



**SPECIAL PROVISIONS
FOR
REQUIREMENTS FOR COMMUNITY DEVELOPMENT BLOCK GRANT FUNDING**

**Story County
STBG-SWAP-4865(605)--SG-85**

**Effective Date
May 21, 2024**

THE STANDARD SPECIFICATIONS, SERIES 2023, ARE AMENDED BY THE FOLLOWING MODIFICATIONS AND ADDITIONS. THESE ARE SPECIAL PROVISIONS AND THEY SHALL PREVAIL OVER THOSE PUBLISHED IN THE STANDARD SPECIFICATIONS.

This project is to be funded in part by a Community Development Block Grant (CDBG), and is therefore subject to certain labor standards and civil rights requirements included in this Special Provisions. Contractors performing work on the project shall comply with the requirements as enumerated in the applicable statutes and Federal Contract Provisions for CDBG projects. For the purpose of evaluating references to Federal Aid in other Iowa DOT contract documents, this contract is considered non-federal aid and no USDOT/FHWA funding is included in this project. Minimum wage rates to be paid employees have been determined by the U.S. Department of Labor and are listed in the contract documents. The Contractor/subcontractors will be required to comply with the wage and labor requirements and to pay minimum wages in accordance with the schedule of wage rates.

Bidders shall be expected to comply with Chapters 91C Code of Iowa and IAC Chapter 875.150 concerning the registration and bonding of construction contractors and the successful bidder shall be required to supply City of Maxwell with proof of said compliance.

The Contractor will be required enter into a subcontract with each subcontractor performing work on this project and will need to provide a copy of each executed contract to the CDBG Administrator. Each contract shall reference the project, list a detailed scope of work to be performed and list a breakdown of labor, material and/or equipment costs. Each subcontract shall have attached to it all required CDBG contract conditions, provisions, and language (i.e. Section 3 Clause, Required Contract conditions, Federal Labor Contract Provisions, Wage Decision).

The Contractor and all subcontractors must: 1) Be registered with the Iowa Division of Labor; 2) Meet any and all State licensing requirements (electrical, plumbing, mechanical, etc.); and, 3) Be approved by the Iowa Economic Development Authority as not being on the U.S. Department of Housing and Urban Development's or the U.S. Department of Labor's list of debarred or suspended contractors. A completed Contractor Eligibility form needs to be submitted to demonstrate currently registered with Iowa Division of Labor. Said Contractor Eligibility Form shall be submitted to the City of Maxwell prior to the bid deadline as described later in this special provision.

The Contractor shall observe the laws of the State of Iowa with reference to "Occupational Safety and Health Standards".

The City of Maxwell, Iowa, does not discriminate against any person because of race, creed, color, religion, sex, national origin, disability, age, familial status, political affiliation, citizenship or sexual orientation. The City of Spencer, Iowa, does not discriminate on the basis of race, color, national origin, sex, religion, age or disability in employment or the provision of services. The City of Maxwell, Iowa, does not discriminate on the basis of disability in the admission or access to, or treatment or employment in, its programs or activities.

The Contractor will need to complete a Section 3 Business Certification and an Intent to Comply With Section 3 Requirements form and submit it to the City of Spencer prior to the bid deadline as described later in this special provision. All subcontractors will need to complete a Section 3 Business Certification and Intent to Comply with Section 3 Requirements form and submit it to the CDBG Administrator and the City of Spencer prior to being approved as a subcontractor on this project.

Section 3 language for procurement documents and contracts

(This language is to be included in all procurement documents/solicitations and all covered contracts)

A. The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (Section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

B. The parties to this contract agree to comply with HUD's regulations in 24 CFR part 75, which implement Section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 75 regulations.

C. The Contractor agrees to post copies of a notice advising workers of the Contractor's commitments under Section 3 in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

D. The Contractor agrees to provide written notice of employment and contracting opportunities to all known Section 3 Workers and Section 3 Businesses.

E. The Contractor agrees to employ, to the greatest extent feasible, Section 3 workers or provide written justification to the recipient that is consistent with 24 CFR Part 75, describing why it was unable to meet minimum numerical Section 3 worker hours goals, despite its efforts to comply with the provisions of this clause.

F. The Contractor agrees to maintain records documenting Section 3 Workers that were hired to work on previous Section 3 covered projects or activities that were retained by the contractor for subsequent Section 3 covered projects or activities.

G. The Contractor agrees to post contract and job opportunities to the Opportunity Portal and will check the Business Registry for businesses located in the project area.

H. The Contractor agrees to include compliance with Section 3 requirements in every subcontract for Section 3 projects as defined in 24 CFR part 75, and agrees to take appropriate action, as provided in an applicable provision of the subcontract upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 75. The Contractor will not subcontract with any subcontractor where the

contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 75.

I. The Contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the Contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 75 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 75.

J. The Contractor will certify that they have followed prioritization of effort in 24 CFR part 75.19 for all employment and training opportunities. The Contractor will further certify that it meets or exceeds the applicable Section 3 benchmarks, defined in 24 CFR Part 75.23, and if not, shall describe in detail the qualitative efforts it has taken to pursue low- and very low-income persons for economic opportunities.

K. Noncompliance with HUD's regulations in 24 CFR part 75 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

Section 3 Businesses are encouraged to respond to this proposal. A Section 3 business is one that satisfies one of the following requirements:

1. It is at least 51% owned and controlled by low- or very low-income persons;
2. Over 75% of the labor hours performed for the business over the prior 3 month period are performed by Section 3 Workers*; or
3. It is a business at least 51% owned and controlled by current public housing residents or residents who currently live in Section 8-assisted housing.

*-A Section 3 Worker is defined as any worker who currently fits or when hired within the past 5 years fit at least one of the following categories, as documented:

1. The worker's income for the previous or annualized calendar year is below the applicable income limit established by HUD;
2. The worker is employed by a Section 3 business concern; or
3. The worker is a Youth Build participant.

Businesses that believe they meet the Section 3 criteria are encouraged to register as a Section 3 Business through HUD's website: <https://portalapps.hud.gov/Sec3BusReg/BRegistry/RegisterBusiness>

Form to Be Submitted to the City of Maxwell Prior to the bid deadline:

1) Intent to Comply with Section 3 Requirements

The completed form shall be submitted to the City of Maxwell via email or fax transmittal to the contact below. Bid proposals submitted to the Iowa DOT will be considered irregular and will be rejected if form is not received by 9:00 AM on the letting day listed on the proposal.

Email: cityofmaxwell@hotmail.com

phone: 515-387-8655

CDBG Attachments:

- 1) **Required CDBG Contract Provisions**
- 2) **CDBG Labor & Payroll Guidance**
- 3) **Contractors Guide to Davis-Bacon Labor Standards**
- 4) **Required Labor Posters**
- 5) **CDBG Project Sign Detail**

Required Contract Provisions



REQUIRED CONTRACT LANGUAGE AND PROVISIONS

All project contracts shall contain at a minimum the following provisions, as appropriate.

ALL CONTRACTS

1. Access and Maintenance of Records

The contractor must maintain records, including supporting documentation, for three years from closeout of the grant to the state of Iowa.

At any time during normal business hours and as frequently as is deemed necessary, the contractor shall make available to the Iowa Economic Development Authority, the State Auditor, the General Accounting Office, and the Department of Housing and Urban Development, for their examination, all of its records pertaining to all matters covered by this contract and permit these agencies to audit, examine, make excerpts or transcripts from such records, contract, invoices, payrolls, personnel records, conditions of employment, and all other matters covered by this contract.

2. Civil Rights

The Contractor must comply with the following laws and regulations:

- Title VI of the Civil Rights Act of 1964 (P.L. 88-352).
States that no person may be excluded from participation in, denied the benefits of, or subjected to discrimination under any program or activity receiving Federal financial assistance on the basis of race, color, or national origin.
- Title VIII of the Civil Rights Act of 1968 (Fair Housing Act), as amended.
- Federal Executive Order 11063, as amended by Executive Order 12259
Equal Opportunity Housing
- Iowa Civil Rights Act of 1965.
This Act mirrors the Federal Civil Rights Act.
- Section 109 of Title I of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5309).
Provides that no person shall be excluded from participation in, denied the benefits of, or subjected to discrimination on the basis of race, color, national origin, sex, age, or handicap under any program or activity funded in part or in whole under Title I of the Act.
- The Age Discrimination Act of 1975, as amended (42 U.S.C. 1601 et seq.)
Provides that no person on the basis of age, be excluded from participation in, be denied the benefits of or be subjected to discrimination under any program or activity receiving Federal financial assistance.
- Section 504 of the Rehabilitation Act of 1973, as amended (P.L. 93-112, 29 U.S.C. 794).
Provides that no otherwise qualified individual shall solely by reason of his/her handicap be excluded from participation in, be denied the benefits of, or be discriminated against under any program or activity receiving Federal financial assistance.
- Americans with Disabilities Act (P.L. 101-336, 42 U.S.C. 12101-12213)
Provides comprehensive civil rights to individuals with disabilities in the areas of employment, public accommodations, state and local government services, and telecommunications.

- Section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. 1701u).

The purpose of section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) (section 3) is to ensure that employment and other economic opportunities generated by certain HUD financial assistance shall, to the greatest extent feasible, and consistent with existing Federal, State and local laws and regulations, be directed to low- and very low-income persons, particularly those who are recipients of government assistance for housing, and to business concerns which provide economic opportunities to low- and very low-income persons.

3. Termination Clause

All contracts utilizing CDBG funds must contain a termination clause that specifies the following:

- Under what conditions the clause may be imposed.
- The form the termination notice must take (e.g., certified letter).
- The time frame required between the notice of termination and its effective date.
- The method used to compute the final payment(s) to the contractor.

4. Certification regarding government-wide restriction on lobbying.

All contracts utilizing CDBG funds must contain the following certification concerning restriction of lobbying:

"The Recipient certifies, to the best of his or her knowledge and belief, that:

- i. No Federal appropriated funds have been paid or will be paid, by or on behalf of the Recipient, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- ii. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee, or an employee of a Member of congress in connection with this Federal contract, grant, loan, or cooperative agreement, the Recipient shall complete and submit Standard Form-LLL, "Disclosure Form to Report Federal Lobbying" in accordance with its instruction.
- iii. The Recipient shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure."

5. Lead-Safe Housing Regulations (As applicable)

24 CFR Part 35 et. al.

Requirements for Notification, Evaluation and Reduction of Lead-Based Paint Hazards in Federally Owned Residential Properties and Housing Receiving Federal Assistance, Final Rule

6. Recycled Materials

The contractor agrees to comply with all the requirements of Code of Iowa chapter 8A.315-317 and Iowa Administrative Code chapter 11-117.6(5) — Recycled Product and Content which states:

When appropriate, specifications shall include requirements for the use of recovered materials and products.

The specifications shall not restrict the use of alternative materials, exclude recovered materials, or require performance standards that exclude products containing recovered materials unless the subrecipient seeking the product can document that the use of recovered materials will impede the intended use of the product.

7. Notice of Awarding Agency Requirements and Regulations Pertaining to Reporting

The Contractor must provide information as necessary and as requested by the Iowa Economic Development Authority for the purpose of fulfilling all reporting requirements related to the CDBG program.

ALL CONTRACTS IN EXCESS OF \$10,000

Federal Executive Orders 11246 and 11375:

Provides that no one be discriminated in employment.

"During the performance of this contract, the contractor agrees as follows:

- (1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.
- (2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.
- (3) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under Section 202 of the Executive Order No. 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- (4) The contractor will comply with all provisions of Executive Order No. 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- (5) The contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- (6) In the event of the contractor's non-compliance with the nondiscrimination clause of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- (7) The contractor will include the provisions of Paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the contracting agency may direct as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

ALL CONTRACTS IN EXCESS OF \$100,000

Clean Air and Water Acts:

- Section 306 of the Clean Air Acts (42 U.S.C. 1857(h)).
- Section 508 of the Clean Water Act (33 U.S.C. 1368).
- Executive Order 11738. *Providing administration of the Clean Air and Water Acts*

Clean Air and Water Acts - required clauses:

This clause is required in all third party contracts involving projects subject to the Clean Air Act (42 U.S.C. 1857 et seq.), the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), and the regulations of the Environmental Protection Agency with respect to 40 CFR Part 15, as amended. It should also be mentioned in the bid document.

During the performance of this contract, the CONTRACTOR agrees as follows:

- (1) The CONTRACTOR will certify that any facility to be utilized in the performance of any nonexempt contract or subcontract is not listed on the Excluded Party Listing System pursuant to 40 CFR 32.
- (2) The CONTRACTOR agrees to comply with all the requirements of Section 114 of the Clean Air Act, as amended, (42 U.S.C. 1857c-8) and Section 308 of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1318) relating to inspection, monitoring, entry, reports, and information, as well as all other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued thereunder.
- (3) The CONTRACTOR agrees that as a condition for the award of the contract, prompt notice will be given of any notification received from the Director, Office of Federal Activities, Environmental Protection Agency, indicating that a facility utilized or to be utilized for the contract is under consideration to be listed on the Excluded Party Listing System.
- (4) The CONTRACTOR agrees that it will include or cause to be included the criteria and requirements in Paragraph (1) through (4) of this section in every nonexempt subcontract and require every subcontractor to take such action as the Government may direct as a means of enforcing such provisions.

ALL CONSTRUCTION CONTRACTS IN EXCESS OF \$2,000

Federal Labor Standards

In addition to the preceding provisions, all construction contracts in excess of \$2,000 must include the Federal Labor Standards Provisions (verbatim) found in Appendix 2 under Required Contract Provisions. (Housing rehabilitation contracts of less than 8 units are excluded from this requirement.)

Federal Labor Standards Provisions (verbatim) found in Appendix 2, including:

- Davis-Bacon and Related Acts
- Contract Work Hours and Safety Standard Act
- Copeland Anti-kickback Act

Labor Standards



CDBG PROJECT SIGN SPECIFICATIONS

Specifications for CDBG project signs are available on the IEDA website:

Temporary CDBG project sign specifications:

https://www.iowaeda.com/UserDocs/cdbg_projectsign.pdf

Temporary construction sign for jointly funded projects:

https://www.iowaeda.com/UserDocs/cdbg_usda-rd_projectsign.pdf

Public reporting burden for this collection of information is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining data needed, and completing and reviewing the collection of information. The information is considered non-sensitive and does not require special protection. This information is required to obtain benefits. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid OMB control number.

Employers engaged on HUD-assisted construction projects subject to Davis-Bacon wage requirements must pay no less than the wages determined to be prevailing by the Secretary of Labor to all laborers and mechanics engaged on the construction work. On occasion, the applicable Davis-Bacon wage decision does not contain all of the work classifications and wage rates needed to complete the construction work. This information collection facilitates the addition of needed work classifications and wage rates for the construction work involved. This form is used by HUD and local agencies administering HUD programs to report employer request(s) for additional classification and wage rates so that an appropriate wage rate can be approved by the Department of Labor for the construction work. This information collection is required by Department of Labor regulations at 29 CFR 5.5. While no assurances of confidentiality are pledged to respondents, HUD generally discloses these data only in response to a Freedom of Information request.

Instructions

General:

Contractors/Employers: Do not need to complete this form. Submit a written, signed request to the responsible contracting agency naming the work classifications and the wage rates, including any fringe benefits, that are proposed.

Local Agency Staff: Complete items 2 through 10. Submit one copy of this form to the responsible HUD Labor Relations Office with a copy of the applicable Davis-Bacon wage decision and the written request from the employer naming the work classifications and wage rates that are proposed. (The employer’s request must be made in writing and must be signed.)

1. For HUD or State CDBG Office use. Enter the name and address of HUD Office (or State CDBG office) submitting the report and to which the DOL reply should be sent.
2. Enter the name and number of the project or contract involved.
3. Enter the location of the project involved: city, county and state.
4. Describe the construction involved, e.g., new construction or rehabilitation, number and type of buildings, number of stories, number of units (as applicable). For example, new construction: 3 – 4-story buildings; 120 units.
5. Enter the character of construction as defined by DOL for Davis-Bacon prevailing wage rate purposes.
6. Enter the number of the Davis-Bacon wage decision applicable to the construction work. Include the number of wage decision modifications (if any) applicable to the work.
7. Enter the effective date of the wage decision for the project. (See DOL regulations at 29 CFR 1.6.)
8. Enter the work classifications and corresponding hourly basic wage rates and fringe benefit rates (if any) requested.
9. Self-explanatory.
10. If the requesting employer is not the prime contractor, enter the name and address of the subcontractor/employer making the request.

Remainder of Form: HUD Labor Relations/State CDBG use.

HUD Labor Relations/State CDBG Staff: Evaluate the employer’s request against the criteria for approval (see DOL Regulations, 29 CFR Part 5, and related contract labor standards provisions). The criteria are reflected in “checklist” form to ensure that each factor is considered and to ensure that supporting documentation, including a copy of the applicable wage decision, is attached. Check the box next to each criterion that is met; do not check the box next to any criterion that is not met.

If the request meets all criteria, check the appropriate box, enter the name and telephone number of the HUD/State CDBG agency representative, and sign and date the form. Submit one copy of the completed form to the DOL with a copy of the applicable Davis-Bacon wage decision and the written request from the employer involved.

If the request fails to pass all criteria, check the appropriate box, enter agency contact information, and sign and date the form. Submit one copy of the completed form to the DOL with a copy of the applicable Davis-Bacon wage decision, the written request from the employer involved, and a cover letter explaining how the employer’s request failed to meet one or more of the criteria.

Submission of Report

Completed forms shall be sent to: Branch of Construction Wage Determinations
U.S. Department of Labor
200 Constitution Avenue, NW
Room S-3014
Washington, DC 20210

Previous editions are obsolete.

REQUEST FOR CONTRACTOR ELIGIBILITY Use this form for projects prior to 2012

E-mail completed form to: **khristy.smith@iowaeda.com**
 Phone: **515.348.6216**

Requested by: _____
 Address: _____
 Phone: _____ Fax: _____
 Email: _____

Recipient: _____ Contract Number: _____
 Project Address (For Housing Projects Only): _____ IEDA Project Manager: _____

Contractor/Sub-Contractor Name & Address: _____

Type: Prime Sub

MBE: Yes No
WBE: Yes No

- If a MBE/WBE provide Tax ID #: _____
 - If MBE/WBE is a Subcontractor, Include Prime

Owner: _____
 Contractor's
Iowa Contractor Registration #: _____ Tax ID #: _____
Contract \$ Value: _____ **Section 3 (see below):** Yes No
Type of Trade (see below): _____ **Racial Ethnic Code (see below):** _____

If Hispanic Origin, check here:

Number of employees anticipated to be employed on the project: _____
Number of new employees hired (if any) for this project: _____

Contractor/Sub-Contractor Name & Address: _____

Type: Prime Sub

MBE: Yes No
WBE: Yes No

- If a MBE/WBE, provide Tax ID #: _____
 - If MBE/WBE is a Subcontractor, Include Prime

Owner: _____
 Contractor's
Iowa Contractor Registration #: _____ Tax ID #: _____
Contract \$ Value: _____ **Section 3 (see below):** Yes No
Type of Trade (see below): _____ **Racial Ethnic Code (see below):** _____

If Hispanic Origin, check here:

Number of employees anticipated to be employed on the project: _____
Number of new employees hired (if any) for this project: _____

IEDA USE ONLY

This verification of eligibility consists only of a check against the current list of debarred, suspended and ineligible contractors. It is important that other factors be considered in determining overall acceptability of a contractor. See 2 CFR part 200.318.

Verified: Yes No **Signature** _____ **Date** _____

- Type of Trade:**
- | | | | | |
|------------------------|-------------|------------------------|------------------------|------------------------|
| 1 – New Construction | 3 – Repair | 5 – Project Management | 7 – Tenant Services | 9 – Arch/Eng Appraisal |
| 2 – Substantial Rehab. | 4 – Service | 6 – Professional | 8 – Education/Training | 0 – Other |

Section 3:
 A Section 3 contractor/subcontractor is a business concern that is 51% or more owned by Section 3 residents OR whose permanent full time employees include persons, at least 30 percent of whom are currently section 3 residents, or within three years of the date of first employment with the business were section 3 residents; OR That provides evidence of a commitment to subcontract in excess of 25 percent of the dollar award of all subcontracts to be awarded to [businesses](#) that meet at least one of the two previous criteria. Please refer to the CDBG Management Guide for more information on Section 3.

- Racial/Ethnic Codes:**
- | | | | |
|-----------------------------|---|--|-------------------------|
| 11 = White | 14 = American Indian/Alaskan Native | 17 = Asian & White | 20 = Other Multi-Racial |
| 12 = Black/African American | 15 = Native Hawaiian/Other Pacific Islander | 18 = Black/African American & White | |
| 13 = Asian | 16 = American Indian/Alaskan Native & White | 19 = American Indian/Alaskan Native & Black African American | |

Previous editions are obsolete



PAYROLL

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

U.S. Department of Labor
Wage and Hour Division

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 ADDRESS OMB No.: 1235-0008
Expires: 04/30/2021

PAYROLL NO. FOR WEEK ENDING PROJECT AND LOCATION PROJECT OR CONTRACT NO.

(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
				HOURS WORKED EACH DAY										FICA	WITH- HOLDING TAX	OTHER	TOTAL DEDUCTIONS		
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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 a weekly 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 the 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, U.S. Department of Labor, Room S3502, 200 Constitution Avenue, N.W. Washington, D.C. 20210

(over)

Date _____

I, _____, _____
(Name of Signatory Party) (Title)

do hereby state:

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

_____ on the
(Contractor or Subcontractor)

_____ ; that during the period commencing on the
(Building or Work)

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

_____ 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:

(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 and 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 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
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	SIGNATURE

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.

U.S. Department of Labor
Wage and Hour Division
Instructions for Completing Payroll Form, WH-347

General: Form WH-347 has been made available for the convenience of contractors and subcontractors required by their Federal or Federally-aided construction-type contracts and subcontracts to submit weekly payrolls. Properly filled out, this form will satisfy the requirements of Regulations, Parts 3 and 5 (29 C.F.R., Subtitle A), as to payrolls submitted in connection with contracts subject to the Davis-Bacon and related Acts.

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) requires 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.

Under the Davis-Bacon and related Acts, the contractor is required to pay not less than prevailing wage, including fringe benefits, as predetermined by the Department of Labor. The contractor's obligation to pay fringe benefits may be met either by payment of the fringe benefits to bona fide benefit plans, funds or programs or by making payments to the covered workers (laborers and mechanics) as cash in lieu of fringe benefits.

This payroll provides for the contractor to show on the face of the payroll all monies to each worker, whether as basic rates or as cash in lieu of fringe benefits, and provides for the contractor's representation in the statement of compliance on the payroll (as shown on page 2) that he/she is paying for fringe benefits required by the contract and not paid as cash in lieu of fringe benefits. Detailed instructions concerning the preparation of the payroll follow:

Contractor or Subcontractor: Fill in your firm's name and check appropriate box.

