



# Chapter 6: Labor Standards and Construction Management

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## Introduction

Construction projects funded with KCDBG require that certain procedures be followed in order to comply fully with applicable Federal and state requirements. For example, Federal and state labor standards require recipients and contractors to meet and document compliance with certain rules associated with the employment of workers on construction projects.

This chapter describes the policies and procedures that must be followed when undertaking construction projects with KCDBG funds, including bid preparation, compliance with labor standards, pre-construction meetings and inspection and approval procedures.

## Section 6-A. Pre-Bidding Requirements

The first step in effective management of KCDBG-funded construction projects is the preparation of a bid package. This requires the writing of the technical bid specification – usually by an architect or engineer on the basis of prepared plans or working drawings. These specifications must provide a clear and accurate description of technical requirements for materials and products and/or services to be provided in the contract.

Please refer to Chapter 4: Procurement for more guidance on bidding.

Chapter 4: Procurement

Additionally, the plans and specifications for non-residential construction must be stamped by an architect or engineer registered in Kentucky. Water and sewer projects also require the approval of various state agencies. While the engineer/architect prepares the technical specifications, the Certified Grant Administrator must determine the applicability of Labor Standards and request the necessary wage decisions. (See Section B of this chapter.)

**Note:** The environmental review must be completed prior to bidding. Please refer to Chapter 2 for more information.

## Property Acquisition Issues

At this stage of the process, the grantee must have obtained all lands, rights-of-way, and easements necessary for carrying out the project. All property to be acquired for any activity, funded in whole or in part with KCDBG funds, is subject to the Uniform Relocation Assistance and Real Property Acquisitions Policy Act of 1970 (the Uniform Relocation Act [URA]). Included in the definition of property, among other things, are rights-of-way and easements. If the construction project involves real property acquisition, the grantee should contact its DLG Program Advisor very early and make sure the acquisition is done according to the provisions of the Uniform Act. See Chapter 7: Acquisition for additional information.

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## Section 6-B. Determining Applicability of Labor Provisions

### Federal Requirements

Most construction projects including alteration, repair or demolition, funded in whole or in part with Federal dollars, must comply with Federal labor standards provisions. Applicable laws include the following:

- ✓ The Davis-Bacon Act requires that workers receive no less than the prevailing wages being paid for similar work in the same locality.
- ✓ The Copeland Anti-Kickback Act requires that workers be paid weekly, that deductions from their pay be permissible, and that contractors keep and submit weekly payrolls and Statements of Compliance.
- ✓ The Contract Work Hours and Safety Standards Act requires that workers receive overtime compensation for hours they have worked in excess of 40 hours in one week. This Act applies to all KCDBG-assisted construction contracts of \$100,000 or more.

Davis-Bacon Act: 40 USC, Chapter 3, Section 276a-276a-5

Copeland Anti-Kickback Act: 40 USC, Chapter 3, Section 276c and 18 USC, Part 1, Chapter 41, Section 874

Contract Work Hours and Safety Standards Act: 40 USC, Chapter 5, Sections 326-332

**Tip:** HUD had published two guides that are available for downloading on labor standards requirements. These documents are “Making Davis Bacon Work: A Practical Guide for States, Indian Tribes and Local Agencies” and “Making Davis Bacon Work: A Contractor’s Guide to Prevailing Wage Requirements for Federally-Assisted Construction Projects.” HUD Handbook 1344.1 also provides detailed guidance on labor standards requirements.

### Exceptions

There are certain exceptions to the Davis-Bacon and Copeland Anti-Kickback Acts. These acts do not apply to:

- ✓ Construction contracts at or below \$2,000. Note that arbitrarily separating a project into contracts below \$2,000 in order to circumvent the requirements is not permitted.
- ✓ Rehabilitation of residential structures containing less than eight units. See Chapter 10: Housing Activities for other rehabilitation requirements.
- ✓ Non-construction related activities will not cause Davis-Bacon to apply to the whole project. These are activities such as real property acquisition, procurement of furnishings, and certain pieces of equipment that would not become permanently affixed to the real property. Exempt equipment purchases would be those that are incidental to the project that require minimal installation costs. Please contact DLG for equipment installations to determine whether the labor requirements will apply.
- ✓ Simple water and sewer line extensions without pumps, tanks, etc. may also be exempt. Grantees must first check with DLG staff.

Chapter 10: Housing Activities

- ✓ Separate and distinct projects. In some cases, an activity can occur in the same vicinity as another activity, but because it is a separate and distinct project, labor provisions may apply to one and not the other. Contact DLG for guidance.
- ✓ Contracts solely for demolition, when no construction is anticipated on the site.

DLG should be contacted if there is any situation where Davis-Bacon applicability is in question.

### *Equipment and Installation*

When CDBG funds are utilized in whole or in part to finance equipment, the applicability of wage rates to the installation must be determined. The general rule is that installation work performed in conjunction with an equipment supply contract is subject to labor standards where it involves more than an incidental amount of construction activity. Factors requiring consideration include: nature of the prime contract work; type of work performed by employees installing the equipment; extent to which structural modifications to buildings are needed to accommodate the equipment; the cost of the installation work both in terms of absolute amounts as well as in terms of the proportion of the total equipment and project cost. An equipment analysis must be completed in which all items of equipment are included with an explanation of related installation/modification costs and submitted to DLG to make a proper determination.

### *State Requirements*

A state labor provision that must be considered in KCDBG projects is the Kentucky Prevailing Wage Law at KRS 337.505-550. This requires prevailing wages be paid by any public authority for construction of any public works project fairly estimated to cost more than \$250,000. Note that arbitrarily separating a project into smaller contracts in order to circumvent the requirements is prohibited. **The state overtime**

KRS 337.505-550, 337.010,  
337.285 and 33.540

**requirements of KRS 337.285 (40 hour work week) apply on contracts that are not subject to state prevailing wages (i.e., all contracts). The state overtime requirements of KRS 337.540 (eight hour work day) apply on contracts that are subject to state prevailing wage rates only.**

## Section 6-C. Bidding and Contracting Requirements

A grantee or the grant administrator must be sure to include all applicable labor standards, equal opportunity, and other language in the bid specifications and contract documents, in addition to verifying contractor/subcontractor eligibility (as described in Chapter 4). The grantee is responsible for obtaining all required documentation, monitoring project compliance, and maintaining appropriate files.

Chapter 4: Procurement

### Preparing Contracting Procedures to Meet Federal and State Labor Standards Provisions

Once it is determined that a construction project is subject to Federal and/or state labor standards provisions, the following steps must be taken to ensure compliance.

#### *Step 1: Request Applicable Federal Wage Rate Decision*

The grantee may access Federal wage rate decisions through the Internet at [www.wdol.gov](http://www.wdol.gov). In order to ensure accuracy, however, the grantee must request

Attachment 6-1: Request for  
Determination of Wage Rate

the applicable Federal wage rate decision from DLG using Attachment 6-1: Request for Determination of Wage Rate form. This form must be submitted a minimum of 30 days in advance of binding bid documents, though the turn-around time from DLG is usually much quicker than this. DLG prefers your request to be in the form of an email. **Be sure to include the appropriate return email address as requested on the form.**

Note that Federal wage determinations are issued for four categories: Building, Residential, Heavy, and Highway. Most KCDBG construction projects will involve either Building or Heavy determinations. In determining which rate category to request, it is important to understand the differences to avoid paying wages from an inappropriate determination.

- ✓ Building construction generally includes construction of sheltered enclosures with walk-in access for housing persons, machinery, equipment or supplies. This includes all construction within and including the exterior walls, both above and below grade.
- ✓ Residential projects involve the construction, alteration or repair of single-family houses or apartment buildings no more than four stories tall.
- ✓ Heavy construction is generally considered for all construction not properly classified as Highway, Residential, or Building. Water and sewer line construction will typically be categorized as Heavy construction.
- ✓ Highway projects include construction, alteration or repair of roads.

A grantee's DLG Program Advisor should be consulted if there are questions about properly identifying the type of construction on the project and the wage determination necessary.

### *Step 2: Request Applicable State Prevailing Wage Rate*

The grantee may also access state wage rate decisions through the Internet at <http://www.labor.ky.gov/ows/employmentstandards/prevailingwage/> or by phone at 502.573-3070. As with Federal wage rates, to ensure accuracy the grantee must also request the applicable state prevailing wage rate decision from the Kentucky Department of Labor using Attachment 6-2: State Prevailing Wage Request form. This form should also be submitted to the Kentucky Department for Labor a minimum of 30 days in advance of binding bid documents. The Department for Labor will send the grantee the applicable state wage rate determination.

State Wage Decisions  
<http://www.labor.ky.gov/ows/employmentstandards/prevailingwage/>  
or by phone at 502.573-3070.

Attachment 6-2:  
State Prevailing Wage Request

### *Step 3: Review and Reconcile Wage Rates*

If both state and Federal wage laws apply, both decisions must be included in the bid package and in the contract documents. The contractor must pay the higher of the two wage rate decisions by job classification and by county.

In addition, if a state wage decision applies to the contract, state daily overtime provisions apply, even if Federal rates are paid. This means that:

- ✓ Overtime must be paid to workers that work more than eight hours per day unless the affected employee agrees in writing to work four 10-hour days. (Signed, written agreements must be obtained from each employee by the contractor prior to the employee working a 10-

hour day. Agreements must be maintained in the contract files and submitted with the first payroll.)

- ✓ Any work in excess of the 10 hours is considered overtime (even with signed agreements).

Questions regarding state prevailing wage rates and specific requirements, including overtime, should be addressed to the Kentucky Labor Cabinet.

Kentucky Labor Cabinet  
Employment Standards,  
Apprenticeship & Training  
1047 US Highway 127 S., Suite 4  
Frankfort, KY 40601  
(502) 564-3070

#### *Step 4: Add Labor Provisions to the Bid Package*

The wage rate decision(s) must be a physical part of the bid package. The bid package must contain the labor standards requirements, which are summarized below and separately in this Chapter as Attachment 6-3.

- ✓ Davis-Bacon provisions;
- ✓ Contract Work Hours and Safety Standards clause;
- ✓ Copeland Anti-Kickback clause;
- ✓ Employment of Apprentices/Trainee clause; and
- ✓ Applicable wage rate determination(s).

Attachment 6-3:  
Federal Labor Standards  
Provisions (HUD 4010)

**Caution:** If the grantee fails to include the correct wage rate determination(s), the grantee will be responsible for paying the difference between the proper wage rate and the wages paid by the contractor based upon the information provided in the bid package. The grantee must make the "Nine-Day Call" to DLG to confirm the wage rates. This requirement is described in detail in Chapter 4: Procurement.

