

LABOR STANDARDS

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NOTES

CHAPTER 7: LABOR STANDARDS

INTRODUCTION

Federal labor standards (also known as "Davis-Bacon") will most likely apply to an UGLG's project. The Division of Energy, Housing and Community Resources (DEHCR) will make this determination when the DEHCR Project Representative is drafting the contract. If federal labor standards apply, then federal wage rates will have to be paid to contractor employees.

The Unit of General Local Government (UGLG) is also responsible for complying with Wisconsin Prevailing Wage laws and regulations.

RELEVANT LAWS

- **The Davis-Bacon Act**

The Davis-Bacon Act requires contractors and sub-contractors to pay those working directly on the site of work not less than once per week. This Act also requires that workers receive no less than the federal wages being paid for similar work in their locality. Federal wages are computed by the U.S. Department of Labor (USDOL) and are issued in the form of federal wage decisions for each classification of work to be performed in the area.

Violation of the Davis-Bacon Act makes the contractor liable for unpaid wages and may result in suspension of payments, contract termination, and suspension or debarment of the contractor from participation in federally funded projects.

- **The Copeland "Anti-Kickback" Act**

This Act requires that workers be paid without any deductions or rebates except permissible deductions. Permissible deductions include taxes, deductions the worker authorizes in writing, and those required by court processes. The Act also requires contractors to submit weekly payroll records and statements of compliance to the contracting agency. Regulations, Part 3, require contractors and sub-contractors on Davis-Bacon covered construction projects to submit each week a statement of compliance certifying compliance with the Davis-Bacon requirements. This "statement of compliance" is usually referred to as the certified payroll. This Act applies to all contracts covered by Davis-Bacon.

Violation of the Copeland Act is a felony and may result in termination of the contract or criminal prosecution by the U.S. Government, punishable by a fine, imprisonment, or both.

- **The Contract Work Hours and Safety Standards Act (CWHSSA)**

This Act requires that workers receive "overtime" pay at a rate of one and one-half times their regular hourly pay or one and one-half times the federal basic rate of pay, whichever is higher, after they have worked 40 hours in one week on federally funded projects. Forty hours in one week applies to all hours worked by the employee for that contractor on all federally funded job sites.

The CWHSSA does not apply to prime contracts of \$100,000 or less; however, the Fair Labor Standards Act will apply and overtime provisions are applicable to all contracts covered by Davis-Bacon. If the prime contract exceeds \$100,000 then CWHSSA applies to the prime contractor and all its sub-contractors regardless of the sub-contract values.

Violation of the CWHSSA makes the contractor liable for unpaid wages, liquidated damages of \$27 per employee per day of violation, and, in cases of intentional violation, a fine of \$1,000 and/or six months imprisonment for each offense (updated DOL 01/24/2019 <https://www.dol.gov/whd/govcontracts/cwhssa.htm>). Violations may also result in termination of the contract. Restitution should be paid to employees, and a copy of each check placed in the project's Labor Standards file. The contractor may be liable to the United States government for liquidated damages computed at \$27 per day per violation.

APPLICABILITY

Labor standards apply to all Community Development Block Grant (CDBG) contracts for construction, alteration, or repair of a public building or public work, as well as all building or construction contracts financed in whole or in part from federal funds or in accordance with guarantees of a federal agency, except as noted below.

Exceptions

1. Public works constructed by an UGLG's employees, are commonly called "force account" work. An UGLG that chooses to use force account labor to complete a project shall notify DEHCR using the *Force Account Affidavit* (Attachment 7-Q) that force account labor will be used to complete the project.

PLEASE NOTE: There is no such thing as private "force account" work.

2. Residential rehabilitation in structures with fewer than eight units.
3. Contract(s) that are part of a project of less than \$2,000 value.
4. Construction activities assisted solely by means of loans guaranteed with interest-bearing collateral accounts, where a) the interest rate is standard and customary rate on demand accounts; b) the account is subject to standard and customary terms and conditions for collateral accounts; and c) there is no "substantial likelihood" that the guarantee will be used.
5. Economic development projects where federal funds are used only for non-construction activities such as acquisition; machinery and equipment purchase (not including installation); stock (equity) purchase; and operating capital loans where such funds cannot be used for construction.

More information included in:

- *Davis-Bacon Coverage Chart – CDBG Financed Activities* (Attachment 7-A); and
- *Davis-Bacon and Related Acts (DBRA)* (Attachment 7-B).

LABOR STANDARDS OFFICER

REQUIREMENT: The UGLG must name a Labor Standards Officer prior to, or at the time of requesting a wage decision. The UGLG must act as Labor Standards Officer unless a different person is appointed.