Address: Fill in your firm's address.

Payroll No.: Beginning with the number "1", list the payroll number for the submission.

For Week Ending: List the workweek ending date.

Project and Location: Self-explanatory.

Project or Contract No.: Self-explanatory.

Column 1 - Name and Individual Identifying Number of Worker: Enter each worker's full name and an individual identifying number (e.g., last four digits of worker's social security number) on each weekly payroll submitted.

Column 2 - No. of Withholding Exemptions: This column is merely inserted for the employer's convenience and is not a requirement of Regulations, Part 3 and 5.

Column 3 - Work Classifications: List classification descriptive of work actually performed by each laborer or mechanic. Consult classification and minimum wage schedule set forth in contract specifications. If additional classifications are deemed necessary, see Contracting Officer or Agency representative. An individual may be shown as having worked in more than one classification provided an accurate breakdown of hours worked in each classification is maintained and shown on the submitted payroll by use of separate entries.

Column 4 - Hours worked: List the day and date and straight time and overtime hours worked in the applicable boxes. On all contracts subject to the Contract Work Hours Standard Act, enter hours worked in excess of 40 hours a week as "overtime".

Column 5 - Total: Self-explanatory

Column 6 - Rate of Pay (Including Fringe Benefits): In the "straight time" box for each worker, list the actual hourly rate paid for straight time worked, plus cash paid in lieu of fringe benefits paid. When recording the straight time hourly rate, any cash paid in lieu of fringe benefits may be shown separately from the basic rate. For example, "\$12.25/.40" would reflect a \$12.25 base hourly rate plus \$0.40 for fringe benefits. This is of assistance in correctly computing overtime. See "Fringe Benefits" below. When overtime is worked, show the overtime hourly rate paid plus any cash in lieu of fringe benefits paid in the "overtime" box for each worker; otherwise, you may skip this box. See "Fringe Benefits" below. Payment of not less than time and one-half the basic or regular rate paid is required for overtime under the Contract Work Hours Standard Act of 1962 if the prime contract exceeds \$100,000. In addition to paying no less than the predetermined rate for the classification which an individual works, the contractor must pay amounts predetermined as fringe benefits in the wage decision made part of the contract to approved fringe benefit plans, funds or programs or shall pay as cash in lieu of fringe benefits. See "FRINGE BENEFITS" below.

Column 7 - Gross Amount Earned: Enter gross amount earned on this project. If part of a worker's weekly wage was earned on projects other than the project described on this payroll, enter in column 7 first the amount earned on the Federal or Federally assisted project and then the gross amount earned during the week on all projects, thus "\$163.00/\$420.00" would reflect the earnings of a worker who earned \$163.00 on a Federally assisted construction project during a week in which \$420.00 was earned on all work.

Column 8 - Deductions: Five columns are provided for showing deductions made. If more than five deductions are involved, use the first four columns and show the balance deductions under "Other" column; show actual total under "Total Deductions" column; and in the attachment to the payroll describe the deduction(s) contained in the "Other" column. All deductions must be in accordance with the provisions of the Copeland Act Regulations, 29 C.F.R., Part 3. If an individual worked on other jobs in addition to this project, show actual deductions from his/her weekly gross wage, and indicate that deductions are based on his gross wages.

Column 9 - Net Wages Paid for Week: Self-explanatory.

Totals - Space has been left at the bottom of the columns so that totals may be shown if the contractor so desires.

Statement Required by Regulations, Parts 3 and 5: While the "statement of compliance" need not be notarized, the statement (on page 2 of the payroll form) is subject to the penalties provided by 18 U.S.C. § 1001, namely, a fine, possible imprisonment of not more than 5 years, or both. Accordingly, the party signing this statement should have knowledge of the facts represented as true.

Items 1 and 2: Space has been provided between items (1) and (2) of the statement for describing any deductions made. If all deductions made are adequately described in the "Deductions" column above, state "See Deductions column in this payroll." See "FRINGE BENEFITS" below for instructions concerning filling out paragraph 4 of the statement.

Item 4 FRINGE BENEFITS - Contractors who pay all required fringe benefits: If paying all fringe benefits to approved plans, funds, or programs in amounts not less than were determined in the applicable wage decision of the Secretary of Labor, show the basic cash hourly rate and overtime rate paid to each worker on the face of the payroll and check paragraph 4(a) of the statement on page 2 of the WH-347 payroll form to indicate the payment. Note any exceptions in section 4(c).

Contractors who pay no fringe benefits: If not paying all fringe benefits to approved plans, funds, or programs in amounts of at least those that were determined in the applicable wage decision of the Secretary of Labor, pay any remaining fringe benefit amount to each laborer and mechanic and insert in the "straight time" of the "Rate of Pay" column of the payroll an amount not less than the predetermined rate for each classification plus the amount of fringe benefits determined for each classification in the application wage decision. Inasmuch as it is not necessary to pay time and a half on cash paid in lieu of fringe benefits, the overtime rate shall be not less than the sum of the basic predetermined rate, plus the half time premium on basic or regular rate, plus the required cash in lieu of fringe benefits at the straight time rate. In addition, check paragraph 4(b) of the statement on page 2 the payroll form to indicate the payment of fringe benefits in cash directly to the workers. Note any exceptions in section 4(c).

Use of Section 4(c), Exceptions

Any contractor who is making payment to approved plans, funds, or programs in amounts less than the wage determination requires is obliged to pay the deficiency directly to the covered worker as cash in lieu of fringe benefits. Enter any exceptions to section 4(a) or 4(b) in section 4(c). Enter in the Exception column the craft, and enter in the Explanation column the hourly amount paid each worker as cash in lieu of fringe benefits and the hourly amount paid to plans, funds, or programs as fringe benefits. The contractor must pay an amount not less than the predetermined rate plus cash in lieu of fringe benefits as shown in section 4(c) to each such individual for all hours worked (unless otherwise provided by applicable wage determination) on the Federal or Federally assisted project. Enter the rate paid and amount of cash paid in lieu of fringe benefits per hour in column 6 on the payroll. See paragraph on "Contractors who pay no fringe benefits" for computation of overtime rate.

Public Burden Statement: We estimate that it will take an average of 55 minutes to complete this collection of information, 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 of information, 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.

Record of Employee Interview

U.S. Department of Housing and Urban Development Office of Labor Relations

OMB Approval No. 2501-0009
(exp. 01/31/2021)

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid OMB control number. The information is collected to ensure compliance with the Federal labor standards by recording interviews with construction workers. The information collected will assist HUD in the conduct of compliance monitoring; the information will be used to test the veracity of certified payroll reports submitted by the employer. **Sensitive Information.** The information collected on this form is considered sensitive and is protected by the Privacy Act. The Privacy Act requires that these records be maintained with appropriate administrative, technical, and physical safeguards to ensure their security and confidentiality. In addition, these records should be protected against any anticipated threats or hazards to their security or integrity that could result in substantial harm, embarrassment, inconvenience, or unfairness to any individual on whom the information is maintained. **The information collected herein is voluntary, and any information provided shall be kept confidential.**

1a. Project Name			2a. Employee Name		
1b. Project Number			2b. Employee Phone Number (including area code)		
1c. Contractor or Subcontractor (Employer)			2c. Employee Home Address & Zip Code		
			2d. Verification of identification? Yes <input type="checkbox"/> No <input type="checkbox"/>		
3a. How long on this job?	3b. Last date on this job before today?	3c. No. of hours last day on this job?	4a. Hourly rate of pay?	4b. Fringe Benefits?	4c. Pay stub?
				Vacation Yes <input type="checkbox"/> No <input type="checkbox"/> Medical Yes <input type="checkbox"/> No <input type="checkbox"/> Pension Yes <input type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>
5. Your job classification(s) (list all) --- continue on a separate sheet if necessary					
6. Your duties					
7. Tools or equipment used					
8. Are you an apprentice or trainee?		Y <input type="checkbox"/> N <input type="checkbox"/>	10. Are you paid at least time and ½ for all hours worked in excess of 40 in a week?		Y <input type="checkbox"/> N <input type="checkbox"/>
9. Are you paid for all hours worked?		Y <input type="checkbox"/> N <input type="checkbox"/>	11. Have you ever been threatened or coerced into giving up any part of your pay?		Y <input type="checkbox"/> N <input type="checkbox"/>
12a. Employee Signature			12b. Date		
13. Duties observed by the Interviewer (Please be specific.)					
14. Remarks					
15a. Interviewer name (please print)		15b. Signature of Interviewer		15c. Date of interview	

Payroll Examination

16. Remarks	
17a. Signature of Payroll Examiner	17b. Date

Record of Employee Interview	U.S. Department of Housing and Urban Development Office of Labor Relations	OMB Approval No. 2501-0009 (exp. 12/31/2013)
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Instructions:

General:

This form is to be used by HUD and local agency staff for recording information gathered during on-site interviews with laborers and mechanics employed on projects subject to Federal prevailing wage requirements. Typically, the staff that will conduct on-site interviews and use this form are HUD staff and fee construction inspectors, HUD Labor Relations staff, and local agency labor standards contract monitors.

Information recorded on the form HUD-11 is evaluated for general compliance and compared to certified payroll reports submitted by the respective employer. The comparison tests the veracity of the payroll reports and may be critical to the successful conclusion of enforcement actions in the event of labor standards violations. The thoroughness and accuracy of the information gathered during interviews is crucial.

Note that the interview itself and the information collected on the form HUD-11 are considered confidential. Interviews should be conducted individually and privately. All laborers and mechanics employed on the job site must be made available for interview at the interviewer's request. The employee's participation, however, is voluntary. Interviews shall be conducted in a manner and place that are conducive to the purposes of the interview and that cause the least inconvenience to the employer(s) and the employee(s).

Completing the form HUD-11

Items 1a - 1c: Self-explanatory

Items 2a – 2d: Enter the employee's full name, a telephone number where the employee can be reached, and the employee's home address. Many construction workers use a temporary address in the locality of the project and have a more permanent address elsewhere from which mail may be forwarded to them. Obtain a more permanent address, if available. Ask the employee for a form of identification (e.g., driver's license) to verify their name.

Items 3a – 4c: Enter the employee's responses. Ask the employee whether they have a pay stub with them; if so, determine whether the pay stub is consistent with the information provided by the employee.

Items 5 – 7: Be certain that the employee's responses are specific. For example, job classification (#5) must identify the trade involved (e.g., Carpenter, Electrician, Plumber) – responses such as "journeyman" or "mechanic" are not helpful for our purposes.

Items 8 – 12b: Self-explanatory

Items 13 – 15c: These items represent some of the most important information that can be gathered while conducting on-site interviews. Please be specific about the duties you observed the employee performing. It may be easiest to make these observations before initiating the interview. Please record any comments or remarks that may be helpful. For example, if the employee interviewed was working with a crew, how many workers were in the crew? Was the employee evasive?

The level of specificity that is warranted is directly related to the extent to which interview(s) or other observations indicate that there may be violations present. If interviews indicate that there may be underpayments involving a particular trade(s), the interviewer is encouraged to interview as many workers in that trade(s) that are available.

Items 16 – 17b: The information on the form HUD-11 may be reviewed for general compliance, initially. For example, are the job classification and wage rate stated by the employee compatible with the classifications and wage rates on the applicable wage decision? Are the duties observed by the interviewer consistent with the job classification?

Once the corresponding certified payroll reports are received, the information on the HUD-11 shall be compared to the payroll reports. Any discrepancies noted between the HUD-11 information and that on the payroll report shall be noted in Item 16, Remarks. If discrepancies are noted, follow-up actions to resolve the discrepancies must be taken.

Form HUD-11 (08/2004)

Historial de Entrevista del Empleado

Departamento de Vivienda y Desarrollo Urbano de EE.UU.
Oficina de Relaciones Laborales

Aprobación de OMB No. 2501-0009
(exp. 01/31/2021)

Se estima que la tarea de recolección de esta información pública es de aproximadamente 15 minutos por respuesta, incluso el tiempo para examinar instrucciones, buscar fuentes de datos existentes, recopilar y mantener datos necesarios, y completar y examinar la recopilación de la información. Esta agencia no puede recopilar esta información y no se requiere que usted llene este formulario, a menos que éste exhiba un número de control válido de la Oficina de Administración y Presupuesto (OMB, por sus siglas en inglés). La información que se recopila tiene la finalidad de garantizar la conformidad a las normas laborales Federales mediante entrevistas con obreros de construcción. La información recopilada asistirá a HUD a conducir el monitoreo de conformidad; la información se usará para examinar la veracidad de los informes de nómina certificados presentados por el patrón. **Información confidencial.** La información recopilada en este formulario es considerada confidencial y está protegida por la Ley de Privacidad. La Ley de Privacidad requiere que estos archivos se mantengan con salvaguardas administrativas, técnicas, y físicos apropiados para garantizar su seguridad y confidencialidad. Además, estos archivos deberán ser protegidos contra cualquier amenaza anticipada o riesgos a su seguridad o integridad, que podría causar daño sustancial, vergüenza, inconveniencias, o injusticias a cualquier individuo de quien se mantiene la información. **La información recopilada aquí es voluntaria y cualquier información proporcionada será mantenida como confidencial.**

1a. Nombre del proyecto			2a. Nombre del empleado		
1b. Número del proyecto			2b. Número de teléfono del empleado (incluso prefijo local)		
1c. Contratista o subcontratista (Patrón)			2c. Dirección residencial del empleado y código postal		
			2d. ¿Verificación de identificación? Sí <input type="checkbox"/> No <input type="checkbox"/>		
3a. ¿Cuánto tiempo en este trabajo?	3b. ¿Último día en este trabajo antes de hoy?	3c. ¿No. de horas en su último día en este trabajo?	4a. ¿Salario por hora?	4b. ¿Beneficios complementarios? Vacaciones Sí <input type="checkbox"/> No <input type="checkbox"/> Médicos Sí <input type="checkbox"/> No <input type="checkbox"/> Pensión Sí <input type="checkbox"/> No <input type="checkbox"/>	4c. ¿Talonario de paga? Sí <input type="checkbox"/> No <input type="checkbox"/>
5. Clasificación(es) de su trabajo(s) (enumere todas) --- continúe en una página separada si es necesario					
6. Sus deberes					
7. Herramientas o equipo usado					
8. ¿Es aprendiz?		S <input type="checkbox"/> N <input type="checkbox"/>	10. ¿Le pagan al menos tiempo y medio por todas las horas trabajadas superior a 40 horas semanales?		S <input type="checkbox"/> N <input type="checkbox"/>
9. ¿Le pagan todas las horas trabajadas?		S <input type="checkbox"/> N <input type="checkbox"/>	11. ¿Alguna vez ha sido amenazado o coaccionado a entregar parte de su paga?		S <input type="checkbox"/> N <input type="checkbox"/>
12a. Firma del empleado			12b. Fecha		
13. Deberes observados por el entrevistador (Por favor sea específico.)					
14. Comentarios					
15a. Nombre del entrevistador (use letra de imprenta)		15b. Firma del entrevistador		15c. Fecha de la entrevista	

Examinación de Nómina

16. Comentarios	
17a. Firma del examinador de nómina	17b. Fecha

Instrucciones

Generalidades:

Este formulario será utilizado por personal de HUD y agencias locales a fin de anotar toda información recopilada durante las entrevistas en sitio con obreros y mecánicos empleados en proyectos sujetos a requisitos de pago de salario vigente federal. Por lo general, el personal que efectúe entrevistas en sitio y use este formulario será personal de HUD e inspectores de construcción con comisión, personal de la Oficina de Relaciones Laborales de HUD, e inspectores de contratos de la agencia de normas laborales local.

La información recopilada en este formulario HUD-11 es evaluada para su conformidad general y comparada con informes de nóminas certificados presentados por el empleador correspondiente. La comparación examina la veracidad de los informes de nómina y puede ser crítica para la exitosa conclusión de gestiones de cumplimiento en caso de existir violaciones a las normas laborales. La meticulosidad y exactitud de de la información recopilada durante las entrevistas es trascendental.

Tenga en cuenta que tanto la entrevista misma y la información recopilada en el formulario HUD-11 se consideran ser de carácter confidencial. Las entrevistas se deberán efectuar en forma individual y en privado. Todos los trabajadores y mecánicos empleados en el sitio de trabajo deben ser puestos a disposición para las entrevista a petición del entrevistador. Sin embargo, la participación del empleado es voluntaria. Las entrevistas serán conducidas en una manera y lugar que sean conducentes a los objetivos de la entrevista y ocasionen el menor inconveniente al patrón(nes) y empleado(s).

Instrucciones para rellenar el formulario HUD-11

Líneas 1a - 1c: Auto aclaratorio

Líneas 2a – 2d: Anote el nombre completo del empleado, un número telefónico donde se le pueda contactar, y su dirección residencial. Muchos trabajadores de construcción usan una dirección temporal en la localidad del proyecto y tienen una dirección más permanente en algún otro lugar a donde se les puede enviar correspondencia. Si puede, obtenga una dirección más permanente. Pida al empleado algún tipo de identificación (por ej., licencia de conducir) para verificar su nombre.

Líneas 3a – 4c: Anote las respuestas del empleado. Pregunte a los empleados si tienen un talonario de paga con ellos; si no, determine si el talonario de paga concuerda con la información provista por el empleado.

Líneas 5 – 7: Asegúrese de que las respuestas del empleado sean específicas. Por ejemplo, la clasificación de trabajo (#5) debe identificar el tipo de oficio que desempeña (por ej., carpintero, electricista, plomero) – respuestas tales como “jornalero” o “mecánico” no ayudan para nuestros propósitos.

Líneas 8 – 12b: Auto explicatorio

Líneas 13 – 15c: Estos asuntos representan alguna de la información más importante que se puede recopilar durante una entrevista en sitio. Por favor sea específico en cuanto a los deberes que según su observación desempeñó el empleado. Quizás sea más fácil hacer estas observaciones antes de iniciar la entrevista. Por favor anote cualquier comentario que pueda ser de importancia. Por ejemplo, si el empleado entrevistado estaba trabajando con un equipo, ¿cuántos trabajadores tenía el equipo? ¿Se mostraba el empleado evasivo?

El nivel de precisión garantizado está directamente relacionado al grado que la(s) entrevista(s) u otras observaciones pueden indicar que existen posibles violaciones. Si las entrevistas indican que puede haber paga de salario insuficiente relacionado a algún particular oficio (s), se recomienda al entrevistador conducir entrevistas con tantos trabajadores en ese oficio(s) estén disponibles.

Líneas 16 – 17b: Inicialmente, la información en el formulario HUD-11 puede ser examinada para conformidad general. Por ejemplo, ¿está la clasificación de trabajo y el salario declarado por el empleado compatible con las clasificaciones y tasas de salario en la decisión de salario aplicable? ¿Concuerdan los deberes observados por el entrevistador con la clasificación de trabajo?

Una vez se reciben los informes de nómina certificados correspondientes, se hará una comparación de la información anotada en el formulario HUD-11 con los informes de nómina. Cualquier discrepancia entre la información del formulario HUD-11 y la del informe de nómina será anotada en la línea 16, Comentarios. Si se hacen observaciones de discrepancias se deberán tomar pasos de seguimiento para resolver las discrepancias.

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
Office of Labor Relations
FEDERAL LABOR STANDARDS QUESTIONNAIRE

HUD FORM 4730
 OMB Approval Number 2501-0018
 (Exp. 01/31/2024)

We are conducting a review of federal labor standards compliance on the project named below. We are asking for certain information regarding your employment on this project. Sending this questionnaire to you does not imply that your employer has violated any law.

Please respond to all of the questions listed below. Your responses will be considered confidential and will not be released to anyone without your permission. Your answers should refer only to the time during which you worked on this project. Please return the completed form as soon as possible, using the envelope provided, which needs no postage.

If you have any questions, please call:

<i>Employer</i>		Project name, number and location	
1. Your Name		2. Your Job title	
3. When did you work on this project? From: _____ To: _____		4. Where did you work (job site, shop, etc)?	
5. What duties did you perform on this project?			
6. What tools did you use (if any) to perform your duties on the project?			
7. How were you paid? (hourly wage, salary, piece work, etc.)		8. If your wage was based on piece work, how was your pay determined (i.e., \$ per board, per unit, etc.)?	
9. What was your hourly wage on this project? \$	10a. Did you receive fringe benefits? Yes <input type="checkbox"/> No <input type="checkbox"/>	10b. If yes, which fringe benefits did you receive? Vacation <input type="checkbox"/> Medical <input type="checkbox"/> Pension <input type="checkbox"/> Other <input type="checkbox"/> Specify:	
11. On average, how many hours did you work each week?	12. Did you ever work over 40 hours in a single week? Yes <input type="checkbox"/> No <input type="checkbox"/>	13. If you worked over 40 hours per week, did you receive overtime pay (at least 1½ times your regular rate of pay)? Yes <input type="checkbox"/> No <input type="checkbox"/>	14. If you did <u>not</u> receive overtime pay for overtime hours worked, identify the number of weeks in which overtime was worked and/or total overtime hours
15. Attach copies of check stubs or a record of your hours and pay received <input type="checkbox"/> CHECK IF ATTACHED		16. Attach any other comments or statements on separate sheet <input type="checkbox"/> CHECK IF ATTACHED	

HUD-4730 (06/2004) PREVIOUS EDITION IS OBSOLETE

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
Office of Labor Relations
FEDERAL LABOR STANDARDS QUESTIONNAIRE

HUD FORM 4730
 OMB Approval Number 2501-0018
 (Exp. 01/31/2024)

17. Identify other employees (name, address, phone) who worked with you and who could confirm the type of work you performed

18. Identify employees (name, address, phone) you supervised

I affirm that the information provided herein is accurate to the best of my knowledge.

Employee Name (Please print clearly)	Home Phone Number (including area code)
Current address (Include apartment number, if any) (Street/City/State/Zip Code)	Alternate Phone Number(s) (including area code)
Permanent/Alternate Address (if current address is temporary)	Email address
Signature	Date

Disclosure Authorization

I authorize the HUD representative to disclose my name and the information I have submitted to the extent necessary to enforce my rights under the Acts administered by the U.S. Department of Housing and Urban Development.

Signature:	Date:
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Public reporting burden for this collection of information is estimated to average 30 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining data needed, and completing and reviewing the collection of information. The information is considered sensitive and will not be released without your approval. Provision of this is voluntary. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid Office of Management and Budget (OMB) control number.

HUD and local agencies administering HUD-assisted programs must enforce Federal wage and reporting requirements on covered HUD-assisted construction and maintenance work. Enforcement activities include contacting laborers and mechanics and requesting information about their employment on covered projects.

HUD-4730 (06/2004) PREVIOUS EDITION IS OBSOLETE

Estamos llevando a cabo una revisión del cumplimiento con los estándares federales de trabajo en el proyecto mencionado a continuación. Estamos solicitando cierta información concerniente a su empleo en este proyecto. El envío de este cuestionario no implica que su empleador haya violado alguna ley.

