

APPENDIX D

SAMPLE ONE INSTRUCTIONS

U.S. Department of Labor (DOL) Certified Payroll Forms, WH-347

This payroll form addresses the following fact pattern:

- Owner individually performs some Davis-Bacon Act (DBA) laborer or mechanic work and has two employees working for him.
 - Bona fide owners who are exempt pursuant to DOL Fair Labor Standard Act (FLSA) regulations, found at 29 CFR Part 541.101, are not laborers and mechanics and are not subject to the DBA. For an owner to be considered exempt under the FLSA regulations and therefore not subject to the DBA, the owner must own at least a bona fide 20 % equity interest in the enterprise and be actively engaged in its management. Generally, "management" includes, but is not limited to, activities such as interviewing, selecting, and training of employees; setting and adjusting their rates of pay and hours of work; directing the work of employees; maintaining production or sales records for use in supervision or control; appraising employees' productivity and efficiency for the purpose of recommending promotions or other changes in status; handling employee complaints and grievances; disciplining employees; planning the work; determining the techniques to be used; apportioning the work among the employees; determining the type of materials, supplies, machinery, equipment or tools to be used or merchandise to be bought, stocked and sold; controlling the flow and distribution of materials or merchandise and supplies; providing for the safety and security of the employees or the property; planning and controlling the budget; and monitoring or implementing legal compliance measures.
 - The U.S. Department of Energy (DOE) recommends that owners of a business who also perform construction work list themselves on the certified payroll and under the column for "Work Classification" insert the word "owner."
 - See Davis-Bacon Act Compliance: Questions and Answers for the DOE Weatherization Assistance Program (WAP), Davis Bacon and weekly payroll section at http://apps1.eere.energy.gov/weatherization/davis_bacon_faqs.cfm#payroll and FLSA regulation, 29 CFR 541.101 and 541.102 at http://www.dol.gov/DOL/allcfr/ESA/Title_29/Part_541/Subpart_B.htm.
- One of the employees, Ralph Brown, only performed DBA work and worked overtime. The other employee, Jim Dodge, performed both DBA work and non-DBA work but did not work any overtime.
- DBA work is performed in two different counties for different community action agencies by the same contractor.
- The contractor pays (and has always paid) \$16.00 an hour to all employees, a wage rate that is slightly higher than the highest prevailing wage rate of the two counties in which DBA work is performed.
- The contractor's wage rate covers the DBA fringe rate in cash.
- The prevailing wage rates are taken from the weatherization wage determinations created by the U.S. Department of Energy (DOE) which are available at http://apps1.eere.energy.gov/weatherization/dol_wage_determination.cfm.

DOL Prevailing Wage Rates	
Counties	Weatherization Worker
Barnstable	\$13.00 + 1.80
Plymouth	\$14.39 + 1.22

- The addendum shows the exact location where DBA weatherization work is completed in each county and the worker who performed the DBA weatherization work at that location.



U.S. Department of Labor
Employment Standards Administration
Wage and Hour Division

PAYROLL

(For Contractor's Optional Use; See Instructions at www.dol.gov/esa/whd/forms/wh347instr.htm)

Persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Rev. Dec. 2008

NAME OF CONTRACTOR <input checked="" type="checkbox"/> OR SUBCONTRACTOR <input type="checkbox"/> Jack Smith DBA Energy Savers Contractors	ADDRESS 18 Tremont Street Bourne, MA 02532	OMB No.: 1215-0149 Expires: 12/31/2011
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PAYROLL NO. 2	FOR WEEK ENDING 09/18/2009	PROJECT AND LOCATION DOE ARRA WAP; Barnstable County, Plymouth County	PROJECT OR CONTRACT NO. DOE ARRA WAP
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(1) NAME AND INDIVIDUAL IDENTIFYING NUMBER (e.g., LAST FOUR DIGITS OF SOCIAL SECURITY NUMBER) OF WORKER	(2) NO. OF WITHHOLDING EXEMPTIONS	(3) WORK CLASSIFICATION	OT OR ST	(4) DAY AND DATE							(5) TOTAL HOURS	(6) RATE OF PAY	(7) GROSS AMOUNT EARNED	(8) DEDUCTIONS					(9) NET WAGES PAID FOR WEEK			
				Sun	Mon	Tues	Wed	Thurs	Fri	Sat				FICA	WITH- HOLDING TAX	Health	OTHER	TOTAL DEDUCTIONS				
				13	14	15	16	17	18	19				HOURS WORKED EACH DAY								
Jack Smith- 1782	1	Owner	O																			
Ralph Brown- 1345 Barnstable County	1	Weatherization Worker	O			1.00		2.00			3.00	\$24.00	\$712.00					\$20.00	\$30.00	\$40.00	\$90.00	\$622.00
Jim Dodge- 1289 Plymouth County	1	Weatherization 1 Worker	O										\$512.00					\$20.00	\$30.00	\$40.00	\$90.00	\$510.00
	1		P										\$600.00									
	1		S																			

To determine if you are an "owner" as defined by DBA see Sample One Instructions

Overtime

Straight time

DBA Hours Only

Actual hourly rate of pay

Hourly rate of cash paid in lieu of benefits

DBA pay including overtime

TOTAL paycheck for that week including overtime

All deductions must be listed

TOTAL paycheck minus deductions

While completion of Form WH-347 is optional, it is mandatory for covered contractors and subcontractors performing work on Federally financed or assisted construction contracts to respond to the information collection contained in 29 C.F.R. §§ 3.3, 5.5(a). The Copeland Act (40 U.S.C. § 3145) contractors and subcontractors performing work on Federally financed or assisted construction contracts to "furnish weekly a statement with respect to the wages paid each employee during the preceding week." U.S. Department of Labor (DOL) regulations at 29 C.F.R. § 5.5(a)(3)(ii) require contractors to submit weekly a copy of all payrolls to the Federal agency contracting for or financing the construction project, accompanied by a signed "Statement of Compliance" indicating that the payrolls are correct and complete and that each laborer or mechanic has been paid not less than the proper Davis-Bacon prevailing wage rate for the work performed. DOL and federal contracting agencies receiving this information review the information to determine that employees have received legally required wages and fringe benefits.