PROCEDURE: Appoint a labor standards officer to administer all matters relating to labor standards. Complete: *Labor Standards Officer Designee* (Attachment 7-C) and send a copy to DEHCR.

SECURING WAGE DECISION

REQUIREMENT: The Labor Standards Officer must secure the federal Davis-Bacon wage decision(s) for use in the project(s).

PROCEDURE: Prior to advertising for bids, the Labor Standards Officer shall obtain the applicable Davis-Bacon wage decision(s) (i.e., wage determination(s)) for the contract; and submit a *Record of Wage Decision Selection* (Attachment 7-D) to DEHCR. Be sure to complete Attachment 7-D in its entirety. Specify budget line items, phases of the project, and percent of total construction cost, which includes grant plus match in construction line items only.

When the construction contract will involve multiple types of construction activities (e.g., improvements to buildings, streets and utilities), the wage decision for each type of construction being completed generally must be used as the applicable wage rates (e.g., Building, Highway, Heavy-Water/Sewer/Tunneling, Heavy-Other Heavy Excluding Water/Sewer/Tunneling). However, there is an exception when a type of construction is deemed “incidental” to the project, constituting less than 20 percent (<20%) of the total contract cost. In that case, using a separate wage decision for it is not necessary, *unless* it is needed to cover job classifications for that type of construction not otherwise covered in the other wage decision(s) applicable to the contract/project).

Davis Bacon wage rates are available on-line. The U.S. Department of Labor launched a new site in 2021. Following are the instructions for an on-line search:

- 1) Go to <https://sam.gov/content/home>.
- 2) Select “Wage Determinations”.
- 3) On the Wage Determinations page, under the “Search Wage Determinations” heading, either enter the wage determination number in the “Search by WD Number” box, or check the box to the right of this option: “Public Building or Works”.
- 4) Under the “Select Domain” heading, select “Construction (DBA)”.
- 5) Under the “Location” heading, choose Wisconsin in the “Select State” field, and select the applicable county in the “County” field. The applicable county will be the county in which the CDBG project work will occur. Finally, select the DBA construction type (e.g., Building, Highway, Heavy, or Residential).
- 6) Under “Status” check the “Active Only” box if seeking a current wage determination. *[Do not check this box if seeking to view an older wage determination. Either check the “Inactive” option or enter a date range under the “Date” heading to search previous wage determinations; or access previous wage determinations from within*

the current year using the associated links under the 'History' section at the bottom of the current/"Active" version of the selected wage determination.]*

- 7) If the "Active Only" box is checked, then only the currently active wage determinations will appear on the right side of the screen. Select the applicable determination(s) from the list based on the Construction Type, which is specified for each. Click on the wage determination number in blue font to view the full wage determination.

Select the Print/Download option to save and print the wage determination, which is to be provided in the bid packet and saved in the CDBG project file.

**Note: To access previous versions of a wage determination (i.e., earlier modifications) within the same year, scroll to the bottom of the current/"Active" wage determination under the "History" timeline. Click on the Modification number of the earlier wage determination(s) listed to view, print and download the determination.*

Print the wage determination(s) applicable to the CDBG project and include a copy of the wage determination(s) within the bid packet documents. Submit to DEHCR the *Record of Wage Decision Selection* (Attachment 7-D) with the wage determination information completed, along with bidding information.

OPTIONAL: If a survey of wages paid for similar work in the UGLG's community has been conducted, this can be submitted as well, using *Contractor's Report of Construction Wage Rates, Form WD 10* which is available at <https://www.dol.gov/whd/programs/dbra/wd10/>. Contact DEHCR for information on how to conduct and submit a survey.

Wage decisions are modified every Friday at 10:00 a.m. and the UGLG must check the wage decision on-line on the Friday afternoon or Monday prior to the bid opening. If the wage decision has changed, the UGLG is responsible for using the current wage rate(s) for the project and must notify potential bidders that the wage decision has been modified. If the UGLG fails to use the most current wage rates, the UGLG will be responsible for all back wages to employees.

NOTE: If the wage decision changes on the Friday of the bid opening, the UGLG is required to use that wage decision. It is recommended not to hold bid openings on Fridays.

ADDITIONAL CLASSIFICATIONS

Additional classifications will be needed any time there is a category of worker on the job that does not fit any of the classifications listed in the wage decision. A request for approval of additional classifications is initiated by the contractor by sending a letter requesting additional classification(s) to the UGLG. The UGLG shall complete the *Request for Additional Classification* form (Attachment 7-E) including the name of the classification and the wages and fringe benefits currently being paid and submit the contractor letter and request form to the DEHCR Project Representative.