Por favor responda a todas las preguntas mencionadas abajo. Sus respuestas se considerarán confidenciales y no se revelarán a nadie sin su permiso. Sus respuestas se deben referir únicamente al tiempo durante el cual usted trabajó en este proyecto. Por favor devuelva el formulario debidamente llenado lo más pronto posible, usando el sobre proporcionado con franqueo pagado.

Si tiene preguntas, por favor llame:

Empleador		Nombre del proyecto, número y ubicación	
1. Su nombre		2. El título de su trabajo	
3. ¿Cuándo trabajó en este proyecto? Desde: Hasta:		4. ¿Dónde trabajó usted (lugar del trabajo, taller, etc.)?	
5. ¿Qué tareas desempeñó en este proyecto?			
6. ¿Qué herramientas usó (si usó alguna) para desempeñar sus tareas en el proyecto?			
7. ¿Cómo se le pagó? (salario por hora, sueldo, trabajo a destajo, etc.)		8. Si su salario era en base a trabajo a destajo, ¿cómo se determinó su pago (esto es, por tabla, por unidad, etc.)?	
9. ¿Cuál era su salario por hora en este proyecto? \$	10a. Recibió usted beneficios adicionales? Sí <input type="checkbox"/> No <input type="checkbox"/>	10b. Si la respuesta es sí, ¿Cuáles beneficios adicionales recibió? Vacaciones <input type="checkbox"/> Seguro médico <input type="checkbox"/> Jubilación <input type="checkbox"/> Otra <input type="checkbox"/> Especifique	
11. En promedio, ¿cuántas horas trabajó usted cada semana?	12. ¿Trabajó usted más de 40 horas en una sola semana? Sí <input type="checkbox"/> No <input type="checkbox"/>	13. Si usted trabajó más de 40 horas por semana, ¿recibió pago por horas extra (por lo menos 1½ veces su tarifa de pago regular)? Sí <input type="checkbox"/> No <input type="checkbox"/>	14. Si usted <u>no</u> recibió pago de sobre tiempo por las horas extra de trabajo, identifique el número de semanas que trabajó horas extra y/o las horas extra
15. Adjunte copias de los talones de cheques o planillas de sus horas y del pago recibido <input type="checkbox"/> MARQUE SI ESTÁN INCLUIDOS		16. Incluya cualquier otro comentario o declaración en una hoja separada <input type="checkbox"/> MARQUE SI ESTÁN INCLUIDOS	

17. Identifique a otros empleados (nombre, dirección, teléfono) que trabajaron con usted y que podrían confirmar el trabajo que usted desempeñó

18. Identifique a los empleados (nombre, dirección, teléfono) que usted supervisó

Afirmo que la información proporcionada aquí es exacta a mi mejor conocimiento.

Nombre del empleado (Por favor escriba claramente en letra de molde)	Número de teléfono de su domicilio (incluya el código de área)
Dirección actual (Incluya el número de apartamento, si se aplica (Calle/Ciudad/Estado/Código Postal)	Número(s) de teléfono alternativos(s) (incluya el código de área)
Dirección permanente/alternativa (si la dirección actual es temporal)	Dirección de correo electrónico
Firma	Fecha

Autorización de Revelación

Autorizo al representante de HUD revelar mi nombre y la información que he presentado, en la medida necesaria para hacer valer mis derechos bajo las Leyes administradas por el Departamento de Vivienda y Desarrollo Urbano de los EE.UU.

Firma:	Fecha:
---------------	---------------

La responsabilidad de informar al público para esta recopilación de información se estima a un promedio de 30 minutos por respuesta, incluyendo el tiempo para revisar las instrucciones, buscar las fuentes de datos existentes, recopilar y mantener los datos necesarios, así como completar y revisar la información recopilada. La información se considera confidencial y no se revelará sin su aprobación. El proporcionarla es voluntario. Esta agencia no puede recopilar información y usted no está obligado a llenar este formulario, a menos que se muestre un número de control actual válido de la Oficina de Administración y Presupuesto (OMB).

HUD y las agencias locales que administran los programas asistidos por HUD deben hacer cumplir los requisitos federales de información y salario en los trabajos de construcción y mantenimiento cubiertos, asistidos por HUD. Las actividades de cumplimiento incluyen contratar obreros y mecánicos y solicitar información sobre sus empleos en proyectos cubiertos.

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
Office of Labor Relations
ON-LINE EMPLOYEE QUESTIONNAIRE

HUD FORM 4730E
OMB Approval No. 2501-0018
(Exp. 02/29/2020)

Many construction projects assisted by the Department of Housing and Urban Development (HUD) are covered by federal labor standards. These standards include the payment of prevailing wage rates as determined by the Secretary of Labor, otherwise known as Davis-Bacon wage rates. In addition, many projects are covered by overtime rules that require the payment of one and one-half times the regular rate of pay for hours worked over 40 in a workweek. Construction workers who are paid less than prevailing wages for the work they perform or who do not receive time and one-half for overtime hours worked may be entitled to wage restitution (back wages). Also, maintenance workers employed at many public and Indian housing projects are covered by prevailing wage rates determined by HUD. Maintenance workers that do not receive prevailing wages or, in some cases, overtime pay, may also be entitled to wage restitution. If you think that you may not have been paid correctly for construction or maintenance work that you performed on a HUD-assisted project, you can complete this questionnaire and submit it to HUD electronically by clicking on the "Submit" button at the end of the form. Or you can print your completed form and mail it to HUD at the following address:

*U.S. Department of HUD
Office of Labor Relations
451 7th Street, SW, Room 2102
Washington, DC 20410*

We will review the information you provide and will let you know if you have been underpaid and, if so, we will work to ensure that you receive any additional wages that you may have earned. Please note that if we believe you have been underpaid, we will probably need to contact you for more information.

Please respond to all of the questions listed below. Your responses will be considered confidential and will not be released to anyone without your permission. Your answers should refer only to the time during which you worked on the HUD-assisted project.

If you have any questions, please contact a HUD Labor Relations Specialist. A list of contact names, addresses, telephone numbers, email addresses and the geographic areas they cover can be found at: www.hud.gov/offices/olr

Employer	Project name, number and location
1. Your Name	2. Your Job title
3. When did you work on this project? From: To:	4. Where did you work (job site, shop, etc.)?
5. What duties did you perform on this project?	
6. What tools (if any) did you use to perform your duties on the project?	
7. How was your wage determined? (hourly wage, salary, piece work, etc.)	8. If your wage was based on piece work, describe how pay was determined (i.e., \$ per board, per unit, etc.)?

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
Office of Labor Relations
ON-LINE EMPLOYEE QUESTIONNAIRE

HUD FORM 4730E
 OMB Approval No. 2501-0018
 (Exp. 02/29/2020)

9a. What was your hourly wage rate on the project? \$		10a. Did you receive fringe benefits? Yes <input type="checkbox"/> No <input type="checkbox"/>		10b. If yes, which fringe benefits? Vacation <input type="checkbox"/> Medical <input type="checkbox"/> Pension <input type="checkbox"/> Specify: Other	
9b. If you know, what was the required prevailing wage for this project? \$					
11. On average, how many hours did you work each week?	12. Did you ever work over 40 hours in a single week? Yes <input type="checkbox"/> No <input type="checkbox"/>	13. If you worked over 40 hours per week, did you receive overtime pay (1½ times your regular rate of pay)? Yes <input type="checkbox"/> No <input type="checkbox"/>	14. If you did not receive overtime pay for overtime hours worked, identify the number of weeks in which overtime was worked and/or total overtime hours		
15. Identify other employees (name, address, phone) who worked with you and who could confirm the type of work you performed					
16. Identify employees (name, address, phone) you supervised					
How may we contact you?					
Current address (Include apartment number, if any) (Street/City/State/Zip Code)				Home Phone Number (including area code)	
Permanent/Alternate Address (if current address is temporary)				Alternate Phone Number(s) (including area code)	
Email address				Cell Phone	
				Date	

Disclosure Authorization

I authorize the HUD representative to disclose my name and the information I have submitted to the extent necessary to enforce my rights under the Acts administered by the U.S. Department of Housing and Urban Development.

Yes No

SUBMIT

PRINT

Public reporting burden for this collection of information is estimated to average 30 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining data needed, and completing and reviewing the collection of information. The information is considered sensitive and will not be released without your approval. Provision of this information is voluntary. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid Office of Management and Budget (OMB) control number.

HUD and local agencies administering HUD-assisted programs must enforce Federal wage and reporting requirements on covered HUD-assisted construction and maintenance work. Enforcement activities include contacting laborers and mechanics and requesting information about their employment on covered projects.

HUD-4730E (6/2004) PREVIOUS EDITION IS OBSOLETE

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
Office of Labor Relations
FEDERAL LABOR STANDARDS COMPLAINT INTAKE FORM

**HUD
FORM
4731**

OMB Approval No.
2501-0018
(Exp. 01/31/2024)

<i>Name of complainant</i>	<i>Social Security Number</i>
<i>Current address of complainant (Street/City/State/Zip Code)</i>	<i>Permanent address, if different from current address</i>
<i>Telephone (including area code) (Home/Cell/Other)</i>	<i>E-Mail address</i>
<i>Project name, location and contract/project number</i>	<i>Prime contractor company name</i>
<i>Employer (company) name</i>	<i>Employer: name of owner/responsible party</i>
<i>Employer address</i>	<i>Employer: contact information (Telephone/Cell/Other)</i>

Check one: Current employee *Period employed on the project*
 Former employee From: _____ To: _____
 Other (specify) _____

Occupation/job title:

Duties performed (be specific)

Tools used and/or equipment operated

Wage Rate: \$ _____ per Hour Day Week Piece Other (specify): _____

Hours usually worked on the project:

<u>Sunday</u>	Monday	Tuesday	Wednesday	Thursd a y	Friday	Satur day

Usual start and stop times Start work time: _____ End work time: _____

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
Office of Labor Relations
FEDERAL LABOR STANDARDS COMPLAINT INTAKE FORM

HUD FORM 4731

OMB Approval No. 2501-0018
 (Exp. 01/31/2024)

Name of complainant	Social Security Number
---------------------	------------------------

	Yes	No		Yes	No
Were meal breaks taken? If yes, how long were the breaks?	<input type="checkbox"/>	<input type="checkbox"/>	Did the employer keep time records?	<input type="checkbox"/>	<input type="checkbox"/>
Paid Overtime (time and ½) after 40 hours?	<input type="checkbox"/>	<input type="checkbox"/>	Did the complainant keep time records?	<input type="checkbox"/>	<input type="checkbox"/>
Paid for all hours worked?	<input type="checkbox"/>	<input type="checkbox"/>	Does complainant have other personal records (pay stubs, log books, etc.) he/she can provide?	<input type="checkbox"/>	<input type="checkbox"/>
Was/is the complainant an Apprentice?	<input type="checkbox"/>	<input type="checkbox"/>	Were fringe benefits paid?	<input type="checkbox"/>	<input type="checkbox"/>

If fringe benefits were paid, check all that apply:

- Cash in lieu of fringe benefits
 Life insurance
 Pension
 Health insurance
 Dental insurance
 Holiday/Sick/Vacation

Identify other fringe benefits paid

Names of others affected by the alleged violation(s)

Names of others who can verify/attest to the complainant's allegations

- Continuation sheets attached
 Complainant's personal interview attached

Complaint taken by:

Name (print clearly)	Phone number (including area code) and E-mail address
Title	Agency, office
Signature	Date

Public reporting burden for this collection of information is estimated to average 30 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining data needed, and completing and reviewing the collection of information. The information is considered sensitive and will not be released without your approval. Provision of this information is voluntary. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid Office of Management and Budget (OMB) control number. HUD and local agencies administering HUD-assisted programs must enforce Federal wage and reporting requirements on covered HUD-assisted construction and maintenance work. Enforcement activities include collecting information from laborers and mechanics and other interested parties regarding information about their employment on covered projects.

LINKS TO JOB SITE POSTERS AND FEDERAL LABOR STANDARDS PROVISIONS

Actual job site posters and Federal Labor Standards provisions will be sent to you along with the wage determination, payroll forms, and other labor materials. These links are provided for your reference.

Job site posters are to be posted prominently at the job site where they can be seen by employees and applicants for employment.

WHD 1321 -- Employee Rights Poster - English

<https://www.dol.gov/whd/regs/compliance/posters/fedprojc.pdf>

WHD 1321 -- Employee Rights Poster – Spanish

<https://www.dol.gov/whd/regs/compliance/posters/davispan.pdf>

OSHA -- Job Safety and Health – It’s The Law – English

<https://www.osha.gov/Publications/osha3165.pdf>

OSHA -- Job Safety and Health – It’s The Law – Spanish

<https://www.osha.gov/Publications/osha3167.pdf>

OFCCP Equal Employment Opportunity Is The Law - English

https://www.eeoc.gov/sites/default/files/migrated_files/employers/eeoc_self_print_poster.pdf

OFCCP Equal Employment Opportunity Is The Law - Spanish

https://www.eeoc.gov/sites/default/files/migrated_files/employers/eeoc_self_print_poster_spanish.pdf

HUD Form 928.1 -- Equal Housing Opportunity - English

<https://www.hud.gov/sites/documents/928.1.PDF>

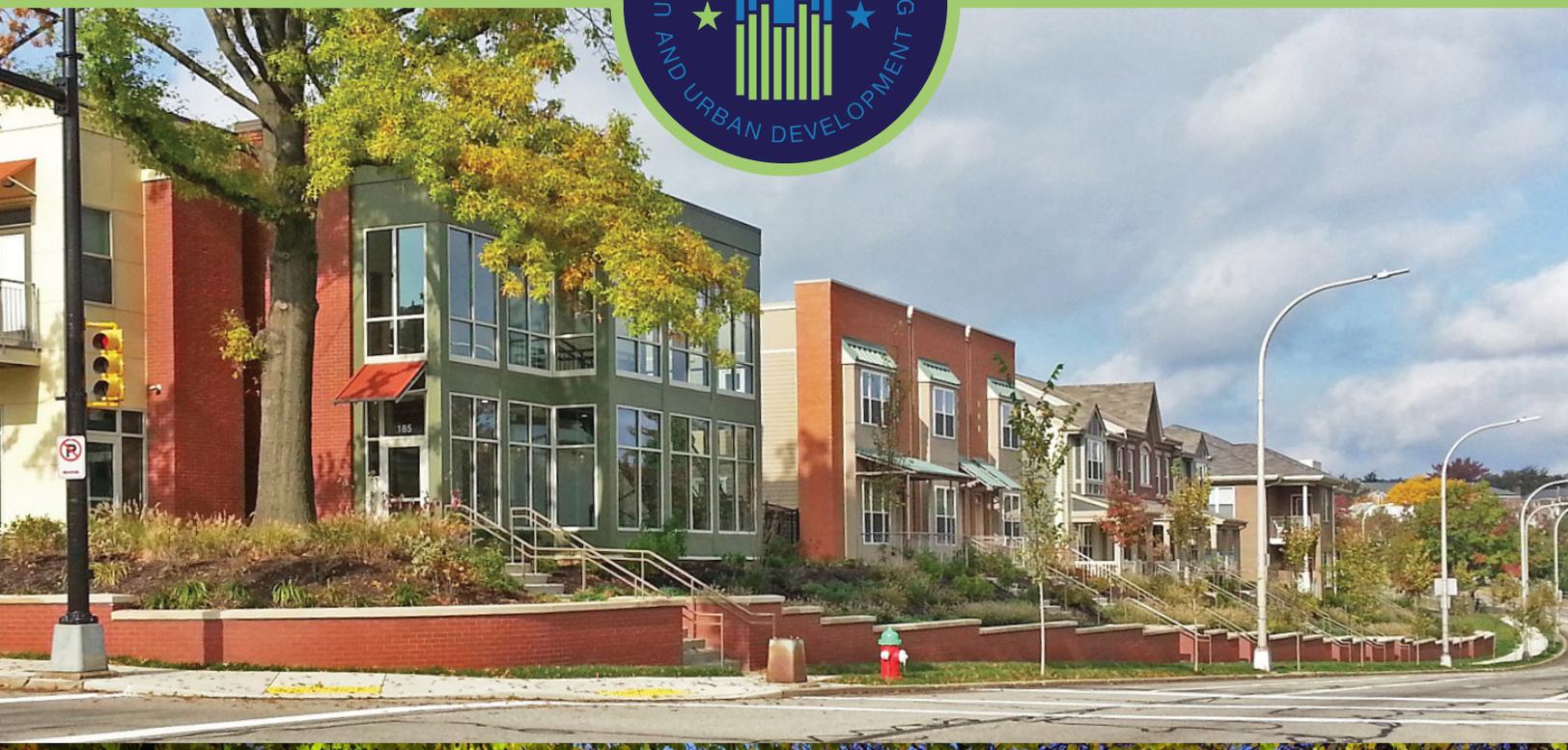
HUD Form 928.1A -- Equal Housing Opportunity - Spanish

<https://www.hud.gov/sites/documents/SPANISH.PDF>

Please note that Federal Labor Standards provisions, in their entirety, must be included with all bid documents and contracts.

HUD-4010 - Federal Labor Standards Provisions

www.hud.gov/sites/dfiles/OCHCO/documents/4010.pdf



DAVIS-BACON AND LABOR STANDARDS AGENCY/CONTRACTOR GUIDE

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INTRODUCTION

This Guide has been developed as part of HUD’s communications strategy with its approximately 5,000 client agencies, and contractors performing work on construction projects that are assisted by the U.S. Department of Housing and Urban Development and subject to Davis-Bacon prevailing wage requirements. This Guide does not address contractor requirements involved in direct Federal contracting where HUD or another Federal agency enters into a procurement contract. While the guidance contained in this Guide is generally applicable to any Davis-Bacon-covered project, specific questions pertaining to direct Federal contracts should be addressed to the Contracting Officer who signed the contract for the Federal agency.

This Guide has been designed to help agencies develop organizational and administrative policies that will enable them to meet labor standards contractual responsibilities in the administration of HUD-assisted programs as efficiently as possible. It is also useful as a training tool and a ready reference for compliance staff. Further, it may be used by contractors to provide further background. While this Guide is intended to address numerous situations, it was not written to cover every possible labor standards issue. If there is a labor standards issue not addressed in this Guide, please contact your local HUD Labor Standards Specialist (LSS). Throughout this Guide, the acronym “LCA” or “LCAs” shall mean state, tribal, and local agencies.

This Guide also provides information to assist with Davis-Bacon labor standards compliance. HUD’s Office of Davis-Bacon and Labor Standards worked with the U.S. Department of Labor’s Wage and Hour Division to ensure that the labor standards provisions required to be incorporated in Davis-Bacon contracts and the specifics of complying with them represent the latest information. The U.S. Department of Labor (DOL) has general administrative oversight of all Federal contracting agencies, such as HUD, which administer the day-to-day responsibilities of enforcing Davis-Bacon provisions in construction contracts they either fund or assist in funding.

This Guide contains five main chapters. The first chapter includes basic DBA definitions that affect every Davis-Bacon-covered project. The second chapter lists the responsibilities of state, tribal, and local contracting agencies that administer HUD programs. The third chapter includes the laws and regulations associated with Federal labor standards administration and enforcement. The fourth chapter describes LCA flexibility for labor standards responsibilities. The fifth and final chapter discusses payroll compliance reviews and corrections.

Finally, not all HUD construction projects are covered by Davis-Bacon wage rates. For the purpose of this Guide, we are assuming that a determination has already been made that Davis-Bacon wage rates are applicable. If you need assistance in determining whether Davis-Bacon wage rates apply to a project or if you need other related technical assistance, please contact the HUD Labor Standards Field staff for your area. If you do not know which staff to contact, a list of Labor Standards field offices with their geographic areas, telephone numbers and email addresses are located on HUD’s Home Page at the address below.

RESOURCE

Visit the Office of Davis Bacon and Labor Standards online:
www.hud.gov/program_offices/davis_bacon_and_labor_standards



KEY LABOR STANDARDS OBJECTIVES OF THE GUIDE

The Office of Davis-Bacon and Labor Standards has identified five Key Labor Standards Objectives—the basics of what must be accomplished in order to protect workers’ rights. We also identified all the policies, procedures, and paperwork at our disposal—what we do ourselves and what we impose on contractors. HUD eliminated superfluous requirements and will not institute policies, procedures, or paperwork that is not required by statute or regulation, or that does not contribute to one or more of the Key Objectives.

Apply Davis-Bacon requirements properly

Make certain that labor standards, including Davis-Bacon prevailing wage rates, are applied where required. Ensure that any exemptions or exceptions are identified.

Through education and advice, support contractor compliance with labor standards

Provide basic training and technical support to contractors to ensure that they understand their obligations under prevailing wage and reporting requirements.

Monitor contractor performance

Perform reviews of certified payroll submissions and other information to help ensure contractor compliance with labor standards provisions and the payment of prevailing wages to workers.

Investigate probable violations and complaints of underpayment

Thoroughly explore any evidence of violations, especially allegations of underpayment.

Pursue debarment and other available sanctions against repeat labor standards violators

Carry out a zero tolerance policy toward contractors who violate prevailing wage laws.

RESOURCE

Program technical guidance

For interpretations of program requirements or handbooks and instructions on the use of forms:

Housing Programs - See our [Contact List](#) for help.



BASIC DBA DEFINITIONS

There are several compliance principles, definitions, and interpretations that affect every Davis-Bacon-covered project.

Responsibilities of employers

All employers (contractors, subcontractors, and any lower-tier subcontractors) are required to pay all laborers and mechanics employed or working on the site of the work unconditionally and not less often than once per week the full amount of wages and bona fide fringe benefits computed at rates not less than those contained in the wage decision. Employers must prepare, certify, and submit weekly payroll reports reflecting all the laborers and mechanics (employees) engaged in construction on the site of the work. Employers may also be required to submit related documentation in order to demonstrate compliance.

Responsibilities of the principal (prime) contractor

The principal contractor (also referred to as the “prime contractor”) is responsible for the full compliance of all employers (itself, subcontractors, and any lower-tier subcontractors) with the labor standards provisions applicable to the project.

Prime contractor

The principal contractor.

Subcontractor

All subcontractors and lower-tier subcontractors.

Employer

Any contractor, subcontractor, or lower-tier subcontractor that has engaged the services of laborers or mechanics on the project.

To make this Guide easier to understand, the term “prime contractor” will mean the principal contractor; “subcontractor” will mean all subcontractors including lower-tier subcontractors; and the term “employer” will mean all contractors as a group, including the prime contractor and any subcontractors and lower-tier subcontractors.

Laborers and mechanics

Those individuals whose duties are manual or physical in nature, including workers who are performing the work of a trade (e.g., electrician). “Laborers” and “mechanics” include apprentices, trainees, helpers, and, for contracts subject to the Contract Work Hours and Safety Standards Act (CWHSSA), watchmen and guards.

Working foremen

Foremen or supervisors that perform construction work and devote more than 20% of their time as a laborer or mechanic are treated, for labor standards purposes, as “laborers” or “mechanics” for their time spent working as a laborer or mechanic.