Public Burden Statement

We estimate that it will take an average of 55 minutes to complete this collection, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. If you have any comments regarding these estimates or any other aspect of this collection, including suggestions for reducing this burden, send them to the Administrator, Wage and Hour Division, ESA, U.S. Department of Labor, Room S3502, 200 Constitution Avenue, N.W. Washington, D.C. 20210

Date 09/23/2009

I, Sam Harrison Payroll Coordinator
(Name of Signatory Party) (Title)

do hereby state:

(1) That I pay or supervise the payment of the persons employed by

Jack Smith DBA Energy Savers Contractors on the
(Contractor or Subcontractor)

DOE ARRA WAP Work; that during the payroll period commencing on the
(Building or Work)

14 day of 9, 2009, and ending the 18 day of 9, 2009,

all persons employed on said project have been paid the full weekly wages earned, that no rebates have been or will be made either directly or indirectly to or on behalf of said

Jack Smith DBA Energy Savers Contractors from the full
(Contractor or Subcontractor)

weekly wages earned by any person and that no deductions have been made either directly or indirectly from the full wages earned by any person, other than permissible deductions as defined in Regulations, Part 3 (29 C.F.R. Subtitle A), issued by the Secretary of Labor under the Copeland Act, as amended (48 Stat. 948, 63 Stat. 108, 72 Stat. 967; 76 Stat. 357; 40 U.S.C. § 3145), and described below:

See deductions column in payroll form.

(2) That any payrolls otherwise under this contract required to be submitted for the above period are correct and complete; that the wage rates for laborers or mechanics contained therein are not less than the applicable wage rates contained in any wage determination incorporated into the contract; that the classifications set forth therein for each laborer or mechanic conform with the work he performed.

(3) That any apprentices employed in the above period are duly registered in a bona fide apprenticeship program registered with a State apprenticeship agency recognized by the Bureau of Apprenticeship and Training, United States Department of Labor, or if no such recognized agency exists in a State, are registered with the Bureau of Apprenticeship and Training, United States Department of Labor.

(4) That:

(a) WHERE FRINGE BENEFITS ARE PAID TO APPROVED PLANS, FUNDS, OR PROGRAMS

- in addition to the basic hourly wage rates paid to each laborer or mechanic listed in the above referenced payroll, payments of fringe benefits as listed in the contract have been or will be made to appropriate programs for the benefit of such employees, except as noted in section 4(c) below.

(b) WHERE FRINGE BENEFITS ARE PAID IN CASH

- Each laborer or mechanic listed in the above referenced payroll has been paid, as indicated on the payroll, an amount not less than the sum of the applicable basic hourly wage rate plus the amount of the required fringe benefits as listed in the contract, except as noted in section 4(c) below.

(c) EXCEPTIONS

EXCEPTION (CRAFT)	EXPLANATION

REMARKS:

NAME AND TITLE <u>Sam Harrison, Payroll Coordinator</u>	SIGNATURE
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THE WILLFUL FALSIFICATION OF ANY OF THE ABOVE STATEMENTS MAY SUBJECT THE CONTRACTOR OR SUBCONTRACTOR TO CIVIL OR CRIMINAL PROSECUTION. SEE SECTION 1001 OF TITLE 18 AND SECTION 231 OF TITLE 31 OF THE UNITED STATES CODE.

Addendum to Certified Payroll Form WH-347

*Only include time spent on work funded by the American Recovery and Reinvestment Act of 2009 for which Davis-Bacon Act (DBA) prevailing wages are paid.

DATE	WORK SITE ADDRESS	WAP AGENCY	EMPLOYEE NAME & ID#	DBA* HOURS WORKED	EMPLOYEE NAME & ID#	DBA* HOURS WORKED
9/14/2009	145 Cherry Lane; Bourne	CAA	Ralph Brown, 1345	8		
9/14/2009	237 Magnolia Lane; Bridgewater	CAA	Jim Dodge, 1289	7		
9/15/2009	129 Lewis Lane; Wareham	CAA	Ralph Brown, 1345	9		
9/15/2009	83 Wagon Road; Brockton	CAA	Jim Dodge, 1289	5		
9/16/2009	128 Tremont Street; Sandwich	CAA	Ralph Brown, 1345	8		
9/16/2009	83 Wagon Road; Brockton	CAA	Jim Dodge, 1289	8		
9/17/2009	17 Jolly Drive; Carver	CAA	Ralph Brown, 1345	10		
9/17/2009	22 Oak Drive; Abbingdon	CAA	Jim Dodge, 1289	8		

SAMPLE TWO INSTRUCTIONS

U.S. Department of Labor (DOL) Certified Payroll Forms, WH-347

This payroll form addresses the following fact pattern:

- Owner individually performs some Davis-Bacon Act (DBA) laborer/mechanic work and has two employees working for him.
 - Bona fide owners who are exempt pursuant to DOL Fair Labor Standard Act (FLSA) regulations, found at 29 CFR Part 541.101, are not laborers and mechanics and are not subject to the DBA. For an owner to be considered exempt under the FLSA regulations and therefore not subject to the DBA, the owner must own at least a bona fide 20 % equity interest in the enterprise and be actively engaged in its management. Generally, “management” includes, but is not limited to, activities such as interviewing, selecting, and training of employees; setting and adjusting their rates of pay and hours of work; directing the work of employees; maintaining production or sales records for use in supervision or control; appraising employees' productivity and efficiency for the purpose of recommending promotions or other changes in status; handling employee complaints and grievances; disciplining employees; planning the work; determining the techniques to be used; apportioning the work among the employees; determining the type of materials, supplies, machinery, equipment or tools to be used or merchandise to be bought, stocked and sold; controlling the flow and distribution of materials or merchandise and supplies; providing for the safety and security of the employees or the property; planning and controlling the budget; and monitoring or implementing legal compliance measures.
 - The U.S. Department of Energy (DOE) recommends that owners of a business who also perform construction work list themselves on the certified payroll and under the column for "Work Classification" insert the word "owner."
 - See Davis-Bacon Act Compliance: Questions and Answers for the DOE Weatherization Assistance Program (WAP), Davis Bacon and weekly payroll section at http://apps1.eere.energy.gov/weatherization/davis_bacon_faqs.cfm#payroll and FLSA regulation, 29 CFR 541.101 and 541.102 at http://www.dol.gov/DOL/allcfr/ESA/Title_29/Part_541/Subpart_B.htm.
- DBA work is performed in two different counties for different community action agencies by the same contractor.
- Both workers have performed both DBA and non-DBA work but neither one has worked any overtime.
- Contractor is paying the prevailing wage rate for each county in which DBA work is performed. The rates for the counties addressed in this sample are listed below. These rates are taken from the weatherization wage determinations created by the DOE which are available at http://apps1.eere.energy.gov/weatherization/dol_wage_determination.cfm.

DOL Prevailing Wage Rates		
Counties	Weatherization Worker	Doors & Windows Weatherization Worker
Barnstable	\$13.00 + 1.80	\$17.50 + 1.15
Plymouth	\$14.39 + 1.22	\$19.46 + 2.32

- One of the employees, Ralph Brown, is performing work under two classifications, a “Weatherization Worker” and a “Doors and Windows Weatherization Worker.”
- The actual hourly rate of pay does not cover the additional required DBA fringe benefits.
- The contractor is covering the DBA fringe rate using both cash paid to workers in lieu of the DBA fringe rate and actual fringe benefits paid to workers pursuant to approved plans, funds or programs. For an explanation of an approved plan, fund or program, see CAPLAW’s Fringe Benefit Q&A available at <http://www.caplaw.org/DavisBacon/FINAL%20APPENDICIES/Appendix%20E%20--%20Fringe%20Benefit%20Q&A%20and%20Permitted%20Deductions.pdf>.

- The addendum shows the exact location where DBA weatherization work is completed in each county and the worker who performed the DBA weatherization work at that location.

CAPLAW SAMPLE TWO

U.S. Department of Labor
Employment Standards Administration
Wage and Hour Division

PAYROLL

(For Contractor's Optional Use; See Instructions at www.dol.gov/esa/whd/forms/wh347instr.htm)



Rev. Dec. 2008

Persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

OMB No.: 1215-0149
Expires: 12/31/2011

NAME OF CONTRACTOR Jack Smith DBA Energy Savers Contractors	OR SUBCONTRACTOR <input type="checkbox"/>	ADDRESS 18 Tremont Street Bourne, MA 02532	OMB No.: 1215-0149 Expires: 12/31/2011
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PAYROLL NO. 2	FOR WEEK ENDING 09/18/2009	PROJECT AND LOCATION DOE ARRA WAP; Barnstable County; Plymouth County	PROJECT OR CONTRACT NO. DOE ARRA WAP
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(1) NAME AND INDIVIDUAL IDENTIFYING NUMBER (e.g., LAST FOUR DIGITS OF SOCIAL SECURITY NUMBER) OF WORKER	(2) NO. OF WITHHOLDING EXEMPTIONS	(3) WORK CLASSIFICATION	OT OR ST	(4) DAY AND DATE							(5) TOTAL HOURS	(6) RATE OF PAY	(7) GROSS AMOUNT EARNED	(8) DEDUCTIONS					(9) NET WAGES PAID FOR WEEK	
				Sun	Mon	Tues	Wed	Thurs	Fri	Sat				FICA	WITH- HOLDING TAX	Health	OTHER	TOTAL DEDUCTIONS		
				13	14	15	16	17	18	19				HOURS WORKED EACH DAY						
Jack Smith- 1782	1	Owner	O										\$210.00							
			S																	
Ralph Brown- 1345 Barnstable County	1	Weatherization Worker	O										\$650.00							
			S	0.00	4.00	0.00	4.00	0.00	7.00	0.00	15.00	\$13.00			\$20.00	\$40.00	\$50.00			\$110.00
Ralph Brown- 1345 Barnstable County	1	Door and Window Weatherization Worker	O										\$267.75							
			S	0.00	0.00	7.00	0.00	8.00	0.00	0.00	15.00	\$17.50			\$0.35					
Jim Dodge- 1289 Barnstable County	1	Weatherization Worker	O										\$575.00							
			S	0.00	7.00	0.00	8.00	0.00	4.00	0.00	19.00	\$13.00			\$10.00	\$30.00	\$30.00			\$70.00
Jim Dodge- 1289 Plymouth County	1	Weatherization Worker	O										\$192.53							
			S	0.00	0.00	5.00	0.00	8.00	0.00	0.00	13.00	\$14.39			\$0.42					