### Preparing Contracting Procedures to Meet Equal Opportunity Requirements

The grantee must review all draft bid and contract documents to insure compliance with equal opportunity requirements and establish procedures for monitoring compliance during project execution. The following equal opportunity provisions and signed contractor and subcontractor certifications must be included in all bid and contract documents:

- ✓ Certification of Bidder regarding Section 3;
- ✓ Certification by Proposed Subcontractor regarding Section 3 Segregated Facilities;
- ✓ Certification of Bidder regarding Equal Employment Opportunity;
- ✓ Contractor Section 3 Plan Format (if contract exceeds \$100,000);
- ✓ Certification by Proposed Subcontractor regarding Equal Employment Opportunity;
- ✓ Three-paragraph Equal Opportunity Clause for Activities and Contracts not subject to Executive Order 11246 (if contract is less than \$10,000);
- ✓ Executive Order 11246 clause (if contract is \$10,000 or above);
- ✓ Notice of Requirement for Affirmative Action to Ensure Equal Employment Opportunity (if contract over \$10,000);

- ✓ Standard KCDBG-assisted Equal Employment Opportunity Construction Contract Specification (if contract over \$10,000);
- ✓ Certification of Non-segregated Facilities clause (if contract over \$10,000);
- ✓ Title VI Clause, Civil Rights Act of 1964;
- ✓ Section 109 clause, Housing and Community Development Act of 1974;
- ✓ Section 3 Compliance in the Provision of Training, Employment and Business Opportunities clause (if contract exceeds \$100,000);
- ✓ Rehabilitation Act of 1973, Section 503 Handicapped clause (if contract \$2,500 and above);
- ✓ Section 402 Veterans of the Vietnam Era clause (if contract over \$100,000); and
- ✓ Age Discrimination Act of 1975 clause.

### *Female and Minority Participation Requirements*

Grantees should pay particular attention to the Standard KCDBG-assisted Equal Employment Opportunity Construction Contract Specifications. These specifications include a place for the grantee to insert both minority and female goals. The nationwide goal for female participation is 6.9 percent.

Minority goals are specific to “Economic Areas,” so the grantee must refer to the regulations for the minority goal for their locality. Attachment 6-4 lists the minority participation goals by county.

Attachment 6-4:  
Goals for Female and Minority  
Participation

The Minority Employment Goals By Economic Area for State of Kentucky apply to each construction craft and trade in the contractor’s entire workforce that is working in an area covered by goals and timetables and not just on those jobs that are KCDBG-assisted. A contractor with a KCDBG contract in Standard Metropolitan Statistical Area (SMSA) X and a non-KCDBG assisted contract in SMSA Y must meet SMSA X goals for the workforce in SMSA X, and SMSA Y goals for the workforce in SMSA Y, even though that contract is not KCDBG-assisted.

These goals for contract specifications make written affirmative action plans unnecessary unless the U.S. Department of Labor, Office of Federal Contract Compliance Programs determines a specific contractor or group of contractors needs to establish higher goals in order to remedy the effects of past discriminatory behavior.

## **Other Bidding and Contracting Requirements**

### *KCDBG Provisions*

The bid package must also include all KCDBG-related provisions and the grantee’s terms and conditions. The following provisions for KCDBG-assisted projects must be included, as applicable.

- ✓ Bonding and Insurance Requirements Clause (Kentucky state law for contracts over \$25,000 and the “Common Rule”, 24 CFR Part 85.36 if over \$100,000);

- ✓ Conflict of Interest;
- ✓ Certification of Compliance with Air and Water Acts (if over \$100,000);
- ✓ Special Conditions Pertaining to Hazards, Safety Standards and Accident Prevention (including Lead-based Paint Prohibition);
- ✓ Energy Efficiency; and
- ✓ Access to Records/Maintenance of Records.

Attachment 6-6:  
Commonly Asked Questions  
Concerning Equal Opportunity

### *Cost and Pricing Format*

The bid package must include cost and pricing formats. Generally street, water, sewer, utility and landscaping projects will be unit price contracts, while building type contracts will be lump sum. For unit cost contracts, the bid specifications should delineate each type of item, estimating quantity, unit price, and estimated total cost. All bid packages should indicate that the grantee can reject any and all bids received.

### *Attorney Review*

Finally, the bid package should be reviewed in its entirety by the grantee's attorney to ensure compliance with applicable Federal, state and city/county laws.

### *Procurement Requirements*

Once the bid document is prepared, it is time to advertise for construction bids. Refer to Chapter 4: Procurement for specific instructions on how to proceed with the bidding process.

Chapter 4: Procurement

## **Section 6-D. Pre-Construction Requirements**

### **Pre-construction Conferences**

Before any work is performed by a contractor, DLG highly recommends that the grantee, the grant administrator, the engineer or architect, and any other technical advisors to the grantee conduct a pre-construction conference with the contractor to explain contractual requirements and performance schedules. Though no longer required in order to comply with Federal labor standards, this conference reduces the likelihood of later conflicts caused by assumptions and misunderstandings between the contractor and the grantee.

The grantee should prepare an agenda, and plan to utilize and distribute a pre-construction checklist as a guide to ensure that all areas are properly addressed. (See Attachment 6-5: Outline of a Pre-construction Conference.) A

Attachment 6-5: Outline of a Pre-  
Construction Conference

tape recorder may be used to record the meeting and/or a stenographer may be asked to prepare notes. The grantee should clearly present the Federal statutory compliance requirements as well as performance expectations. A copy of the minutes should be signed by all parties to the contract and placed in the files.

Items that should be covered at the pre-construction conference include, but are not limited to:

- ✓ Explain to the contractors their responsibilities with respect to labor standards and equal opportunity requirements as well as the technical job requirements.
  - DLG has prepared a list of Commonly Asked Questions Concerning Equal Opportunity (provided as Attachment 6-6), which should be distributed and discussed.
  - At this time, the grantee should correct any outstanding deficiencies, such as securing signed Section 3 Plans and Certifications of Compliance.
  - Obtain the contractor's Federal Identification Number.
- ✓ Have the contractor complete Attachment 6-7: Contractor Employee Breakdown Form, listing each employee expected to work on the project by race, sex, job classification, and salary/wage rate. This form can then be used to cross check against future employment for the project to determine if minority and female hiring goals are being achieved. Attachment 6-7: Contractor Employee Breakdown Form
- ✓ Explain that the contractor must submit weekly payrolls and Statements of Compliance signed by an officer of the company, and that the prime contractor is responsible for securing, checking, and reviewing payrolls and Statements of Compliance from all subcontractors.
- ✓ Explain that wages paid must conform to those included in the wage rate decision included in the contract. Discuss the classifications to be used. If additional classifications are needed, contact DLG immediately.
- ✓ Explain that employee interviews will be conducted during the project.
- ✓ Emphasize that both a copy of the wage rate decision and the wage rate poster must be posted at the job site.
- ✓ Explain that apprentice or trainee rates cannot be paid unless the apprentice or training program is certified by the State Bureau of Apprenticeship and Training. If apprentices or trainees are to be used, the contractor must provide the grantee with a copy of the state certification of his/her program.
- ✓ If the contract is \$100,000 or greater, explain that workers must be paid overtime if they work more than 40 hours in one week. Only a waiver from the Secretary of Labor can override the Contract Work Hours and Safety Standards Law. If state wage rates apply to the contract, explain that workers must also be paid overtime if they work more than eight hours in a day or 40 hours in a week, unless signed agreements have been obtained from each employee. (See Section 3 of this chapter for more information.)
- ✓ Indicate that failure to pay workers at least time and a half whenever overtime violates the Contract Work Hours and Safety Standards law (more than 40 hours per week) or, if applicable, KRS 337 (more than eight hours or, if a written agreement, 10 hours per day) and in addition to restitution, makes the contractor liable for liquidated damages of \$10 per day for every day each worker exceeded 40 hours a week without being paid time and a half. Grantees should contact their DLG Program Advisor for assistance if a violation occurs. Contractor's Guide to Prevailing Wage Requirements for Federally-Assisted Construction Projects  
[http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/labor\\_relations/](http://portal.hud.gov/hudportal/HUD?src=/program_offices/labor_relations/)

- ✓ Explain that no payroll deductions can be made that are not specifically listed in the Copeland Anti-kickback Act provisions unless the contractor has obtained written permission of the employee. An unidentified payroll deduction is a method used by unethical contractors to get their workers to “kickback” a portion of their pay. This is a particularly common problem in times of high unemployment and in areas of minority concentrations. Unspecified payroll deductions are a serious discrepancy and should be resolved prior to further contractor payments.
- ✓ Explain debarment proceedings relative to violation of labor standards and equal opportunity requirements. Obtain any outstanding documents including Contractor/Subcontractor Eligibility Certifications Regarding Debarment, Suspension and Other Responsibilities. Provide contractor with posters for the site, such as “Davis Bacon Act”, “Notice to All Employees Working on Federal or Federally Financed Construction Projects” “Safety and Health Protection on the Job”, and “Equal Employment Opportunity is the Law”. These posters and others that are required are provided in Attachment 6-8 and are available for download from the Internet. Inform the contractor that it is his/her responsibility to employ only eligible subcontractors who have certified eligibility in a written subcontract containing Federal labor standards and equal opportunity provisions. (See Chapter 5, Attachment 5-4.)
- ✓ Provide the contractor with a copy of the “Contractor's Guide to Prevailing Wage Requirements for Federally-Assisted Construction Projects.” This guide can be downloaded at: [http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/labor\\_relations/](http://portal.hud.gov/hudportal/HUD?src=/program_offices/labor_relations/).
- ✓ Provide handouts explaining everything covered and obtain the contractor’s signature to document receipt.
- ✓ The grantee should also describe the compliance monitoring that will be conducted during the project, and indicate that discrepancies and underpayments discovered as a result of compliance monitoring must be resolved prior to making further payment to the contractor. Remind the contractor that labor standards provisions are as legally binding as the technical specifications, and failure to pay specified wages will result in contractor payments being withheld until all such discrepancies are resolved.

Attachment 6-8: Contracting  
Posters

Also available online at  
<http://www.dol.gov/osbp/sbrefa/poster/matrix.htm>

Following the pre-construction conference, the grantee should prepare and maintain a pre-construction conference report. This report is meant to record the minutes of the meeting. A sample Pre-construction Report Format is provided as Attachment 6-9.

Attachment 6-9:  
Pre-Construction Report Format

## Notice to Proceed

Following execution of the contract documents and completion of the pre-construction conference, issue a Notice to Proceed to each prime contractor to begin performance of the work. The Notice to Proceed must establish the construction start date, the scheduled completion date, and provide the basis for assessing liquidated damages. The construction period and basis for assessing liquidated damages must be consistent with those sections of the contract documents. A sample Notice to Proceed is provided as Attachment 6-10. **The Notice to Proceed must also be sent to DLG following execution.**

Attachment 6-10: Notice to  
Proceed

## Contract File Review

The grantee should also review each contract file and associated compliance file to make sure documentation is complete at the time of contract award. The following list of Construction Contract file requirements identifies the items that should already be located in the contract file. Note that Section 3 of this chapter provided a listing of labor standards and equal opportunity requirements, so they are not repeated below but must be reviewed as well.

- ✓ Preliminary design and cost estimates;
- ✓ Final design documents and cost estimates;
- ✓ Evidence that all necessary land or easement acquisition has been completed prior to advertising for bids;
- ✓ Bid documents;
- ✓ Approval of bid documents by authorities having jurisdiction over the project, as appropriate;
- ✓ Tear sheet or affidavit documenting the advertisement for bids;
- ✓ Addenda, if any, and evidence of timely distribution to plan holders;
- ✓ Signed minutes of public bid opening;
- ✓ Certified tabulation of bids;
- ✓ Recommendation for Award;
- ✓ Notice of Contract Award/Council or Fiscal Court Approval;
- ✓ Recommended pre-construction conference report;
- ✓ Executed contract and subcontract documents;
- ✓ Certification of Insurance/Bonding; and
- ✓ Notice to Proceed.