Exclusions

Persons whose duties are primarily administrative, managerial, or clerical are not laborers or mechanics.

Employee

Every person who performs the work of a laborer or mechanic is “employed” regardless of any contractual relationship that may be alleged to exist between a contractor or subcontractor and such person.

Working subcontractors

Persons who perform the work of laborers or mechanics and who represent themselves to be owners of businesses, sole proprietors, or self-employed are not exempt from prevailing wage requirements. These laborers and mechanics are “employed” and are entitled to the prevailing wage for the type of work they perform, and must be reported on the payroll report for their craft, hours of work, and wages paid. For additional information, see LR-96-01, Labor Standards for Self-Employed Laborers and Mechanics.



Administrative allowances

HUD permits administrative allowances concerning payroll reporting and certification requirements relating to the following:

- Owners of Businesses Working with Their Crew
- Owner/Operators of Power Equipment
- Owner/Operators of Trucks

Apprentice

A person employed and individually registered in a bona fide apprenticeship program. Bona fide programs are those that have been registered with DOL, Employment and Training Administration, Office of Apprenticeship, or with a DOL-recognized State Apprenticeship Agency (SAA). (Note that an SAA must also partner with a State Apprenticeship Council (SAC). The SAC must consist of an equal number of representatives of employer and employee organizations.)

Probationary apprentice

A person in the first 90 days of probationary employment as an apprentice in a bona fide apprenticeship program but who has not yet been formally registered in such program may be considered an “apprentice” provided that DOL or SAC has certified that such person is eligible for probationary employment as an apprentice.

Pre-apprentice

A person who is employed as a “pre-apprentice”—that is, in a preparatory position which may result in registration in an apprenticeship program—is not considered to be an “apprentice.”

Trainee

A person registered and receiving on-the-job training in a construction occupation pursuant to a training program approved in advance by the Office of Apprenticeship Training.

Prevailing wages or wage rates

Davis-Bacon prevailing wage rates generally appear as a basic hourly rate plus fringe benefits, if any. “Prevailing wage” is made up of two interchangeable components: the basic hourly wage, and fringe benefits. The total of the basic hourly wage and fringe benefits comprises the “prevailing wage” obligation. This obligation may be met by any combination of cash wages and creditable “bona fide” fringe benefits provided by the employer. For example:

The Davis-Bacon wage decision requires:

Basic Hourly Rate	\$10.00
Fringe Benefits	\$1.00
Total Prevailing Wage	\$11.00

Employers may comply by paying:

1. \$11.00 in cash wages;
2. \$10.00 plus \$1.00 in bona fide fringe benefits; or
3. Any combination of wages and benefits that totals \$11.00 per hour.



Piece rate/piece work employees

Employees whose earnings are calculated by the amount of work produced (rather than hours worked) must receive no less than the applicable DBRA/MWD (Davis-Bacon and Related Acts/Maintenance Wage Determination) wage rate based upon the hours of work performed. The employer must divide the piece rate earnings by the actual hours worked to determine the “effective” hourly rate. The effective hourly rate must be calculated for each week’s earnings and must be no less than the applicable prevailing wage rate. It does not matter whether the effective hourly rate changes from week to week as long as the result is at least as much as the prevailing wage rate. If the effective hourly rate is less than the applicable prevailing wage rate, the employee must be compensated at the prevailing wage rate for all hours worked.

Fringe benefits

Fringe benefits may include:

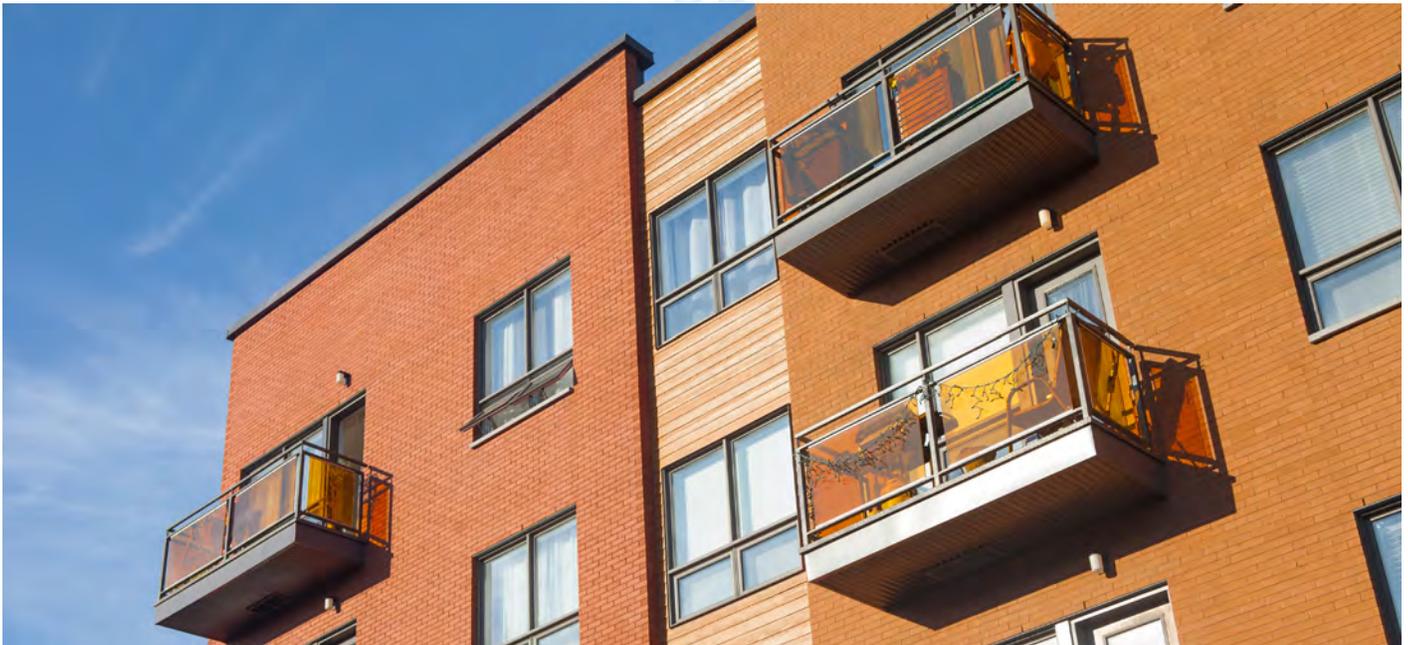
- Sick, vacation, or holiday pay;
- Costs to defray expenses of apprenticeship or similar programs;
- Medical or hospital care;
- Supplemental unemployment benefits;
- Life insurance;
- Pensions on retirement or death;
- Compensation for injuries or illness resulting from occupational activity;
- Other bona fide fringe benefits; or
- Insurance to provide any of the above.

MORE INFO

In addition, fringe benefits may reflect the rate of costs to the employer that may be reasonably anticipated in providing bona fide fringe benefits pursuant to an enforceable commitment to carry out a financially responsible program.

MORE INFO

Fringe benefits do not include employer contributions or payments required by other federal, state, or local law, such as FICA (Federal Insurance Contributions Act), workers’ compensation, or unemployment compensation.



Overtime

Overtime (O/T) hours are defined as all hours worked in excess of 40 hours in any workweek. Where governed by Federal labor standards, O/T hours shall be compensated at not less than one and one-half times the regular rate of basic pay plus the straight-time (S/T) rate of any required fringe benefits.

Deductions

The employer may make payroll deductions as permitted by DOL regulations in 29 CFR Part 3. These regulations prohibit the employer from requiring employees to “kick back” any of their earnings. Deductions may include employee obligations for income taxes, Social Security payments, insurance premiums, retirement contributions, savings accounts, and any other legally permissible deduction authorized by the employee. Deductions may also be made for payments on judgments and other financial obligations legally imposed against the employee (which will require documentation).

Site of work

The “site of work” is limited to the physical place or places where the construction called for in the contract will remain when work on it has been completed. “Site of work” includes other adjacent or nearby properties used by the contractor/subcontractor in the construction of the project (e.g., fabrication sites) provided they are dedicated exclusively

or nearly so to the performance of the contract or project, and are so located in proximity to the actual construction location that it would be reasonable to include them.

Proper designation of trade

Each laborer and mechanic shall be classified in accordance with the work classifications listed on the wage decision and the actual type of work they perform and shall be paid the appropriate wage rate and fringe benefits for the classification regardless of their level of skill. In other words, if someone is performing carpentry work on the project, they must be paid no less than the wage rate on the wage decision for carpenters even if they aren’t considered by the employer to be fully trained as a carpenter. Remember, the only people who can be paid less than the rate for their craft are apprentices and trainees registered in approved programs.

Split classification

Laborers and mechanics that perform work in more than one classification may be compensated at the rate specified for each classification provided that the employer maintains time records that accurately set forth the time spent in each classification in which the work was performed. If accurate time records are not maintained, the employee shall be compensated at the highest of all wage rates for the classifications in which work was performed.





LCA RESPONSIBILITIES

State, tribal, and local contracting agencies (LCAs) that administer HUD programs agree to administer and enforce Davis-Bacon requirements as a condition for receiving HUD program assistance. LCAs have the following responsibilities:

1. Designate appropriate staff (e.g., a Contract Administrator) before the start of construction to ensure compliance with all applicable labor standards requirements and to act for and in liaison with HUD. Provide the name(s) of the staff to the appropriate HUD Field Office of Davis-Bacon and Labor Standards.
2. Establish a construction contract management system that meets the standards of 2 CFR Part 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.
3. Ensure that all bid documents, contracts, and subcontracts contain the applicable Davis-Bacon wage decision and Federal labor standards provisions.
4. Ensure that no contract is awarded to a contractor that is ineligible (e.g., debarred) for Federally-assisted work.
5. Conduct on-site inspections including interviews with laborers and mechanics employed on the construction project. Ensure that the applicable Davis-Bacon wage decision, DOL's Davis-Bacon poster (Form WH-1321), and additional classifications are displayed at the job site.
6. Review certified payroll reports (CPRs) and related documentation. Identify any discrepancies and/or violations. Ensure that any needed corrections are made promptly, including the payment of wage restitution as needed, and the assessment and collection of liquidated damages, as appropriate.
7. Maintain full documentation of Federal labor standards administration and enforcement activities.
8. Refer potential criminal or complex enforcement actions to HUD, in addition to CWHSSA liquidated damages assessments for O/T violations and debarment recommendations.
9. Comply with all HUD requirements concerning statutory, program, and/or other requirements.
10. Prepare Federal labor standards enforcement reports as required in DOL regulations (29 CFR Part 5, § 5.7).



LAWS AND REGULATIONS

The Davis-Bacon Act (DBA)

The DBA, enacted in 1931, applies to contracts in excess of \$2,000 for construction, alteration, and/or repair of public buildings or public works, including painting and decorating, to which the United States or the District of Columbia is a party. This type of applicability is referred to as direct Davis-Bacon Act or DBA coverage. An example of DBA coverage is when HUD contracts directly for repairs to HUD-owned properties. HUD's Office of the Chief Procurement Officer manages these types of contracts. The DBA requires that the advertised specifications for such contracts contain a provision stating that the minimum wages to be paid to various classes of laborers and mechanics must be based upon the wages found to be prevailing by the Secretary of Labor.

Most HUD construction work is not covered by the DBA since HUD does not usually contract directly for construction work. Rather, Davis-Bacon wage rates apply to HUD programs because of prevailing wage requirements expressed in HUD "Related Acts" such as the U. S. Housing Act of 1937 and the Housing and Community Development Act of 1974, as amended. The Related Acts (referred to throughout this Guide as the Davis-Bacon and Related Acts or DBRA) are discussed further in Section 5.9.

The DBA includes provisions that:

1. Require the contractor or subcontractor to pay all mechanics and laborers at least once per week;
2. Prohibit contractors or subcontractors from taking deductions or rebates from wages earned by laborers and mechanics;
3. Require the contractor or subcontractor to pay Davis-Bacon wages to all laborers and mechanics employed on the site of the work regardless of their skill level, and regardless of any contractual relationship alleged to exist between the laborers and mechanics and the contractor or subcontractor;

4. Require the contractor or subcontractor to post the scale of wages to be paid (i.e., the applicable Davis-Bacon wage decision) in a prominent and accessible place at the work site;
5. Define prevailing wages to include fringe benefits;
6. Permit the withholding of payments due to the contractor on account of wage restitution that may be found due to the laborers and mechanics;
7. Permit the payment of wage restitution from amounts withheld from contract payments;
8. Permit the termination of the contract where it is found that any laborer or mechanic is underpaid; and
9. Permit the debarment of persons or firms found to have disregarded their obligations to employees and subcontractors.

The Contract Work Hours and Safety Standards Act (CWHSSA)

The CWHSSA applies to both direct federal contracts and to federally-assisted contracts where those contracts require or involve the employment of laborers and mechanics and where federal wage standards (e.g., Davis-Bacon or HUD-determined prevailing wage rates) are applicable. CWHSSA provisions apply to all laborers and mechanics, including watchmen and guards, employed by any contractor or subcontractor. CWHSSA also applies to maintenance laborers and mechanics employed by contractors or subcontractors engaged in the operation of Public Housing Agencies (PHA), Tribally Designated Housing Entities (TDHE), and Indian Housing Agencies (IHA) developments.

CWHSSA O/T provisions do not apply to laborers and mechanics employed directly by PHAs or IHAs. However, O/T provisions generally apply to these workers under the Fair Labor Standards Act (FLSA). HUD does not have authority to enforce FLSA violations. Refer complaints of FLSA violations to DOL, Wage and Hour Division.

CWHSSA provides that all O/T hours (defined as hours worked in excess of 40 during any workweek on the CWHSSA-covered project site) must be compensated at a rate not less than one and one-half times the regular basic rate of pay. Where CWHSSA O/T provisions are applicable, compensatory time in lieu of premium pay for O/T hours is not permissible. In the event of O/T violations, the CWHSSA renders the contractor liable to the underpaid workers for wage restitution and to the United States Government for liquidated damages computed per person per day at a rate that DOL publishes annually. It is a federal criminal misdemeanor to intentionally violate CWHSSA standards.

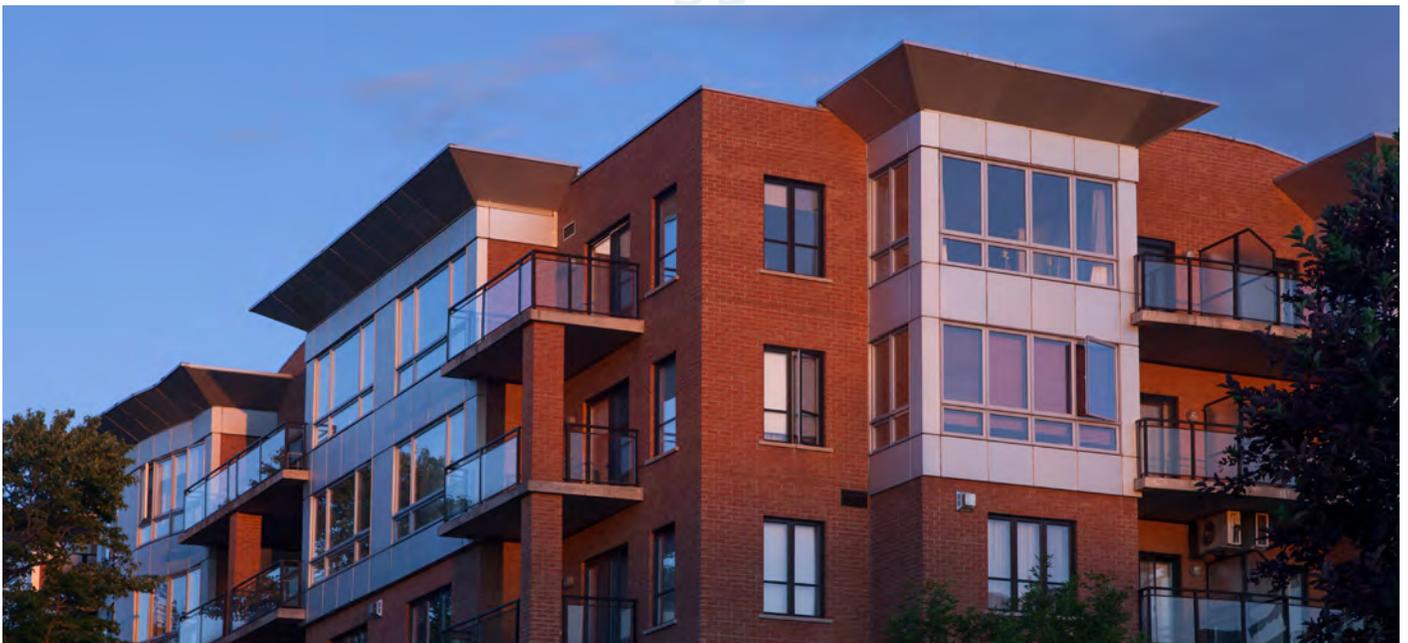
Exemptions:

- CWHSSA O/T provisions do not apply where the federal assistance is only in the nature of a loan guarantee or insurance.
- CWHSSA O/T provisions do not apply to prime contracts of \$100,000 or less.

RESOURCE

DOL posts current fines at:

<https://www.dol.gov/whd/govcontracts/cwhssa.htm#cmp>



The Copeland Act (Anti-Kickback Act)

The Copeland Act concerns three facets of prevailing wage compliance:

1. The “anti-kickback” provision prohibits contractors and subcontractors from inducing an employee working on a covered contract to give up any part of the compensation to which he or she is entitled. Violations are a criminal offense and are punishable by a \$5,000 fine or imprisonment up to five years, or both.
2. Associated DOL regulations restrict payroll deductions to those that are permissible without DOL approval as explained at 29 CFR § 3.5; deductions that require advance DOL approval are explained at 29 CFR § 3.6.
3. The Act requires the submission of weekly CPRs accompanied by a Statement of Compliance by all contractors and subcontractors engaged in such construction, prosecution, completion, or repair. The willful falsification of a CPR or statement of compliance may subject the employer to civil or criminal prosecution under § 1001 of Title 18 and § 3729 of Title 31 of the United States Code (USC), and may also be a cause for debarment.

Exemptions:

- Copeland Act CPR requirements are applicable only where Davis-Bacon (DBA or DBRA) prevailing wage provisions are applicable.
- Copeland Act anti-kickback provisions do not apply where the only federal assistance is a loan guarantee.



The Fair Labor Standards Act (FLSA)

The FLSA governs matters such as federal minimum wage rates and O/T. These standards are generally applicable to any labor performed and may be pre-empted by other (often more stringent) federal standards such as the DBRA prevailing wage requirements and CWHSSA O/T provisions. The authority to administer and enforce FLSA provisions resides solely with DOL.

Portal-to-Portal Act (PA)

The PA applies to the DBA and prevents the commencement of any court suit for unpaid S/T wages more than two years after performance of the work (three years in the case of willful violations), where permissible under the law. However, DOL's position is that the PA does not apply to administrative actions initiated through Administrative Law Judge (ALJ) hearing procedures; thus, the PA does not preclude corrective administrative action after two (or three) years.

The PA does not apply to federally-assisted (DBRA) projects. Instead, the various State statutes of limitations apply to such projects in private actions where they are judicially determined to be permissible under the law. The Federal six-year statute of limitations applies in government enforcement actions.

McNamara-O'Hara Service Contract Act (SCA)

The SCA governs maintenance and other service work and applies

when the Federal Government or the District of Columbia contracts directly for such services and the value of the contract exceeds \$2,500. SCA coverage in HUD programs is limited because HUD infrequently enters into direct contracts for services in the administration of its programs. By way of example, however, a contract for maintenance service at an HUD-owned multifamily property would be covered by the SCA. Like DBA contracts, SCA contracts are managed under the auspices of HUD's Office of the Chief Procurement Officer. SCA enforcement authority resides solely with DOL.

Davis-Bacon Regulations

DOL has published rules and instructions concerning Davis-Bacon and other labor laws in the Code of Federal Regulations (CFR). These regulations can be found in Title 29 CFR Parts 1, 3, 5, 6, and 7. Part 1 explains how DOL establishes and publishes DBA wage determinations (also referred to as wage decisions) and provides instructions on how to use the determinations. Part 3 describes Copeland Act requirements for payroll deductions and the submission of weekly CPRs. Part 5 covers the labor standards provisions that are in contracts relating to Davis-Bacon Act wage rates and the responsibilities of contractors and contracting agencies to administer and enforce the provisions. Part 6 provides for administrative proceedings enforcing Federal labor standards on construction and service contracts. Finally, Part 7 sets parameters for practice before the Administrative Review Board. These regulations are used as the basis for administering and enforcing the laws.

DOL Regulations are available online: www.ecfr.gov/current/title-29



Construction Contract Provisions and Labor Standards Administration

Labor standards administration involves the activities that take place primarily before construction begins. Administration sets the stage for the compliance activities that occur during the construction phase. The first and sometimes most difficult step is determining whether and to what extent Davis-Bacon wage standards apply to a particular contract or project. The Factors of Labor Standards Applicability (see Appendix II-6) should be helpful. Most HUD-assisted construction work is covered by Davis-Bacon, but there are some exceptions. The best and safest approach is to first assume that Davis-Bacon requirements will be applicable whenever the contract/project involves construction work valued in excess of \$2,000, then look more closely to see if there is any reason for non-coverage. Each contract subject to Davis-Bacon labor standards requirements must contain labor standards clauses and a Davis-Bacon wage decision. These documents are normally wound into the contract specifications.

