) shall be posted by the contractor at the site of the work in a prominent place where it (they) can be easily seen by the workers. For the purpose of this paragraph, contributions made or costs reasonably anticipated under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of subparagraph d below. Also for the purpose of this paragraph, regular contributions made or costs incurred for more than a weekly period under plans, funds, or programs, but covering the particular weekly period, are deemed to be constructively made or incurred during such weekly period (29 CFR 5.5(a)(1)(i)).



- b. Any class of laborers or mechanics, including apprentices and trainees, which is not listed in the wage determination and which is to be employed under the contract, shall be classified or reclassified conformably to the wage determination and a report of the action taken shall be sent by the (insert sponsor's name) to the FAA for approval and transmittal to the Secretary of Labor. In the event the interested parties cannot agree on the proper classification or reclassification of a particular class of laborers and mechanics, including apprentices and trainees, to be used, the question accompanied by the recommendation of the FAA shall be referred to the Secretary of Labor for final determination (29 CFR 5.5(a)(1)(ii)).
  - c. Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly wage rate and the contractor is obligated to pay a cash equivalent of such a fringe benefit, an hourly cash equivalent thereof shall be established. In the event the interested parties cannot agree upon a cash equivalent of the fringe benefit, the question, accompanied by the recommendation of the FAA, shall be referred to the Secretary of Labor for determination (29 CFR 5.5(a)(1)(iii)).
  - d. If the contractor does not make payments to a trustee or other third person, he may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing benefits under a plan or program of a type expressly listed in the wage determination decision of the Secretary of Labor which is a part of this contract: Provided, however, the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.
11. WITHHOLDING: FAA FROM SPONSOR. Pursuant to the terms of the grant agreement between the United States and (insert sponsor's name), relating to Airport Development Aid Project No. \_\_\_\_\_, and Part 152 of the Federal Aviation Regulations (14 CFR Part 152), the FAA may withhold or cause to be withheld from the (insert sponsor's name) so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices and trainees, employed by the contractor or any subcontractor on the work the full amount of wages required by the contract. In the event of

failure to pay any laborer or mechanic, including any apprentice or trainee, employed or working on the site of the work all or part of the wages required by the contract, the FAA may, after written notice to the (insert sponsor's name) take such action as may be necessary to cause the suspension of any further payment, or advance of funds until such violations have ceased. (29 CFR 5.5(a)(2))

12. PAYROLLS AND BASIC RECORDS.

- a. Payrolls and basic records relating thereto will be maintained during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records will contain the name and address of each such employee, his correct classification, rates of pay (including rates of contributions or costs anticipated of the types described in section 1(b)(2) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found, under 29 CFR 5.5(a)(1)(iv) (see subparagraph d of paragraph 10 above), that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits (29 CFR 5.5(a)(3)(i)).
- b. The contractor shall submit weekly a copy of all payrolls to the (insert sponsor's name) who shall transmit them to the FAA when required. The copy shall be accompanied by a statement signed by the employer or his agent indicating that the payrolls are correct and complete, that the wage rates contained therein are not less than those determined by the Secretary of Labor, and that the classifications set forth for each laborer or mechanic conform with the work he performed. A submission of a "Weekly Statement of Compliance" which is required under this contract and the Copeland regulations of the Secretary of Labor (29 CFR Part 3) and the filing with the initial payroll or any subsequent payroll of a copy of any findings by the Secretary of Labor, under 29 CFR 5.5(a)(1)(iv) (see subparagraph d of paragraph 10 above), shall satisfy this requirement. The prime contractor shall be responsible for the submission of copies of payrolls of all subcontractors. The contractor will make the records required under the labor standards clauses of the contract

available for inspection by authorized representatives of the FAA and the Department of Labor and will permit such representatives to interview employees during working hours on the job (29 CFR 5.5(a)(3)(11)).

13. APPRENTICES AND TRAINEES.

- a. Apprentices. Apprentices will be permitted to work as such only when they are registered individually under a bona fide apprenticeship program registered with a state apprenticeship agency which is recognized by the Bureau of Apprenticeship and Training, U.S. Department of Labor; or, if no such recognized agency exists in a State, under a program registered with the Bureau of Apprenticeship and Training, U.S. Department of Labor. The allowable ratio of apprentices to journeymen in any craft classification shall not be greater than the ratio permitted to the contractor as to his entire work force under the registered program. Any employee listed on a payroll at an apprentice wage rate, who is not a trainee as defined in subparagraph b of this paragraph or is not registered as above, shall be paid the wage rate determined by the Secretary of Labor for the classification of work he actually performed. The contractor or subcontractor will be required to furnish to the (insert sponsor's name) written evidence of the registration of his program and apprentices as well as of the appropriate ratios and wage rates for the area of construction prior to using any apprentices on the contract work (29 CFR 5.5(a)(4)).
- b. Trainees. Trainees will be permitted to work as such when they are bona fide trainees employed pursuant to a program approved by the U.S. Department of Labor, Manpower Administration, Bureau of Apprenticeship and Training, and where subparagraph c of this paragraph is applicable in accordance with the provisions of 29 CFR Subtitle A, Part 5a.
- c. Application of 29 CFR Part 5a. On contracts in excess of \$10,000 the employment of all laborers and mechanics, including apprentices and trainees, as defined in 29 CFR 5.2(c) shall also be subject to the provisions of Part 5a. Apprentices and trainees shall be hired in accordance with the requirements of 29 CFR Part 5a.

d. The contractor agrees:

- (1) That he will make a diligent effort to hire for the performance of the contract a number of apprentices or trainees, or both, in each occupation, which bears to the average number of the journeymen in that occupation to be employed in the performance of the contract the applicable ratio as determined by the Secretary of Labor;
- (2) That he will assure that 25 percent of such apprentices or trainees in each occupation are in their first year of training, where feasible. Feasibility here involves a consideration of: (a) the availability of training opportunities for first year apprentices, (b) the hazardous nature of the work for beginning workers, (c) excessive unemployment of apprentices in their second and subsequent years of training.
- (3) That during the performance of the contract he will, to the greatest extent possible, employ the number of apprentices or trainees necessary to meet currently the requirements of subparagraphs d(1) and (2) of this paragraph.

- e. The contractor agrees to maintain records of employment by trade of the number of apprentices and trainees, apprentices and trainees by first year of training, and of journeymen, and the wages paid and hours of work of such apprentices, trainees, and journeymen. The contractor agrees to make these records available for inspection upon request of the Department of Labor and the Federal Aviation Administration.
- f. The contractor who claims compliance based on the criterion stated in 29 CFR, 5a4(b), agrees to maintain records of employment, as described in subparagraph e of this paragraph, on non-Federal and nonfederally assisted construction work done during the performance of this contract in the same labor market area. The contractor agrees to make these records available for inspection upon request of the Department of Labor and the Federal Aviation Administration.
- g. The contractor agrees to supply one copy of the written notice required in accordance with 29 CFR, paragraph 5a4(c), at the request of FAA compliance office. The contractor also agrees to supply at three-month intervals, during performance of the contract and after completion of contract performance, a statement describing steps taken toward making a diligent effort and containing a breakdown by craft of hours worked and wages paid for first year apprentices and trainees, other apprentices and trainees, and journeymen. One copy of the statement will be sent to the FAA field office concerned, and one to the Secretary of Labor.

d. Enforcement.