To determine if you are an "owner" as defined by DBA see Sample Two Instructions

Overtime

Straight time

DBA Hours Only

Actual hourly rate of pay

Hourly rate of cash paid in lieu of benefits

DBA pay including overtime, if any

TOTAL paycheck for that week including overtime, if any

TOTAL paycheck minus deductions

All deductions must be listed

While completion of Form WH-347 is optional, it is mandatory for covered contractors and subcontractors performing work on Federally financed or assisted construction contracts to respond to the information collection contained in 29 C.F.R. §§ 3.3, 5.5(a). The Copeland Act (40 U.S.C. § 3145) contractors and subcontractors performing work on Federally financed or assisted construction contracts to "furnish weekly a statement with respect to the wages paid each employee during the preceding week." U.S. Department of Labor (DOL) regulations at 29 C.F.R. § 5.5(a)(3)(ii) require contractors to submit weekly a copy of all payrolls to the Federal agency contracting for or financing the construction project, accompanied by a signed "Statement of Compliance" indicating that the payrolls are correct and complete and that each laborer or mechanic has been paid not less than the proper Davis-Bacon prevailing wage rate for the work performed. DOL and federal contracting agencies receiving this information review the information to determine that employees have received legally required wages and fringe benefits.

Public Burden Statement

We estimate that it will take an average of 55 minutes to complete this collection, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. If you have any comments regarding these estimates or any other aspect of this collection, including suggestions for reducing this burden, send them to the Administrator, Wage and Hour Division, ESA, U.S. Department of Labor, Room S3502, 200 Constitution Avenue, N.W. Washington, D.C. 20210

Fill in as seen here if covering the DBA fringe rate using both a cash equivalent and a fringe benefit equivalent.

Date 09/23/2009

I, Sam Harrison Payroll Coordinator
 (Name of Signatory Party) (Title)

do hereby state:

(1) That I pay or supervise the payment of the persons employed by
Jack Smith DBA Energy Savers Contractors on the
 (Contractor or Subcontractor)

DOE ARRA WAP Work; that during the payroll period commencing on the
 (Building or Work)
14 day of 9, 2009, and ending the 18 day of 9, 2009,

all persons employed on said project have been paid the full weekly wages earned, that no rebates have been or will be made either directly or indirectly to or on behalf of said

Jack Smith DBA Energy Savers Contractors from the full
 (Contractor or Subcontractor)

weekly wages earned by any person and that no deductions have been made either directly or indirectly from the full wages earned by any person, other than permissible deductions as defined in Regulations, Part 3 (29 C.F.R. Subtitle A), issued by the Secretary of Labor under the Copeland Act, as amended (48 Stat. 948, 63 Stat. 108, 72 Stat. 967; 76 Stat. 357; 40 U.S.C. § 3145), and described below:

See deductions column in payroll form.

(2) That any payrolls otherwise under this contract required to be submitted for the above period are correct and complete; that the wage rates for laborers or mechanics contained therein are not less than the applicable wage rates contained in any wage determination incorporated into the contract; that the classifications set forth therein for each laborer or mechanic conform with the work he performed.

(3) That any apprentices employed in the above period are duly registered in a bona fide apprenticeship program registered with a State apprenticeship agency recognized by the Bureau of Apprenticeship and Training, United States Department of Labor, or if no such recognized agency exists in a State, are registered with the Bureau of Apprenticeship and Training, United States Department of Labor.

(4) That:
 (a) WHERE FRINGE BENEFITS ARE PAID TO APPROVED PLANS, FUNDS, OR PROGRAMS

- in addition to the basic hourly wage rates paid to each laborer or mechanic listed in the above referenced payroll, payments of fringe benefits as listed in the contract have been or will be made to appropriate programs for the benefit of such employees, except as noted in section 4(c) below.

Check if either (1) covering all of the DBA fringe rate with fringe benefits paid on behalf of worker to an approved fund, plan or program OR (2) if, as in this sample, covering the DBA fringe rate using both fringe benefits paid on behalf of worker to an approved fund, plan or program AND cash paid to worker in lieu of.

(b) WHERE FRINGE BENEFITS ARE PAID IN CASH

- Each laborer or mechanic listed in the above referenced payroll has been paid, as indicated on the payroll, an amount not less than the sum of the applicable basic hourly wage rate plus the amount of the required fringe benefits as listed in the contract, except as noted in section 4(c) below.

(c) EXCEPTIONS

EXCEPTION (CRAFT)	EXPLANATION
Ralph Brown fringe benefits as Weatherization Worker for 9/14, 9/16 and 9/18	Cash in lieu \$1.00; benefits equal \$0.80
Ralph Brown fringe benefits as D&W Weatherization Worker for 9/15, 9/17	Cash in lieu \$0.35; benefits equal \$0.80
Jim Dodge fringe benefits as Weatherization Worker for 9/14, 9/16 and 9/18	Cash in lieu \$1.00; benefits equal \$0.80
Jim Dodge fringe benefits as Weatherization Worker for 9/15, 9/17	Cash in lieu \$0.42; benefits equal \$0.80

REMARKS:

NAME AND TITLE <u>Sam Harrison, Payroll Coordinator</u>	SIGNATURE
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THE WILLFUL FALSIFICATION OF ANY OF THE ABOVE STATEMENTS MAY SUBJECT THE CONTRACTOR OR SUBCONTRACTOR TO CIVIL OR CRIMINAL PROSECUTION. SEE SECTION 1001 OF TITLE 18 AND SECTION 231 OF TITLE 31 OF THE UNITED STATES CODE.