The labor standards clauses

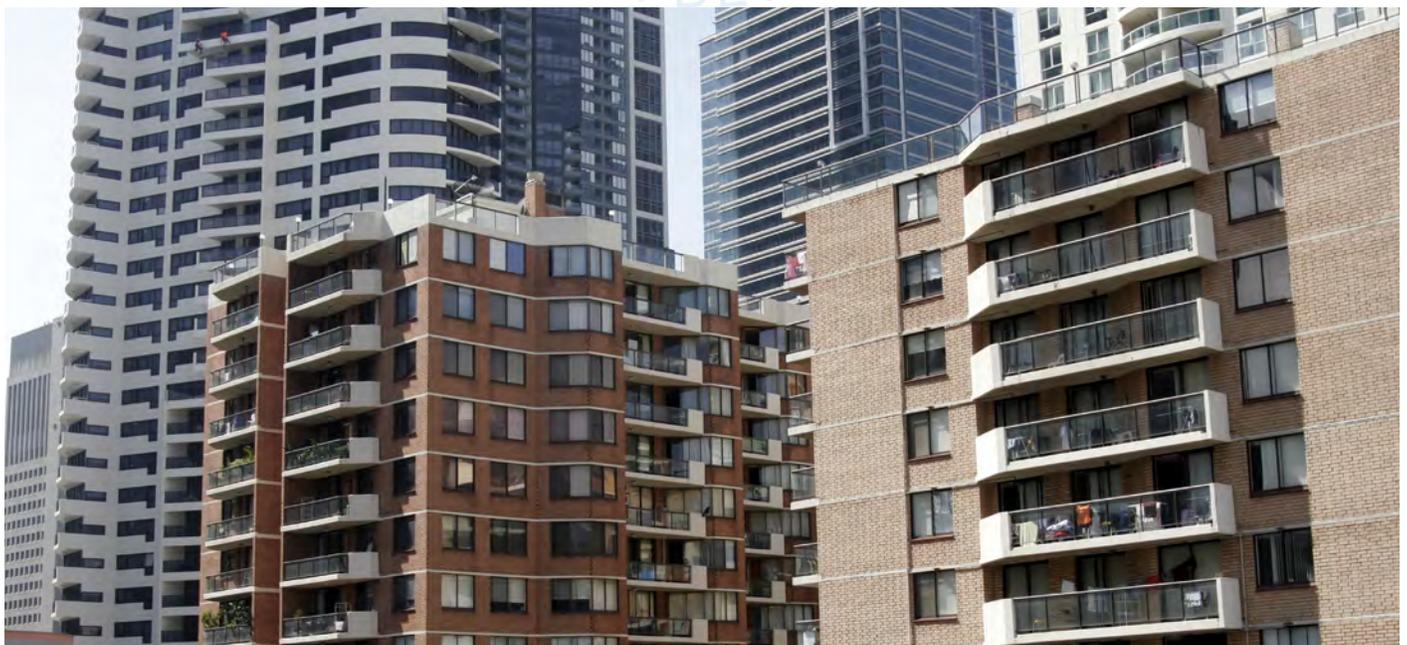
The contract for construction is the vehicle to ensure contractor compliance and Davis-Bacon wage enforcement. Therefore, the bid specifications and/or the contract for each project subject to Davis-Bacon wage rates must contain both a Davis-Bacon wage decision and labor standards clauses. The labor standards clauses describe the responsibilities of the contractor concerning Davis-Bacon wages and obligate the contractor to comply with the Davis-Bacon wage and reporting requirements and with the O/T provisions of the CWHSSA (applicable

only when the prime contract is valued at over \$100,000).

The labor standards clauses also provide for remedies in the event of violations, including the withholding of payments due to the contractor to ensure the payment of wages or liquidated damages that may be found due, and sanctions should violations occur. These contract clauses enable the contract administrator to enforce the Federal labor standards applicable to the project. HUD has standard forms that contain contract clauses. For example, the HUD-92554M, Supplementary Conditions Of The Contract for Construction, which is issued primarily for FHA (Federal Housing Administration) multifamily housing and other construction projects administered by HUD; the HUD-4010, Federal Labor Standards Provisions, which is used for CDBG (Community Development Block Grant) and HOME (HOME Investment Partnerships Program) projects; and the HUD-5370, General Conditions for Construction Contracts (construction contracts >\$150,000) or the HUD-5370-EZ, General Contract Conditions for Small Construction/Development Contracts (construction contracts >\$2,000 but ≤\$150,000) which are used for Public and Indian Housing projects. These should be wound into the contract specifications or incorporated by specific reference in the bid/contract documents (see Labor Relations Letter 96-03).

RESOURCE

A fillable version of this form is available online at HUDClips www.hud.gov/program_offices/administration/hudclips/forms
Contact the contract administrator monitoring the project for assistance with a Project Wage Rate.



Specific Davis-Bacon Related Act (statute) for the program involved

Related Acts are program statutes that contain provisions requiring compliance with the wages that the Secretary of Labor finds to be prevailing pursuant to the Davis-Bacon Act. These are commonly referred to as the Davis-Bacon and Related Acts or DBRA.

HUD Related Acts include (but are not limited to) the:

- National Housing Act;
- U. S. Housing Act of 1937;
- Housing and Community Development Act of 1974;
- National Affordable Housing Act of 1990; and
- Native American Housing Assistance and Self-determination Act of 1996, each as amended.

Many of the labor provisions in HUD Related Acts contain applicability thresholds based upon the number of dwelling units involved. Some thresholds are based upon the amount of HUD assistance or the use of HUD funds or assistance. In addition, most HUD Related Acts contain exemptions from prevailing wage coverage for bona-fide volunteers. It is important for DBLS and LCA staff to be familiar with the statutory provisions and how these are interpreted.

The labor provisions found in current HUD Related Acts are excerpted for reference in Appendix II-1 to this Guide. Applicability factors relating to specific HUD Related Acts are in Appendix II-6.

Labor Standards Letters

This special directives series is designed to provide current and thorough guidance on Davis-Bacon issues in HUD programs. Popular topics include Davis-Bacon applicability, and prevailing wage requirements concerning self-employed laborers and mechanics. Labor Standards Letters are available online at the Davis-Bacon and Labor Standards Library: www.hud.gov/program_offices/davis_bacon_and_labor_standards/olr_lrl

HUD Guides

These Guides complement the guidance and instructions provided in HUD Handbook 1344.1, Federal Labor Standards Compliance in HUD Programs. These Guides are also available at the Davis-Bacon and Labor Standards Library.

Davis-Bacon Wage Decisions

The term “wage decision” includes the original decision and any subsequent decisions that modify, supersede, correct, or otherwise change the provisions of the original decision. The term “wage decision” is used within this Guide to mean the Davis-Bacon wage decision. The terms “wage decision” and “wage determination” are used interchangeably. A wage decision is a schedule of construction work classifications, wage rates, and fringe benefits that represent the minimum rates that must be paid to workers employed in those classifications. Wage decisions are established for defined geographic areas, usually by county



or group of counties, and four general characters of construction work.

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RESOURCE

All current Davis Bacon wage decisions can be accessed online at no cost at www.sam.gov

Character of work

There are four basic categories (or characters) of wage decisions based on the type of construction. DOL established these categories and provides details of each one in All Agency Memoranda Nos. 130 and 131. DOL provides further guidance in All Agency Memorandum 236, Prevailing Wage Resource Book, and Field Operations Handbook, Chapter 15. The four categories include:

- 1. Residential:** Residential construction includes the construction, alteration, or repair of single-family houses or apartment buildings of no more than four stories in height. This typically includes all incidental items unless there is an established area practice to the contrary.

Incidental items are elements of a project whose function is to support the principal purpose and do not change the overall character of work. Examples of incidental items include sidewalks and handrails installed to support residential or building projects. While sidewalks intrinsically constitute “highway” construction, this element considered in conjunction with a residential or building project becomes incidental to the principal purpose of the construction and is subject to the same wage decision that applies to the principal purpose.



Character of work (continued)

- 2. **Building:** Building construction generally is the construction of sheltered enclosures with walk-in access for the purpose of housing persons, machinery, equipment, or supplies. This category includes buildings exceeding four stories in height that have housing units and buildings of four stories or less that do not have housing units. This category also includes incidental items such as grading, sidewalks, and utilities. Building examples include high-rise apartment buildings, nursing homes and convalescent facilities, community centers, fire stations, commercial buildings, parking garages, and dormitories.
- 3. **Highway:** Highway construction includes the construction, alteration, or repair of roads, streets, highways, alleys, parking areas, and other similar projects not incidental to the main category of construction, which is either residential or building for housing development projects.
- 4. **Heavy:** Heavy construction includes those projects that are not properly classified as “residential,” “building,” or “highway.” Some examples include antenna towers, canals, landscaping, drainage and irrigation projects, permanent erosion control, storm sewers, and storage tanks.

General wage decisions

Most Davis-Bacon wage decisions are general wage decisions. DOL usually publishes these annually and may modify or supersede them throughout the year. LCAs and HUD Labor Standard Specialists (LSS) may use general wage decisions without advance notice or approval from DOL. Most Davis-Bacon wage decisions are available as published

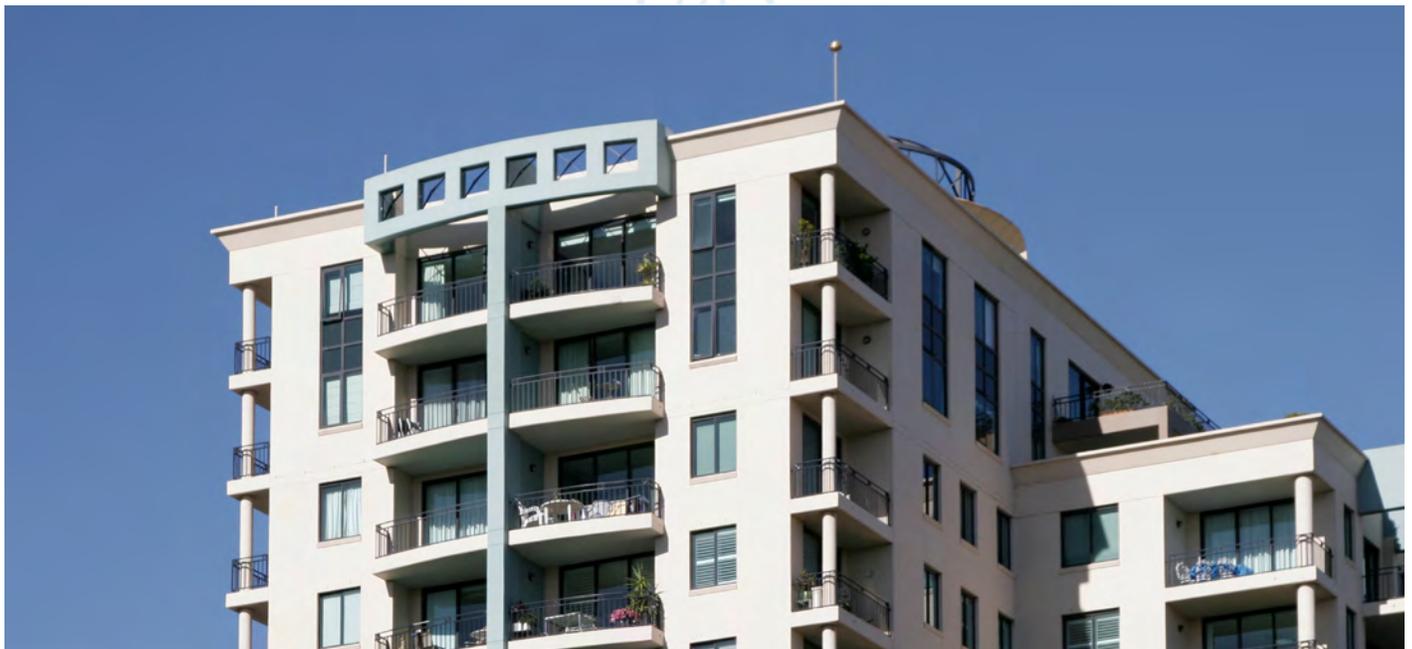
general wage decisions.

General wage decisions and project wage decisions may be modified from time to time to keep them current, correct errors, and for other purposes. Modifications may be limited to one or more particular work classifications and wage rates. Modifications are effective to a project if HUD or an LCA receives them, or if notice of the modification is published at www.sam.gov prior to the lock-in date. Modifications to a project wage decision expire on the same date as the original project wage decision. A modification to a general wage determination remains in effect until it is superseded by a subsequent modification, or the original general wage decision is superseded or cancelled.

Project wage decisions

If an appropriate wage decision (by location, character of work, or specific trade required) is not published in the general wage decisions, a project wage decision shall be requested from DOL. Project wage decisions are applicable only to the construction work specified on the request to DOL and listed on the front page of the wage decision. Project wage decisions are valid for 180 days from the date of original issuance by DOL. The issuance and expiration dates will be indicated on the front page of the wage decision. Like general wage decisions, project wage decisions may be modified.

A project wage decision may be applicable even though a general wage determination is published which covers the geographic location and character of work involved. For example: A project involves only roof replacement on a 4-story apartment building and the only classification needed for the entire contract is a roofer.



Project wage decisions (continued)

A general wage decision is published for residential construction in the county in which the project is located; however, the general wage decision does not include a roofer classification and wage rate. In this case, the general wage decision is not relevant to the roof replacement and a project wage decision may be requested from DOL.

RESOURCE

General wage decisions and modifications are available at www.sam.gov

This is the only online location endorsed by DOL. Project wage decisions must be requested on a case by case basis from DOL.

Project wage decisions, as needed

The LCA or LSS shall submit a completed SF-308, Request for Wage Determination And Response to Request, to the DOL National Office, allowing 30 days for receipt of the project wage decision from DOL.

Selecting the correct wage decision

The responsible contracting officer (also referred to as the contract administrator) selects and assigns wage decisions to specific contracts or projects. For HUD-administered projects (e.g., FHA-insured multifamily development), the responsible contracting officer is the LSS. In addition, the LSS provides technical support and oversight to LCAs

administering HUD programs in selecting and assigning appropriate wage decisions. Determining wage decisions is dependent upon the geographic location and the character of work (Residential, Building, Highway, and/or Heavy) assigned to the project.

A request for additional classification and wage rates may be made only after contract award. The request must originate with the contractor/ employer and must be submitted by the LCA to DOL.

MORE INFO

Conformances (additional classifications)

At times, the wage decision will not contain some of the work classification and wage rates that are needed for the construction work. In these cases, send a form SF 1444 to DOL at whd-cbaconformance_incoming@dol.gov



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RESOURCE

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Verify contractor eligibility

Once the LCA has selected the contractor to whom they wish to award the contract, the LCA must verify that the contractor is not ineligible (e.g., debarred) from participation in Federal programs. Only the eligibility of the prime contractor needs to be verified. The U.S. General Services Administration (GSA) maintains a list of ineligible contractors, which can be accessed online at www.sam.gov.

An additional classification and wage rate will be approved by DOL where:

1. The requested work classification is used in the area of the project by the construction industry;
2. The work that will be performed is not performed by a work classification already contained in the wage decision;
3. The proposed wage rate bears a reasonable relationship to the wage rates on the wage decision; and
4. The workers that will be employed in the requested work classification (if known) or the workers' representatives (if any) agree with the proposed wage rate.

Provide contractor training

The LCA must make certain that the contractor understands its responsibilities for Davis-Bacon compliance: The principal contractor is responsible for the full compliance of all employers (the contractor, subcontractors, and any lower-tier subcontractors) with the labor standards provisions applicable to the project. LCAs may also wish to provide formal training separate from the contracting process for contractors that are interested in performing work on HUD-assisted contracts and want to learn more about what is involved.





CONTRACTOR RESPONSIBILITIES

See Section 4 in the Contractor Addendum.

CONTRACT ADMINISTRATOR RESPONSIBILITIES

See Section 5 in the Contractor Addendum.

LCA FLEXIBILITY FOR LABOR STANDARDS RESPONSIBILITIES

While some aspects of labor standards administration are inflexible, such as which wage decision is applicable to a specific project, the following aspects are not. For these, HUD leaves the preference of how to achieve end results with the LCA.

LCAs may hold preconstruction conferences for labor standards purposes.

HUD acknowledges that there are many good reasons to hold a preconstruction conference (PCC), and these conferences are strongly encouraged in order to have the opportunity to discuss topics such as construction inspections, progress and contractor payment requirements, Section 3 employment and training, and other issues particular to the project. However, HUD has determined that the time and resources used to conduct and document PCCs for labor standards purposes do not yield measurably better results.

Many contractors have prior Davis-Bacon contract experience and have demonstrated successful performance. These contractors do not require the repetitive basic training that is provided at most PCCs. Contractors new to Davis-Bacon projects that understand the basic requirements and choose not to comply will likely not be persuaded to fully comply just because they attended a PCC.

LCAs may prepare Project Wage Rate Sheets

Some general wage decisions cover large areas (e.g., several counties or different characters of construction) and may contain wage rates that do not apply to the contract/project to which the wage decision applies. Such wage decisions can be difficult to decipher and confusing to contractors and subcontractors, and to the workers reviewing the wage decision to determine whether they are being paid correctly. For ease of reference for the LSS/LCA, the prime contractor and any subcontractors, and the workers, the LSS/LCA may prepare a form HUD-4720, Project Wage Rate Sheet, which should reflect the most commonly used work classifications and wage rates as contained in the wage decision applicable to the project. The Project Wage Rate Sheet should be prepared only after the wage decision has been “locked-in” by contract award or start of construction, as applicable. The Project Wage Rate Sheet does not replace the wage decision; it is only provided as a convenience. If there is a conflict between the Project Wage Rate Sheet and the wage decision, the wage decision prevails.

LCAs can prepare a Project Wage Rate Sheet for contracts using the onscreen fillable versions in either the HUD Forms or DBLS websites. HUD DBLS staff is available to provide assistance to LCAs in preparing Project Wage Rate Sheets. HUD strongly recommends incorporation of the full wage decision text into bid solicitations and contracts, either in hard copy or by specific reference.

LCAs may develop their own labor standards file system

HUD believes that LCAs can best determine how to maintain their files provided that certain minimum requirements are met. The minimum requirements include compliance with DOL regulations that certified payrolls and basic records relating to the payrolls be preserved for no less than three years after completion of the project and the resolution of any enforcement actions that may carry over after completion. In addition, the files must be maintained in such a way that the LCA can utilize them to demonstrate its own compliance with its labor standards administration and enforcement responsibilities. For example, the LCA must, at HUD’s request, demonstrate how it has documented that the eligibility of the prime contractor was verified for each contract.

LCAs may target on-site interviews with laborers and mechanics

HUD is interested in using on-site interviews as a proactive enforcement tool rather than to meet a “representative sampling” quota. Instead of conducting interviews randomly for the sake of assembling a sample, LCAs are encouraged to target interviews to projects or groups of workers where violations are suspected or alleged. In this way, on-site interviews can be used to support a specific ongoing enforcement action. HUD realizes that this approach may mean that fewer on-site interviews may be conducted randomly; HUD considers targeting a far more efficient and effective means of utilizing on-site interview resources.

LCAS may limit payroll reviews to spot-checks and HUD-11 (Employee Interview Form) comparison

The goal: to detect falsification. HUD believes that serious violations involving underpaid workers and significant wage restitution may be overlooked because the contract administrator is overtasked with HUD-mandated payroll review minutiae. HUD recognizes that it is not possible to conduct payroll reviews in 100% of cases; therefore, it is not possible to identify and correct every discrepancy and underpayment. It is also the case that the violations disclosed behind falsified payrolls are much more egregious (both in terms of affected workers and the amount of underpayment) than violations that appear on the face of the payroll records. Accordingly, HUD has prioritized payroll reviews so that the objective is to detect falsification, and so that enforcement activities will yield the greatest impact. HUD has developed guidance on how to detect falsification through spot-checks and HUD-11 interview comparison. (See Willful Violations and Falsification Applicability in Appendix III-1.)



LCAS may limit payroll reviews to spot-checks and HUD-11 (Employee Interview Form) comparison (continued)

Routine payroll review results may be communicated to the prime contractor by telephone and documented with a record in the file. Many times, the types of deficiencies that come to the attention of the contract administrator can be handled more efficiently and just as effectively with good informal communication (e.g., a telephone call, email, etc.) with the employer/prime contractor rather than with formal letters. Examples of the types of issues that could easily be addressed informally—assuming the cooperation of both sides—include a missing payroll report or missing apprenticeship certificates, requests for employee authorizations for deductions, small underpayments that appear on the face of the payroll, and similar matters. With the prime contractor’s cooperation, these matters can be disposed of quickly with a telephone call and a brief note to the contract file documenting the call. If the employer/prime contractor does not respond appropriately to this type of communication, it may be necessary to resort to more formal means.

RESOURCE

The Department of Housing and Urban Development (HUD) one stop forms resource page.

www.hud.gov/program_offices/administration/hudclips/forms





FEDERAL LABOR STANDARDS COMPLIANCE CHECKLIST FOR DAVIS-BACON COVERED PROJECTS

RESOURCE

See LCA DBRA Checklist online at the link below:

https://www.hud.gov/program_offices/davis_bacon_and_labor_standards/OLRLibrary

REVIEWING PAYROLLS

See Section 7 in the Contractor Addendum.

REPORTING PAYROLLS

See Section 8 in the Contractor Addendum.

PAYROLL COMPLIANCE REVIEWS AND CORRECTIONS

Compliance reviews

The contract administrator or other inspector may visit the project site and interview some of the workers concerning their employment on the project. DOL may also independently conduct its own reviews (see 10.2.2 in the Contractor Addendum). In addition, the contract administrator will periodically review payrolls and related submissions, comparing the interview information to the payrolls, to ensure that the labor standards requirements have been met. Contractors will be notified by

the contract administrator if these reviews find any discrepancies or errors, and will be given instructions about what steps must be taken to correct any problems.

On-site interviews

Every employer (contractor, subcontractor, etc.) must make their employees available for interview at the job site with the contract administrator or other agency representative (or HUD or DOL representative). The interviews are confidential and the employees will be asked about the number of hours they work, the kind of work they perform, and their rate of pay. Every effort will be made to ensure that these interviews cause as little disruption as possible to the ongoing work. The interviewer will record the interview information, usually on a form HUD-11, Record of Employee Interview, and forward the interviews to the contract administrator. Completed HUD-11s must be compared to the corresponding contractor and subcontractor certified payrolls to test and verify the accuracy of the payroll information.

RESOURCE

HUD 11 forms are available online in English and in Spanish in a fillable format via the HUD Forms website (www.hud.gov/program_offices/administration/hudclips/forms) and at the DBLS website (www.hud.gov/program_offices/davis_bacon_and_labor_standards/olrform).

Project payroll reviews

The contract administrator will compare the information on the interview forms to the corresponding payrolls to ensure that the workers are properly listed on the payrolls for the days and hours worked on the job site, work classification, and rate of pay. The contract administrator will also review the payroll submissions to make certain that the payrolls are complete and signed, that employees are paid no less than the wage rate for the work classification shown, that apprentice and trainee certifications are submitted (where needed), that employee or other authorizations for other deductions are submitted (where needed), etc. Contract administrators should be particularly alert for indications of payroll falsification—misinformation on payrolls to conceal underpayments. Falsification on payrolls indicates that a contractor or subcontractor is aware of its obligations, is knowingly underpaying its employees, and is attempting to avoid detection of the violations. See Appendix III-1 for an explanation of willful violations and falsification indicators.