- (1) The Federal Aviation Administration shall insure that the contract clauses required by 29 CFR Part 5a are inserted in every Federal or federally assisted construction contract subject thereto. For assistance programs for construction work for which the FAA does not contract directly, the FAA shall promulgate regulations and procedures necessary to insure that contracts for the construction work subject to 29 CFR Part 5a will contain the clauses required thereby.
  - (2) Enforcement activities, including the investigation of complaints of violations to assure compliance with the requirements of this part, shall be the primary duty of the Federal Aviation Administration. The Department of Labor will coordinate its efforts with the Federal Aviation Administration as may be necessary, to assure consistent enforcement of the requirements of 29 CFR Part 5a. Enforcement of these provisions shall be in accordance with the procedures outlined in 29 CFR Part 5, Paragraph 5.6.
15. EFFECTIVE DATE OF NEW CONTRACT CLAUSES. These provisions shall be applicable to every invitation for bids, and to every negotiation, request for proposals, or request for quotations, for a Federal or federally assisted construction contract, issued after January 30, 1972, and to every such contract entered into on the basis of such invitation or negotiation.
  16. COMPLIANCE WITH COPELAND REGULATIONS. The contractor shall comply with the Copeland Regulations (29 CFR Part 3) of the Secretary of Labor which are herein incorporated by reference (29 CFR 5.5(a)(5)).
  17. OVERTIME REQUIREMENTS. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any laborer or mechanic in any workweek in which he is employed in such work to work in excess of eight hours in any calendar day or in excess of forty hours in such workweek unless such laborer or mechanic received compensation at a rate not less than one and one-half times his basic rate of pay for all hours worked in excess of eight hours in any calendar day or in excess of forty hours in such workweek, as the case may be (29 CFR 5.5(c)(1)).
  18. VIOLATIONS; LIABILITY FOR UNPAID WAGES; LIQUIDATED DAMAGES. In the event of any violation of paragraph 17 of this provision, the contractor and any subcontractor responsible therefor shall be liable to any affected employee for his unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States for liquidated damages.

Such liquidated damages shall be computed, with respect to each individual laborer or mechanic employed in violation of said paragraph 17 of this provision, in the sum of \$10 for each calendar day on which such employee was required or permitted to work in excess of eight hours or in excess of the standard workweek of forty hours without payment of the overtime wages required by said paragraph 17 of this provision (29 CFR 5.5(c)(2)).

19. WITHHOLDING FOR UNPAID WAGES AND LIQUIDATED DAMAGES.

- a. The FAA may withhold or cause to be withheld from any moneys payable on account of work performed by the contractor or subcontractor, such sums as may administratively be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in paragraph 18 of this provision (29 CFR 5.5(c)(3)).
- b. In the event of failure or refusal of the contractor or any subcontractor to comply with overtime pay requirements of the Contract Work Hours Standards Act, if the funds withheld by the FAA for the violations are not sufficient to pay fully both the unpaid wages due laborers and mechanics and the liquidated damages due the United States, the available funds shall be used first to compensate the laborers and mechanics for the wages to which they are entitled (or an equitable portion thereof when the funds are not adequate for this purpose); and the balance, if any, shall be used for the payment of liquidated damages (29 CFR 5.14(d)(2)).

20. HEALTH AND SAFETY STANDARDS. It is a condition of this contract, and shall be made a condition of each subcontract entered into pursuant to this contract, that the contractor and any subcontractor shall not require any laborer or mechanic employed in performance of the contract to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health or safety, as determined under construction safety and health standards (Title 29, Code of Federal Regulations, Part 1926) promulgated by the United States Secretary of Labor.

21. SUBCONTRACTS. The contractor will insert in each of his subcontracts the clauses contained in paragraphs 10 through 20 and 22 of this provision and also a clause requiring the subcontractors to include these provisions in any lower tier subcontracts which they may enter into, together with a clause requiring this insertion in any further subcontracts that may in turn be made (29 CFR 5.5(a)(6); 5.5(c)(4)).

22. CONTRACT TERMINATION; DEBARMENT. A breach of paragraphs 10 through 21 may be grounds for termination of the contract. A breach of paragraphs 10 through 16, and 21 may also be grounds for debarment as provided in 29 CFR 5.6 of the Regulations of the Secretary of Labor (29 CFR 5.5(a)(7)).

APPENDIX 3. NOTIFICATION TO BIDDERS OF INCOMPLETE  
PROJECT DETERMINATIONS

Notice to Bidders, Wage Rate Determinations. The wage rate determination of the Secretary of Labor incorporated in the advertised specifications does not include rates for the requested classifications listed below. The bidder is responsible for ascertaining the rates payable for such classifications and whether area practice requires the use of these classifications in accomplishing the work. No inference concerning area practice is to be drawn from their omission. Further, the omission will not, per se, establish any liability for increased labor cost resulting from the use of such classifications. (List classifications for which no wage rates are given.)

\* U. S. GOVERNMENT PRINTING OFFICE : 1973 725-610/147



DEPARTMENT OF TRANSPORTATION  
FEDERAL AVIATION ADMINISTRATION  
Washington, D.C. 20591

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**CHANGE**



AC NO: *TAD-4944* 150/5100-6A CHG 1  
DATE: 16 Mar 73

# ADVISORY CIRCULAR

## DEPARTMENT OF TRANSPORTATION FEDERAL AVIATION ADMINISTRATION

**SUBJECT:** CHG 1 TO ADVISORY CIRCULAR 150/5100-6A, LABOR REQUIREMENTS  
FOR AIRPORT DEVELOPMENT AID PROGRAM (ADAP) CONTRACTS

1. PURPOSE. This change transmits a revision to delete page 3-1 from the subject Advisory Circular.
2. EXPLANATION OF CHANGE. This change was initiated in order to delete page 3-1 which was inadvertently included in the Advisory Circular during processing for distribution.
3. PAGE CONTROL CHART.

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Remove Pages	Dated	Insert Pages	Dated
3, 3-1, and 4	31 Jan 73	3 and 4	16 Mar 73

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*William V. Vitale*

WILLIAM V. VITALE  
Deputy Director, Airports Service

- (1) The Standard Form 308 is prepared for building type construction and for landing area work considered to be heavy and highway.
  - (2) Preparation. The above request should be prepared by the sponsor at least 60 days prior to advertising for bids or beginning negotiations for any contract. The completed request is sent to the appropriate FAA field office. Normally, the Department of Labor takes a minimum of 30 days to issue a determination.
- e. Modification of Rates. The Secretary of Labor may modify a wage determination at any time during its life of 120 days. A modification does not extend beyond the expiration date of the basic wage determination it modifies.
- (1) Area Determinations. Modifications are published in the Federal Register and must be used if opening of bids is to be 10 days or more from the date of the Federal Register in which it is published.
  - (2) Project Determinations. Modifications received by any FAA office must be used if received by them 10 days or more from bid opening. If received less than 10 days before bid opening, the appropriate FAA field office determines if they have a reasonable time in which to notify bidders of the modification. If so, the modification is effective and shall be used.
  - (3) Inclusion in Contract. Failure to include an effective modification in a contract is a violation of both the Federal Aviation Administration and Department of Labor Regulations and may result in suspension of Federal assistance until corrective action is taken.
- f. Incomplete Project Determinations. This occurs when a project wage determination does not provide rates for all classifications to be employed in project work.
- (1) Prior to Bid Opening.
    - (a) If sufficient time remains to obtain a modification, request missing classifications from the appropriate regional office of the Department of Labor supported by wage payment data of prevailing rates for needed classifications.

- (b) If sufficient time does not remain to obtain a modification, use the incomplete wage determination with a notification to bidders (by addendum if necessary) as reflected in appendix 3.

(2) After Award of Contract.

- (a) The sponsor and contractor may establish a classification at an appropriate rate to the most comparable classification in the determination.
- (b) Reclassify to new rates, after receipt, any class of laborers or mechanics employed.
- (c) The sponsor will send a report of the action taken to the appropriate FAA field office for transmittal to the Secretary of Labor.
- (d) If employees cannot be reclassified as above, the sponsor and contractor, with FAA approval, determines the proper rates to use. Use prevailing area practice, bargaining agreements and experience in determining rates. The sponsor again sends a report of action taken with all available wage payment data to the appropriate FAA field office for transmittal to the Secretary of Labor.
- (e) If the Secretary of Labor takes no exception in 30 days, it may be assumed the established rates are acceptable.

g. Protests of Wage Determinations.