## Section 6-E. Payroll Review Requirements

Once construction is underway, the general contractor must obtain weekly payrolls (including signed Statements of Compliance) from all subcontractors as they work on the project. The payrolls must be reviewed by the general contractor to ensure that there are no discrepancies or underpayments. Remember that the prime contractor is responsible for the full compliance of all subcontractors on the project and will be held accountable for any wage restitution that may be found. This includes underpayments and potentially liquidated damages that may be assessed for overtime violations.

Grantees must obtain copies of all general contractor and subcontractor weekly payrolls (accompanied by the Statements of Compliance), and review them to ensure that there are no discrepancies or underpayments in accordance with HUD guidelines. See Attachment 6-11: Payroll Falsification Indicators, for HUD guidance on detecting falsification through frequent payroll review and interview comparison.

Attachment 6-11: Payroll  
Falsification Indicators

Certified payroll reports must be submitted by the contractor to the grantee within seven to eleven working days of the end of the payroll period. A Payroll Form is provided as Attachment 6-12.

This form was updated in December 2008, in accordance with revised regulations that mandate that an employee's full social security number and address are not to be included on these certified payroll reports. Instead, an alternative individual identity number should be used, such as the last four digits of the employee's social security number. This form does not have to be used, but alternative payroll documentation must include all of the same elements in order to determine compliance with applicable regulations.

Attachment 6-12: Payroll Form

Payroll reports must be reviewed by the grantee upon receipt so that any necessary corrective action can be initiated before the problem multiplies. Payroll forms must be initialed by the grantee to indicate that they have been reviewed.

In addition to the falsification indicators described in the HUD guidance, items to be spot-checked should include:

HUD Handbook 1344 is a good resource for labor standards information. Go to [www.hud.gov](http://www.hud.gov)

- ✓ The correct classification of workers;
- ✓ A comparison between the classification and the wage determination to determine whether the rate of pay is at least equal to the rate required by the determination;
- ✓ A review to ensure that work by an employee in excess of 40 hours per week is being compensated for at rates not less than one and one-half times the basic rate of pay;
- ✓ Review of deductions for any non-permissible deductions; and
- ✓ The Statement of Compliance (Attachment 6-13) has been signed by the owner or an officer of the firm.

Attachment 6-13: Statement of Compliance

Any discrepancies and/or falsification indicators must be reported to DLG, along with the steps being taken by the grantee to resolve the discrepancies. Where underpayments of wages have occurred, the grantee is responsible to make sure the correct wages are paid and that 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. Grantees should contact their DLG Program Advisor for assistance if a violation occurs.

**Caution:** Owner-operators of power equipment, like self-employed mechanics, may not submit their own payrolls certifying to the payment of their own wages BUT must instead be included on the responsible contractor's certified payroll report.

## Section 6-F. Construction Management Requirements

### General

During construction, the grantee is responsible for monitoring the labor standards and equal opportunity requirements described in this Chapter. In addition to payroll reviews and interviews, the grantee is responsible for ensuring proper construction management. This role may be fulfilled by the architect/engineer and, if so, should be included in the scope of services for that professional services contract. Construction management must include on-site inspection and general supervision of construction to check the contractor's work for compliance with the drawings and specifications, as well as quantity and quality control.

Note that written inspection reports must accompany any contractor's request for partial payment. It is also strongly recommended that monthly progress meetings be held to allow the

grantee, engineer, grant administrator, and funding agencies to review the status of the project, resolve problems, and review requests for payment.

## Labor Standards Requirements

Construction management requirements include conducting job site interviews with workers using Attachment 6-14: Record of Employee Interview form.

Attachment 6-14:  
Record of Employee Interview  
Form

The grantee must conduct interviews using the representative sampling technique and the interviews should include a sufficient sample of job classifications represented on the job to allow for a reasonable judgment as to compliance. At least 10 percent of the workers on-site, and a least one in each job classification working at the site, should be interviewed.

The grantee should ensure the following actions are performed:

- ✓ DLG recommends that interviews be conducted at least once during the course of each phase of construction on each project.
- ✓ Payrolls should be used to verify data obtained during on-site interviews. Check to see that employees are being paid the amounts specified in the wage decision, the amount shown on the payrolls, and the hours shown on the payrolls. Include hours of the supervisor.
- ✓ Identification and correction of any discrepancies between on-site interviews, payrolls, and wage rates.
- ✓ A fully completed and signed Record of Employee Interview form is maintained in the contract file.

### *Interview Protocols*

The following guidelines should be observed by persons conducting job site interviews:

- ✓ The interview should take place on the job site if it can be conducted properly and privately (this is a one-on-one process).
- ✓ The interviewer should see that the wage determination and other required posters are properly displayed.
- ✓ The interviewer should observe the duties of workers before initiating interviews. Employees of both the prime and sub contractors should be interviewed.
- ✓ To initiate the interview, the authorized person shall:
  - Properly identify himself/herself;
  - Clearly state the purpose of interview; and
  - Advise the worker that information given is confidential, and his/her identity will be disclosed to the employer only with the employee's written permission.
- ✓ When conducting employee interviews, the interviewer should pay particular attention to:
  - The employee's full name;
  - The employee's permanent mailing address;

- The last date the employee worked on that project and number of hours worked on that day. The interviewer should make it clear that these questions relate solely to work on the project and not other work.
- The employee's hourly rate of pay. The aim is to determine if the worker is being paid at least the minimum required by the wage decision.
  - The interviewer should be sure the worker is not quoting their net hourly rate or "take-home" pay.
  - If it appears the individual may be underpaid, the interviewer should closely question the worker:
    - Ask for any records.
    - Arrange to re-interview the employee.
- Enter the worker's statement of his/her classification.
- Observe duties and tools used:
  - If worker's statements and observations made by the interviewer indicate the individual is performing duties conforming to classification, indicate this on the Record of Employee Interview form.
  - If there are discrepancies, detailed statements are necessary.
- Enter any comments necessary.
- Enter date interview took place.
- ✓ If there are wage complaints, the interviewer should complete the Federal Labor Standards Complaint Intake Form (HUD Form 4731) using Attachment 6-15.
- ✓ The payroll examiner must compare information on the Record of Employee Interview form with the certified payroll submission:
  - If no discrepancies appear, "None" should be written in the comment space of the Record of Employee Interview form.
  - If discrepancies do appear, appropriate action should be initiated.
  - When necessary action has been completed, the results must be noted on the interview form.

Attachment 6-15: Federal Labor  
Standards Complaint Intake Form  
(HUD Form 4731)

## Wage Restitution

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 certified payroll report.

### *Notification to the Prime Contractor*

The contract administrator will notify the prime contractor in writing of any underpayments that are found during payroll or other reviews. The notice will describe the underpayments and provide instructions for computing and documenting the restitution to be paid. The prime contractor is allowed 30 days to correct the underpayments. If wage violations are not corrected within 30 days after notification to the prime contractor, the recipient may withhold payment due to the contractor of an amount necessary to ensure the full payment of restitution. 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.

### *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.

### *Correction Payrolls*

The employer will be required to report the restitution paid on a correction certified payroll. The correction payroll will reflect the period of time for which restitution is due (for example, Payrolls #1 through #6, or payrolls for a specified beginning date through a specified ending date). The correction payroll will list:

- ✓ Each employee to whom restitution is due and their work classification,
- ✓ The total number of work hours,
- ✓ 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 to be paid.

A properly signed Statement of Compliance must be attached to the correction certified payroll.

- ✓ Generally, the contractor is not required to obtain the signature of the employee on the correction payroll to evidence receipt of the restitution payment or to submit copies of restitution checks (certified, cashiers, canceled or other, or employee-signed receipts or waivers) in order to document the payment.

### *Review of correction certified payroll*

The contractor administrator will review the correction 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. Additional payments must be documented on a supplemental correction payroll within 30 days.

## Semi-Annual Labor Standards Enforcement Reports

Grantees must submit Semi-Annual Labor Standards Enforcement Reports (HUD 4710 and 4710i) twice a year. The first report should include all contracts subject to Davis-Bacon and related acts awarded between April 1 and September 30. It is due no later than September 15. The second semi-annual report should include all contracts subject to Davis-Bacon and related acts awarded between October 1 and March 31. It is due no later than March 15. If no contracts were awarded, please fill in the agency name (city or county), the period covered and mark “not applicable” at the top of the form. The form and instructions can be found in Attachment 6-17. Grantees should submit the report via email to DLG.

Labor Relations and Related Forms  
<http://www.hud.gov/offices/olr/olrform.cfm>

## Equal Opportunity Requirements

The grantee must also visit the construction site to ensure the project site is posted with the required Equal Employment Opportunity is the Law posters (provided in Attachment 6-8). These visits can be done in conjunction with employee interviews for labor standards compliance. The results of each visit should be noted in the Equal Opportunity Compliance file.

Attachment 6-8: Required  
Construction Site Posters

In addition, the grantee should interview each contractor during the course of work to determine compliance with the Standard KCDBG-assisted Equal Employment Opportunity Construction Contract Specifications contained in the contract.

### *Equal Opportunity Compliance Files*

Equal opportunity compliance files must be maintained for each contractor on the project. At project completion, each equal opportunity compliance file should contain the following items:

- ✓ Verification of contractor/subcontractor eligibility concerning Section 6-C and equal opportunity, as well as a written Section 6-C Plan if over \$100,000 (or cross reference the contract file that includes fully executed certifications and Section 6-C Plan).
- ✓ Contractor eligibility, cross-referenced from Labor Standards Compliance file. (See Section 6-H: Documentation Requirements.)
- ✓ Correspondence concerning contractor equal opportunity compliance.
- ✓ Site visit reports indicating equal opportunity posting on site and contractor compliance with equal opportunity provisions, cross-referenced from Labor Standards Compliance file.
- ✓ Equal opportunity problems uncovered in employee interviews and evidence of resolution.
- ✓ Evidence of interview with contractor concerning equal opportunity compliance.
- ✓ Contractor Employee Breakdown Form (Attachment 6-7).

Section 6-H:  
Documentation Requirements

## Section 6-G. Review and Payments

### Progress Payments

Upon agreement as to quantities of work completed, a contractor may submit requests for partial or progress payments. Written inspection reports must accompany the contractor's requests for partial payment. Inspection reports, copies of field measurement notes, and test results used to verify contractor's periodic pay estimate for partial payment should be attached to and filed with the periodic estimate for partial payment.

Upon receipt of certificates for partial payment and necessary documentation, the grantee must check equal opportunity and labor standards compliance files to ensure that:

- ✓ All weekly payrolls and Statements of Compliance have been received, reviewed, and any discrepancies resolved; and
- ✓ Employee interviews have been conducted as necessary, checked against payrolls and the wage rate decisions, and all discrepancies corrected.

### *Retainage from Progress Payments*

Although retainage is not a requirement, many grantees have found it helpful to maintain 10 percent retainage from partial payments until after final inspection, in case of any unresolved problems. See below for information on how retainage is addressed in the Final Payment.

### Change Orders

Change orders must be prepared by the construction inspector and/or architect/engineer. Change orders are permissible where the cumulative cost of all such orders does not exceed 20 percent of the original contract price and these changes do not constitute a major alteration of the original scope of work. If the proposed change orders will cumulatively exceed 20 percent of the original contract, the grantee must contact DLG for prior approval.

Each change order must be accompanied by a supporting statement that describes why the change is necessary, cost estimates, and any needed plans and specifications. The grantee must approve and authorize change orders before they are given to the contractor. Change orders should be kept to an absolute minimum and cannot be issued after final payment.