Typical payroll errors and required corrections

Contract administrators must ensure the full correction of all discrepancies disclosed during compliance monitoring conducted by the LCA, HUD, or DOL. This includes the collection of documentation to demonstrate that corrective measures have been successfully completed. They must:

1. **Examine and resolve probable violations and complaints of underpayment.** Contract administrators must explore probable violations—particularly those involving falsification of payrolls and complaints alleging underpayments. In addition to the HUD-11, Record of Employee Interview, HUD has developed a questionnaire form (HUD-4730) and a complaint intake form (HUD-4731) for HUD and LCA use. The forms are available in onscreen fillable formats at the HUD forms website and via the DBLS website;
2. **Refer complex issues and/or falsification cases to HUD or DOL.** Some issues may be more complex than LCAs are able to address. HUD encourages LCAs to consult with the LSS for their area to secure appropriate guidance and support. HUD has decided, in consultation with DOL, that it will refer to DOL cases involving falsification of payrolls or related documents for DOL investigation. HUD strongly suggests that LCAs employ this strategy for cases involving falsification;
3. **Take steps to ensure the full resolution of any monetary liability that has or may be imposed for labor standards reasons.** Contract administrators must take prompt action to ensure that funds will be available to satisfy any labor standards liability that may be imposed. Actions include the withholding of contract payments due to the contractor and requiring funding for an escrow account to guarantee the satisfaction of any restitution and/or liquidated damages assessment that may be pending at contract closeout;



Typical payroll errors and required corrections (continued)

4. **Recommend debarment against repeat violators.** HUD has implemented a zero tolerance policy against contractors who are repeat violators of Davis-Bacon labor standards. The first time an employer is found in violation, the employer is required to pay full restitution to all affected workers and to pay any CWHSSA liquidated damages (for O/T violations) that may be assessed. In addition, the employer must provide written assurance of future compliance. If the employer promptly completes these corrective actions, HUD will not object if the LCA does not recommend debarment against the employer unless there are extenuating circumstances that warrant debarment. If the employer is found in violation again, the LCA must require full correction of any underpayments and payment of CWHSSA liquidated damages assessed. A debarment recommendation made by the LCA against the employer is expected; and
5. **Prepare and submit enforcement reports.** In accordance with DOL regulations (29 CFR Part 5, § 5.7), the contract administrator must prepare and submit to HUD an enforcement report in any case where an employer (contractor or subcontractor) has underpaid its employees by \$1,000 or more or where there is reason to believe that the violations are aggravated or willful, and prepare and submit to HUD semi-annual enforcement reports concerning all Davis-Bacon labor standards administration and enforcement activities involving all HUD-assisted programs. Enforcement reports cover wage underpayments by contractors and subcontractors.

Note that enforcement reports concern only wage violations associated with projects or contracts subject to the labor standards provisions of the DBRA.

Employer-specific enforcement reports

These enforcement reports are used for three general purposes. First, to report to the Secretary of Labor on Davis-Bacon enforcement actions successfully completed in the field by all federal, state, and local agencies. Second, to refer to the Wage and Hour Administrator investigative findings that are in dispute (e.g., where the employer contests findings of underpayment made against it and requests a hearing to appeal the findings). Third, to make recommendations for debarment and other sanctions and for recommendations concerning liquidated damages computed for CWHSSA O/T violations. (See Labor Relations Letter LR-92-02 for additional guidance concerning employer-based enforcement reports.)

6. **Semi-Annual Enforcement Reports.** HUD is required to furnish to DOL semi-annual reports (SARs) concerning the volume of DBRA-covered activities and the compliance and enforcement of DBRA labor standards provisions in HUD programs. The reports are due to DOL by April 30 and October 31 of each calendar year and cover the periods of October 1 through March 31 and April 1 through September 30, respectively. (See DOL regulations at 29 CFR § 5.7(b) and All Agency Memorandum 189.)



Typical payroll errors and required corrections (continued)

To prepare the SAR, HQLS (Headquarters Office Davis-Bacon and Labor Standards) collects data from the LSIS (Labor Standards Information System) and from each RLSO (Regional Labor Standards Officer), and then submits the report to DOL, which accepts electronic submittals of the semi-annual reports in lieu of paper copies at SemiAnnualReport@DOL.gov. HUD collects the reports from its client agencies and compiles a comprehensive report to DOL covering all HUD-assisted Davis-Bacon construction activity. The report may be completed onscreen, saved, and attached to an email message for submission purposes.

RESOURCE

A copy of the Semi Annual Report form (HUD 4710) and instructions (HUD4710i) for LCAs and are available at HUDClips (www.hud.gov/program_offices/administration/hudclips/forms) and at the Davis Bacon and Labor Standards Forms page (www.hud.gov/program_offices/davis_bacon_and_labor_standards/olrform).

MORE INFO

States may report directly to DOL, as the state chooses. PHAs, IHAs, and TDHEs should send data for Davis Bacon projects only; data relating to HUD determined maintenance wage rate projects or projects subject to Tribally determined wage rates (for construction or maintenance work) should not be included.



Common errors

The following paragraphs describe common payroll errors and the corrective steps that must be taken.

Inadequate payroll information

If an alternate payroll format used by an employer (such as some computer payrolls) is inadequate (e.g., does not contain all the necessary information that would be on the optional form WH-347), the employer will be asked to resubmit the payrolls on an acceptable form.

Missing identification numbers

If the first payroll on which an employee appears does not contain the employee's individually identifying number, the employer will be asked to supply the missing information. This information can be reported on the next payroll submitted by the employer if the employer is still working on the project. Otherwise, the employer will be asked to submit a correction certified payroll.

Incomplete payrolls

If the information on the payroll is not complete, for example, if work classifications or rates of pay are missing, the employer will be asked to send a correction certified payroll.

Classifications

If the payrolls show work classifications that do not appear on the wage decision, the employer will be asked to reclassify the employees in accordance with the wage decision, or the employer may request an ad-

ditional classification and wage rate (see Section 9 in the Contractor Addendum). If reclassification results in underpayment (i.e., the wage rate reported on the payroll is less than the rate required for the new classification), the employer will be asked to pay wage restitution to all affected reclassified employees (see Section 10 in the Contractor Addendum for instructions about wage restitution).

Wage rates

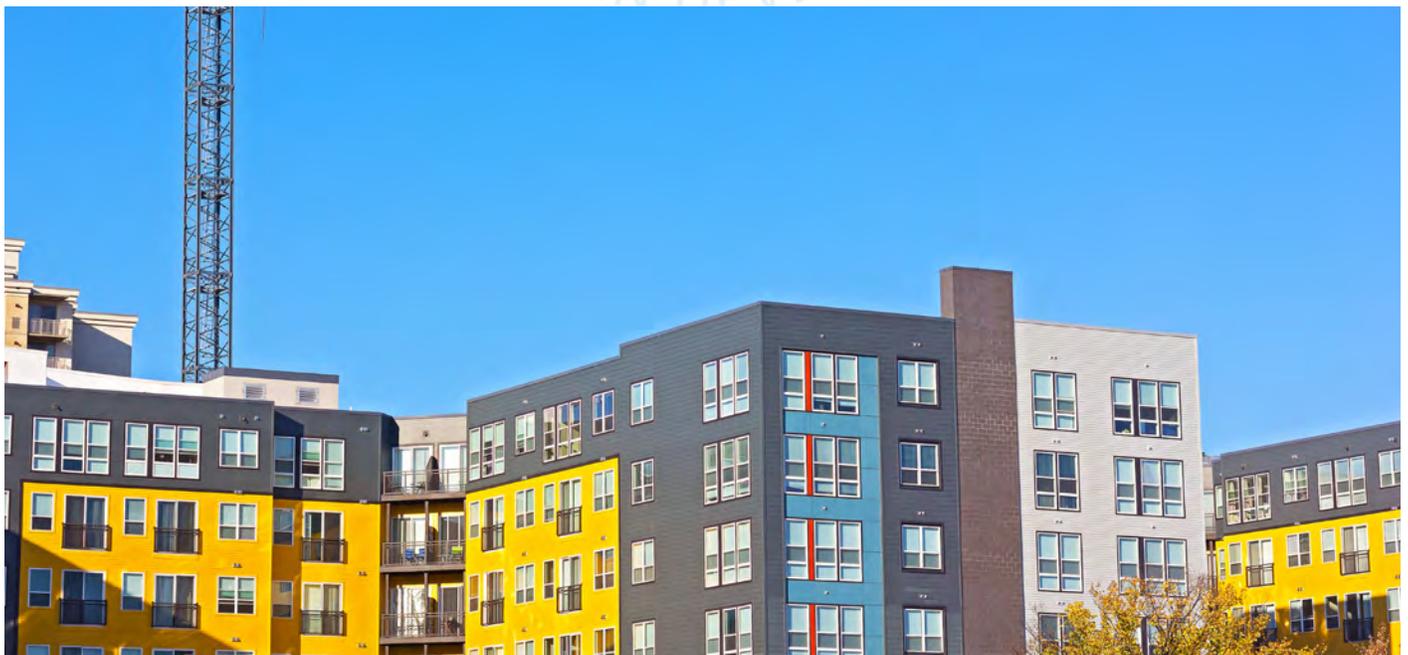
If the wage rates on the payroll are less than the wage rates on the wage decision for the work classifications reported, the employer will be asked to pay wage restitution to all affected employees.

Indications of falsification on payrolls

The greatest threat to construction workers entitled to a statutorily-mandated prevailing wage for their craft is from employers who know what is required, choose not to pay the required prevailing wage rates, and falsify CPRs to conceal the underpayments. Such willful violators see the workers' underpayment as their own gain and engage in deception to increase this gain. In addition, willful violators that successfully escape detection and are not required to pay prevailing wages will continue to bid on Davis-Bacon contracts until their violations are disclosed and administrative sanctions such as debarment are imposed.

Falsification indicators

HUD has prepared a list and explanation of four common falsification indicators that are detectable during payroll "spot-checks."



Information reported on payrolls that indicate falsification suggests willful, much more serious violations in terms of the amount of back wages that may be due and the number of employees affected.

Such cases most often warrant investigation, which can include on-site interviews, mailing questionnaires to employees, taking written statements or complaints, and other methods to gather and assess the facts of the case. See Appendix III-1 for an explanation of willful violations and falsification indicators.

Apprentices and trainees

If a copy of the employee’s registration or the approved program ratio and wage schedule are not submitted with the first payroll on which an apprentice or trainee appears, the employer will be asked to submit a copy of each apprentice’s or trainee’s registration and/or the approved program ratio and wage schedule. If the ratio of apprentices or trainees to journeymen on the payroll is greater than the ratio in the approved program, the employer will be asked to pay wage restitution to any excess apprentices or trainees. Also, any apprentice or trainee that is not registered in an approved program must receive the journeyman’s wage rate for the classification of work they performed.

Overtime

If the employees did not receive at least time and one-half for any O/T hours worked on the project, the following will occur:

1. If the project is subject to CWHSSA O/T requirements, the employer will be asked to pay wage restitution for all O/T hours worked on the project.

The employer may also be liable to the United States for liquidated damages computed at \$26 per day per violation, and indexed to increase annually. Or,

2. If the project is not subject to CWHSSA, the employer will be notified of the possible FLSA O/T violations.

Also, the contract administrator may refer the matter to DOL for further review.

Computations

If the payroll computations (hours worked times rate of pay) or extensions (deductions, net pay) show frequent errors, the employer will be asked to take greater care. Wage restitution may be required if underpayments resulted from the errors.

Deductions

If there are any “Other” deductions that are not identified, or if employee authorization isn’t provided, or if there is any unusual (very high, or large number) deduction activity, the employer will be asked to identify the deductions, provide employee authorization, or explain unusual deductions, as necessary.

HUD does not enforce or attempt to provide advice on employer obligations to make deductions from employee earnings for taxes or Social Security. However, HUD may refer to the IRS or other responsible agency copies of CPRs that show wages paid in gross amounts (i.e., without tax deduction) for its review and appropriate action.



Fringe benefits

If the wage decision contains fringe benefits but the payroll does not indicate how fringe benefits were paid (neither 4(a) nor 4(b) is marked on the Statement of Compliance), the employer may be asked to submit correction certified payrolls and will be required to pay wage restitution if underpayments occurred.

However, if the basic hourly rates for the employees are at least as much as the total wage rate on the wage decision (basic hourly rate plus the fringe benefit rate), no correction is necessary.

Signature

If the payroll Statement of Compliance is not signed or is missing, the employer will be asked to submit a signed Statement of Compliance for each payroll affected. If the Statement of Compliance is signed by a person who is not a principal of the firm and that person has not been authorized by principal to sign, the employer will be asked to provide an authorization or to resubmit the Statement(s) of Compliance bearing the signature of a principal or other authorized signatory.

On-site interview comparisons

If the comparison of on-site interviews to the payrolls indicates any discrepancies (e.g., the employee does not appear on the payroll for the date of the interview), the employer will be asked to submit a correction CPR.

Correction certified payroll

Any and all changes to data on a submitted payroll report must be re-

ported on a certified correction payroll. In no case will a payroll report be returned to the prime contractor or employer for revision.

Restitution for underpayment of wages

Where underpayments of wages have occurred, the employer will be required to pay wage restitution to the affected employees. Wage restitution must be paid promptly in the full amounts due, less permissible and authorized deductions. All wages paid to laborers and mechanics for work performed on the project, including wage restitution, must be reported on a CPR. If a violation of labor standards requirements results in an underpayment of wages to employees, the LCA should notify the prime contractor to either make wage restitution or direct its subcontractor to do so. Where restitution amounts are in excess of \$10 per worker, the employer must attest to wage restitution paid on a correction certified payroll.

Notification to the Employer/Prime contractor

The contract administrator will notify the employer and/or prime contractor in writing of any underpayments that are found during payroll or other reviews. The contract administrator will describe the underpayments and provide instructions for computing and documenting the restitution to be paid. The employer/prime contractor is allowed 30 days to correct the underpayments. Note that the prime contractor is responsible to the contract administrator for ensuring that restitution is paid. If the employer is a subcontractor, the subcontractor will usually make the computations and restitution payments and furnish the required documentation through the prime contractor.



Notification to the Employer/Prime contractor (continued)

MORE INFO

The contract administrator may communicate directly with a subcontractor when the underpayments are plainly evident and the subcontractor is cooperative. It is best to work with the prime contractor when the issues are complex, when there are significant underpayments, and/or the subcontractor is not cooperative. In all cases, the subcontractor must ensure that the prime contractor receives a copy of the required documentation.

Computing wage restitution

Wage restitution is simply the difference between the wage rate paid to each affected employee and the wage rate required on the wage decision for all hours worked where underpayments occurred. The difference in the wage rates is called the adjustment rate. The adjustment rate times the number of hours involved equals the gross amount of restitution due. Alternatively, wage restitution may be computed by calculating the total amount of Davis-Bacon wages earned and subtracting the total amount of wages paid. The difference is the amount of back wages due.

Total hours worked times (x) adjustment rate (DB rate – rate paid)
= wage restitution due; or

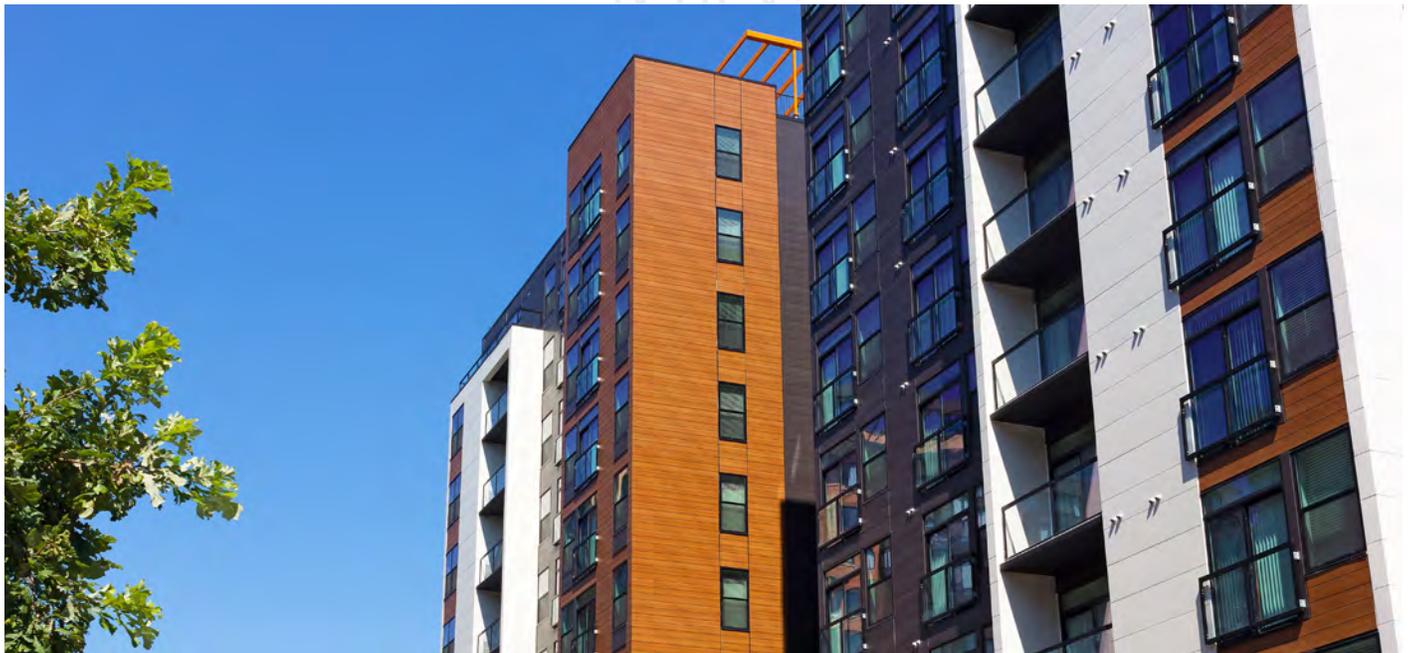
Total wages earned minus (-) total wages paid = wage restitution due.

Correction certified payrolls

The employer will be required to report the restitution paid on a correction certified payroll. The correction payroll will reflect the period for which restitution is due (e.g., Payrolls #1 through #6, or a beginning date and ending date). The correction payroll will list each employee to whom restitution is due and their work classification, the total number of work hours involved (daily hours are usually not applicable for wage restitution), the adjustment wage rate (the difference between the required wage rate and the wage rate paid), the gross amount of restitution due, deductions, and the net amount actually paid. A properly signed Statement of Compliance must accompany the correction payroll. HUD no longer requires the signature of the employee on the correction payroll to evidence employee receipt of restitution payment. In addition, except in the most extraordinary cases, HUD no longer requires employers to submit copies of restitution checks (certified, cashier's, canceled, or other) or employee-signed receipts or waivers.

MORE INFO

In the course of basic enforcement and corrections, the employer need only submit a correction CPR to evidence wage restitution paid. Other documentation such as copies of checks, copies of cancelled checks, receipts signed by the employees, employee signatures on the correction CPR, etc., is not required.



Review of correction CPR

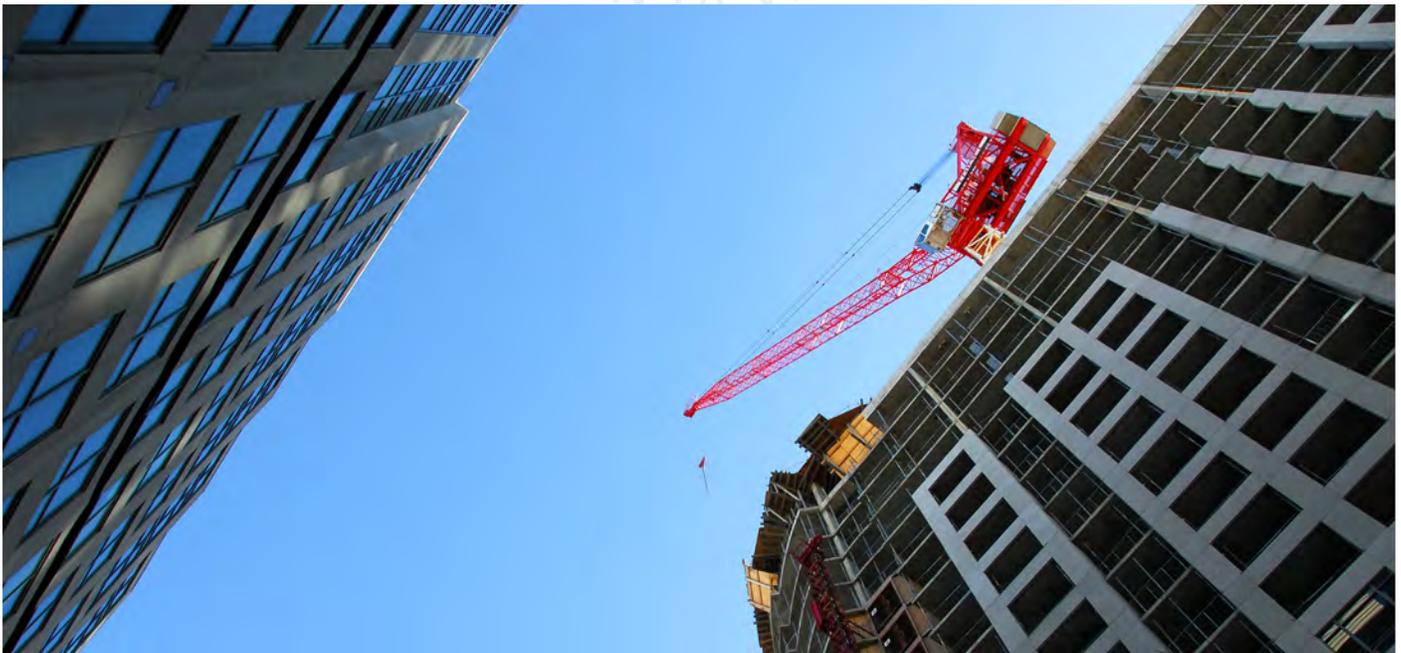
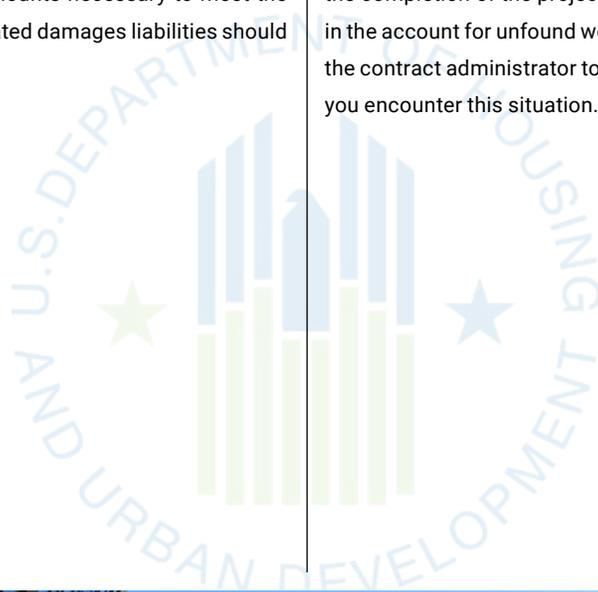
The contract administrator will review the correction certified payroll to ensure that full restitution was paid. The prime contractor shall be notified in writing of any discrepancies and will be required to make additional payments, if needed, documented on a correction certified payroll within 30 days.

Withholding payments due to the contractor

If wage violations are not corrected within 30 days after notification to the prime contractor, the LCA may cause the withholding of payments due to the contractor in the amount needed to ensure the full payment of restitution and, if applicable, liquidated damages computed for CWHSSA O/T violations. Only the amounts necessary to meet the potential back wage and CWHSSA liquidated damages liabilities should be withheld.