- (1) Either the sponsor or the contractor may protest a classification or a wage rate in a determination by presenting evidence to the appropriate FAA field office as follows:
  - (a) Statement of wage rates paid on projects. (Names, addresses, locations, costs, dates, type of work, number of workers in each classification and rate.)
  - (b) Wage rates determined for public construction by state and local officials based on prevailing wage legislation.
  - (c) Copies of payrolls from projects for similar work in the area where the work is to be performed.
  - (d) General statements from contractors that a certain classification was paid a certain amount per hour is not acceptable unless the number of workers on each job is included.

**CHANGE**



*Cancelled 44-6B*

**AC NO:** 150/5100-6A CHG 1

**DATE:** 16 Mar 73

# ADVISORY CIRCULAR

## DEPARTMENT OF TRANSPORTATION FEDERAL AVIATION ADMINISTRATION

**SUBJECT:** CHG 1 TO ADVISORY CIRCULAR 150/5100-6A, LABOR REQUIREMENTS  
FOR AIRPORT DEVELOPMENT AID PROGRAM (ADAP) CONTRACTS

1. PURPOSE. This change transmits a revision to delete page 3-1 from the subject Advisory Circular.
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Remove Pages	Dated	Insert Pages	Dated
3, 3-1, and 4	31 Jan 73	3 and 4	16 Mar 73

*William V. Vitale*

**WILLIAM V. VITALE**  
Deputy Director, Airports Service

Initiated by: AAS-650

AC NO: 150/5100-6A

DATE: 31 January 1973



# ADVISORY CIRCULAR

## DEPARTMENT OF TRANSPORTATION FEDERAL AVIATION ADMINISTRATION

**SUBJECT:** LABOR REQUIREMENTS FOR AIRPORT DEVELOPMENT  
AID PROGRAM (ADAP) CONTRACTS

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1. **PURPOSE.** This circular covers the basic labor requirements for the Airport Development Aid Program (ADAP). It is intended primarily for all public agencies sponsoring projects under the ADAP program and for contractors and subcontractors working on projects under the program.
2. **CANCELLATION.** Advisory Circular AC 150/5100-6, Labor Requirements in Federal-aid Airport Program Contracts dated 6 June 1969.
3. **REFERENCES.**
  - a. Section 22(b)(c) Airport and Airway Development Act of 1970, 49 U.S.C. 1701.
  - b. Part 152, Federal Aviation Regulations.
  - c. Parts 1, 3, 5, Regulations of the Secretary of Labor (29 CFR 1, 3, 5, 7).
4. **SCOPE.** In addition to procedures and requirements, this circular sets forth observance and enforcement responsibilities of parties involved in the program. The appendixes include required contract provisions and formats.
5. **HOW TO GET THIS PUBLICATION.** Interested persons may obtain additional copies of this advisory circular AC 150/5100-6A, from the Department of Transportation, Distribution Unit, TAD-484.3, Washington, D.C. 20590.

  
CLYDE W. PACE, JR.  
Director, Airports Service

TABLE OF CONTENTS

	<u>Page No.</u>
1. Introduction.	1
2. Wage Rates.	1
3. Payment of Wages--Deductions.	5
4. Payrolls.	5
5. Sponsor's Review of Contractors' Records.	6
6. Sponsor Enforcement.	6
7. Sponsor Inspection of Contractors.	6
8. Apprentice and Trainee Programs.	7
9. Employee Testing.	8
10. Preconstruction Conferences.	8
11. Contract Provisions.	9
12. Sponsor Knowledge of Contractor Requirements.	9
APPENDIX 1. SAMPLE STANDARD FORM 308, REQUEST FOR DETERMINATION AND RESPONSE TO REQUEST.	
APPENDIX 2. LABOR PROVISIONS--FOR CONTRACTS (7 pages)	
APPENDIX 3. NOTIFICATION TO BIDDERS OF INCOMPLETE PROJECT DETERMINATIONS (1 page)	

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  - (2) Preparation. The above request should be prepared by the sponsor at least 60 days prior to advertising for bids or beginning negotiations for any contract. The completed request is sent to the appropriate FAA field office. Normally, the Department of Labor takes a minimum of 30 days to issue a determination.
- e. Modification of Rates. The Secretary of Labor may modify a wage determination at any time during its life of 120 days. A modification does not extend beyond the expiration date of the basic wage determination it modifies.
- (1) Area Determinations. Modifications are published in the Federal Register and must be used if opening of bids is to be 10 days or more from the date of the Federal Register in which it is published.
  - (2) Project Determinations. Modifications received by any FAA office must be used if received by them 10 days or more from bid opening. If received less than 10 days before bid opening, the appropriate FAA field office determines if they have a reasonable time in which to notify bidders of the modification. If so, the modification is effective and shall be used.
  - (3) Inclusion in Contract. Failure to include an effective modification in a contract is a violation of both the Federal Aviation Administration and Department of Labor Regulations and may result in suspension of Federal assistance until corrective action is taken.
- f. Incomplete Project Determinations. This occurs when a project wage determination does not provide rates for all classifications to be employed in project work.
- (1) Prior to Bid Opening.
    - (a) If sufficient time remains to obtain a modification, request missing classifications from the appropriate regional office of the Department of Labor supported by wage payment data of prevailing rates for needed classifications.



- (b) If sufficient time does not remain to obtain a modification, use the incomplete wage determination with a notification to bidders (by addendum if necessary) as reflected in appendix 3.

(2) After Award of Contract.

- (a) The sponsor and contractor may establish a classification at an appropriate rate to the most comparable classification in the determination.
- (b) Reclassify to new rates, after receipt, any class of laborers or mechanics employed.
- (c) The sponsor will send a report of the action taken to the appropriate FAA field office for transmittal to the Secretary of Labor.
- (d) If employees cannot be reclassified as above, the sponsor and contractor, with FAA approval, determines the proper rates to use. Use prevailing area practice, bargaining agreements and experience in determining rates. The sponsor again sends a report of action taken with all available wage payment data to the appropriate FAA field office for transmittal to the Secretary of Labor.
- (e) If the Secretary of Labor takes no exception in 30 days, it may be assumed the established rates are acceptable.

g. Protests of Wage Determinations.

- (1) Either the sponsor or the contractor may protest a classification or a wage rate in a determination by presenting evidence to the appropriate FAA field office as follows:
  - (a) Statement of wage rates paid on projects. (Names, addresses, locations, costs, dates, type of work, number of workers in each classification and rate.)
  - (b) Wage rates determined for public construction by state and local officials based on prevailing wage legislation.
  - (c) Copies of payrolls from projects for similar work in the area where the work is to be performed.
  - (d) General statements from contractors that a certain classification was paid a certain amount per hour is not acceptable unless the number of workers on each job is included.

- (2) Project or Contract. This is a restricted work determination for a specific 120 days which is not automatically renewed. This request is submitted to the appropriate regional office of the Department of Labor for rates. The determination applies only to the project or contract work for which requested and issued and may not be used for any other work or any other project. If it appears that a contract cannot be awarded during the effective period of the wage determination, the sponsor should so notify the appropriate FAA field office far enough in advance so that a new project or contract wage determination can be obtained before the opening of bids or the award of contract. The determination should be examined immediately so that the request for additional classifications can be made in time to allow the Department of Labor 30 days to process (consider 55 days prior to advertisement for bids or negotiations for the contract).

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  - (b) Wage rates determined for public construction by state and local officials based on prevailing wage legislation.
  - (c) Copies of payrolls from projects for similar work in the area where the work is to be performed.
  - (d) General statements from contractors that a certain classification was paid a certain amount per hour is not acceptable unless the number of workers on each job is included.