### Final Payment

When construction work has been completed, the contractor must certify completion of work and submit a final request for payment. The grantee or the architect/engineer should make the final inspection and prepare a written report of the inspection prior to the issuance of a final certificate of payment. Before making final payment (less 10 percent retainage), the grantee must ensure that:

- ✓ All weekly payrolls and Statements of Compliance have been received, reviewed, and discrepancies have been resolved;
- ✓ All discrepancies identified through job site interviews have been resolved;
- ✓ All other required equal opportunity and labor standards provisions have been satisfied;
- ✓ All contract submissions have been received;

- ✓ All claims and disputes involving the contractor have been resolved;
- ✓ All files are complete; and
- ✓ As-built plans have been filed.

If the inspection is satisfactory, the grantee can then issue acceptance of work and final payment, less a 10 percent retainage.

#### *Retainage from Final Payment*

Within 30 days from the filing of the acceptance of the work and upon submission of a clear lien certificate by the contractor, the grantee should release the 10 percent retainage that has been withheld from each progress and final payment to the contractor (at the grantee's option).

If any claims or liens remain after the 30-day period, the grantee must take appropriate action for disposition of the retainage and all claims against the bonds in accordance with state law.

## **Section 6-H. Documentation Requirements**

The labor standards compliance documents contain highly sensitive and confidential information. With the growing rise in identity theft and fraud, it is critical to carefully guard this sensitive information so that the person(s) or form(s) to which that information pertains is not unduly exposed to financial or personal risk. The standard compliance documents must be preserved and retained for a period of five years following the completion of work. Therefore, it is important to follow guidelines outlined in the Labor Relations Letter 2006-02 to minimize risk of improper and/or unnecessary disclosure.

- ✓ Keep sensitive materials secret at all times (in locked file cabinet, not left in areas accessible to the public);
- ✓ Do not include Social Security Numbers on documents and records unless it is absolutely necessary;
- ✓ Do not disclose the identify of any informant unless it is necessary and only if authorized by the informant; and
- ✓ Dispose of documents and records containing sensitive information responsibly.

At project completion, in addition to the equal opportunity file requirements described in the sections above, each contract file should contain the following labor standards compliance items:

- ✓ Wage Decision(s);
- ✓ "Nine-Day Call" documentation (ensuring wage decision is still current);
- ✓ Copies of Contractor Certifications Concerning Labor Standards (or cross reference contract file that includes executed certifications);
- ✓ Tear sheet of Bid advertisement;
- ✓ Copies of all bid responses;
- ✓ Minutes of the bid opening;
- ✓ Verification of contractor/subcontractor eligibility;

- ✓ Notice of Award;
- ✓ Executed construction contract;
- ✓ Pre-construction Conference Report;
- ✓ Notice to Proceed;
- ✓ Contractor Employee Breakdown Report;
- ✓ Weekly payrolls, Statements of Compliance, and evidence that payrolls were reviewed;
- ✓ Employee interviews;
- ✓ Site visit reports;
- ✓ Engineering inspection reports;
- ✓ Evidence that the on-site interviews were checked against payrolls and the applicable wage rate decision;
- ✓ Evidence of restitution/resolution of identified discrepancies;
- ✓ Complaints from workers, if any, and actions taken;
- ✓ Liquidated damages assessed, appeals, if any, and outcome;
- ✓ Notice of Completion/Final Inspection; and
- ✓ Construction Oversight Checklist (see Attachment 6-16 for a sample).
- ✓ Semi-Annual Labor Standards Enforcement Reports

Attachment 6-16: Sample  
Construction Oversight Checklist

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## Attachments

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- ✓ Attachment 6-1: Sample Request for Determination of Wage Rate
  - ✓ Attachment 6-2: Notification of Public Works Project (State Prevailing Wage Request)
  - ✓ Attachment 6-3: HUD 4010, Federal Labor Standard Provisions
  - ✓ Attachment 6-4: Goals for Minority Participation in the Construction Industry (from the U.S. Department of Labor Technical Assistance Guide for Federal Construction Contractors, Appendix E)
  - ✓ Attachment 6-5: Sample Outline of a Pre-construction Conference
  - ✓ Attachment 6-6: Commonly Asked Questions Concerning Equal Opportunity
  - ✓ Attachment 6-7: Sample Contractor Employee Breakdown Form
  - ✓ Attachment 6-8: Required Construction Site Posters
    - Notice to All Employees (WH-1321)
    - Equal Employment Opportunity is the Law
    - Safety and Health Protection on the Job
  - ✓ Attachment 6-9: Sample Pre-Construction Report Format
  - ✓ Attachment 6-10: Sample Notice to Proceed
  - ✓ Attachment 6-11: Payroll Falsification Indicators
  - ✓ Attachment 6-12: Payroll Form (WH-347)
  - ✓ Attachment 6-13: Statement of Compliance
  - ✓ Attachment 6-14: Record of Employee Interview Form (HUD 11)
  - ✓ Attachment 6-15: Federal Labor Standards Complaint Intake Form (HUD Form 4731)
  - ✓ Attachment 6-16: Sample Construction Oversight Checklist
  - ✓ Attachment 6-17: Semi Annual Labor Standards Enforcement Report
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**Attachment 6-1:  
Sample Request for Determination of Wage Rate**

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**REQUEST FOR WAGE DETERMINATION AND RESPONSE TO REQUEST**

11/97

<p><b>FOR DEPARTMENT OF LABOR USE</b></p> <p><input type="checkbox"/> Use area determination issued for this area</p> <hr/> <p><input type="checkbox"/> The attached decision noted below is applicable to this project</p> <hr/> <p><b>Decision Number</b></p> <hr/> <p><b>Date of Decision</b></p> <hr/> <p><b>Expires</b></p> <hr/> <p><b>Supersedes Decision Number</b></p> <hr/> <p><b>Approved</b></p> <hr/> <p><b>Description of Work (Be Specific) Print or Type)</b></p>	<p><b>Mail your request to:</b></p> <p><b>Labor Compliance Specialist Kentucky Department for Local Government 1024 Capital Center Drive, Suite 340 Frankfort, Kentucky 40601</b></p> <hr/> <p><b>Grant Administrator (include email address)</b></p> <hr/> <p><b>Grant Number:</b></p> <hr/> <p><b>Department, Agency or Bureau</b></p> <hr/> <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:33%;"><b>Date of Request</b></td> <td style="width:33%;"><b>Estimated Advertising Date</b></td> <td style="width:33%;"><b>Bid Opening Date</b></td> </tr> <tr> <td><b>Prior Decision # (if any)</b></td> <td><b>Estimated \$ Value of Contract</b>  <input type="checkbox"/> &lt; .5 Mil    <input type="checkbox"/> 1-5 Mil  <input type="checkbox"/> .5-1 Mil    <input type="checkbox"/> &gt; 5 Mil</td> <td><b>Type of Work</b>  <input type="checkbox"/> Bldg.    <input type="checkbox"/> Hwy.  <input type="checkbox"/> Resid.    <input type="checkbox"/> Heavy</td> </tr> </table> <hr/> <p><b>Address to which wage determination should be mailed (Print or Type)</b></p> <hr/> <p><b>Location of Project (City, COUNTY, State, Zip Code)</b></p> <hr/>	<b>Date of Request</b>	<b>Estimated Advertising Date</b>	<b>Bid Opening Date</b>	<b>Prior Decision # (if any)</b>	<b>Estimated \$ Value of Contract</b> <input type="checkbox"/> < .5 Mil <input type="checkbox"/> 1-5 Mil <input type="checkbox"/> .5-1 Mil <input type="checkbox"/> > 5 Mil	<b>Type of Work</b> <input type="checkbox"/> Bldg. <input type="checkbox"/> Hwy. <input type="checkbox"/> Resid. <input type="checkbox"/> Heavy	<p><b>CHECK OR LIST CRAFTS NEEDED</b></p> <p><input type="checkbox"/> Asbestos workers  <input type="checkbox"/> Boilermakes  <input type="checkbox"/> Bricklayers  <input type="checkbox"/> Carpenters  <input type="checkbox"/> Cement Masons  <input type="checkbox"/> Electricians  <input type="checkbox"/> Glaziers  <input type="checkbox"/> Ironworkers  <input type="checkbox"/> Laborers (specify classes)</p> <hr/> <p><input type="checkbox"/> Lathers  <input type="checkbox"/> Marble/tile setters, terrazzo workers  <input type="checkbox"/> Painters  <input type="checkbox"/> Piledriversmen  <input type="checkbox"/> Plasterers  <input type="checkbox"/> Plumbers  <input type="checkbox"/> Roofers  <input type="checkbox"/> Sheet metal workers  <input type="checkbox"/> Soft floor layers  <input type="checkbox"/> Steamfitters  <input type="checkbox"/> Welders-rate for craft  <input type="checkbox"/> Truck drivers  <input type="checkbox"/> Power equipment operators (specify types)</p> <hr/> <p><b>Other Crafts</b></p> <hr/> <hr/>
<b>Date of Request</b>	<b>Estimated Advertising Date</b>	<b>Bid Opening Date</b>						
<b>Prior Decision # (if any)</b>	<b>Estimated \$ Value of Contract</b> <input type="checkbox"/> < .5 Mil <input type="checkbox"/> 1-5 Mil <input type="checkbox"/> .5-1 Mil <input type="checkbox"/> > 5 Mil	<b>Type of Work</b> <input type="checkbox"/> Bldg. <input type="checkbox"/> Hwy. <input type="checkbox"/> Resid. <input type="checkbox"/> Heavy						



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**Attachment 6-2:  
Sample State Prevailing Wage Request**

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**SAMPLE STATE PREVAILING WAGE REQUEST**  
**Notification of Public works Project**

DATE: \_\_\_\_\_

Commissioner  
Kentucky Department of Labor  
Employment Standards and Mediation  
Building #127  
Frankfort, Kentucky 40601

The Kentucky Revised Statutes 337.510 states that before advertising for bids or entering into any contract for construction of public works, every public authority shall notify the department in writing of the specific public work to be constructed and shall ascertain from the department the prevailing rates of wages of laborers, workmen, mechanics, helpers, and apprentices for the class of work called for in the construction of such public works in the locality where the work is to be performed.

Please be advised of the following:

COMMUNITY: \_\_\_\_\_

PUBLIC AUTHORITY: \_\_\_\_\_

ADVERTISING DATE: \_\_\_\_\_

PROJECT: \_\_\_\_\_

LOCATION: \_\_\_\_\_

TYPE OF PROJECT: \_\_\_\_\_ BUILDING \_\_\_\_\_  
HEAVY OR HIGHWAY \_\_\_\_\_  
RESIDENTIAL \_\_\_\_\_

SPECIFIC DESCRIPTION OF PROJECT: \_\_\_\_\_

APPROXIMATE COST: \_\_\_\_\_

ARE FEDERAL FUNDS BEING USED: Yes: \_\_\_\_\_ No: \_\_\_\_\_

HAS FEDERAL LAW ESTABLISHED WAGE RATES AND FILING REQUIREMENTS FOR THIS PROJECT:  
Yes: \_\_\_\_\_ No: \_\_\_\_\_

DATES OF CONSTRUCTION: \_\_\_\_\_

Please send the current prevailing wage schedule for the above Community to the following person:

NAME & TITLE: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

CITY: \_\_\_\_\_ ZIP CODE: \_\_\_\_\_

TELEPHONE NUMBER: \_\_\_\_\_

I understand that KRS 337.990, subsection (11), provides that any public authority or member of a public authority who willfully fails to comply with KRS 337.510 shall be fined not more than one hundred dollars for each offense. Each day of violation shall constitute a separate offense. Where a public authority willfully or negligently fails to comply with KRS 337.505 to KRS 337.550 and such failure results in damage, injury or loss to any person, such public authority, public official or member of a public authority may be held liable therefore in a civil action.