Unfound workers

Sometimes, wage restitution cannot be paid to an affected employee because, for example, the employee has moved and cannot be located. After wage restitution has been paid to all the workers who could be located, the employer must submit a list of any workers who could not be found and paid (i.e., unfound workers), providing their name, Social Security number, last known address, and the gross amount due. In such cases, at the end of the project the prime contractor will be required to place in a deposit or labor standards escrow account an amount equal to the total gross amount of restitution that could not be paid because the employee(s) could not be located. The contract administrator will continue attempts to locate the unfound workers for three years after the completion of the project. After three years, any amount remaining in the account for unfound workers will be credited and/or forwarded by the contract administrator to HUD. Contact the HUD LSS for your area if you encounter this situation.





ADDITIONAL WORK CLASSIFICATION AND WAGE RATES

See Section 9 in the Contractor Addendum.

SANCTIONS AND RESTITUTION

See Section 9 in the Contractor Addendum.

APPENDIX

- Appendix I-1 Reorganization Plan No. 14 of 1950
- Appendix I-2 Delegations of Authority
- Appendix I-3 Labor Standards Core Work Activities
- Appendix II-1 HUD Davis-Bacon Related Acts
- Appendix II-2 Davis-Bacon Act Copeland Anti-Kickback Act
- Appendix II-3 Contract Work Hours and Safety Standards Act
- Appendix II-4 Federal Labor Standards Coverage in Major HUD Programs
- Appendix II-5 Factors of Labor Standards Applicability
- Appendix III-1 HUD's Willful Violations and Falsification Applicability
- Appendix III-2 Sample Deposit Schedule
- Appendix III-3 Sample Tax Withholding Notice
- Appendix III-4 Unfound Worker Schedule
- Appendix III-5 Refund of Deposit Memorandum Template
- Appendix IV-1 Acronyms and Symbols



DAVIS-BACON AND LABOR STANDARDS CONTRACTOR GUIDE ADDENDUM

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INTRODUCTION

This Guide has been prepared for you as a contractor performing work on construction projects that are assisted by the Department of Housing and Urban Development and subject to Davis-Bacon prevailing wage requirements. This Guide does not address contractor requirements involved in direct Federal contracting where HUD or another Federal agency enters into a procurement contract. In this latter case, the Federal Acquisition Regulations (FAR) are applicable. While the guidance contained in this Guide is generally applicable to any Davis-Bacon covered project, specific questions pertaining to direct Federal contracts should be addressed to the Contracting Officer who signed the contract for the Federal agency.

Our objective here is to provide you with a guide that is simple and non-bureaucratic yet comprehensive, and will help you better understand and comply with Davis-Bacon labor standards. HUD's Office of Davis Bacon and Labor Standards worked closely with the Department of Labor's Wage and Hour Division to make sure that the labor standards provisions in your contract and the specifics of complying with them represent the latest information. It is the Department of Labor that has general administrative oversight of all Federal contracting agencies, such as HUD, which administer the day-to-day responsibilities of enforcing Davis-Bacon provisions in construction contracts that they either fund or assist in funding.

This Guide contains six main chapters. The first chapter includes the laws and regulations associated with Federal labor standards administration and enforcement. The second chapter lists the responsibilities of contractors and of state, tribal, and local contracting agencies that administer HUD programs. The third chapter lists wage basics, including wage decisions, wage classifications, and wage rates, to provide background for the rest of the Guide. The fourth chapter discusses reviewing and reporting payrolls. The fifth chapter delves into additional work classifications and wage rates. The sixth and final chapter discusses sanctions and restitution. For further background, the DBLS Agency Guide may be used as a reference.

Finally, not all HUD construction projects are covered by Davis-Bacon wage rates. For the purpose of this Guide, we are assuming that a determination has already been made that Davis-Bacon wage rates are applicable. Should you wish assistance in determining whether Davis-Bacon wage rates apply to a particular project or if you need other related technical assistance, please consult with the HUD Labor Standards Field staff for your area.

RESOURCE

Visit the Office of Davis Bacon and Labor Standards online:
www.hud.gov/program_offices/davis_bacon_and_labor_standards

BASIC DBA DEFINITIONS

See Section 3 in the Agency Guide.



LAWS AND REGULATIONS

The Davis-Bacon Act (DBA)

The Davis-Bacon Act (DBA) requires the payment of prevailing wage rates (determined by the U.S. Department of Labor) to all laborers and mechanics on Federal government and District of Columbia construction projects in excess of \$2,000. Construction includes alteration and/or repair, including painting and decorating, of public buildings or public works. Most HUD construction work is not covered by the DBA itself since HUD seldom contracts directly for construction services. Most often, if DB applies to a HUD project is it because of a labor provision contained in one of HUD's "Related Acts" (see 5.9 in the Agency Guide). The Related Acts are often referred to as the Davis-Bacon and Related Acts or DBRA.

The Contract Work Hours and Safety Standards Act (CWHSSA)

CWHSSA requires time and one-half pay for overtime (OT) hours (over 40 in any workweek) worked on a covered project. The CWHSSA applies to both direct federal contracts and to federally-assisted contracts where those contracts require or involve the employment of laborers and mechanics and where federal wage standards (e.g., Davis-Bacon or HUD-determined prevailing wage rates) are applicable. CWHSSA provisions apply to all laborers and mechanics, including watchmen and guards, employed by any contractor or subcontractor. CWHSSA also applies to maintenance laborers and mechanics employed by contractors or subcontractors engaged in the operation of Public Housing Agencies (PHA), Tribally Designated Housing Entities (TDHE), and Indian Housing Agencies (IHA) developments.

Exemptions:

CWHSSA O/T provisions do not apply where the federal assistance is only in the nature of a loan guarantee or insurance.

CWHSSA O/T provisions do not apply to prime contracts of \$100,000 or less.

The Copeland Act (Anti-Kickback Act)

The Copeland Act makes it a Federal crime for anyone to require any laborer or mechanic (employed on a Federal or Federally-assisted project) to kickback, (i.e., give up or pay back) any part of their wages. The Copeland Act requires every employer to submit weekly certified payroll reports, and regulates permissible payroll deductions.

The Fair Labor Standards Act (FLSA)

The FLSA governs matters such as federal minimum wage rates and O/T. These standards are generally applicable to any labor performed and may be pre-empted by other (often more stringent) federal standards such as the DBRA prevailing wage requirements and CWHSSA O/T provisions. The authority to administer and enforce FLSA provisions resides solely with DOL.

Davis-Bacon Regulations

DOL has published rules and instructions concerning Davis-Bacon and other labor laws in the Code of Federal Regulations (CFR). These regulations can be found in Title 29 CFR Parts 1, 3, 5, 6, and 7. Part 1 explains how DOL establishes and publishes DBA wage determinations (also referred to as wage decisions) and provides instructions on how to use the determinations. Part 3 describes Copeland Act requirements for payroll deductions and the submission of weekly CPRs. Part 5 covers the labor standards provisions that are in contracts relating to Davis-Bacon Act wage rates and the responsibilities of contractors and contracting agencies to administer and enforce the provisions. Part 6 provides for administrative proceedings enforcing Federal labor standards on construction and service contracts. Finally, Part 7 sets parameters for practice before the Administrative Review Board. These regulations are used as the basis for administering and enforcing the laws.

DOL Regulations are available online: www.ecfr.gov/current/title-29

Construction Contract Provisions and Labor Standards Administration

Labor standards administration involves the activities that take place primarily before construction begins. Administration sets the stage for the compliance activities that occur during the construction phase. The first and sometimes most difficult step is determining whether and to what extent Davis-Bacon wage standards apply to a particular contract or project. The Factors of Labor Standards Applicability (see Appendix II-6) should be helpful. Most HUD-assisted construction work is covered by Davis-Bacon, but there are some exceptions. The best and safest approach is to first assume that Davis-Bacon requirements will be applicable whenever the contract/project involves construction work valued in excess of \$2,000, then look more closely to see if there is any reason for non-coverage. Each contract subject to Davis-Bacon labor standards requirements must contain labor standards clauses and a Davis-Bacon wage decision. These documents are normally wound into the contract specifications.

The labor standards clauses

The contract for construction is the vehicle to ensure contractor compliance and Davis-Bacon wage enforcement. Therefore, the bid specifications and/or the contract for each project subject to Davis-Bacon wage rates must contain both a Davis-Bacon wage decision and labor standards clauses. The labor standards clauses describe the responsibilities of the contractor concerning Davis-Bacon wages and obligate the contractor to comply with the Davis-Bacon wage and reporting

requirements and with the O/T provisions of the CWHSSA (applicable only when the prime contract is valued at over \$100,000). The labor standards clauses also provide for remedies in the event of violations, including the withholding of payments due to the contractor to ensure the payment of wages or liquidated damages that may be found due, and sanctions should violations occur. These contract clauses enable the contract administrator to enforce the Federal labor standards applicable to the project. HUD has standard forms that contain contract clauses. For example, the HUD-92554M, Supplementary Conditions Of The Contract for Construction, which is issued primarily for FHA (Federal Housing Administration) multifamily housing and other construction projects administered by HUD; the HUD-4010, Federal Labor Standards Provisions, which is used for CDBG (Community Development and Block Grant) and HOME (HOME Investment Partnerships Program) projects; and the HUD-5370, General Conditions for Construction Contracts (construction contracts >\$150,000) or the HUD-5370-EZ, General Contract Conditions for Small Construction/Development Contracts (construction contracts >\$2,000 but ≤\$150,000) which are used for Public and Indian Housing projects. These should be wound into the contract specifications or incorporated by specific reference in the bid/contract documents (see Labor Relations Letter 96-03).



Davis-Bacon Wage Decisions

The term “wage decision” includes the original decision and any subsequent decisions that modify, supersede, correct, or otherwise change the provisions of the original decision. The term “wage decision” is used within this Guide to mean the Davis-Bacon wage decision. The terms “wage decision” and “wage determination” are used interchangeably. A wage decision is a schedule of construction work classifications, wage rates, and fringe benefits that represent the minimum rates that must be paid to workers employed in those classifications. Wage decisions are established for defined geographic areas, usually by county or group of counties, and four general characters of construction work.

RESOURCE

The Department of Housing and Urban Development (HUD) one stop forms resource page.

www.hud.gov/program_offices/administration/hudclips/forms

RESOURCE

All current Davis Bacon wage decisions can be accessed online at no cost at www.sam.gov





CONTRACTOR RESPONSIBILITIES

The principal contractor is responsible for the full compliance of all employers (the contractor, subcontractors, and any lower-tier subcontractors) with the labor standards provisions applicable to the project. Because of the contractual relationship between a prime contractor and their subcontractors, subcontractors generally should communicate with the contract administrator only through the prime contractor. (See Contract Administrator Responsibilities, below.)

CONTRACT ADMINISTRATOR RESPONSIBILITIES

The contract administrator is responsible for the proper administration and enforcement of the Federal labor standards provisions on contracts covered by Davis-Bacon requirements. This term is used to represent the person (or persons) who will provide labor standards advice and support to contractors and other project principals (e.g., owner, sponsor, architect), including providing the proper Davis-Bacon wage decision (see 6.1, The Wage Decision) and ensuring that the wage decision and contract clauses are incorporated into the contract for construction. The contract administrator also monitors labor standards compliance (see Section 12, Payroll Compliance Reviews and Corrections, in the Agency Guide) by conducting interviews with construction workers at the job site and reviewing payroll reports, and oversees any enforcement actions that may be required.

The contract administrator could be an employee or agent of HUD, or of a city or county or public housing agency. For HUD projects administered directly by HUD staff, usually FHA-insured multifamily projects, the contract administrator will be the HUD Labor Standards field staff. But many HUD-assisted projects are administered by local contracting agencies such as PHAs, TDHEs, and States, cities and counties under HUD's CDBG and HOME programs.

In these cases, the contract administrator will likely be local agency staff. In either case, the guidance for contractors remains essentially the same.

DOL also has a role in monitoring Davis-Bacon administration and enforcement. In addition, DOL has independent authority to conduct investigations. A DOL investigator or other DOL representative may visit Davis-Bacon construction sites to interview construction workers or review payroll information.

RESOURCE

Program technical guidance

For interpretations of program requirements or handbooks and instructions on the use of forms:

Housing Programs - See our [Contact List](#) for help.



WAGE BASICS

The Wage Decision

Davis-Bacon labor standards stipulate the wage payment requirements for skilled workers, operators, truck drivers, and laborers—for example: carpenters, electricians, plumbers, roofers, rollers, screeds, bulldozers, water wagons, dump trucks, and other construction work classifications that may be needed for the project. The Davis-Bacon wage decision that applies to the project contains a schedule of work classifications and wage rates that must be followed.

Remember, the wage decision is contained in the contract specifications along with the labor standards clauses. See 5.12 in the Agency Guide.

The work classifications and wage rates

A Davis-Bacon wage decision is simply a listing of different work classifications and the minimum wage rates that must be paid to anyone performing work in those classifications.

You'll want to make sure that the work classifications you need are contained in the wage decision, and make certain that you know exactly what wage rate(s) you will need to pay. Some wage decisions cover several counties and/or types of construction work (e.g., residential and commercial work) and can be lengthy and difficult to read. The contract administrator (HUD Labor Standards field staff or local agency staff) is available to assist with any trouble reading the wage decision or finding the applicable work classification(s).

To make reading lengthy wage decisions easier, a contract administrator may prepare a Project Wage Sheet (HUD-4720). This sheet is a one-page transcript that will show only the classifications and wage rates for a project. A blank copy of a Project Wage Rate Sheet is provided in the Appendix.

RESOURCE

A fillable version of this form is available online at HUDClips www.hud.gov/program_offices/administration/hudclips/forms. Contact the contract administrator monitoring the project for assistance with a Project Wage Rate.

Posting the wage decision, Davis-Bacon poster, and Additional Classifications wages

The prime contractor is responsible for posting a copy of the wage decision (or the Project Wage Rate Sheet), a copy of the DOL Davis-Bacon poster titled Employee Rights Under the Davis-Bacon Act (Form WH-1321), and Additional Classifications wages at the job site in a place that is easily accessible to all the construction workers employed on the project and where the wage decision and poster will not be destroyed by wind, rain, etc. The purpose of this posting is to provide information to the construction laborers and mechanics working on the project about their entitlement to the prevailing wage for their trade, and to advise them whom to contact (the contract administrator) if they have any questions or want to file a complaint.

RESOURCE

The Employee Rights Under the Davis Bacon Act poster replaces the Notice To All Employees. The new poster is available in English and Spanish online at: www.hud.gov/program_offices/davis_bacon_and_labor_standards/olrmk13.



REVIEWING PAYROLLS

Certified Payroll Reports (CPRs)

To demonstrate compliance with labor standards requirements, each employer shall prepare, certify, and submit payroll reports for each week to the sponsor, applicant, or owner for any contract work that is performed. See 29 CFR § 5.5(a)(3)(ii) for information on CPRs.

CPR format

Employers on an FHA project are required to use the HUD-authorized Electronic Payroll System (EPS) to submit CPR reports. If an approved electronic payroll reporting system is not being used by the LCA, the employer must ensure that all information from DOL Payroll Form WH-347 is included and that the LSS can reasonably interpret it. Form WH-347 is available online at www.dol.gov/whd/forms/wh347.pdf.

Submission requirements

Each employer shall submit payroll reports beginning with the first week such employer performs work on the site of the work. Employers shall submit reports promptly following the close of each such pay week.

“No Work” payrolls

Employers are not required to submit reports for weeks during which no work was performed at the site of work, provided that the payroll reports are numbered sequentially or that the employer has provided written notice that its work on the project has been suspended.

Weekly payroll certification

Each weekly payroll submitted shall be accompanied by a “Statement of Compliance” that bears the original signature of the owner, executive/corporate officer, or a designee authorized by the owner or officer. The signature must be in ink; pencil is not acceptable. Signature stamps, photocopies, and facsimiles are not acceptable. The employer may utilize the reverse side of the DOL Payroll Form WH-347 as its Statement of Compliance or another document that contains the same language prescribed on the reverse of the WH-347.

False Submissions

The falsification of any of the above certifications may subject the employer to civil or criminal prosecution under § 1001 of Title 18 and § 231 of Title 31 of the United States Code (USC).

Payroll Review and Submission

The prime contractor should review each subcontractor’s payroll reports for compliance prior to submitting the reports to the contract administrator. Remember, the prime contractor is responsible for the full compliance of all subcontractors on the contract and will be held accountable for any wage restitution that may be found due to any laborer or mechanic that is underpaid and for any liquidated damages that may be assessed for O/T violations. All the payroll reports for any project must be submitted to the contract administrator through the prime contractor.

An alert prime contractor that reviews subcontractor payroll submissions can detect any misunderstandings early, prevent costly underpayments, and protect itself from financial loss should underpayments occur.

Payroll Retention

Every contractor (including every subcontractor) must keep a complete set of their own payrolls and other basic records—such as employee addresses and full SSNs, time cards, tax records, evidence of fringe benefit payments—for a Davis-Bacon project for at least three years after the project is completed. The prime contractor must keep a complete set of all the payrolls for every contractor (including subcontractors) for at least three years after completion of the project.

Payroll Inspection

In addition to submitting payrolls to the contract administrator, every contractor (including subcontractors) must make their own copy of the payrolls and other basic records available for review or copying to any authorized representative from HUD or DOL.





REPORTING PAYROLLS

Completing a Payroll Report

Each employer shall maintain payroll records with respect to their own workforce employed at the site of the work. The prime contractor shall maintain such records relative to all laborers and mechanics working at the site of the work during the course of the construction work for at least three years following the completion of the work. Such records shall contain:

Project and contractor/subcontractor information

Each payroll must identify the contractor or subcontractor's name and address, the project name and number, and the week ending date. Week dates must be indicated in the spaces provided. Numbering payrolls is optional but strongly recommended.

Employee information

The name and an individually identifying 4-digit number for each laborer and mechanic. Employers must always maintain each employee's address and full Social Security number (SSN) during the construction of the project and for no less than three years following completion. This information must be made available to the prime contractor, HUD, and/or the LCA upon request.

Employers (prime contractors and subcontractors) must maintain the current address and full SSN for each employee and must provide this information upon request to the contracting agency or other authorized representative responsible for Federal labor standards compliance monitoring. Prime contractors may require a subcontractor to provide this information for the prime contractor's records. DOL has modified form WH-347, Payroll, to accommodate these reporting requirements.

Work classification

Each employee must be classified in accordance with the wage decision based on the type of work they perform.

Apprentices or trainees

The first payroll on which any apprentice or trainee appears must be accompanied by a copy of that apprentice's or trainee's registration in a registered or approved program. A copy of the portions of the registered or approved program pertaining to the wage rates and ratios shall also accompany the first payroll on which the first apprentice or trainee appears.

Split classifications

For an employee that worked in a split classification, make a separate entry for each classification of work performed, distributing the hours of work to each classification accordingly, and reflecting the rate of pay and gross earnings for each classification. Deductions and net pay may be based upon the total gross amount earned for all classifications.

Hours worked

The payroll should show only the regular and O/T hours worked on one particular project. The employer must show both the daily and total weekly hours for each employee. If an employee performs work at job sites other than the project for which the payroll is prepared, those "other job" hours should not be reported on the payroll. In these cases, employers should list the employee's name, classification, hours for this project only, the rate of pay and gross earnings for this project, and the gross earned for all projects. Deductions and net pay may be based upon the employee's total earnings (for all projects) for the week.

Rate of pay

Employers must show the basic hourly rate of pay for each employee for one particular project. If the wage decision includes a fringe benefit and the employer does not participate in approved fringe benefit programs, the employer must add the fringe benefit rate to the basic hourly rate of pay, and must list the O/T rate if O/T hours were worked.

Piece-work

For any piece-work employees, the employer must compute an effective hourly rate for each employee each week based upon the employee’s piece-work earnings for that week. To compute the effective hourly rate, divide the piece-work earnings by the total number of hours worked, including consideration for any O/T hours.

The effective hourly rate must be reflected on the certified payroll. This hourly rate may be no less than the wage rate (including fringe benefits, if any) on the wage decision for the classification of work performed. It does not matter that the effective hourly rate changes from week to week, only that the rate is no less than the rate on the wage decision for the classification of work performed.

Remember, the O/T rate is computed at one and one-half times the basic rate of pay plus any fringe benefits. For example, if the wage decision requires \$10/hour basic plus \$5/hour fringe benefits, the O/T rate would be: $(\$10 \times 1.5) + \$5 = \$20/\text{hour}$.

Gross wages earned

Show the gross amount of wages earned for work performed on a particular project. Note: Employees with work hours and earnings on other projects may show gross wages for a particular project over gross earnings from all projects (e.g., \$425.40/\$764.85) and base deductions and net pay on the “all projects” earnings.

Deductions

Show the amounts of any deductions from the gross earnings. “Other” deductions should be identified (e.g., Savings Account or Loan Repayment). Any voluntary deduction (i.e., not required by law or by an order of a proper authority) must be authorized in writing by the employee or provided for in a collective bargaining (union) agreement. A short note signed by the employee is all that is needed and should accompany the first payroll on which the other deduction appears. The note needs to show the type, amount, and frequency of the deduction. A new deduction authorization is required when any of the aforementioned items change.

MORE INFO

Only one employee authorization is needed for recurring (e.g., weekly) “other” deductions. Written employee authorization is not required for income tax and Social Security deductions.



Net pay

Show the net amount of wages paid.

Statement of Compliance

The Statement of Compliance is the certification. It is located on the reverse side of a standard payroll form (WH-347). Employers must be sure to complete the identifying information at the top, particularly if attaching the Statement of Compliance to an alternate payroll form such as a computer payroll. Also, the employer must check either 4(a) or 4(b) if the wage decision contains a fringe benefit. Checking 4(a) indicates that the employer is paying required fringe benefits to approved plans or programs; and 4(b) indicates that the employer is paying any required fringe benefit amounts directly to the employee by adding the fringe benefit rate to the basic hourly rate of pay. If the employer is paying a portion of the required fringe benefit to programs and the balance directly to the employee, the employer must explain those differences in box 4(c).

Signature

For paper payrolls submitted, the payroll is signed with an original signature in ink. The payroll must be signed by a principal of the firm (owner or officer such as the president, treasurer, or payroll administrator) or by an authorized agent (a person authorized by a principal in writing to sign the payroll reports). Signature authorization (for persons other than a principal) should be submitted with the first payroll signed by such an agent. For paper payrolls, signatures in pencil, signature stamps, Xerox copies, PDFs, and other facsimiles are not acceptable.

MORE INFO

Only one Statement of Compliance is required for each employer's weekly payroll no matter how many pages are needed to report the employee data.





ADDITIONAL WORK CLASSIFICATION AND WAGE RATES

After contract award, if it is determined that additional work classifications are required because the wage decision lacks all the necessary classifications and wage rates, the prime contractor and, if applicable, its subcontractors employing workers in such classifications shall request an additional work classification and propose a wage rate and fringe benefits for such classification on form SF-1444, Request for Authorization of Additional Classification and Rate. The contractor or subcontractor shall make its request for a final decision through the LSS or LCA, as appropriate, to DOL at whd-cbaconformance_incoming@dol.gov. The LSS/LCA shall assist the employer in preparing the request and, if necessary, provide guidance on the policies and procedures involved.