Addendum to Certified Payroll Form WH-347

*Only include time spent on work funded by the American Recovery and Reinvestment Act of 2009 for which Davis-Bacon Act (DBA) prevailing wages are paid.

DATE	WORK SITE ADDRESS	WAP AGENCY	EMPLOYEE NAME & ID#	DBA* HOURS WORKED	EMPLOYEE NAME & ID#	DBA* HOURS WORKED
9/14/2009	145 Cherry Lane; Bourne	CAA	Ralph Brown, 1345	4		
			Jim Dodge, 1289	7		
9/15/2009	145 Cherry Lane; Bourne	CAA	Ralph Brown, 1345	7		
9/15/2009	129 Lewis Lane; Wareham	CAA	Jim Dodge, 1289	5		
9/16/2009	128 Tremont Street; Sandwich	CAA	Ralph Brown, 1345	4		
			Jim Dodge, 1289	8		
9/17/2009	128 Tremont Street; Sandwich	CAA	Ralph Brown, 1345	8		
9/17/2009	17 Jolly Drive; Carver	CAA	Jim Dodge, 1289	8		
9/18/2009	154 Dogwood Drive; Bourne	CAA	Ralph Brown, 1345	7		
			Jim Dodge, 1289	4		

SAMPLE THREE INSTRUCTIONS

U.S. Department of Labor (DOL) Certified Payroll Forms, WH-347

This payroll form addresses the following fact pattern:

- DBA work is performed in two different counties for different community action agencies by the same contractor.
- Contractor is paying the prevailing wage rate for each county in which DBA work is performed. The rates for the counties addressed in this sample are listed below. These rates are taken from the weatherization wage determinations created by the DOE which are available at http://apps1.eere.energy.gov/weatherization/dol_wage_determination.cfm.

DOL Prevailing Wage Rates		
Counties	Weatherization Worker	Doors & Windows Weatherization Worker
Barnstable	\$13.00 + 1.80	\$17.50 + 1.15
Plymouth	\$14.39 + 1.22	\$19.46 + 2.32

- The actual hourly rate of pay does not cover the additional required DBA fringe benefits.
- The contractor is covering the DBA fringe rate using both cash paid to workers in lieu of the DBA fringe rate and actual fringe benefits paid to workers pursuant to approved plans, funds or programs. For an explanation of an approved plan, fund or program, see CAPLAW’s Fringe Benefit Q&A available at <http://www.capl原因.org/DavisBacon/FINAL%20APPENDICIES/Appendix%20E%20--%20Fringe%20Benefit%20Q&A%20and%20Permitted%20Deductions.pdf>.
- Ralph Brown worked a total of 45 DBA hours. As a result, he has worked 5 overtime hours pursuant to the Contract Work Hours and Safety Standards Act (CWHSSA) and must receive time and a half. Ralph’s rate of pay, excluding the overtime rate of pay, for the time he worked is:

Type of Work	Rate of Pay	Hours Worked
DBA weatherization work in Barnstable county	\$13.00	40 hrs

Overtime rate of pay is determined pursuant to the Fair Labor Standard Act (FLSA) regulations and equals time and a half. For DBA hours worked, the fringe rate is included in the overtime rate by not in the calculation of the ½ as shown here:

Type of Work	Hourly Rate of Pay	½ of Regular Rate	Overtime Hourly Rate of Pay
DBA weatherization work in Barnstable County	\$13.00 +	(\$13.00 X ½) =	\$19.50

- The Gross Amount Earned including overtime should be calculated as shown here:

Total Hours Worked including Overtime	Prevailing Wage Rate (includes the DBA fringe rate paid in cash because the DBA fringe rate must be paid for the regular overtime hours – see note below)	Total Pay at Standard Rate (including cash in lieu) for all hours worked	½ of Regular Rate X Overtime Hours	Gross Amount Earned
45 hours X	(\$13.00 + 1.00) =	\$630.00 +	(\$13.00 X ½ X 5) =	\$662.50

Note: As mentioned above, the DBA requires that fringes be paid for all time worked. However, the fringe rate is not included in the calculation of the regular rate/overtime premium.

Note: The “regular rate” for overtime calculations must always be equal to or more than the DBA wage rate. Thus, if the contractor’s wage rate is \$12.00 an hour and he is meeting the DBA wage rate for Barnstable County with excess fringe benefits equal to \$2.80 per hour, then, when calculating the overtime pay rate and premium, the contractor must use the DBA wage rate of \$13.00 an hour, rather than the \$12.00 which he pays in cash.

- The addendum shows the exact location where DBA weatherization work is completed in each county and the worker who performed the DBA weatherization work at that location.

CAPLAW SAMPLE THREE



U.S. Department of Labor
Employment Standards Administration
Wage and Hour Division

PAYROLL

(For Contractor's Optional Use; See Instructions at www.dol.gov/esa/whd/forms/wh347instr.htm)

Persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Rev. Dec. 2008

NAME OF CONTRACTOR OR SUBCONTRACTOR Jack Smith DBA Energy Savers Contractors	ADDRESS 18 Tremont Street Bourne, MA 02532
OMB No.: 1215-0149 Expires: 12/31/2011	