- (2) The Secretary of Labor, upon the request of the FAA, may direct that a hearing be held to determine prevailing classifications or rates of pay when projects involve significant sums of money, several employees, or unusual situations.

h. Posting of Wage Determinations. The sponsor will have the contractor post in a prominent place for examination by laborers and mechanics the Wage Rate Information Bulletin and the wage determination.

3. PAYMENT OF WAGES--DEDUCTIONS.

- a. Wage Disposition. Mechanics and laborers must have complete freedom in wage disposition.
- b. Pay Periods. Employees must be paid at least weekly.
- c. Deductions or Rebates. These cannot be made except in accordance with Federal or local law as:
  - (1) provided in Section 3.5 of the Copeland Regulations, and
  - (2) provided in Section 3.6 of the Copeland Regulations by applying to the Secretary of Labor.
- d. Contractor Weekly Statement of Compliance. All deductions must be listed in the weekly statement by the contractor.

4. PAYROLLS.

- a. The contractor prepares, maintains, and makes available accurate payroll records and in so doing should:
  - (1) accurately record name, address, classification, rate of pay, daily and weekly hours worked, deductions, and actual wages paid for each employee;
  - (2) furnish the sponsor a certified copy of weekly payrolls each week;
  - (3) furnish sponsor weekly statement of wage compliance (deductions specified) for the prior week;
  - (4) upon request show that labor provisions are in the prime contract and each subcontract;

(5) certify before final payment that he and his subcontractors have complied with labor standard provisions of the contract; and

(6) furnish payrolls, certifications, and weekly statements of compliance for all subcontractors.

b. The sponsor retains contractor-furnished records for three years for use of the FAA or Department of Labor upon request.

5. SPONSOR'S REVIEW OF CONTRACTORS' RECORDS.

a. The sponsor should assure that:

(1) Classifications used are authorized.

(2) All necessary classifications are in the contract.

(3) Weekly payrolls contain the required minimum information.

(4) Certified weekly payrolls are received within one week after close of a pay period and should be compared with the inspectors report reflecting the work actually performed.

(5) Deductions made are legal and permissible by the Secretary of Labor.

(6) Computations are correct and accurate wages paid.

(7) There was the proper apportionment of laborers, helpers, trainees and apprentices.

b. The sponsor should tell the contractor of clerical errors and inaccuracies, and the contractor should correct them by preparing a supplemental payroll for the same period. The original payroll is not to be returned to the contractor.

6. SPONSOR ENFORCEMENT.

a. The FAA expects the sponsor to assure contractual compliance with labor standards.

b. The sponsor should keep the appropriate FAA field office advised of all examinations, investigations, determinations, and efforts made to enforce compliance with labor provisions.

7. SPONSOR INSPECTION OF CONTRACTORS.

a. The sponsor should regularly inspect contractors' operations for proper classification of workers. The inspection should include:

- h. The contractor agrees to insert in any subcontract under this contract, the requirements contained in subparagraphs d, e, f, g, and h of this paragraph. Paragraph 14 shall also be attached to each such contract for the information of the contractor. The term "contractor" as used in such clauses in any subcontract shall mean the subcontractor.
  - i. The provisions of subparagraphs d, e, f, g, and h of this paragraph shall not apply with regard to any contract not in excess of \$10,000 or if the Administrator of the FAA finds it likely that making the contract with the clauses contained in those subparagraphs will prejudice the national security.
14. INFORMATION FOR CONTRACTOR. The following information represents the data required by Part 5a to be included in contracts for the information of contractors.
- a. Criteria for measuring diligent effort. A contractor will be deemed to have made a "diligent effort" as required by 29 CFR Part 5a(3) if during the performance of his contract he accomplishes at least one of the following three objectives:
    - (1) The contractor employs on this project a number of apprentices and trainees by craft as required by the contract clauses in accordance with subparagraph (b) of this paragraph.
    - (2) The contractor employs on all his public and private construction work combined in the labor market area of this project, an average number of apprentices and trainees by craft as required by the contract clauses, at least equal to the ratios established by subparagraph b of this paragraph.
    - (3) Written Notice.
      - (a) Before commencement of work on the project, the contractor if covered by a collective bargaining agreement will give written notice to all joint apprenticeship committees; the local U.S. Employment Security Office; local chapter of Urban League, Workers Defense League, or other local organization concerned with minority employment; and the Bureau of Apprenticeship and Training Representative, U.S. Department of Labor, for the locality. The contractor, if not covered by a collective bargaining agreement will give written notice to all the groups stated above except joint apprenticeship committees; the contractor will also notify all non-joint apprenticeship sponsors in the labor market area.

- (b) The notice will include at least the contractor's name and address, the job site address, value of contract, expected starting and completion dates, the estimated average number of employees in each occupation to be employed over the duration of the contract, and a statement of his willingness to employ a number of apprentices and trainees at least equal to the ratios established by subparagraph b.
- (c) The contractor must employ all qualified applicants referred to him through normal channels (such as the Employment Service, the Joint Apprenticeship Committee and, where applicable, minority organizations and apprentice outreach programs who have been delegated this function) at least up to the number of such apprentices and trainees required by the applicable provisions of subparagraph b of this paragraph.

b. Determination of ratios of apprentices or trainees to journeymen.

The Secretary of Labor has determined that the applicable ratios of apprentices and trainees to journeymen in any occupation shall be as follows:

- (1) In any occupation the applicable ratio of apprentices and trainees to journeymen shall be equal to the predominant ratio for the occupation in the area where the construction is to be undertaken, set forth in collective bargaining agreements or other employment agreements, and available through the Regional Manager for the Bureau of Apprenticeship and Training for the applicable area.
- (2) For any occupation for which no such ratio is found, the ratio of apprentices and trainees to journeymen shall be determined by the contractor in accordance with the recommendations set forth in the standards of the National Joint Apprentice Committee for the occupation, which are filed with the U.S. Department of Labor's Bureau of Apprenticeship and Training.
- (3) For any occupation for which no such recommendations are found, the ratio of apprentices and trainees to journeymen shall be at least one apprentice or trainee for every five journeymen.

c. Variations, tolerances, and exemptions. Variations, tolerances, and exemptions from any requirement of this part with respect to any contract or subcontract may be granted when such action is necessary and proper in the public interest, or to prevent injustice, or undue hardship. A request for a variation, tolerance, or exemption may be made in writing by any interested person to the Secretary, U. S. Department of Labor, Washington, D.C. 20210.

LABOR REQUIREMENTS FOR AIRPORT DEVELOPMENT  
AID PROGRAM (ADAP) CONTRACTS

1. INTRODUCTION.

- a. Airport and Airway Development Act (Public Law 91-258). This Act provides for Federal grants to assist in the development of a national system of public airports in the United States. The Act authorizes development of a plan for at least a ten-year period to provide a system of public airports to anticipate and to meet the needs of civil aeronautics, postal service, and support national defense needs. The program under which such grants are made is known as the Airport Development Aid Program (ADAP).
- b. Title I, Part II, Section 22(b). This section of the new Act requires that ADAP assisted contracts in excess of \$2,000 for work on projects for airport development approved under this part which involve labor shall contain provisions establishing minimum rates of wages, to be predetermined by the Secretary of Labor, in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a--276a-5), which contractors shall pay to skilled and unskilled labor, and such minimum rates shall be stated in the invitation for bids and shall be included in proposals or bids for the work. Section 22(c) of the Act requires that ADAP contracts contain provisions regarding the use of convict labor and veterans preference in employment.
- c. ADAP Contracts. These contracts must contain labor standard provisions and the procedures to be followed for enforcement. The required contract provisions are included in appendix 2.

2. WAGE RATES. These rates include the basic hourly rate of pay plus any fringe benefits. An ADAP project must incorporate a valid wage determination in the invitation for bids, proposed contract, or reference to specifications which include the rates. When the contract is awarded, it must have the rates included.

a. Types of Determinations.