Note: Additional work classifications and wage rates may be requested only after the effective wage decision “lock-in” date. (See DOL Regulations at 29 CFR Part 5 § 5.5(a)(1)(ii).)

Additional Work Classification and Wage Rate Parameters

Signature

Additional work classifications must be signed by DBLS for FHA-insured projects managed by HUD and signed by the LCA contracting officer for projects managed by LCAs, then forwarded to DOL with the applicable wage decision where:

The requested work classification is used in the area of the project by the construction industry;

The work that will be performed by the requested work classification is not performed by a work classification that is already contained within the applicable wage decision;

The proposed wage rate for the requested work classification bears a reasonable relationship to the wage rates on the wage decision; and

The workers that will be employed in the requested work classification (if it is known who the workers are or will be) or the workers’ representatives agree with the proposed wage rate.

General guide

The wage rate and fringe benefits proposed for any classification must be in accordance with the guidance available in All Agency Memorandum 213. The proposed wage rate and fringe benefits should bear a reasonable relationship to the entirety of the rates within the relevant category. There are four basic categories: skilled crafts, laborers, truck drivers, and power equipment operators. Additional classifications proposed for power equipment operators must specify the type(s) of power equipment involved.

Making the Request

Although a request for additional work classification and wage rate may be prompted following an LSS/LCA review, the proposal must originate with the prime contractor/employer that will utilize the work classification. The prime contractor/employer must submit the request in writing. A basic request must identify the contract/project involved, the work classification requested, and the wage rate, including any bona fide fringe benefits proposed. In some cases, it may be necessary for the prime contractor/employer to describe the work that the requested work classification would perform. The prime contractor/employer should use form SF-1444, Request for Authorization of Additional Classification and Rate, to submit the request.

LSS/LCA Review of Request

The LSS/LCA will review the prime contractor/employer’s request to determine if it satisfies the approval criteria at 5.12.1.9.2. The LSS/LCA will contact the prime contractor/employer if clarification or additional information is needed to complete the review.

Signing the request, reporting to DOL

If the LSS/LCA review finds that the requested work classifications and wage rate/fringe benefits meet the criteria at 5.12.1.9.2, the LSS/LCA submits the completed SF-1444, related documentation, and the applicable wage decision to the DOL National Office for final decision using DOL’s dedicated email address:

whd-cbaconformance_incoming@dol.gov.

Disagreement with the request; referring for DOL decision

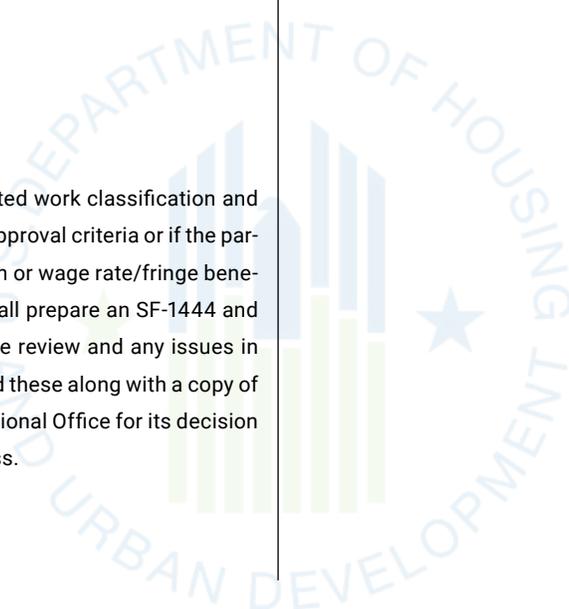
If the LSS/LCA review finds that the requested work classification and wage rate/fringe benefits fails to meet the approval criteria or if the parties do not agree on the proper classification or wage rate/fringe benefits for the work described, the LSS/LCA shall prepare an SF-1444 and a written report explaining the results of the review and any issues in dispute among the parties, and shall forward these along with a copy of the applicable wage decision to the DOL National Office for its decision using the same dedicated DOL email address.

DOL decision

DOL regulations permit 30 days for DOL to respond to the SF-1444. DOL will notify the LSS/LCA in writing of its decision.

DOL approval

When DOL approves the requested additional work classification and wage rate/fringe benefits, the LSS/LCA shall provide a copy of the DOL notice of approval to the prime contractor/employer with instructions that the additional work classification and wage rate/fringe benefits must be posted on the job site with the wage decision.



DOL disapproval

When DOL disapproves the requested work classification and wage rate/fringe benefits, DOL will notify the LSS/LCA in writing of the reasons why the request cannot be approved. DOL may also indicate what work classifications/wage rate/fringe benefits could be approved for the work involved if a modified request is submitted.

Notification to the prime contractor/employer

The LSS/LCA will notify the prime contractor/employer in writing of the results of the LSS/LCA review and/or DOL decision and provide a copy of the DOL notice.

Requests for DOL reconsideration

The LSS/LCA, the prime contractor/employer, or other interested parties may request reconsideration of the DOL decision on a requested additional work classification and wage rate/fringe benefits. Such requests must be made in writing accompanied by a full statement of the interested party's views and any supporting wage data or other pertinent information.





SANCTIONS AND RESTITUTION

Introduction

Even in the best of circumstances, things can go wrong. In a Davis-Bacon context, “things going wrong” usually means there’s a difference of opinion or a dispute about whether and to what extent underpayments have occurred. These disputes are usually between the contract administrator and one or more employers (the prime contractor and/or a subcontractor). The dispute may involve something simple such as an additional classification request that is pending before DOL, or something as significant as investigative findings following a complaint of underpayment. This chapter discusses some of the things you might expect, and what you can do to make your views known and to lessen any delays in resolving the problem or issue.

Administrative Review on Labor Standards Disputes

The labor standards clauses in the contract and DOL regulations provide for administrative review of issues where there is a difference of views between the contract administrator and any employer. The most common circumstances include:

Additional classifications and wage rates

Additional classification and wage rate requests are sometimes denied by DOL. An employer that is dissatisfied with the denial can request reconsideration by the DOL Wage and Hour Administrator. The employer may continue to pay the wage rate, as requested, until a final decision is rendered on the matter. When the final decision is known, the employer will be required to pay any additional wages that may be necessary to satisfy the wage rate that is established.

Reconsideration

DOL normally identifies the reasons for denial in its response to the request. Any interested person (e.g., the contract administrator, employer, or representatives of the employees) may request reconsideration of

the decision on the additional classification request.

The request for reconsideration must be made in writing and must thoroughly address the denial reasons identified by DOL. Employer requests for reconsideration should be made through the contract administrator but may be made directly to DOL. (See DOL Regulations 29 CFR § 1.8.) All requests initiated by or made through the contract administrator or HUD must be submitted through HQLS (Headquarters Office Davis-Bacon and Labor Standards).

Administrative Review Board

Any interested party may request a review of the Administrator’s decision on reconsideration by DOL’s Administrative Review Board. DOL regulations 29 CFR Part 7 explain the procedures for such reviews. (See also 29 CFR § 1.9.)

Findings of underpayment

Compliance reviews and other follow-up enforcement actions may result in findings of underpayment. The primary goal in every case and at every step in this process is to reach agreements about who may have been underpaid and how much wage restitution may be due, and to promptly deliver restitution to any underpaid workers. The contract administrator will usually work informally with employers to reach such agreements.

Rulings and interpretations unrelated to findings of underpayment

DOL is the authority for rulings and interpretations unrelated to findings of underpayments. This includes disputes concerning the prevailing wage rates as determined by DOL, DBRA applicability, character of work decisions, and interpretation and application of DOL regulations at 29 CFR Parts 1, 3, and 5. These and other such matters must be referred to the DOL Wage and Hour Administrator for their ruling and/or interpretation per 29 CFR § 5.13. Any request for a ruling or an interpretation from the DOL Administrator via DBLS must be submitted through HQLS with a copy to the local LSS.

Disputes concerning findings of underpayment

Underpayments usually occur when a contractor or subcontractor does not properly pay wages according to the approved wage determination and it has been identified as part of a Davis-Bacon and DBLS enforcement action. There may be other situations that also create underpayments, and they can originate from the employer, prime contractor, or any other interested party. Any underpayment decision by DBLS will include a formal decision letter with a Notice of Right to Appeal.

DOL review

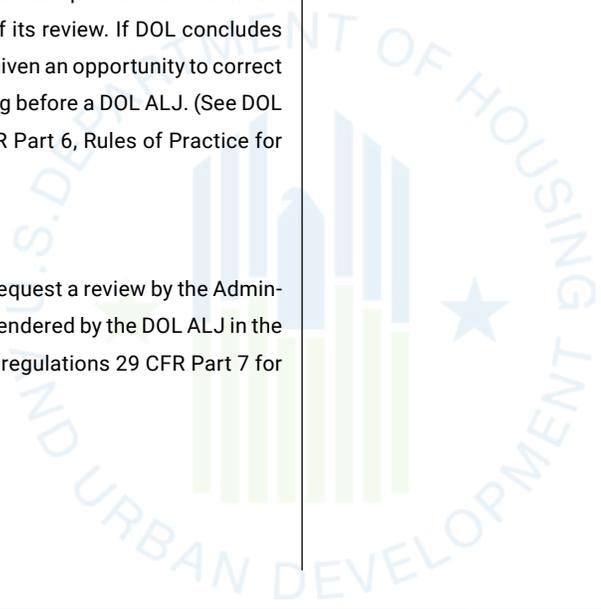
DOL will review the contract administrator’s report and the arguments against the findings presented in the hearing request. DOL may affirm or modify the findings based upon the materials presented. You will be notified in writing by DOL of the results of its review. If DOL concludes that violations have occurred, you will be given an opportunity to correct any underpayments or to request a hearing before a DOL ALJ. (See DOL Regulations 29 CFR § 5.11 (b) and 29 CFR Part 6, Rules of Practice for Administrative Proceedings.)

Administrative Review Board

Contractors and/or subcontractors may request a review by the Administrative Review Board of the decision(s) rendered by the DOL ALJ in the administrative hearing process. See DOL regulations 29 CFR Part 7 for more information about this proceeding.

Withholding

The contract administrator shall cause the withholding of payments due to the prime contractor to ensure the payment of wages that are believed to be due and unpaid (e.g., if wage underpayments or other violations are not corrected within 30 days after written notification to the prime contractor). DOL may also direct the withholding of contract payments for alleged wage underpayments. Withholding is serious and is not taken unless warranted. If withholding is deemed necessary, the contractor will be notified in writing. Only the amounts needed to meet the contractor’s (and/or subcontractors’) liability shall be withheld.



Deposits and Escrows

In some situations, certain labor standards issues are not or cannot be resolved in time to meet project closeout schedules. In order to permit a final closing/closeout to proceed while certain labor issues are outstanding, a deposit account (HUD-administered projects, e.g. multifamily housing-insured and grant programs) or an escrow account (LCA-administered projects, e.g., CDBG, HOME, HOPE VI (Housing Opportunities for People Everywhere)) may be established as a guarantee to ensure the payment of any wages that have been or may be found due to workers that were employed in the construction of the project. Deposit and escrow accounts may also hold fringe benefits payments that are due to plans or programs and/or liquidated damages that are assessed for violations of CWHSSA O/T provisions. The deposit or escrow account is controlled by the contract administrator. When a final decision is rendered, the contract administrator makes disbursements from the account in accordance with the decision. Deposit/escrow accounts are established for one or more of the following reasons:

MORE INFO

Remember, the prime contractor is responsible and will be held liable for any wage restitution that is due to any worker employed in the construction of the project, including workers employed by subcontractors and any lower-tier subcontractors. See 3.2, Responsibilities of the Principal Contractor, and 12.4, Restitution for Underpayment of Wages, in the Agency Guide.

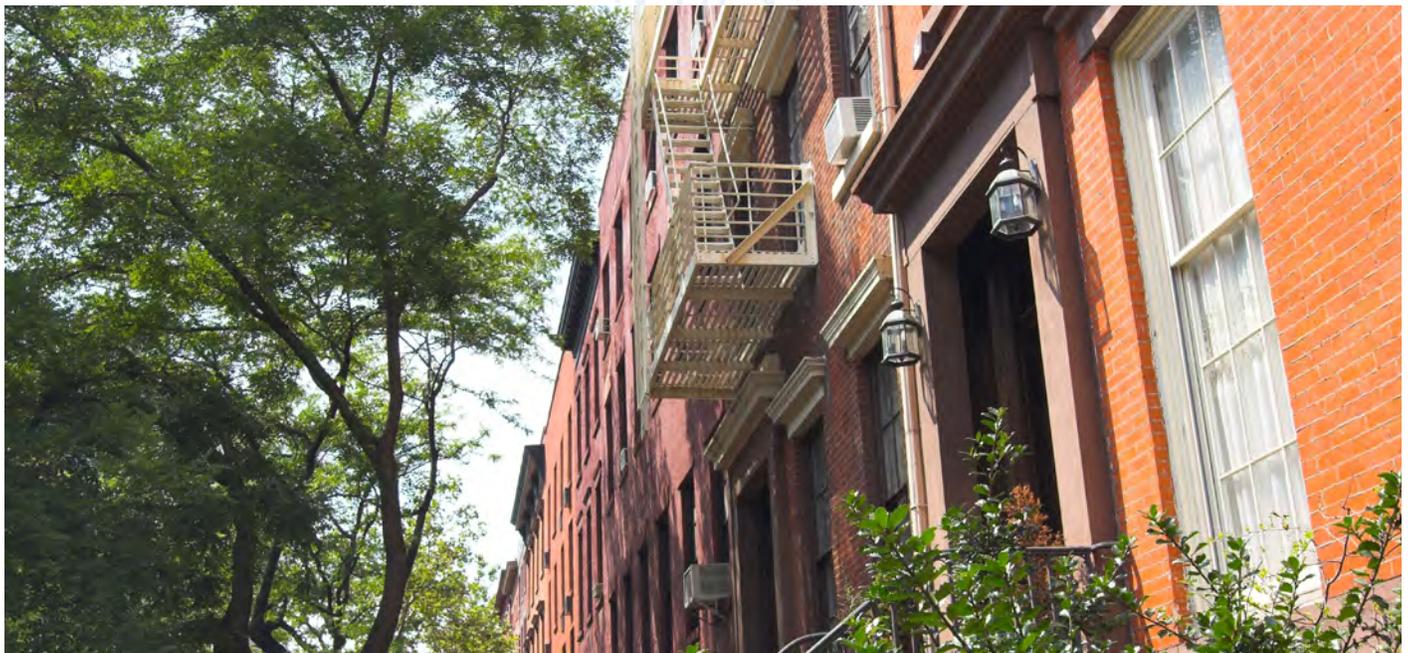
Where the parties have agreed to amounts of wage restitution that are due, but the employer hasn't furnished evidence yet that all the underpaid workers have received their back wages (e.g., unfound workers)

The amount of the deposit is equal to the total gross amount of restitution due to workers lacking payment evidence. As these workers are paid and proper documentation is provided to the contract administrator, amounts corresponding to the documented payments are returned to the depositor. Amounts for any workers who cannot be located are held in the deposit/escrow account for three years and disposed as described in Section 11.4.1 of this Guide;

Sometimes, wage restitution cannot be paid to an affected employee because, for example, the employee has moved and cannot be located. After wage restitution has been paid to all the workers who could be located, the employer must submit a list of any workers who could not be found and paid (unfound workers). See 12.4.6 in the Agency Guide for more information.

Where underpayments are suspected or alleged and an investigation has not yet been completed

The deposit is equal to the amount of wage restitution and any liquidated damages, if applicable, that are estimated to be due. If the final determination of wages due is less than the amount estimated and placed in the escrow account, the escrow will be reduced to the final amount and the difference will be returned to the depositor. If the parties agree to the investigative findings, the amounts due to the workers will be paid by the employer. As these workers are paid and proper



documentation is provided to the contract administrator, the gross amounts corresponding to the documented payments are returned to the depositor;

If the employer is unable to make the payments to the workers (e.g., lacks the funds necessary), the contract administrator may make disbursements directly to the workers in the net amounts calculated by the employer. The amounts withheld from the workers for tax deduction will be returned to the employer as payments to workers are made. The employer shall be responsible for reporting and transmitting withholdings to the appropriate agencies.

If the employer is not cooperating in the resolution, the contract administrator shall make disbursements to the workers in accordance with the schedule of wages due. Amounts for unfound workers will be retained as described in Section 13.4.6 in the Agency Guide.

If the parties do not agree and an administrative hearing is requested, the escrow will be maintained.

MORE INFO

Remember, if you have any questions or need assistance concerning labor standards requirements, help is always available. Contact the contract administrator for the project you're working on or the HUD Field Labor Standards staff in your area.

Where the parties are waiting for the outcome of an administrative hearing that has been or will be requested contesting a final determination of wages due

The deposit shall be equal to the amount of wage restitution and liquidated damages, if applicable, that have been determined due. Once a final decision is rendered, disbursements from the escrow account are made in accordance with the decision.

Administrative Sanctions

Contractors and/or subcontractors that violate the labor standards provisions may face administrative sanctions imposed by HUD and/or DOL.

DOL debarment

Contractors and/or subcontractors that are found by the Secretary of Labor to be in aggravated or willful violation of the labor standards provisions of the DBRA will be ineligible (debarred) to participate in any DBRA or Davis-Bacon Act contracts for up to three years. Debarment includes the contractor or subcontractor and any firm, corporation, partnership, or association in which the contractor or subcontractor has a substantial interest. Debarment proceedings can be recommended by the contract administrator or initiated by DOL. Debarment proceedings are described in DOL regulations 29 CFR § 5.12.

HUD sanctions

HUD sanctions may include Limited Denials of Participation (LDPs), debarments, and suspensions.



Limited Denial of Participation

HUD may issue to the employer an LDP, which prohibits the employer from further participation in HUD programs for a period of up to one year. The LDP is usually effective for the HUD program in which the violation occurred and for the geographic jurisdiction of the issuing HUD Office. HUD regulations concerning LDPs are found at 24 CFR §§ 24.700-24.714.

Debarment and suspensions

In certain circumstances, HUD may initiate its own debarment or suspension proceedings against a contractor and/or subcontractor in connection with improper actions regarding Davis-Bacon obligations. For example, HUD may initiate debarment where a contractor has been convicted for making false statements (such as false statements on certified payrolls or other prevailing wage certifications), or initiate suspension where a contractor has been indicted for making false statements. HUD regulations concerning debarment and suspension are found at 24 CFR Part 24.

Falsification of Certified Payroll Reports

Cases that involve certified payroll falsification may be referred to DOL for its investigation at the outset or referred to DOL for administrative review/hearings or other sanctions.

All referrals suggesting consideration for criminal prosecution must be submitted through the established hierarchy:



States may submit any such recommendation to DOL directly.

MORE INFO

Remember, if you have any questions or need assistance concerning labor standards requirements, help is always available. Contact the contract administrator for the project you're working on or the HUD Field Labor Standards staff in your area.



EMPLOYEE RIGHTS

UNDER THE DAVIS-BACON ACT

FOR LABORERS AND MECHANICS EMPLOYED ON FEDERAL OR FEDERALLY ASSISTED CONSTRUCTION PROJECTS

PREVAILING WAGES

You must be paid not less than the wage rate listed in the Davis-Bacon Wage Decision posted with this Notice for the work you perform.

OVERTIME

You must be paid not less than one and one-half times your basic rate of pay for all hours worked over 40 in a work week. There are few exceptions.

ENFORCEMENT

Contract payments can be withheld to ensure workers receive wages and overtime pay due, and liquidated damages may apply if overtime pay requirements are not met. Davis-Bacon contract clauses allow contract termination and debarment of contractors from future federal contracts for up to three years. A contractor who falsifies certified payroll records or induces wage kickbacks may be subject to civil or criminal prosecution, fines and/or imprisonment.

APPRENTICES

Apprentice rates apply only to apprentices properly registered under approved Federal or State apprenticeship programs.

PROPER PAY

If you do not receive proper pay, or require further information on the applicable wages, contact the Contracting Officer listed below:

SIMMERING-CORY
PO Box 244
Storm Lake, Iowa 50588
641-355-4072

or contact the U.S. Department of Labor's Wage and Hour Division.



WAGE AND HOUR DIVISION
UNITED STATES DEPARTMENT OF LABOR

1-866-487-9243
TTY: 1-877-889-5627
www.dol.gov/whd



DERECHOS DEL EMPLEADO BAJO LA LEY DAVIS-BACON

PARA OBREROS Y MECÁNICOS EMPLEADOS EN PROYECTOS DE CONSTRUCCIÓN FEDERAL O CON ASISTENCIA FEDERAL

SALARIOS PREVALECIENTES

No se le puede pagar menos de la tasa de pago indicada en la Decisión de Salarios Davis-Bacon fijada con este Aviso para el trabajo que Ud. desempeña.

SOBRETIEMPO

Se le ha de pagar no menos de tiempo y medio de su tasa básica de pago por todas las horas trabajadas en exceso de 40 en una semana laboral. Existen pocas excepciones.

CUMPLIMIENTO

Se pueden retener pagos por contratos para asegurarse que los obreros reciban los salarios y el pago de sobretiempo debidos, y se podría aplicar daños y perjuicios si no se cumple con las exigencias del pago de sobretiempo. Las cláusulas contractuales de Davis-Bacon permiten la terminación y exclusión de contratistas para efectuar futuros contratos federales hasta tres años. El contratista que falsifique los registros certificados de las nóminas de pago o induzca devoluciones de salarios puede ser sujeto a procesamiento civil o criminal, multas y/o encarcelamiento.

APRENDICES

Las tasas de aprendices sólo se aplican a aprendices correctamente inscritos bajo programas federales o estatales aprobados.

PAGO APROPIADO

Si Ud. no recibe el pago apropiado, o precisa de información adicional sobre los salarios aplicables, póngase en contacto con el Contratista Oficial que aparece abajo:

SIMMERING-CORY
PO Box 244
Storm Lake, Iowa 50588
641-355-4072

o póngase en contacto con la División de Horas y Salarios del Departamento de Trabajo de los EE.UU.



DIVISIÓN DE HORAS Y SALARIOS
DEPARTAMENTO DE TRABAJO DE LOS EE.UU.

1-866-487-9243
TTY: 1-877-889-5627
www.dol.gov/whd



Project Construction Sign

White Background

Project Title

Sponsor/Developer

Official(s) or Sponsor Address

Architect or Engineer

(second line)

Contractor

(second line)

Project Financed by:

Community Development Block Grant
Iowa Economic Development Authority

Kim Reynolds, Governor

Sign Dimensions: 1200mm x 2400mm (approx. 4'x8'x3/4")
Plywood Panel (APA Rated A-B Grade-Exterior)

Black
Lettering

CDBG
Community Development Block Grant

Black

IOWA[®]
economic development

Pantone 7540
(CMYK: 0/0/0/72)

Pantone 390
(CMYK: 22/0/100/8)

Pantone 7540
(CMYK: 0/0/0/72)

Black
Lettering