Sincerely yours,

Title



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**Attachment 6-3:  
HUD 4010, Federal Labor Standard Provisions**

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## Applicability

The Project or Program to which the construction work covered by this contract pertains is being assisted by the United States of America and the following Federal Labor Standards Provisions are included in this Contract pursuant to the provisions applicable to such Federal assistance.

**A. 1. (i) Minimum Wages.** All laborers and mechanics employed or working upon the site of the work, will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR Part 3), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under Section I(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of 29 CFR 5.5(a)(1)(iv); also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs, which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under 29 CFR 5.5(a)(1)(ii) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible, place where it can be easily seen by the workers.

**(ii) (a)** Any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. HUD shall approve an additional classification and wage rate and fringe benefits therefor only when the following criteria have been met:

**(1)** The work to be performed by the classification requested is not performed by a classification in the wage determination; and

**(2)** The classification is utilized in the area by the construction industry; and

**(3)** The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

**(b)** If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and HUD or its designee agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by HUD or its designee to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, D.C. 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB control number 1215-0140.)

**(c)** In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and HUD or its designee do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), HUD or its designee shall refer the questions, including the views of all interested parties and the recommendation of HUD or its designee, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

**(d)** The wage rate (including fringe benefits where appropriate) determined pursuant to subparagraphs (1)(ii)(b) or (c) of this paragraph, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

**(iii)** Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

**(iv)** If the contractor does not make payments to a trustee or other third person, the contractor may consider as part

of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

**2. Withholding.** HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee or helper, employed or working on the site of the work, all or part of the wages required by the contract, HUD or its designee may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased. HUD or its designee may, after written notice to the contractor, disburse such amounts withheld for and on account of the contractor or subcontractor to the respective employees to whom they are due. The Comptroller General shall make such disbursements in the case of direct Davis-Bacon Act contracts.

**3. (i) Payrolls and basic records.** Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in Section 1(b)(2)(B) of the Davis-bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5 (a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in Section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been

communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs. (Approved by the Office of Management and Budget under OMB Control Numbers 1215-0140 and 1215-0017.)

**(ii) (a)** The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to HUD or its designee if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant sponsor, or owner, as the case may be, for transmission to HUD or its designee. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i) except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to HUD or its designee if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant sponsor, or owner, as the case may be, for transmission to HUD or its designee, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this subparagraph for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to HUD or its designee. (Approved by the Office of Management and Budget under OMB Control Number 1215-0149.)

**(b)** Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

**(1)** That the payroll for the payroll period contains the information required to be provided under 29 CFR 5.5 (a)(3)(ii), the appropriate information is being maintained under 29 CFR 5.5(a)(3)(i), and that such information is correct and complete;

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in 29 CFR Part 3;

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(c) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by subparagraph A.3.(ii)(b).

(d) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 231 of Title 31 of the United States Code.

(iii) The contractor or subcontractor shall make the records required under subparagraph A.3.(i) available for inspection, copying, or transcription by authorized representatives of HUD or its designee or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, HUD or its designee may, after written notice to the contractor, sponsor, applicant or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

#### **4. Apprentices and Trainees.**

(i) **Apprentices.** Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who

is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) **Trainees.** Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by

the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

**(iii) Equal employment opportunity.** The utilization of apprentices, trainees and journeymen under 29 CFR Part 5 shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.

**5. Compliance with Copeland Act requirements.** The contractor shall comply with the requirements of 29 CFR Part 3 which are incorporated by reference in this contract

**6. Subcontracts.** The contractor or subcontractor will insert in any subcontracts the clauses contained in subparagraphs 1 through 11 in this paragraph A and such other clauses as HUD or its designee may by appropriate instructions require, and a copy of the applicable prevailing wage decision, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in this paragraph.

**7. Contract termination; debarment.** A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

**8. Compliance with Davis-Bacon and Related Act Requirements.** All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR Parts 1, 3, and 5 are herein incorporated by reference in this contract

**9. Disputes concerning labor standards.** Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR Parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and HUD or its designee, the U.S. Department of Labor, or the employees or their representatives.

**10. (i) Certification of Eligibility.** By entering into this contract the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be

awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

**(ii)** No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

**(iii)** The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001. Additionally, U.S. Criminal Code, Section 1 01 0, Title 18, U.S.C., "Federal Housing Administration transactions", provides in part: "Whoever, for the purpose of . . . influencing in any way the action of such Administration..... makes, utters or publishes any statement knowing the same to be false..... shall be fined not more than \$5,000 or imprisoned not more than two years, or both."

**11. Complaints, Proceedings, or Testimony by Employees.** No laborer or mechanic to whom the wage, salary, or other labor standards provisions of this Contract are applicable shall be discharged or in any other manner discriminated against by the Contractor or any subcontractor because such employee has filed any complaint or instituted or caused to be instituted any proceeding or has testified or is about to testify in any proceeding under or relating to the labor standards applicable under this Contract to his employer.

**B. Contract Work Hours and Safety Standards Act.** The provisions of this paragraph B are applicable where the amount of the prime contract exceeds \$100,000. As used in this paragraph, the terms "laborers" and "mechanics" include watchmen and guards.

**(1) Overtime requirements.** No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which the individual is employed on such work to work in excess of 40 hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of 40 hours in such workweek.

**(2) Violation; liability for unpaid wages; liquidated damages.** In the event of any violation of the clause set forth in subparagraph (1) of this paragraph, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in subparagraph (1) of this paragraph, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of 40 hours without payment of the overtime wages required by the clause set forth in subparagraph (1) of this paragraph.

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**(3) Withholding for unpaid wages and liquidated damages.** HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contract, or any other Federally-assisted contract subject to the Contract Work Hours and Safety Standards Act which is held by the same prime contractor such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in subparagraph (2) of this paragraph.

**(4) Subcontracts.** The contractor or subcontractor shall insert in any subcontracts the clauses set forth in subparagraph (1) through (4) of this paragraph and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in subparagraphs (1) through (4) of this paragraph.

**C. Health and Safety.** The provisions of this paragraph C are applicable where the amount of the prime contract exceeds \$100,000.

**(1)** No laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health and safety as determined under construction safety and health standards promulgated by the Secretary of Labor by regulation.

**(2)** The Contractor shall comply with all regulations issued by the Secretary of Labor pursuant to Title 29 Part 1926 and failure to comply may result in imposition of sanctions pursuant to the Contract Work Hours and Safety Standards Act, (Public Law 91-54, 83 Stat 96). 40 USC 3701 et seq.

**(3)** The contractor shall include the provisions of this paragraph in every subcontract so that such provisions will be binding on each subcontractor. The contractor shall take such action with respect to any subcontractor as the Secretary of Housing and Urban Development or the Secretary of Labor shall direct as a means of enforcing such provisions.



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**Attachment 6-( :**  
**Goals for Minority Participation in the Construction Industry**  
**(from the U.S. Department of Labor, Technical Assistance Guide for**  
**Federal Construction Contractors, Appendix E)**

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**Attachment 6-3  
Goals for Female and Minority Participation**

**GOALS FOR FEMALES**

Nationwide Goal \_\_\_\_\_ 6.9%

**GOALS FOR MINORITIES**

**Economic Area** \_\_\_\_\_ **Goal (%)**

056 Paducah, KY:

Non-SMSA Counties \_\_\_\_\_ 5.2%

Ballard; Caldwell; Calloway; Carlisle; Crittenden; Fulton;  
Graves; Hickman; Livingston; Lyon; McCracken; Marshall.

057 Louisville, KY:

SMSA Counties:

4520 Louisville, KY-IN \_\_\_\_\_ 11.2%

Bullitt; Jefferson; Oldham.

Non-SMSA Counties \_\_\_\_\_ 9.6%

Breckinridge; Grayson; Hardin; Hart; Henry; Larue; Marion; Meade;  
Nelson; Shelby; Spencer; Trimble; Washington.

058 Lexington, KY

SMSA Counties

4280 Lexington-Fayette, KY \_\_\_\_\_ 10.8%

Bourbon; Clark; Fayette; Jessamine; Scott; Woodford.

Non-SMSA Counties \_\_\_\_\_ 7.0%

Adair; Anderson; Bath; Boyle; Breathitt; Casey; Clay; Estill; Franklin;  
Garrard; Green; Harrison; Jackson; Knott; Lee; Leslie; Letcher; Lincoln;  
Madison; Magoffin; Menifee; Mercer; Montgomery; Morgan; Nicholas;  
Owsley; Perry; Powell; Pulaski; Rockcastle; Russell; Taylor; Wolfe.

059 Huntington, WV:

SMSA Counties:

3400 Huntington – Ashland, WV-KY-OH \_\_\_\_\_ 2.9

Boyd; Greenup.

Non-SMSA Counties \_\_\_\_\_ 2.5

Carter; Elliott; Floyd; Johnson; Lawrence; Martin; Pike; Rowan.

067 Cincinnati, OH:	
SMSA Counties:	
1640 Cincinnati, OH-KY-IN	11.0
Boone; Campbell; Kenton.	
3200 Hamilton-Middletown, OH	5.0
Non-SMSA Counties	9.2
Bracken; Carroll; Fleming; Gallatin; Grant; Lewis; Mason; Owen; Pendleton; Robertson.	
053 Knoxville, TN	
SMSA Counties:	
3840 Knoxville, TN	6.6
Non-SMSA Counties	4.5
Bell; Harlan; Knox; Laurel; McCreary; Wayne; Whitley.	
054 Nashville, TN:	
SMSA Counties:	
1660 Clarksville - Hopkinsville, TN - KY	18.2
Christian	
Non-SMSA Counties	12.0
Allen; Barren; Butler; Clinton; Cumberland; Edmonson; Logan; Metcalf; Monroe; Simpson; Todd; Trigg; Warren.	
080 Evansville, IN:	
SMSA Counties	
2440 Evansville, IN-KY	4.8
Henderson.	
5990 Owensboro, KY	4.7
Daviess.	
Non-SMSA Counties	3.5
Hancock; Hopkins; McLean; Muhlenberg; Ohio; Union; Webster.	