- (1) Area. A general determination automatically reissued by the Department of Labor each 120 days may include an entire state, county, multiple of counties, or other specified areas. This decision is known as a area decision. It must be used for the geographical area indicated. These decisions and modifications thereto are published periodically in the Federal Register.



- (2) Project or Contract. This is a restricted work determination for a specific 120 days which is not automatically renewed. This request is submitted to the appropriate regional office of the Department of Labor for rates. The determination applies only to the project or contract work for which requested and issued and may not be used for any other work or any other project. If it appears that a contract cannot be awarded during the effective period of the wage determination, the sponsor should so notify the appropriate FAA field office far enough in advance so that a new project or contract wage determination can be obtained before the opening of bids or the award of contract. The determination should be examined immediately so that the request for additional classifications can be made in time to allow the Department of Labor 30 days to process (consider 45 days prior to advertisement for bids or negotiations for the contract).

b. Employees Covered.

- (1) Laborers and Mechanics. Wage determinations apply to laborers and mechanics but excludes clerical and supervisory or non-manual workers. The decision to include or exclude is based on the duties performed rather than an arbitrary classification.
- (2) Force Account--Owner Removal. No minimum rates are required for work accomplished by sponsor force account or contracts for the removal of structures or facilities by the owner. Demolition work performed concurrently with a construction project may be subject to Davis-Bacon standards but when performed under a separate contract not aided and disassociated with a covered contract, it may not be subject to such standards.

c. Proper Classification. The contractor and each subcontractor will assure that laborers and mechanics are classified in accordance with the appropriate schedule of classifications in the contract by:

- (1) Using only classifications in a wage determination or effective modifications to the determination.
- (2) Using classifications which accurately describe duties of work.
- (3) Reclassifying workers whose duties have changed.
- (4) Maintaining a record of time spent in separate classifications of work.

d. Request for Rates. If there is no area determination applicable to the project, a project determination is requested from the appropriate regional office of the Department of Labor by submitting Standard Form 308.

- (1) Observation of the actual duties being performed by at least a representative number of the workers.
  - (2) Assurance that worker classification shown on the payrolls is consistent with duties performed.
  - (3) Employee interviews and immediate investigation of complaints.
- b. Early discovery and prompt correction of discrepancies should be accomplished.

## 8. APPRENTICE AND TRAINEE PROGRAMS.

### a. Definitions.

#### (1) Apprentice.

- (a) A person registered with the U.S. Department of Labor, Bureau of Apprenticeship and Training, or with a state apprenticeship agency recognized by the Bureau.
- (b) A person in his first 90 days of probationary employment as an apprentice in an apprenticeship program, not individually registered but certified by the Bureau of Apprenticeship and Training or a State apprenticeship council for such employment.

- (2) Trainee. A person receiving on-the-job training in a construction occupation under a program which is approved by the U.S. Department of Labor, Manpower Administration, Bureau of Apprenticeship and Training.

### b. Apprentice--Ratios and Rates.

- (1) Ratios of apprentices to journeymen in any craft classification shall not be greater than the ratio permitted to the contractor as to his entire work force under the registered program.
- (2) Any employee listed on a payroll at an apprentice wage rate who is not a trainee or is not registered as an apprentice shall be paid the rate determined by the Secretary of Labor for the work actually performed.
- (3) Prior to using any apprentices on contract work, the contractor or subcontractor will furnish the sponsor written evidence of the registration of his program along with the appropriate ratios and wage rates for the area of construction.

- (4) Prior to using any trainees on contract work, the contractor or subcontractor shall furnish the sponsor written evidence that the program under which the trainees are working has been approved in accordance with Section 8a(2).

c. Apprentices and Trainees.

- (1) Minimum Wages. The sponsor shall require apprentices and trainees who are to be employed and are not in the wage determination to be classified or reclassified to the wage determination. A report of action taken shall be sent to the Secretary of Labor. If interested parties cannot agree on classification or reclassification, the question with the sponsor's and FAA's recommendation shall be referred to the Secretary of Labor for final determination.
- (2) Withholding Payments. The Federal Aviation Administration (FAA) may withhold or cause to be withheld from the contractor/subcontractor the amount of accrued payments or advances as necessary to pay apprentices or trainees the full amount of wages required by the contract. The FAA may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to suspend any further payment of funds until such violations have ceased.

- d. Contract Clauses. The necessary apprentice and trainee contract clauses for each Federal or federally assisted construction contract in excess of \$10,000 are included in appendix 2.

9. EMPLOYEE TESTING. The sponsor will insure contractor and subcontractor compliance with the Code of Federal Regulations, Title 41, Chapter 60, Part 60-3, which outlines employee testing and other selection procedures.
10. PRECONSTRUCTION CONFERENCES. These conferences should include the sponsor, authorized representatives of the sponsor and their administrative personnel (if desirable), the prime contractor, and his subcontractors.

a. The sponsor should:

- (1) Review wage rates and labor provisions.
- (2) Determine if additional wage classifications are needed.
- (3) Explain necessity for only the properly authorized classifications.
- (4) Inform contractor of the full requirements in the use of apprentices, trainees, or helpers.

- (5) Explain records and reports required, when required, and what must be included.
  - (6) Determine payroll deductions, request a copy of authority for deductions, and require that the deductions be listed on the weekly statement of compliance.
  - (7) Explain all labor stipulations, Copeland Regulations, and wage determinations which must be included in contracts/subcontracts.
  - (8) State the sanctions provided for in the case of willful or aggravated violations.
  - (9) Indicate that Federal assistance may be withheld by the FAA from the sponsor if all minimum wage requirements are not met.
  - (10) Point out that the contractor is fully responsible for any acts of omission or commission (including subcontractors).
  - (11) Advise of the applicability of the Fair Labor Standards Act and that enforcement will be by the Department of Labor.
  - (12) Explain provisions of Contract Work Hours and Safety Standards Act.
- b. The basic purpose of this conference is to achieve a general understanding between the sponsor and the contractor of each other's responsibility.
11. CONTRACT PROVISIONS. Required labor provisions which must be physically incorporated in ADAP assisted contracts and subcontracts are set forth in appendix 2.
  12. SPONSOR KNOWLEDGE OF CONTRACTOR REQUIREMENTS. Sponsors should be conversant with all applicable laws, practices, or policies and fully understand their relationship to the minimum requirements of the Airport Development Aid Program contracts.

U. S. DEPARTMENT OF LABOR  
EMPLOYMENT STANDARDS ADMINISTRATION

REQUEST FOR DETERMINATION  
AND RESPONSE TO REQUEST

(Davis Bacon Act as Amended  
and Related Statutes)