PAYROLL NO. 2	FOR WEEK ENDING 09/18/2009	PROJECT AND LOCATION DOE ARRA WAP; Barnstable County; Plymouth County	PROJECT OR CONTRACT NO. DOE ARRA WAP
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(1) NAME AND INDIVIDUAL IDENTIFYING NUMBER (e.g., LAST FOUR DIGITS OF SOCIAL SECURITY NUMBER) OF WORKER	(2) NO. OF WITHHOLDING EXEMPTIONS	(3) WORK CLASSIFICATION	OT OR ST	(4) DAY AND DATE							(5) TOTAL HOURS	(6) RATE OF PAY	(7) GROSS AMOUNT EARNED	(8) DEDUCTIONS					(9) NET WAGES PAID FOR WEEK					
				Sun	Mon	Tues	weds	Thurs	Fri	Sat				FICA	WITH- HOLDING TAX	HEALTH	OTHER	TOTAL DEDUCTIONS						
				13	14	15	16	17	18	19				HOURS WORKED EACH DAY										
Ralph Brown- 1345 Barnstable County	1	Weatherization Worker	O			3.00		2.00				5.00	\$19.50	\$662.50										
			S		8.00	8.00	8.00	8.00	8.00	8.00				40.00	\$13.00	1.00	\$662.50	\$20.00	\$40.00	\$50.00			\$110.00	\$552.50
Jim Dodge- 1289 Plymouth County	1	Weatherization Worker	O											\$592.40										
			S		8.00	8.00	8.00	8.00	8.00	8.00				40.00	\$14.81	0.42	\$592.40	\$10.00	\$30.00	\$30.00			\$70.00	\$522.40
			O																					
			S																					
			O																					
			S																					
			O																					
			S																					
			O																					
			S																					

See Instructions for how to calculate overtime rate of pay

All deductions must be listed

DBA hours only

Actual rate of pay

Hourly rate of cash pay in lieu of benefits

DBA pay including overtime, if any

Total paycheck for that week including overtime

Total paycheck minus deductions

Overtime

Straighttime

While completion of Form WH-347 is optional, it is mandatory for covered contractors and subcontractors performing work on Federally financed or assisted construction contracts to respond to the information collection contained in 29 C.F.R. §§ 3.3, 5.5(a). The Copeland Act (40 U.S.C. § 3145) contractors and subcontractors performing work on Federally financed or assisted construction contracts to "furnish weekly a statement with respect to the wages paid each employee during the preceding week." U.S. Department of Labor (DOL) regulations at 29 C.F.R. § 5.5(a)(3)(ii) require contractors to submit weekly a copy of all payrolls to the Federal agency contracting for or financing the construction project, accompanied by a signed "Statement of Compliance" indicating that the payrolls are correct and complete and that each laborer or mechanic has been paid not less than the proper Davis-Bacon prevailing wage rate for the work performed. DOL and federal contracting agencies receiving this information review the information to determine that employees have received legally required wages and fringe benefits.

Public Burden Statement

We estimate that it will take an average of 55 minutes to complete this collection, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. If you have any comments regarding these estimates or any other aspect of this collection, including suggestions for reducing this burden, send them to the Administrator, Wage and Hour Division, ESA, U.S. Department of Labor, Room S3502, 200 Constitution Avenue, N.W. Washington, D.C. 20210

Date 09/23/2009

I, Sam Harrison Payroll Coordinator
(Name of Signatory Party) (Title)

do hereby state:

(1) That I pay or supervise the payment of the persons employed by

Jack Smith DBA Energy Savers Contractors on the
(Contractor or Subcontractor)

DOE ARRA WAP Work; that during the payroll period commencing on the
(Building or Work)

14 day of 9, 2009, and ending the 18 day of 9, 2009,

all persons employed on said project have been paid the full weekly wages earned, that no rebates have been or will be made either directly or indirectly to or on behalf of said

Jack Smith DBA Energy Savers Contractors from the full
(Contractor or Subcontractor)

weekly wages earned by any person and that no deductions have been made either directly or indirectly from the full wages earned by any person, other than permissible deductions as defined in Regulations, Part 3 (29 C.F.R. Subtitle A), issued by the Secretary of Labor under the Copeland Act, as amended (48 Stat. 948, 63 Stat. 108, 72 Stat. 967; 76 Stat. 357; 40 U.S.C. § 3145), and described below:

See deductions column in payroll form.

(2) That any payrolls otherwise under this contract required to be submitted for the above period are correct and complete; that the wage rates for laborers or mechanics contained therein are not less than the applicable wage rates contained in any wage determination incorporated into the contract; that the classifications set forth therein for each laborer or mechanic conform with the work he performed.

(3) That any apprentices employed in the above period are duly registered in a bona fide apprenticeship program registered with a State apprenticeship agency recognized by the Bureau of Apprenticeship and Training, United States Department of Labor, or if no such recognized agency exists in a State, are registered with the Bureau of Apprenticeship and Training, United States Department of Labor.

(4) That:

(a) WHERE FRINGE BENEFITS ARE PAID TO APPROVED PLANS, FUNDS, OR PROGRAMS

- in addition to the basic hourly wage rates paid to each laborer or mechanic listed in the above referenced payroll, payments of fringe benefits as listed in the contract have been or will be made to appropriate programs for the benefit of such employees, except as noted in section 4(c) below.

Check if either (1) covering all of the DBA fringe rate with a fringe benefit equivalent paid to an approved fund, plan or program OR (2) if, as in this sample, covering the DBA fringe rate using both a fringe benefit equivalent paid to an approved fund, plan or program AND cash in lieu of the DBA fringe rate.

(b) WHERE FRINGE BENEFITS ARE PAID IN CASH

- Each laborer or mechanic listed in the above referenced payroll has been paid, as indicated on the payroll, an amount not less than the sum of the applicable basic hourly wage rate plus the amount of the required fringe benefits as listed in the contract, except as noted in section 4(c) below.