Attach a copy of the wage determination to expedite the process. DEHCR will forward the request to HUD who will review and forward the request to USDOL for review and response. **The United States Department of Labor (USDOL) will not review or respond to any additional classification requests prior to the contract being awarded to the contractor.**

BIDDING

REQUIREMENT: The UGLG must include the applicable wage decision(s), related provisions, equal opportunity language, and contractor clearance language in the bid documents.

PROCEDURE: In advertising for bidders, include a notice that Davis-Bacon and Related Acts (DBRA) and federal wage rates apply to the project. Refer to Attachment 3-I: *Contract Attachment Insertions Summary* in Chapter 3: *Procurement and Contracting* of this *Handbook* for the list of documents that must be included in the bid documents packet and all prime contracts and sub-contracts for construction. Additional documents that are recommended to include are also listed in Attachment 3-I. Attachment 7-F: *Advertisement for Bids* is a tool to assist in the writing of an advertisement for bids.

IMPORTANT NOTE:

The bid packet must include the applicable wage decisions for the project and the items specified in Attachment 3-I in Chapter 3 of the *CDBG Implementation Handbook*. If the UGLG is coordinating the bidding with another entity (e.g., another UGLG, Department of Transportation, USDA Rural Development, etc.), then the UGLG must ensure that the other entity includes the CDBG-required bid packet/contract insertions.

If the UGLG holds the bid opening and then waits more than 90 days to award the construction contract, the UGLG **must re-check the applicable wage determination(s) online to see if there has been a modification update. If there is an updated modification date, the UGLG must use the modified wage determination(s)** for the construction project and provide with the awarded contractor with the updated wage determination(s).

The UGLG **must** maintain a copy of the bid advertisement and the bid documents package in the CDBG project file.

CONTRACTOR CLEARANCE

REQUIREMENT: UGLGs must verify that the successful bidders and all sub-contractors are eligible to work on federally funded contracts.

PROCEDURE: Because of past practices, certain contractors have been debarred, suspended, or otherwise made ineligible to work on federally funded contracts. An exclusion record identifies parties excluded from receiving Federal contracts, certain subcontracts, and certain types of Federal financial and non-

financial assistance and benefits. Exclusions are also referred to as suspensions and debarments.

Contract(s) must include the wage decision number and the *Federal Labor Standards Provisions (HUD 4010)* language (Attachment 7-G) that contains the contractor clearance language. When a contractor enters into federally assisted contracts, they certify their eligibility and that they will not employ ineligible sub-contractors to perform the work.

Correction of any infractions of the aforesaid conditions, including infractions by any of the contractor's subs is the contractor's responsibility.

Debarment Check Instructions

1. Go to the System for Award Management (SAM) website at <https://sam.gov/content/home>. Be sure to access the *official* federal SAM website. Private third parties have created sites that look very similar to the <https://sam.gov/content/home> website but they are not the *official* federal site and are not to be used for SAM debarment checks for the CDBG program.
2. On the SAM home page, click the "Exclusions" link and in the "Search Exclusions" box enter all or a portion of the search term (search the contractor's company name or owner's name individually; searching under both options is recommended); and press 'Enter'.
3. The search results will show all 'excluded' entities meeting the search term parameters. When results appear, go to the "Filter by" column on the page. You may filter by location, by the full name of individual ('Excluded Individual') or by company name or DUNS ('Excluded Entity'). If results show a 'match', then select the name of the entity to review the firm's record to determine if the entity matches the prospective contractor and whether it is currently excluded/debarred. If a match is confirmed, then the entity is debarred and cannot be awarded a contract for the CDBG project.
4. If the contractor's company (name and/or DUNS) or owner's name does not appear in the search results, then the entity has no active exclusions and is not debarred. As a fail safe, the UGLG must have the contractor confirm/certify that it is not debarred prior to contracting (or when signing the contract).
5. Print the complete search results, and the contractor individual record if a record is generated (using the CTRL / P option, or by right clicking on the screen and selecting "Print"). Maintain copies of all debarment check records in the Labor Standards file, including search results of 'No Records Found'.

When checking the System for Award Management (<https://sam.gov/content/home>) for debarred contractors, conduct a search by the business name, and a separate search by the owner's name. The search may also be based on the contractor's DUNS number or the Commercial and Government Entity (CAGE) Code.

