
HUD's Willful Violation/Falsification Indicators

As discussed in Chapter 5, LSS/LCA perform “spot-checks” of certified payroll reports (CPRs) and related documents in order to monitor the compliance status of employers engaged on projects covered by prevailing wage requirements. Spot-checks are intended to disclose obvious, face-of-the-record violations and, more importantly, to detect evidence of willful violations and payroll falsification.

In many of the more egregious noncompliance cases, the violating employer will attempt to conceal underpayments on payroll reports by falsifying the data. HUD has chosen to focus particularly on falsification because such conduct by employers, generally, involves substantial amounts of wage underpayments and may lead to debarment, and criminal prosecution or fines for willful violations and/or making false statements.

The following indicators describe patterns that suggest the payroll data have been falsified to conceal willful violations. Other willful violations may *not* involve what appears on CPRs but, rather, what is *not* reported on CPRs. These are also described in this appendix.

A. **Falsification appearing on CPRs.**

1. **Ratio of laborers to mechanics.** Except for concrete, landscaping and similar trades, the ratio of laborers to mechanics should not exceed 1:1. A higher ratio of laborers to mechanics normally indicates misclassification. That is, the workers classified and paid as laborers are, instead, performing the work of a mechanic which requires a wage higher than that of a laborer. Therefore, these workers are underpaid. The false information on the CPR may be limited to the classification of work.
2. **Too few or irregular hours.** Most workers are employed on a regular 40 hour per week basis. CPRs that consistently reflect less than 40 hours per week for all or certain groups of employees, or that reflect erratic work schedules (e.g., the crew works only a few hours per day scattered throughout the work week), indicate that the hours may have been reduced to give the appearance of compliance. The falsification in these cases may be limited to the hours worked.
3. **Discrepancies in wage computations.** CPRs that reflect frequent discrepancies in wage computations, e.g., gross wage payments in round numbers (\$400/week) computed from an uneven hourly wage rate (\$15.67/hour), indicate that the employees may be working on a piece rate basis, or at an even (e.g., \$15/hour) wage rate. Here, the falsification may involve the hours worked, the rate of pay, or both.
4. **Extraordinary deductions.** Unexplained or unusually high deductions may indicate that employees are being required to kick-back a portion of their

earnings. While this would indicate willful violations, it does not necessarily indicate falsification. The information on the CPR may otherwise be accurate.

B. **Willful violations that do not appear on CPRs.**

1. **Compliance excess.** Some violating employers attempt to “boost” their compliance factor by submitting “labor releases” and other documents that are not required or requested. Such documents, offered without request, suggest that the employer may be attempting to distract the compliance officer (LSS/LCA) from actual violations.
2. **“Ghost” workers.** In some instances, employees are working on the project, but these employees do not appear on the CPRs at all. In these cases, the employer may carry a core group of employees that is reported on the CPR. But the employer also has a second group of employees, perhaps day-workers or other temporary employees, and this second group of employees doesn’t appear on CPRs at all. The core group may be permanent employees; they are usually paid more than the temporary employees. The second group of employees is underpaid but, because the second group does not appear on the CPRs, they are “invisible” to the compliance officer (LSS/LCA). The compliance officer can’t assess compliance with labor standards with respect to the “ghost” workers.
3. **Willful violation payment schemes.** In some cases, worker or other complaints may be the only way that some willful violations are revealed. Examples of willful underpayment schemes that will not appear on a CPR include:
 1. **Wages paid in cash.** Employers may attempt to conceal underpayments by making wage payments in cash. It does not matter what is reported on the CPR, the cash in the pay envelope is less than what is reported and required.
 2. **Employer “cashes” paychecks.** Employers may issue payroll checks but the employer will require employees to endorse/turnover the paycheck to the employer in exchange for a lesser amount in cash.
 3. **Employer facilitates employee “cashing” of paychecks.** Employers may issue payroll checks and take action to ensure that the checks are processed (cashed) through the bank. In such cases, the employer instructs the employees to cash the paychecks and then requires the employees to kick-back a portion of the check proceeds to the employer in cash.