*From the U.S. Department of Labor "Technical Assistance Guide for Federal Construction Contractors" – Appendix E, located at <http://www.dol.gov/ofccp/TAGuides/consttag.htm>*

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**Attachment 6-) :**  
**Sample Outline of a Pre-construction Conference**

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## SAMPLE OUTLINE OF A PRE-CONSTRUCTION CONFERENCE

1. Applicability of Davis-Bacon to construction activity of project
2. Additional classifications
3. Who is subject to Davis-Bacon and Related Acts (DBRA)
4. Payment of Fringe Benefits
5. Use of Apprentices and Trainees
6. Copeland "Anti-Kickback" Act
7. Contract Work Hours and Safety Standards Act (CWHSSA)(Overtime Compensation)
8. Liquidated Damages (re: CWHSSA violations)
9. Supply and installation contracts
10. Exemptions of DBRA
11. Contractor's (sub's) responsibilities
12. Payrolls (It is advisable to discuss with Payroll Preparer for Company also)
  - (a) Submission Certificate from Contractor Appointing Officer or Employee to Supervise Payment of Employees (Form for Contractor to designate someone else to sign the payrolls)
  - (b) Payroll Form WH 347
  - (c) Form WH 348 (Used if Contractor is using a payroll form other than WM 347)
  - (d) IRS Employer Identification Number (or Social Security Number, if self-employed) of the contractor and subcontractor must be on the initial payroll in the upper right-hand corner of the first page.
  - (e) Submission of payrolls to the city/county
  - (f) Review of payrolls by the Grantee
  - (g) HUD 11, Employee Interview - Use of forms by Grantee

- (h) Maintaining payroll files
- (i) State monitoring of payroll files and documents
- (j) Split classifications
- (k) Working foreman

OTHER

1. Terms and conditions of contract
2. Begin and end dates
3. Change Orders
4. Bonding and insurance
5. Local ordinances, permit required etc.
6. Retention of records
7. Equal Opportunity
8. Questions and answers
9. Posters

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**Attachment 6-\* :**  
**Commonly Asked Questions Concerning Equal Opportunity**

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**COMMONLY ASKED QUESTIONS**  
**CONCERNING EQUAL OPPORTUNITY**

**A PRECONSTRUCTION CONFERENCE HAND OUT**

1. What are the responsibilities of the Offeror or Bidder to ensure equal employment opportunity?

The Offeror or Bidder must comply with the "Equal Opportunity Clause" and the "Standard Federal Equal Opportunity Construction Contract Specifications."

2. Are Contractors required to ensure a comfortable working environment for all employees?

Yes, it is the Contractor's responsibility to provide an environment free of harassment, intimidation and coercion to all employees and to notify all foreman and supervisors to carry out this obligation, with specific attention to minority or female individuals.

3. To alleviate developing separate facilities for men and women on all sites can a Contractor put all women on one site?

No, the Contractor must assign two or more women to each site when possible.

4. Are Contractors required to make special outreach efforts to minority and female recruitment sources?

Yes, Contractors must establish a current list of minority and female recruitment sources, notify them when employment opportunities are available including on the job training and apprenticeship programs and record responses.

5. Are any efforts made to record the number of minority and females applying for positions with Construction Contractors?

Yes, all Contractors must maintain a current file of the names, addresses and telephone numbers of all minority and female applicants and document whatever action was taken.

6. What happens if a woman or minority is sent to the union by the Contractor and is not referred back to the Contractor for employment?

If the Unions impede the Contractor's responsibility to provide equal employment opportunity, a written notification is sent to the Director.

7. What efforts are made by Contractors to create entry level positions for women and minorities?

Contractors are required to develop on-the-job training programs or participate in training programs, especially those funded by the Department of Labor, to create positions for women and minorities relevant to the Contractor's employment needs.

8. Are any efforts made by the Contractor to publicize their Equal Employment Opportunity (EEO) Policy?

Yes, the Contractor is responsible to notify unions and training programs and request their cooperation as well as to include it in any policy manual or collective bargaining agreement, and to publicize it in the company newspaper and annual report. Externally, the Contractor is responsible to include the EEO Policy in all media advertisement.

9. Are any in-service training programs provided for staff to update the EEO Policy?

At least annually a review of the EEO Policy and the affirmative action obligations are required of all personnel employees of a decision-making status. A record of the meeting including date, time, location, persons present, subject matter discussed, and disposition of the subject matter shall be maintained.

10. What recruitment efforts are made for minorities and women?

The Contractor must notify orally, and in writing, minority and female recruitment sources one month prior to the date of acceptance for apprenticeship or other training programs. The Contractor must also encourage minority and female employees to recruit members of their own group.

11. Are any measures taken to encourage promotions for minorities and women?

Yes, an annual evaluation is conducted for all minority and female personnel to encourage these employees to seek higher positions.

12. What efforts are taken to ensure that personnel policies are in accordance with the EEO Policy?

Personnel policies in regard to job practices, work assignments, etc. are continually monitored to ensure that the EEO Policy is carried out.

13. Can women be excluded from utilizing any facilities available to men?

No, all facilities and company activities are nonsegregated except for bathrooms or changing facilities to ensure privacy.

14. What efforts are made to utilize minority and female contractors and suppliers?

None, however records are kept of all offers to minority and female construction workers.

15. If a Contractor participates in a business related association which does not comply with affirmative action standards does that show his/her failure to comply?

No, the Contractor's obligation to comply is his own. If he makes every effort to assume that this group has a positive impact on EEO Policy and they fail to accept this attitude, it shall not be contrived as noncompliance on the part of the contractor.

16. Would a Contractor be in violation of EEO Policy and affirmative action if he set up one set of goals to include minorities and women?

Yes. There is a single goal for minorities and a separate single goal for women. The Contractor is required to provide equal employment opportunity and take affirmative action for all minority groups, both male and female, and all women both minority and non-minority.

17. Can a Contractor hire a Subcontractor who has been debarred from Government Contracts pursuant to EEO?

No. The Contractor must suspend, terminate or cancel any subcontractor who is in violation of the EEO Policy.

18. What effort has been taken by the Contractor to monitor all employment to ensure the company EEO Policy is being carried out?

The Contractor must designate a responsible individual to keep accurate records of all employees which includes specific information required by the government.



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**Attachment 6-+:**  
**Sample Contractor Employee Breakdown Form**

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**SAMPLE CONTRACTOR EMPLOYEE BREAKDOWN**

**EXECUTIVE ORDER 11246**

**To Be Completed by the Contractor**

Complete information on all employees expected to work on this contract.

<u>Employee Name</u>	<u>Race</u>	<u>Sex</u>	<u>Job Classification</u>	<u>Salary/ Wage Rate</u>	<u>Section 3 Employee (yes or no)</u>
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**Certification:**

I (will/will not) be hiring additional employees for work on this project. For all hiring that does occur, I will comply with the minority and female employment goals specified in the contract.

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Signature

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Title

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Date



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**Attachment 6-, :**  
**Required Construction Site Posters**  
**Davis-Bacon Act**  
**Notice to All Employees (WH-1321)**  
**Equal Employment Opportunity is the Law**  
**Safety and Health Protection on the Job**

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# EMPLOYEE RIGHTS UNDER THE DAVIS-BACON ACT

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

THE UNITED STATES DEPARTMENT OF LABOR WAGE AND HOUR DIVISION

### 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:

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



For additional information:

**1-866-4-USWAGE**  
(1-866-487-9243) TTY: 1-877-889-5627



**WWW.WAGEHOUR.DOL.GOV**

# Equal Employment Opportunity is

# THE LAW

## Employers Holding Federal Contracts or Subcontracts

Applicants to and employees of companies with a Federal government contract or subcontract are protected under the following Federal authorities:

### **RACE, COLOR, RELIGION, SEX, NATIONAL ORIGIN**

Executive Order 11246, as amended, prohibits job discrimination on the basis of race, color, religion, sex or national origin, and requires affirmative action to ensure equality of opportunity in all aspects of employment.

### **INDIVIDUALS WITH DISABILITIES**

Section 503 of the Rehabilitation Act of 1973, as amended, prohibits job discrimination because of disability and requires affirmative action to employ and advance in employment qualified individuals with disabilities who, with reasonable accommodation, can perform the essential functions of a job.

### **VIETNAM ERA, SPECIAL DISABLED, RECENTLY SEPARATED, AND OTHER PROTECTED VETERANS**

38 U.S.C. 4212 of the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, prohibits job discrimination and requires affirmative action to employ and advance in employment qualified Vietnam era veterans, qualified special disabled veterans, recently separated veterans, and other protected veterans.

Any person who believes a contractor has violated its nondiscrimination or affirmative action obligations under the authorities above should contact immediately:

The Office of Federal Contract Compliance Programs (OFCCP), Employment Standards Administration, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210 or call (202) 693-0101, or an OFCCP regional or district office, listed in most telephone directories under U.S. Government, Department of Labor.

## Private Employment, State and Local Governments, Educational Institutions

Applicants to and employees of most private employers, state and local governments, educational institutions, employment agencies and labor organizations are protected under the following Federal laws:

### **RACE, COLOR, RELIGION, SEX, NATIONAL ORIGIN**

Title VII of the Civil Rights Act of 1964, as amended, prohibits discrimination in hiring, promotion, discharge, pay, fringe benefits, job training, classification, referral, and other aspects of employment, on the basis of race, color, religion, sex or national origin.

### **DISABILITY**

The Americans with Disabilities Act of 1990, as amended, protects qualified applicants and employees with disabilities from discrimination in hiring, promotion, discharge, pay, job training, fringe benefits, classification, referral, and other aspects of employment on the basis of disability. The law also requires that covered entities provide qualified applicants and employees with disabilities with reasonable accommodations that do not impose undue hardship.

### **AGE**

The Age Discrimination in Employment Act of 1967, as amended, protects applicants and employees 40 years of age or older from discrimination on the basis of age in hiring, promotion, discharge, compensation, terms, conditions or privileges of employment.

### **SEX (WAGES)**

In addition to sex discrimination prohibited by Title VII of the Civil Rights Act of 1964, as amended (see above), the Equal Pay Act of 1963, as amended, prohibits sex discrimination in payment of wages to women and men performing substantially equal work in the same establishment.

Retaliation against a person who files a charge of discrimination, participates in an investigation, or opposes an unlawful employment practice is prohibited by all of these Federal laws.

If you believe that you have been discriminated against under any of the above laws, you should contact immediately:

The U.S. Equal Employment Opportunity Commission (EEOC), 1801 L Street, N.W., Washington, D.C. 20507 or an EEOC field office by calling toll free (800) 669-4000. For individuals with hearing impairments, EEOC's toll free TDD number is (800) 669-6820.

## Programs or Activities Receiving Federal Financial Assistance

### **RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX**

In addition to the protection of Title VII of the Civil Rights Act of 1964, as amended, Title VI of the Civil Rights Act prohibits discrimination on the basis of race, color or national origin in programs or activities receiving Federal financial assistance. Employment discrimination is covered by Title VI if the primary objective of the financial assistance is provision of employment, or where employment discrimination causes or may cause discrimination in providing services under such programs. Title IX of the Education Amendments of 1972 prohibits employment discrimination on the basis of sex in educational programs or activities which receive Federal assistance.

### **INDIVIDUALS WITH DISABILITIES**

Sections 501, 504 and 505 of the Rehabilitation Act of 1973, as amended, prohibits employment discrimination on the basis of disability in any program or activity which receives Federal financial assistance in the federal government. Discrimination is prohibited in all aspects of employment against persons with disabilities who, with reasonable accommodation, can perform the essential functions of a job.

If you believe you have been discriminated against in a program of any institution which receives Federal assistance, you should contact immediately the Federal agency providing such assistance.