<p>FOR DEPARTMENT OF LABOR USE</p> <p>Response To Request</p> <p>a. <input type="checkbox"/> Use area determination issued for this area</p> <p>(LEAVE BLANK)</p> <p>b. <input type="checkbox"/> The attached decision noted below is applicable to this project</p> <p>(LEAVE BLANK)</p> <p>Decision Number</p> <p>(LEAVE BLANK)</p> <p>Date of Decision</p> <p>(LEAVE BLANK)</p> <p>Expires</p> <p>(LEAVE BLANK)</p> <p>Supersedes Decision Number</p> <p>(LEAVE BLANK)</p> <p>Approved</p> <p>(LEAVE BLANK)</p>	<p>Requesting Officer (typed name and signature)</p> <p><b>Complete (by FAA)</b></p>		<p>CHECK OR LIST CRAFTS NEEDED (Attach continuation sheet if needed)</p> <p><input checked="" type="checkbox"/> Asbestos workers</p> <p><input type="checkbox"/> Boilermakers</p> <p><input checked="" type="checkbox"/> Bricklayers</p> <p><input type="checkbox"/> Carpenters</p> <p><input checked="" type="checkbox"/> Cement masons</p> <p><input type="checkbox"/> Electricians</p> <p><input checked="" type="checkbox"/> Glaziers</p> <p><input type="checkbox"/> Ironworkers</p> <p><input checked="" type="checkbox"/> Laborers, (specify classes)</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p><input type="checkbox"/> Lathers</p> <p><input type="checkbox"/> Marble &amp; tile setters, terrazzo workers</p> <p><input checked="" type="checkbox"/> Painters</p> <p><input type="checkbox"/> Piledrivers</p> <p><input type="checkbox"/> Plasterers</p> <p><input checked="" type="checkbox"/> Plumbers</p> <p><input type="checkbox"/> Roofers</p> <p><input type="checkbox"/> Sheet metal workers</p> <p><input type="checkbox"/> Soft floor layers</p> <p><input type="checkbox"/> Steamfitters</p> <p><input type="checkbox"/> Welders--rate for craft</p> <p><input checked="" type="checkbox"/> Truck drivers</p> <p><input type="checkbox"/> Power equipment operators, (specify types)</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>Other crafts</p> <p>_____</p> <p>_____</p>	
	<p>Department, Agency, or Bureau</p> <p><b>Appropriate FAA Field Office Title and address</b></p>			<p>Phone Number</p> <p><b>Appropriate FAA Field Office</b></p>
	<p>Date of Request enter Date (by FAA)</p>	<p>Est. Advertising Date complete (by Sponsor)</p>		<p>Est. Bid Opening Date complete (by Sponsor)</p>
	<p>Prior Decision Number (if any) complete (by Sponsor)</p>	<p>Est. \$ Value of Contract (SPR)</p> <p><input type="checkbox"/> Under ½ Mil. <input type="checkbox"/> 1 to 5 Mil. <input type="checkbox"/> Bldg. <input type="checkbox"/> Highway</p> <p><input checked="" type="checkbox"/> ½ to 1 Mil. <input type="checkbox"/> Over 5 Mil. <input type="checkbox"/> Resid. <input checked="" type="checkbox"/> Heavy</p>		
	<p>Location of Project (city or other description)</p> <p><b>Downtown Airport, Shreveport, Louisiana</b></p>			
	<p>County</p> <p><b>Bossier Parish</b></p>	<p>State</p> <p><b>Louisiana</b></p>		
	<p>Address to which wage determination should be mailed. Must be complete and include ZIP Code. (Print or type)</p> <p><b>Federal Aviation Administration</b></p> <p><b>Airports District Office</b></p> <p><b>Bradley Building</b></p> <p><b>8345 Telephone Road</b></p> <p><b>Houston, Texas 77017</b></p>			
	<p>Wage Survey by Agency Attached</p> <p><input type="checkbox"/> YES <input checked="" type="checkbox"/> NO</p>	<p>Wage Survey by Agency in Progress</p> <p><input checked="" type="checkbox"/> YES <input type="checkbox"/> NO</p>		
	<p>Description of Work (Be specific) (Print or type)</p> <p><b>Heavy &amp; Highway. (Insert brief but accurate description of construction work included in proposed contract, including information on materials to be used in the construction work).</b></p>			

(THIS REPLACES FORMS DB-11 & DB-11a)

STANDARD FORM- 308 JUNE 1972  
U.S. DEPARTMENT OF LABOR  
(29 CFR) Subtitle A, Part 5

31 Jan 73

AC 150/5100-6A  
Appendix 1

INSTRUCTIONS FOR PREPARING  
REQUEST FOR DETERMINATION AND RESPONSE TO REQUEST STANDARD FORM 308  
(Heavy and highway work such as landing areas)

1. The sponsor prepares as the sample indicates (including classification needed) and submits to the appropriate FAA field office.
2. The sponsor's engineer, who is familiar with area labor practices, should render assistance to the FAA field office chief for any questions on labor needs for the form.
3. Craft classifications on the form are a guide and are not all inclusive. Craft classifications recognized by area custom and practice will be included in the wage determinations.
4. Check only the classifications needed to accomplish the described work.
5. Blank spaces are provided for classifications not provided. Classifications needed in excess of blank spaces should be listed on a separate sheet of paper.
6. Do not list either "all classifications applicable" or "entire schedule as requirements. Specific classifications should be listed.
7. Absence of a requested classification in the wage determination means the Department of Labor does not have sufficient current wage data from the area on which to base a determination.
8. The Department of Labor will provide an additional classification via a modification provided the request is accompanied by sufficient wage data on which to base the determination.
9. This Standard Form 308 is also used to request rates for building type construction.

## APPENDIX 2. LABOR PROVISIONS--FOR CONTRACTS

Each sponsor entering into a construction contract for an airport development project is required to insert in the contract the following provisions except that contracts for \$2,000 or less need not contain the provisions set forth in paragraphs 5 and 10 through 19 (except 13d through 1).

1. AIRPORT DEVELOPMENT AID PROJECT. The work in this contract is included in Airport Development Aid Project No. \_\_\_\_\_ which is being undertaken and accomplished by the (insert sponsor's name) in accordance with the terms and conditions of a grant agreement between the (insert sponsor's name) and the United States under the Airport and Airway Development Act (49 U.S.C. 1701) and Part 152 of the Federal Aviation Regulations (14 CFR Part 152), pursuant to which the United States has agreed to pay a certain percentage of the costs of the project that are determined to be allowable project costs under that Act. The United States is not a party to this contract and no reference in this contract to the FAA or any representative thereof, or to any rights granted to the FAA or any representative thereof, or the United States by the contract makes the United States a party to this contract.
2. CONSENT TO ASSIGNMENT. The contractor shall obtain the prior written consent of the (insert sponsor's name) to any proposed assignment of any interest in or part of this contract.
3. CONVICT LABOR. No convict labor may be employed under this contract.
4. VETERANS PREFERENCE. In the employment of labor (except in executive, administrative, and supervisory positions), preference shall be given to qualified individuals who have served in the military service of the United States (as defined in section 101(1) of the Soldiers' and Sailors' Civil Relief Act of 1940) and have been honorably discharged from that service, except that preference may be given only where that labor is available locally and is qualified to perform the work to which the employment relates.
5. WITHHOLDING: SPONSOR FROM CONTRACTOR. Whether or not payments or advances to the (insert sponsor's name) are withheld or suspended by the FAA, the (insert sponsor's name) may withhold or cause to be withheld from the contractor so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics employed by the contractor or any subcontractor on the work the full amount of wages required by this contract.

6. NONPAYMENT OF WAGES. If the contractor or subcontractor fails to pay any laborer or mechanic employed or working on the site of the work any of the wages required by this contract, the (insert sponsor's name) may, after written notice to the contractor, take such action as may be necessary to cause the suspension of any further payment or advance of funds until the violations cease.
7. FAA INSPECTION AND REVIEW. The contractor shall allow any authorized representative of the FAA or Department of Labor to inspect and review any work or materials used in the performance of this contract.
8. SUBCONTRACTS. The contractor shall insert in each of his subcontracts the provisions contained in paragraphs 1, 3, 4, 5, 6, and 7, and also a clause requiring the subcontractors to include these provisions in any lower tier subcontracts which they may enter into together with a clause requiring this insertion in any further subcontracts that may in turn be made.
9. CONTRACT TERMINATION. A breach of paragraphs 6, 7, and 8 may be grounds for termination of the contract.
10. MINIMUM WAGES.
  - a. All mechanics and laborers employed or working upon the site of the work will be paid unconditionally and not less often than once a week, and without subsequent deductions or rebate on any account (except such payroll deduction as is permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR Part 3)), the full amounts due at time of payment computed at wage rates not less than those contained in the wage determination decision(s) of the Secretary of Labor which is (are) attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics; and the wage determination decision(s) shall be posted by the contractor at the site of the work in a prominent place where it (they) can be easily seen by the workers. For the purpose of this paragraph, contributions made or costs reasonably anticipated under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of subparagraph d below. Also for the purpose of this paragraph, regular contributions made or costs incurred for more than a weekly period under plans, funds, or programs, but covering the particular weekly period, are deemed to be constructively made or incurred during such weekly period (29 CFR 5.5(a)(1)(i)).