(c) EXCEPTIONS

EXCEPTION (CRAFT)	EXPLANATION
Ralph Brown fringe benefits as weatherization worker for 9/14-9/18	Cash in lieu \$1.00; benefits equivalent \$0.80
Jim Dodge fringe benefits as weatherization worker for 9/14-9/18	Cash in lieu \$.42; benefits equivalent \$0.80

REMARKS:

NAME AND TITLE <u>Sam Harrison, Payroll Coordinator</u>	SIGNATURE
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THE WILLFUL FALSIFICATION OF ANY OF THE ABOVE STATEMENTS MAY SUBJECT THE CONTRACTOR OR SUBCONTRACTOR TO CIVIL OR CRIMINAL PROSECUTION. SEE SECTION 1001 OF TITLE 18 AND SECTION 231 OF TITLE 31 OF THE UNITED STATES CODE.

Addendum to Certified Payroll Form WH-347

*Only include time spent on work funded by the American Recovery and Reinvestment Act of 2009 for which Davis-Bacon Act (DBA) prevailing wages are paid.

DATE	WORK SITE ADDRESS	WAP AGENCY	EMPLOYEE NAME & ID#	DBA* HOURS WORKED	EMPLOYEE NAME & ID#	DBA* HOURS WORKED
9/14/2009	145 Cherry Lane; Bourne	CAA	Ralph Brown, 1345	8		
9/14/2009	129 Lewis Lane; Wareham	CAA	Jim Dodge, 1289	8		
9/15/2009	145 Cherry Lane; Bourne	CAA	Ralph Brown, 1345	11		
9/15/2009	129 Lewis Lane; Wareham	CAA	Jim Dodge, 1289	8		
9/16/2009	128 Tremont Street; Sandwich	CAA	Ralph Brown, 1345	8		
9/16/2009	25 Boone Trail; Wareham	CAA	Jim Dodge, 1289	8		
9/17/2009	128 Tremont Street; Sandwich	CAA	Ralph Brown, 1345	10		
9/17/2009	17 Jolly Drive; Carver	CAA	Jim Dodge, 1289	8		

SAMPLE FOUR INSTRUCTIONS

U.S. Department of Labor (DOL) Certified Payroll Forms, WH-347

This payroll form addresses the following fact pattern:

- DBA work is performed in two different counties for different community action agencies by the same contractor.
- Contractor is paying the prevailing wage rate for each county in which DBA work is performed. The rates for the counties addressed in this sample are listed below. These rates are taken from the weatherization wage determinations created by the DOE which are available at http://apps1.eere.energy.gov/weatherization/dol_wage_determination.cfm.

DOL Prevailing Wage Rates		
Counties	Weatherization Worker	Doors & Windows Weatherization Worker
Barnstable	\$13.00 + 1.80	\$17.50 + 1.15
Plymouth	\$14.39 + 1.22	\$19.46 + 2.32

Contractor is paying \$12.00 per hour for all non-DBA work.

- One of the employees, Ralph Brown, is performing work under two classifications, a “Weatherization Worker” and a “Doors and Windows Weatherization Worker.”
- The actual hourly rate of pay does not cover the additional required DBA fringe benefits.
- The contractor is covering the DBA fringe rate using both cash paid to workers in lieu of the DBA fringe rate and actual fringe benefits paid to workers pursuant to approved plans, funds or programs. For an explanation of an approved plan, fund or program, see CAPLAW’s Fringe Benefit Q&A available at <http://www.caplaw.org/DavisBacon/FINAL%20APPENDICIES/Appendix%20E%20--%20Fringe%20Benefit%20Q&A%20and%20Permitted%20Deductions.pdf>.
- Ralph Brown worked a total of 50 hours: 30 DBA hours + 20 non-DBA hours. As a result, he has worked 10 overtime hours. Ralph’s rate of pay, excluding overtime, for the time he worked is:

Type of Work	Rate of Pay	Hours Worked
DBA weatherization work in Barnstable County	\$13.00	15 hrs
DBA doors and windows weatherization work in Barnstable County	\$17.50	15 hrs
Non-DBA work	\$12.00	20 hrs

Overtime rate of pay is determined pursuant to the Fair Labor Standard Act (FLSA) regulations and equals time and a half. The overtime rate of pay is calculated by (1) multiplying the hourly rate of pay by the hours worked at that rate to obtain the total rate of pay; (2) adding the total rate of pay for each set of hours worked to calculate the gross amount earned excluding overtime; (3) dividing the gross amount earned by the total number of hours worked; and (4) multiplying the rate of pay by ½ and adding that ½ to the rate of pay, as shown here:

Type of Work	Hourly Rate of Pay	Hours Worked	Total Rate of Pay
DBA weatherization work in Barnstable County	\$13.00	X 15 hrs =	\$195.00
DBA doors and windows weatherization work in Barnstable County	\$17.50	X 15 hrs =	\$262.50
Non-DBA work	\$12.00	X 20 hrs =	\$240.00
Total Earned Per Regular Rate of Pay			\$697.50

Total Earned Per Regular Rate of Pay	Total Hours Worked	Overtime Hourly Rate of Pay without the ½
\$697.50 ÷	50 =	\$13.95

The ½ for overtime purposes is calculated as follows:

Hourly Rate of Pay		½
\$13.95 X	1/2 =	\$6.98

The overtime hourly rate of pay would be \$13.95 + \$6.98 which equals **\$20.93** and the overtime premium would be 10 hrs X \$20.93 = **\$209.30**.