# Job Safety and Health

## It's the law!

# OSHA

Occupational Safety  
and Health Administration  
U.S. Department of Labor

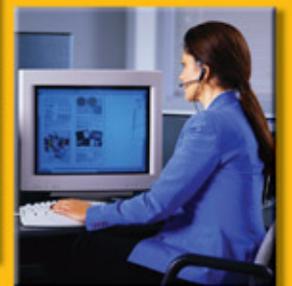
### EMPLOYEES:

- You have the right to notify your employer or OSHA about workplace hazards. You may ask OSHA to keep your name confidential.
- You have the right to request an OSHA inspection if you believe that there are unsafe and unhealthful conditions in your workplace. You or your representative may participate in that inspection.
- You can file a complaint with OSHA within 30 days of retaliation or discrimination by your employer for making safety and health complaints or for exercising your rights under the *OSH Act*.
- You have the right to see OSHA citations issued to your employer. Your employer must post the citations at or near the place of the alleged violations.
- Your employer must correct workplace hazards by the date indicated on the citation and must certify that these hazards have been reduced or eliminated.
- You have the right to copies of your medical records and records of your exposures to toxic and harmful substances or conditions.
- Your employer must post this notice in your workplace.
- You must comply with all occupational safety and health standards issued under the *OSH Act* that apply to your own actions and conduct on the job.

### EMPLOYERS:

- You must furnish your employees a place of employment free from recognized hazards.
- You must comply with the occupational safety and health standards issued under the *OSH Act*.

This free poster available from OSHA –  
*The Best Resource for Safety and Health*



Free assistance in identifying and correcting hazards or complying with standards is available to employers, without citation or penalty, through OSHA-supported consultation programs in each state.

**1-800-321-OSHA**  
[www.osha.gov](http://www.osha.gov)



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**Attachment 6-- :  
Sample Pre-Construction Report Format**

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**PRE-CONSTRUCTION REPORT FORMAT**  
**(Sample)**

Project Name: \_\_\_\_\_

Project Number: \_\_\_\_\_

Wage Determination Number: \_\_\_\_\_

Location: \_\_\_\_\_

Description: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Contractor: \_\_\_\_\_

Contract Amount: \_\_\_\_\_

Date of Conference: \_\_\_\_\_

Place of Conference: \_\_\_\_\_

Attendees (Name & Title): \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Summary of items covered: (Must include Equal Opportunity, Section 3, Labor Standards, the contractor's role and responsibility, the City/County's role and responsibilities, reporting requirements and sanctions. Use additional pages as necessary.)

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_



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**Attachment 6-~~5~~:**  
**Sample Notice to Proceed**

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**SAMPLE NOTICE TO PROCEED**

TO: Contractor/DLG  
FROM: City of \_\_\_\_\_  
DATE:  
SUBJECT: Notice to Proceed with Construction

\_\_\_\_\_(Project Name)\_\_\_\_\_, located at \_\_\_\_\_(address)\_\_\_\_\_, was awarded to \_\_\_\_\_(Name of Contractor)\_\_\_\_\_, on \_\_\_\_\_(date)\_\_\_\_\_. Contractor is hereby notified to commence work set forth in the contract on or before \_\_\_\_\_(date)\_\_\_\_\_.

All work is to be done in accordance with plans, specifications and conditions provided in the contract.

The project must be fully complete within \_\_\_\_\_ consecutive calendar days after \_\_\_\_\_(date)\_\_\_\_\_. The date of completion of all work is, therefore \_\_\_\_\_(date)\_\_\_\_\_. Contractor will pay as liquidated damages, the sum of \$\_\_\_\_\_ for each consecutive calendar day thereafter as specified in paragraph 9 of the Information for Bidders and under such conditions as provided in paragraph 19 of the General Conditions.

Please acknowledge receipt of this Notice by signing the space below and returning a copy to this office.

Please advise if there are any questions.

Sincerely,

\_\_\_\_\_, Mayor/Judge

**Acceptance of Notice**

Receipt of the above Notice to Proceed is hereby acknowledged by \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

BY: \_\_\_\_\_

TITLE: \_\_\_\_\_



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**Attachment 6-1%**  
**Payroll Falsification Indicators**

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### Payroll Falsification Indicators

Certified payroll reports are fairly straightforward records of employees, work classification, hours worked, rate(s) of pay, gross earnings, deductions and net wages paid. The information required for certified payrolls involves no more than the information any responsible employer must maintain concerning its basic business operations.

Davis-Bacon compliance basically involves three factors: 1. The type (classification) of work performed; 2. The number of hours worked; and 3. The prevailing wage rate for that classification. A fourth factor involves the actual payment of wages by check and/or cash. In order to conceal underpayments, a willfully violating employer must falsify the payroll report as it pertains to one or more of these factors. There are four falsification indicators that are easy to detect on certified payrolls in a “spot check”:

- 1. Ratio of laborers to mechanics.** Look for excessive use of laborers over mechanics. Generally there should be no more than one laborer for each mechanic (1:1) except for landscaping, or cement or other paving work.  
**Indicative of: Misclassification.** Workers are performing higher-paying mechanic duties but are misclassified and paid at lower Laborer wage rates.
- 2. Too few or irregular hours.** Look for employees that never work 40 hours per week; for crews that work in a scattered fashion; for hours reported in tenths or hundredths (e.g., 13.6 hours). Most people work a 40-hour workweek. Most crews work together on a job site. Most employers and employees track work hours by whole, half and quarter hours not by tenths or hundredths.  
**Indicative of: Reduction of Hours.** Actual hours worked are reduced to “fit” in a fabricated calculation: (Reduced hours) x (Rate required on wage decision) = Substandard wages actually paid based upon a lower rate of pay.
- 3. Discrepancies in wage computations.** Look for gross wages paid in “round” numbers (e.g., \$700) that don’t agree with the product of reported hours multiplied by the rate of pay. For example, a payroll showing 20 hours times \$33.68 (the rate on the wage decision) and gross wages of \$700. (20 hours times \$33.68 equals \$676.60 *not* \$700.)  
**Indicative of: Falsification of rate of pay such as piece work or lower (but more even) rate.** For example, the wage decision requires \$33.68/hour for the type of work performed but the employer chooses to pay \$17.50 per hour. (40 hours times \$17.50 equals \$700.) The employer can’t make the fabricated calculation “fit” precisely because the Davis-Bacon wage rate is not an even figure.
- 4. Extraordinary deductions.** Look for unidentified or disproportionate deductions, for example, an employee whose savings account deduction is nearly as much or more than the weekly take-home pay.  
**Indicative of: Kickbacks or basic underpayment.** The employer takes his “cut” from the back end of the computation (after gross earnings) rather than the front end (falsifying the classification, hours or wage rate).

If these indicators appear on payrolls you will want to take preliminary steps to test whether the payrolls are accurate or false. For example, you can target on-site interviews or send questionnaires to the affected workers to get their perspective and compare the interview and/or questionnaire statements to the payroll reports. If an investigation is warranted, you will want to learn what information on the payrolls is false and what is true. (Employers rarely falsify *all* of the information on payrolls.) Eventually, you will need to compute the amounts of backwages that are due and knowing what information on the payroll is true can be critical to making these computations.





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**Attachment 6-1&  
Sample Payroll Form**

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**Attachment 6-1' :  
Statement of Compliance**

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**Attachment 6-1( :  
Sample Record of Employee Interview**

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# Record of Employee Interview

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

OMB Approval No. 2501-0009  
(exp. 10/31/2010)

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? 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"/>	4c. Pay stub? 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 1/2 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

Previous editions are obsolete

Form HUD-11 (08/2004)



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**Attachment 6-1) :**  
**Federal Labor Standards Complaint Intake Form (HUD Form 4731)**

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**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. 08/31/2010)

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

- Check one:**
- Current employee
  - Former employee
  - Other (specify)

Period employed on the project

From:

To:

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**

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday

**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. 08/31/2010)

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
<b>Signature</b>	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.

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**Attachment 6-1\* :  
Sample Construction Oversight Checklist**

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**SAMPLE CONSTRUCTION OVERSIGHT CHECKLIST**

Project Name: \_\_\_\_\_

Date of Bid Advertisement: \_\_\_\_\_ Date of Bid Opening: \_\_\_\_\_

Labor Standards Designee: \_\_\_\_\_

Contract Amount: \_\_\_\_\_ Date Work Initiated: \_\_\_\_\_

Contractor: \_\_\_\_\_

Address: \_\_\_\_\_

Minority: \_\_\_\_\_ Section 3: \_\_\_\_\_ Female: \_\_\_\_\_

Contact Person: \_\_\_\_\_

Telephone: \_\_\_\_\_

Subcontractor(s): \_\_\_\_\_

Address: \_\_\_\_\_

1.	PRE-ADVERTISEMENT/BID PACKAGE REVIEW	Date/By
	▪ State and/or Federal Wage rate determination(s) requested	_____
	▪ Wage rate determination(s) received	_____
	▪ Wage rate determination(s) reviewed by engineer or architect	_____
	▪ Additional classifications needed/requested	_____
	▪ Davis-Bacon provisions (over \$2,000)	_____
	▪ Contract Work Hours and Safety Standards Clauses (over \$100,000)	_____
	▪ Copeland Anti-Kickback clause (over \$2,000)	_____
	▪ Employment of Apprentices/Trainees clause	_____
	▪ Title VI clause	_____
	▪ E.O. 11246 standard clause (above \$10,000)	_____

- 3-paragraph Equal Opportunity provisions (less than \$10,0000) \_\_\_\_\_
- Notice of Requirement for Affirmative Action to Ensure Equal Employment Opportunity (E.O. 11246- \$10,000 or more) \_\_\_\_\_
- Standard Federal Equal Employment Opportunity Construction Contract Specifications and Goals and Timetables (E.O. 11246 - \$10,000 or more) \_\_\_\_\_
- Section 109 clause \_\_\_\_\_
- Section 3 clause (Over \$100,000) \_\_\_\_\_
- Age Discrimination Act of 1975 \_\_\_\_\_
- Rehabilitation Act of 1973 \_\_\_\_\_
- Section 402 Veterans of Vietnam Era (if over \$10,000) \_\_\_\_\_
- Nonsegregated Facilities clause \_\_\_\_\_
- Clean Air/Water (\$100,000) \_\_\_\_\_
- Energy Efficiency \_\_\_\_\_
- Flood Insurance, if applicable \_\_\_\_\_
- Lead-Based Paint clause \_\_\_\_\_
- 24 CFR Part 85 Bonding Insurance Provisions (\$100,000) \_\_\_\_\_
- Access to Records/Maintenance of Records clauses \_\_\_\_\_
- General Administrative Provisions \_\_\_\_\_
- Review by City/County Attorney \_\_\_\_\_
- Review by outside agencies (specify) \_\_\_\_\_
- "9 Day" call to DLG verifying status of wage determination \_\_\_\_\_
- IFB sent to minority firms/minority business office \_\_\_\_\_
- Advertisement scheduled 7-21 days prior to bid opening \_\_\_\_\_
- Addenda sent out to all bidders more than 72 hours prior to bid opening \_\_\_\_\_

2. PRE-AWARD

- Minutes of Bid Opening \_\_\_\_\_
- Tabulation of Bids \_\_\_\_\_
- Recommendation for Award \_\_\_\_\_
- Verification of Eligibility of Contractor \_\_\_\_\_
- Prime Contractor \_\_\_\_\_
- Subcontractor(s) \_\_\_\_\_
- Written Section 3 plan for all contracts in excess of \$100,000 \_\_\_\_\_
- Date of State Release of Funds \_\_\_\_\_
- Council/Fiscal Court Authorization of Contract Award \_\_\_\_\_