- b. Any class of laborers or mechanics, including apprentices and trainees, which is not listed in the wage determination and which is to be employed under the contract, shall be classified or reclassified conformably to the wage determination and a report of the action taken shall be sent by the (insert sponsor's name) to the FAA for approval and transmittal to the Secretary of Labor. In the event the interested parties cannot agree on the proper classification or reclassification of a particular class of laborers and mechanics, including apprentices and trainees, to be used, the question accompanied by the recommendation of the FAA shall be referred to the Secretary of Labor for final determination (29 CFR 5.5(a)(1)(ii)).
  - c. Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly wage rate and the contractor is obligated to pay a cash equivalent of such a fringe benefit, an hourly cash equivalent thereof shall be established. In the event the interested parties cannot agree upon a cash equivalent of the fringe benefit, the question, accompanied by the recommendation of the FAA, shall be referred to the Secretary of Labor for determination (29 CFR 5.5(a)(1)(iii)).
  - d. If the contractor does not make payments to a trustee or other third person, he may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing benefits under a plan or program of a type expressly listed in the wage determination decision of the Secretary of Labor which is a part of this contract: Provided, however, the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.
11. WITHHOLDING: FAA FROM SPONSOR. Pursuant to the terms of the grant agreement between the United States and (insert sponsor's name), relating to Airport Development Aid Project No. \_\_\_\_\_, and Part 152 of the Federal Aviation Regulations (14 CFR Part 152), the FAA may withhold or cause to be withheld from the (insert sponsor's name) so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices and trainees, employed by the contractor or any subcontractor on the work the full amount of wages required by the contract. In the event of

failure to pay any laborer or mechanic, including any apprentice or trainee, employed or working on the site of the work all or part of the wages required by the contract, the FAA may, after written notice to the (insert sponsor's name) take such action as may be necessary to cause the suspension of any further payment, or advance of funds until such violations have ceased. (29 CFR 5.5(a)(2))

12. PAYROLLS AND BASIC RECORDS.

- a. Payrolls and basic records relating thereto will be maintained during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records will contain the name and address of each such employee, his correct classification, rates of pay (including rates of contributions or costs anticipated of the types described in section 1(b)(2) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found, under 29 CFR 5.5(a)(1)(iv) (see subparagraph d of paragraph 10 above), that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits (29 CFR 5.5(a)(3)(i)).
- b. The contractor shall submit weekly a copy of all payrolls to the (insert sponsor's name) who shall transmit them to the FAA when required. The copy shall be accompanied by a statement signed by the employer or his agent indicating that the payrolls are correct and complete, that the wage rates contained therein are not less than those determined by the Secretary of Labor, and that the classifications set forth for each laborer or mechanic conform with the work he performed. A submission of a "Weekly Statement of Compliance" which is required under this contract and the Copeland regulations of the Secretary of Labor (29 CFR Part 3) and the filing with the initial payroll or any subsequent payroll of a copy of any findings by the Secretary of Labor, under 29 CFR 5.5(a)(1)(iv) (see subparagraph d of paragraph 10 above), shall satisfy this requirement. The prime contractor shall be responsible for the submission of copies of payrolls of all subcontractors. The contractor will make the records required under the labor standards clauses of the contract

available for inspection by authorized representatives of the FAA and the Department of Labor and will permit such representatives to interview employees during working hours on the job (29 CFR 5.5(a)(3)(11)).

13. APPRENTICES AND TRAINEES.

- a. Apprentices. Apprentices will be permitted to work as such only when they are registered individually under a bona fide apprenticeship program registered with a state apprenticeship agency which is recognized by the Bureau of Apprenticeship and Training, U.S. Department of Labor; or, if no such recognized agency exists in a State, under a program registered with the Bureau of Apprenticeship and Training, U.S. Department of Labor. The allowable ratio of apprentices to journeymen in any craft classification shall not be greater than the ratio permitted to the contractor as to his entire work force under the registered program. Any employee listed on a payroll at an apprentice wage rate, who is not a trainee as defined in subparagraph b of this paragraph or is not registered as above, shall be paid the wage rate determined by the Secretary of Labor for the classification of work he actually performed. The contractor or subcontractor will be required to furnish to the (insert sponsor's name) written evidence of the registration of his program and apprentices as well as of the appropriate ratios and wage rates for the area of construction prior to using any apprentices on the contract work (29 CFR 5.5(a)(4)).
- b. Trainees. Trainees will be permitted to work as such when they are bona fide trainees employed pursuant to a program approved by the U.S. Department of Labor, Manpower Administration, Bureau of Apprenticeship and Training, and where subparagraph c of this paragraph is applicable in accordance with the provisions of 29 CFR Subtitle A, Part 5a.
- c. Application of 29 CFR Part 5a. On contracts in excess of \$10,000 the employment of all laborers and mechanics, including apprentices and trainees, as defined in 29 CFR 5.2(c) shall also be subject to the provisions of Part 5a. Apprentices and trainees shall be hired in accordance with the requirements of 29 CFR Part 5a.

31 Jan 73

d. The contractor agrees:

- (1) That he will make a diligent effort to hire for the performance of the contract a number of apprentices or trainees, or both, in each occupation, which bears to the average number of the journeymen in that occupation to be employed in the performance of the contract the applicable ratio as determined by the Secretary of Labor;
- (2) That he will assure that 25 percent of such apprentices or trainees in each occupation are in their first year of training, where feasible. Feasibility here involves a consideration of: (a) the availability of training opportunities for first year apprentices, (b) the hazardous nature of the work for beginning workers, (c) excessive unemployment of apprentices in their second and subsequent years of training.
- (3) That during the performance of the contract he will, to the greatest extent possible, employ the number of apprentices or trainees necessary to meet currently the requirements of subparagraphs d(1) and (2) of this paragraph.

- e. The contractor agrees to maintain records of employment by trade of the number of apprentices and trainees, apprentices and trainees by first year of training, and of journeymen, and the wages paid and hours of work of such apprentices, trainees, and journeymen. The contractor agrees to make these records available for inspection upon request of the Department of Labor and the Federal Aviation Administration.
- f. The contractor who claims compliance based on the criterion stated in 29 CFR, 5a4(b), agrees to maintain records of employment, as described in subparagraph e of this paragraph, on non-Federal and nonfederally assisted construction work done during the performance of this contract in the same labor market area. The contractor agrees to make these records available for inspection upon request of the Department of Labor and the Federal Aviation Administration.
- g. The contractor agrees to supply one copy of the written notice required in accordance with 29 CFR, paragraph 5a4(c), at the request of FAA compliance office. The contractor also agrees to supply at three-month intervals, during performance of the contract and after completion of contract performance, a statement describing steps taken toward making a diligent effort and containing a breakdown by craft of hours worked and wages paid for first year apprentices and trainees, other apprentices and trainees, and journeymen. One copy of the statement will be sent to the FAA field office concerned, and one to the Secretary of Labor.