Thus, in column 6, Rate of Pay, the upper half would be the overtime hourly rate of pay of \$20.93. In column 7, Gross Amount Earned including Overtime, would be calculated as follows:

Total Earned Per Regular Rate of Pay	Overtime ½ X Overtime Hours	Gross Amount Earned including Overtime
\$697.50 +	(\$6.98 X 10) =	\$767.30

- Jim Dodge worked a total of 45 hours: 32 DBA hours and 13 non-DBA hours. As a result, he has worked 5 overtime hours. Jim’s rate of pay, excluding overtime, for the time he worked is:

Type of Work	Rate of Pay	Hours Worked
DBA weatherization work in Barnstable County	\$13.00	19 hrs
DBA weatherization work in Plymouth County	\$14.39	13 hrs
Non-DBA work	\$12.00	13 hrs

Overtime rate of pay is determined pursuant to the Fair Labor Standard Act (FLSA) regulations and equals time and a half. The overtime rate of pay is calculated by (1) multiplying the hourly rate of pay by the hours worked at that rate to obtain the total rate of pay; (2) adding the total rate of pay for each set of hours worked to calculate the gross amount earned excluding overtime; (3) dividing the gross amount earned by the total number of hours worked; and (4) multiplying the rate of pay by ½ and adding that ½ to the rate of pay, as shown here:

Type of Work	Hourly Rate of Pay	Hours Worked	Total Rate of Pay
DBA weatherization work in Barnstable County	\$13.00 X	19 hrs =	\$247.00
DBA weatherization work in Plymouth County	\$14.39 X	13 hrs =	\$187.07
Non-DBA work	\$12.00 X	13 hrs =	\$156.00
Total Earned for Regular Rate of Pay			\$590.07

Gross Amount Earned	Total Hours Worked	Overtime Hourly Rate of Pay without the ½
\$590.07 ÷	45 =	\$13.11

The ½ for overtime purposes is calculated as follows:

Hourly Rate of Pay		½
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$\$13.11 \times$	$1/2 =$	$\$6.56$
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The overtime hourly rate of pay is $\$13.11 + \6.56 which equals **$\$19.67$** and the total overtime amount would be $5 \text{ hrs} \times \$19.67 =$ **$\$98.35$** .

Thus, in column 6, Rate of Pay, the upper half would be the overtime hourly rate of pay of $\$19.67$. In column 7, Gross Amount Earned including Overtime, would be calculated as follows:

Total Earned Per Regular Rate of Pay	Overtime $\frac{1}{2} \times$ Overtime Hours	Gross Amount Earned including Overtime
$\$590.07 +$	$(\$6.56 \times 5) =$	$\\$622.87$

- The addendum shows the exact location where DBA weatherization work is completed in each county and the worker who performed the DBA weatherization work at that location.

Fill in as seen here if covering the DBA fringe rate using both a cash equivalent and a fringe benefit equivalent.

Date 09/23/2009

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 (Name of Signatory Party) (Title)

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 (Contractor or Subcontractor)

DOE ARRA WAP Work; that during the payroll period commencing on the
 (Building or Work)
14 day of 9, 2009, and ending the 18 day of 9, 2009,

all persons employed on said project have been paid the full weekly wages earned, that no rebates have been or will be made either directly or indirectly to or on behalf of said

Jack Smith DBA Energy Savers Contractors from the full
 (Contractor or Subcontractor)

weekly wages earned by any person and that no deductions have been made either directly or indirectly from the full wages earned by any person, other than permissible deductions as defined in Regulations, Part 3 (29 C.F.R. Subtitle A), issued by the Secretary of Labor under the Copeland Act, as amended (48 Stat. 948, 63 Stat. 108, 72 Stat. 967; 76 Stat. 357; 40 U.S.C. § 3145), and described below:

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(c) EXCEPTIONS

EXCEPTION (CRAFT)	EXPLANATION
Ralph Brown fringe benefits as Weatherization Worker for 9/14, 9/16 and 9/18	Cash in lieu \$1.00; benefits equivalent \$0.80
Ralph Brown fringe benefits as D&W Weatherization Worker for 9/15, 9/17	Cash in lieu \$0.35; benefits equivalent \$0.80
Jim Dodge fringe benefits as Weatherization Worker for 9/14, 9/16 and 9/18	Cash in lieu \$1.00; benefits equivalent \$0.80
Jim Dodge fringe benefits as Weatherization Worker for 9/15, 9/17	Cash in lieu \$0.42; benefits equivalent \$0.80

REMARKS:

NAME AND TITLE <u>Sam Harrison, Payroll Coordinator</u>	SIGNATURE
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Addendum to Certified Payroll Form WH-347

*Only include time spent on work funded by the American Recovery and Reinvestment Act of 2009 for which Davis-Bacon Act (DBA) prevailing wages are paid.

DATE	WORK SITE ADDRESS	WAP AGENCY	EMPLOYEE NAME & ID#	DBA* HOURS WORKED	EMPLOYEE NAME & ID#	DBA* HOURS WORKED
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			Jim Dodge, 1289	7		
9/15/2009	145 Cherry Lane; Bourne	CAA	Ralph Brown, 1345	7		
9/15/2009	129 Lewis Lane; Wareham	CAA	Jim Dodge, 1289	5		
9/16/2009	128 Tremont Street; Sandwich	CAA	Ralph Brown, 1345	4		
			Jim Dodge, 1289	8		
9/17/2009	128 Tremont Street; Sandwich	CAA	Ralph Brown, 1345	8		
9/17/2009	17 Jolly Drive; Carver	CAA	Jim Dodge, 1289	8		
9/18/2009	154 Dogwood Drive; Bourne	CAA	Ralph Brown, 1345	7		
			Jim Dodge, 1289	4		