3. PRE-CONSTRUCTION

- Executed Contract \_\_\_\_\_
- Contractor’s Certification Concerning Labor Standards and Prevailing Wage Requirements \_\_\_\_\_
- Contractor’s Certification of Equal Employment Opportunity \_\_\_\_\_
- Contractor’s Certification regarding Section 3 and Segregated Facilities \_\_\_\_\_
- Contractor’s Employee Breakdown Form \_\_\_\_\_
- List of subcontractors and Minority/Section 3 status obtained \_\_\_\_\_
- Executed Subcontract(s) \_\_\_\_\_
- Subcontractor’s Certification of Equal Employment Opportunity \_\_\_\_\_
- Subcontractor’s Certification regarding Section 3 and Segregated Facilities \_\_\_\_\_
- Pre-Construction Conference held \_\_\_\_\_
- Pre-Construction Conference Report filed in project Labor Standards Enforcement file, cross-referenced in project E.O. Enforcement file \_\_\_\_\_
- Contractor Established own Equal Opportunity file (E.O. 11246) \_\_\_\_\_
- Requested and received additional wage \_\_\_\_\_

classifications for any classifications not included on wage determination \_\_\_\_\_

- If apprentices are to be used on contract, received copy of contractor's apprentice program from State Bureau of Apprenticeship and Training \_\_\_\_\_
- If trainees are to be used on contract, received copy of contractor's trainee program certification from SBAT \_\_\_\_\_
- Bonding/Insurance on file with city/county \_\_\_\_\_
- Contract Labor Standards Enforcement file established \_\_\_\_\_
- Notice to Proceed issued to Contractor/DLG \_\_\_\_\_

4. CONSTRUCTION/ENFORCEMENT

- Payroll & Statement of Compliance  
Received Reviewed Discrepancies: Document of attached sheet, including resolutions and notice to State

Week 1  
Week 2  
Week 3  
Week 4  
(etc.)

Date by

- Project Inspection

Month 1 \_\_\_\_\_  
Month 2 \_\_\_\_\_  
Month 3 \_\_\_\_\_  
Month 4 \_\_\_\_\_

Complaints, if any, and actions taken \_\_\_\_\_  
Correspondence concerning Contractor \_\_\_\_\_

E.O. Compliance

Project Inspection Checklist

- A. Project Site Posting
- 1) Wage Decision \_\_\_\_\_
  - 2) Notice to Employees (W.H. 1321) \_\_\_\_\_
  - 3) Safety & Health Protection on Job \_\_\_\_\_
  - 4) Equal Employment Opportunity Requirements (E.O. 11246) \_\_\_\_\_

B. Employee Interviews

File Employee Interview form for each interview conducted. All classifications represented on the job must be included in interviews.

- C. Inspectors report written \_\_\_\_\_
- (Re: posting of site, contractor compliance with E.O. specification)

5. PROJECT COMPLETION

- Files review to determine completeness,
- Establish all required restitutions have been made and are adequately documented
  
- Copy of As-Built Plans Received
  
- Notice of Completion



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**Attachment 6-1+:**  
**Semi Annual Labor Standards Enforcement Report (HUD Form 4710)**

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Public reporting burden for this collection of information is estimated to average 2 hours 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.

All Federal agencies administering programs subject to Davis-Bacon wage provisions are required by Department of Labor (DOL) regulations (29 CFR Part 5, Section 5.7(b)) to submit a report of all new covered contracts/projects and all enforcement activities each six months. In order for HUD to comply with this requirement, it must collect contract and enforcement information from local agencies that administer HUD-assisted programs subject to Davis-Bacon requirements. HUD requests that local agencies complete and submit a Semi-annual Enforcement Report each six months.

Local agencies and HUD must retain a copy of the Semi-annual Enforcement Report in its files.

*Please follow these instructions while compiling the **Semi-Annual Labor Standards Enforcement Report for Local Contracting Agencies (HUD Programs) (form HUD-4710).***

## **Introduction**

Department of Labor (DOL) Regulations 29 CFR §5.7(b) require Federal agencies administering programs subject to Davis-Bacon and Related Act (DBRA) and Contract Work Hours and Safety Standards Act (CWHSSA) labor standards to furnish a Semi-Annual Labor Standards Enforcement Report to the Administrator of the Wage and Hour Division. Some HUD programs are administered by state and local agencies for labor standards compliance. HUD must collect information from such agencies in order to capture enforcement activities for all HUD programs in its reports to DOL.

**Reporting Periods:** **Period 1** October 1 through March 31  
**Period 2** April 1 through September 30

**Report Format:** Each agency report consists of two parts:

**Part I** concerns contracting activity for work awarded during the reporting period;

**Part II** concerns enforcement activity for all contracts, regardless of the award date.

The HUD Labor Relations staff for your area will send a courtesy reminder shortly before the due date about preparing the report and will remind you of the date your report is due. However, you should maintain accurate records throughout the year of relevant contract information so that you can submit the report timely.

## **Definitions and Guidance**

**Part I - Contracting Activity** - This part concerns only contracts that were **awarded** during this period. *Do not* include contracts that were awarded prior to this period even though the contracts may still be underway. *Do* include work subject to purchase order or other form of agreement, even if there is no formal contract award.

**Item 1.** Enter the total number of prime contracts subject to DBRA/CWHSSA **awarded** during this period. Track contracts by award or start of construction - **do not** track by bid opening date. Public Housing Authorities (PHAs), Tribally-designated Housing Entities (TDHEs)/Indian Housing Authorities (IHAs): Include force account work that is subject to DBRA/CWHSSA.

**Item 2.** Enter the total dollar amount of the contracts and/or PHA/TDHE/IHA force account work reported in Item 1.

<b>Semi-Annual Labor Standards Enforcement Report - Local Contracting Agencies (HUD Programs)</b>	<b>U.S. Department of Housing and Urban Development Office of Labor Relations</b>	<b>HUD FORM 4710i</b> <small>OMB Approval Number 2501-0019 (Exp. 09/30/2013)</small>
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**Item 3.** List each project/contract name, brief descriptive information, number or unique identifier, dollar amount, the wage decision and modification number in the contract, bid opening date, contract award date, and construction start date. Identify which milestone date triggered the wage decision “lock-in” (bid opening date, contract award date or start of construction date, as appropriate). If the project was not subject to sealed bids, indicate “NA” for bid opening date and proceed to identify the other dates.

**Part II - Enforcement Activity** - This part concerns *all* enforcement activity no matter when the contract was awarded or construction began.

**Item 4.** Enter the number of **employers** (contractors, subcontractors, lower-tier subcontractors) against whom complaints were received during the report period. List the names of the employers against whom complaints were received and the projects involved.

**Item 5.** Enter the number of employers that were referred to HUD Labor Relations or DOL staff for investigations, for hearings on appeal and/or debarment hearings. List the employer, project, and agency (HUD or DOL) to which the case was referred, and the reason for referral - investigation, appeal hearing (DOL Regulations 29 CFR Part 5, Section §5.11) and/or debarment (DOL Regulations 29 CFR Part 5, Section §5.12) hearing.

**Item 6.** Enter information relative to wage restitution that was **collected and/or disbursed** during the report period. This includes restitution disbursed by the agency; restitution reported on certified payroll correction reports, amounts collected but not disbursed because workers could not be found. Report straight time wage restitution separate from Contract Work Hours and Safety Standards Act (CWHSSA) overtime wage restitution. Also list liquidated damages collected for CWHSSA overtime violations.

Agency Name:	Agency Type: <small>[e.g., CDBG, PHA, TDHE/IHA]</small>	State:	LR2000 Agency ID #: <small>(HUD Use Only)</small>
<b>Period Covered: Check One and Enter Year(s)</b>			
<input type="checkbox"/> <b>Period 1:</b> October 1, _____ to March 31, _____	<input type="checkbox"/> <b>Period 2:</b> April 1, _____ to September 30, _____		
Agency Contact Person:	Agency Contact Phone/E-mail:		

**PART I - CONTRACTING ACTIVITY\***  
*Pertains ONLY to projects awarded during the reporting period.*

1. Number of prime contracts subject to the Davis-Bacon and Related Acts (DBRA) and/or the Contract Work Hours and Safety Standards Act (CWHSSA) awarded this period   
**Note: Do not include contracts included in previous semi-annual reports**
  
2. Total dollar amount of prime contracts reported in item 1 above \$ \_\_\_\_\_
  
3. List for each contract awarded this period:

Project Name/Number	Contract Amount	Wage Decision Number	Wage Decision Lock-In Date
<b>EXAMPLE:</b> "Boy's Club Renovation # CD54005-65"	"\$0,000,000.00"	"FL040001/Mod 3, 6/25/04, Building"	"07/02/04 bid open date" ◀ Lock

\*Use additional pages if necessary

**WHAT IS THE LOCK-IN DATE?** For contracts entered into pursuant to competitive bidding procedures, the bid opening date "locks-in" the wage decision **provided** that the contract is awarded within 90 days. If the contract is awarded more than 90 days after bid opening, the contract award date 'locks-in' the wage decision. For contracts, purchase orders or other agreements for which there is no bid opening or award date, use the construction start date as the lock-in date. However, for projects receiving assistance under Section 8 of the U.S. Housing Act of 1937 or contracts involving a *project* wage determination, the lock-in rules may vary from above. See Department of Labor Regulations, 29 CFR, Part 1, Section 1.6 and/or HUD Handbook 1344.1, or consult the HUD Labor Relations staff.

**WHAT IT ISN'T:** Do not use the wage decision publication date, unless that happens to correspond to one of the trigger events described above. If you are not sure about any of this, please feel free to contact the Labor Relations staff in your state or region.

Agency Name:	Agency Type: <small>[e.g., CDBG, PHA, TDHE/IHA]</small>	State:	LR2000 Agency ID #: <small>(HUD Use Only)</small>
<b>Period Covered: Check One and Enter Year(s)</b>			
<input type="checkbox"/> <b>Period 1:</b> October 1, ____ to March 31, ____	<input type="checkbox"/> <b>Period 2:</b> April 1, ____ to September 30, ____		
Agency Contact Person:	Agency Contact Phone/E-mail:		

**PART II - ENFORCEMENT ACTIVITY\***

*Pertains to all projects, not just contract(s) awarded during the reporting period.*

4. Number of employers against whom **complaints** were received (list employers and projects involved below):

<b>Employer</b>	<b>Project(s)</b>
-----------------	-------------------

5. (a) Number of cases (employers) referred to HUD Labor Relations for investigation or §5.11 hearing (list referrals below):

(b) Number of cases (employers) referred to the Department of Labor (DOL) for investigation or §5.11 hearing (list referrals below):

<b>Employer</b>	<b>Project</b>	<b>HUD or DOL</b>	<b>Invest. Or Hearing</b>
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6. (a) **Number of workers for whom wage restitution was collected/disbursed:**   
*Report only once; if you previously reported workers for whom restitution was collected, do not report the same workers when funds are disbursed. Include workers to whom restitution was paid directly by the employer.*

(b) **Total amount of straight time wage restitution collected/disbursed during this period:** \$  
*Report only once; if you report funds collected, do not report the disbursement. Include restitution amounts paid directly by the employer as reported on correction certified payrolls.*

(c) **Total amount of CWHHSA overtime wage restitution collected/disbursed during this period:** \$  
*Report only once; if you report funds collected, do not report the disbursement. Include restitution amounts paid directly by the employer as reported on correction certified payrolls.*

(d) **Total amount of liquidated damages collected:** \$

\* Use additional pages if necessary