- h. The contractor agrees to insert in any subcontract under this contract, the requirements contained in subparagraphs d, e, f, g, and h of this paragraph. Paragraph 14 shall also be attached to each such contract for the information of the contractor. The term "contractor" as used in such clauses in any subcontract shall mean the subcontractor.
  - i. The provisions of subparagraphs d, e, f, g, and h of this paragraph shall not apply with regard to any contract not in excess of \$10,000 or if the Administrator of the FAA finds it likely that making the contract with the clauses contained in those subparagraphs will prejudice the national security.
14. INFORMATION FOR CONTRACTOR. The following information represents the data required by Part 5a to be included in contracts for the information of contractors.
- a. Criteria for measuring diligent effort. A contractor will be deemed to have made a "diligent effort" as required by 29 CFR Part 5a(3) if during the performance of his contract he accomplishes at least one of the following three objectives:
    - (1) The contractor employs on this project a number of apprentices and trainees by craft as required by the contract clauses in accordance with subparagraph (b) of this paragraph.
    - (2) The contractor employs on all his public and private construction work combined in the labor market area of this project, an average number of apprentices and trainees by craft as required by the contract clauses, at least equal to the ratios established by subparagraph b of this paragraph.
    - (3) Written Notice.
      - (a) Before commencement of work on the project, the contractor if covered by a collective bargaining agreement will give written notice to all joint apprenticeship committees; the local U.S. Employment Security Office; local chapter of Urban League, Workers Defense League, or other local organization concerned with minority employment; and the Bureau of Apprenticeship and Training Representative, U.S. Department of Labor, for the locality. The contractor, if not covered by a collective bargaining agreement will give written notice to all the groups stated above except joint apprenticeship committees; the contractor will also notify all non-joint apprenticeship sponsors in the labor market area.

31 Jan 73

- (b) The notice will include at least the contractor's name and address, the job site address, value of contract, expected starting and completion dates, the estimated average number of employees in each occupation to be employed over the duration of the contract, and a statement of his willingness to employ a number of apprentices and trainees at least equal to the ratios established by subparagraph b.
- (c) The contractor must employ all qualified applicants referred to him through normal channels (such as the Employment Service, the Joint Apprenticeship Committee and, where applicable, minority organizations and apprentice outreach programs who have been delegated this function) at least up to the number of such apprentices and trainees required by the applicable provisions of subparagraph b of this paragraph.

b. Determination of ratios of apprentices or trainees to journeymen. The Secretary of Labor has determined that the applicable ratios of apprentices and trainees to journeymen in any occupation shall be as follows:

- (1) In any occupation the applicable ratio of apprentices and trainees to journeymen shall be equal to the predominant ratio for the occupation in the area where the construction is to be undertaken, set forth in collective bargaining agreements or other employment agreements, and available through the Regional Manager for the Bureau of Apprenticeship and Training for the applicable area.
- (2) For any occupation for which no such ratio is found, the ratio of apprentices and trainees to journeymen shall be determined by the contractor in accordance with the recommendations set forth in the standards of the National Joint Apprentice Committee for the occupation, which are filed with the U.S. Department of Labor's Bureau of Apprenticeship and Training.
- (3) For any occupation for which no such recommendations are found, the ratio of apprentices and trainees to journeymen shall be at least one apprentice or trainee for every five journeymen.

c. Variations, tolerances, and exemptions. Variations, tolerances, and exemptions from any requirement of this part with respect to any contract or subcontract may be granted when such action is necessary and proper in the public interest, or to prevent injustice, or undue hardship. A request for a variation, tolerance, or exemption may be made in writing by any interested person to the Secretary, U. S. Department of Labor, Washington, D.C. 20210.

d. Enforcement.

- (1) The Federal Aviation Administration shall insure that the contract clauses required by 29 CFR Part 5a are inserted in every Federal or federally assisted construction contract subject thereto. For assistance programs for construction work for which the FAA does not contract directly, the FAA shall promulgate regulations and procedures necessary to insure that contracts for the construction work subject to 29 CFR Part 5a will contain the clauses required thereby.
- (2) Enforcement activities, including the investigation of complaints of violations to assure compliance with the requirements of this part, shall be the primary duty of the Federal Aviation Administration. The Department of Labor will coordinate its efforts with the Federal Aviation Administration as may be necessary, to assure consistent enforcement of the requirements of 29 CFR Part 5a. Enforcement of these provisions shall be in accordance with the procedures outlined in 29 CFR Part 5, Paragraph 5.6.

15. EFFECTIVE DATE OF NEW CONTRACT CLAUSES. These provisions shall be applicable to every invitation for bids, and to every negotiation, request for proposals, or request for quotations, for a Federal or federally assisted construction contract, issued after January 30, 1972, and to every such contract entered into on the basis of such invitation or negotiation.
16. COMPLIANCE WITH COPELAND REGULATIONS. The contractor shall comply with the Copeland Regulations (29 CFR Part 3) of the Secretary of Labor which are herein incorporated by reference (29 CFR 5.5(a)(5)).
17. OVERTIME REQUIREMENTS. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any laborer or mechanic in any workweek in which he is employed in such work to work in excess of eight hours in any calendar day or in excess of forty hours in such workweek unless such laborer or mechanic received compensation at a rate not less than one and one-half times his basic rate of pay for all hours worked in excess of eight hours in any calendar day or in excess of forty hours in such workweek, as the case may be (29 CFR 5.5(c)(1)).
18. VIOLATIONS; LIABILITY FOR UNPAID WAGES; LIQUIDATED DAMAGES. In the event of any violation of paragraph 17 of this provision, the contractor and any subcontractor responsible therefor shall be liable to any affected employee for his unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States for liquidated damages.

## Appendix 2

Such liquidated damages shall be computed, with respect to each individual laborer or mechanic employed in violation of said paragraph 17 of this provision, in the sum of \$10 for each calendar day on which such employee was required or permitted to work in excess of eight hours or in excess of the standard workweek of forty hours without payment of the overtime wages required by said paragraph 17 of this provision (29 CFR 5.5(c)(2)).

19. WITHHOLDING FOR UNPAID WAGES AND LIQUIDATED DAMAGES.

- a. The FAA may withhold or cause to be withheld from any moneys payable on account of work performed by the contractor or subcontractor, such sums as may administratively be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in paragraph 18 of this provision (29 CFR 5.5(c)(3)).
- b. In the event of failure or refusal of the contractor or any subcontractor to comply with overtime pay requirements of the Contract Work Hours Standards Act, if the funds withheld by the FAA for the violations are not sufficient to pay fully both the unpaid wages due laborers and mechanics and the liquidated damages due the United States, the available funds shall be used first to compensate the laborers and mechanics for the wages to which they are entitled (or an equitable portion thereof when the funds are not adequate for this purpose); and the balance, if any, shall be used for the payment of liquidated damages (29 CFR 5.14(d)(2)).

20. HEALTH AND SAFETY STANDARDS. It is a condition of this contract, and shall be made a condition of each subcontract entered into pursuant to this contract, that the contractor and any subcontractor shall not require any laborer or mechanic employed in performance of the contract to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health or safety, as determined under construction safety and health standards (Title 29, Code of Federal Regulations, Part 1926) promulgated by the United States Secretary of Labor.

21. SUBCONTRACTS. The contractor will insert in each of his subcontracts the clauses contained in paragraphs 10 through 20 and 22 of this provision and also a clause requiring the subcontractors to include these provisions in any lower tier subcontracts which they may enter into, together with a clause requiring this insertion in any further subcontracts that may in turn be made (29 CFR 5.5(a)(6); 5.5(c)(4)).



22. CONTRACT TERMINATION; DEBARMENT. A breach of paragraphs 10 through 21 may be grounds for termination of the contract. A breach of paragraphs 10 through 16, and 21 may also be grounds for debarment as provided in 29 CFR 5.6 of the Regulations of the Secretary of Labor (29 CFR 5.5(a)(7)).

APPENDIX 3. NOTIFICATION TO BIDDERS OF INCOMPLETE  
PROJECT DETERMINATIONS

Notice to Bidders, Wage Rate Determinations. The wage rate determination of the Secretary of Labor incorporated in the advertised specifications does not include rates for the requested classifications listed below. The bidder is responsible for ascertaining the rates payable for such classifications and whether area practice requires the use of these classifications in accomplishing the work. No inference concerning area practice is to be drawn from their omission. Further, the omission will not, per se, establish any liability for increased labor cost resulting from the use of such classifications. (List classifications for which no wage rates are given.)

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FEDERAL AVIATION ADMINISTRATION  
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