CONTRACTING

REQUIREMENT: UGLGs must include the applicable wage determination(s), related labor standards provisions, equal opportunity language, conflict of interest language and contractor clearance language in all contracts.

Refer to Attachment 3-I: *Contract Attachment Insertions Summary* in Chapter 3: *Procurement & Contracting* in the *CDBG Implementation Handbook* for a list of language requirements and attachments to include in contracts or provide separately for all prime construction contracts and sub-contracts.

PROCEDURE: ALL SUB-CONTRACTS MUST BE IN WRITING and must contain all applicable items and attachments specified for the prime contract (as listed in Attachment 3-I: *Contract Attachment Insertions Summary* in *Chapter 3: Procurement and Contracting* of this *Handbook*). Inclusion of the required wage determination(s), regulatory language and clauses only by reference to the prime contract or regulatory citation is **NOT** acceptable.

A copy of each contract and sub-contract must be kept in the CDBG project files.

Note: If the UGLG fails to get a wage determination, or uses the wrong one: Workers on federally funded projects must receive the federally-determined wages. If the UGLG fails to include the correct wage determination and regulations in the contract, it must get the correct wage determination(s) and advise the contractors they must pay those wage rates retroactive to the beginning of the project. **The UGLG is responsible for ensuring all wage restitution/underpayments are made and may be forced to reimburse the contractor if the correct wage determination was not used.**

When a prime contract is awarded, submit a completed *Notice of Contractor Award* (Attachment 7-H) including the name, address and employer identification number (FEIN) of the prime contractor. The names and FEINS of all its anticipated all sub-contractors must also be included.

A completed *Notice of Contractor Award* (Attachment 7-H) must be submitted for each prime contract awarded.

BIDDING/CONTRACTING DOCUMENT SUBMISSION AND RECORDKEEPING

The following documents related to bidding and awarding construction contracts must be maintained in the project file AND submitted to DEHCR:

- *Record of Wage Decision Selection* (Attachment 7-D) (to be submitted to DEHCR prior to publishing the advertisement for bids);
- Bid tabulation summary (to be submitted to DEHCR upon contract award); and
- *Notice of Contractor Award* (Attachment 7-H) (to be submitted to DEHCR upon contract award).
- Signed *Lobbying Certification* forms (Attachment 3-D) from all prime contractors and subcontractors and any completed *Disclosure of Lobbying Activities* forms (Attachment 3-E), if any contractors had

lobbying activities to disclose (to be submitted to DEHCR with Attachment 10-A: *Project Completion Report* at the end of the project).

The following additional documents related to bidding and awarding construction contracts must be maintained in the project file:

- Advertisement for bids, with the publisher's affidavit
- Bid packet (all contents) for each contract awarded;
- Bids submitted by contractor(s) awarded the contract(s) and all other bidding contractors, including bids not selected;
- Meeting minutes for the meeting(s) in which the UGLG's governing body approved the contract(s);
- Records of debarment checks on <https://sam.gov/content/home> for all prime contractors and subcontractors (these checks should occur prior to awarding contracts);
- Signed contracts, including the prime contract(s) and all subcontracts (including documentation verifying the contracts contain the required CDBG language as specified above and in Chapter 3: *Procurement & Contracting*);
- Signed *Potential Conflict of Interest Disclosure* forms (Attachment 3-B) (recommended for Prime Contractors ONLY) or similar types of potential conflict of interest disclosure; and

Also refer to Chapter 3: *Procurement & Contracting* for information regarding conflict of interest, lobbying, bidding and contracting related documentation.

PRE-CONSTRUCTION MEETING

UGLGs are strongly encouraged to hold a pre-construction meeting to ensure that all contractors understand the applicable wage decision(s), labor standards and other CDBG program requirements. UGLGs working with contractors already familiar with Davis-Bacon and other CDBG program requirements and have a clear record of compliance may not need to hold a pre-construction meeting. If the contractors have worked on Davis-Bacon related projects and the UGLG is confident that the contractors involved clearly understand the requirements set forth in Attachment 7-G: *Federal Labor Standards Provisions (HUD-4010)* and Attachment 7-B: *Davis-Bacon and Related Acts*, coverage of these items may be abbreviated. Contractors are encouraged to use the tools listed in Attachment 7-R: *MBE/WBE/DBE & Section 3 Web Resources* for outreach to firms to promote sub-contracting with MBE, WBE and Section 3 firms.

PROCEDURE:

1. Hold a pre-construction meeting with the prime contractor and all sub-contractors. The meeting should cover the items listed in Attachment 7-I: *Pre-construction Meeting – Items to be Discussed*. Also provide contractors with a copy of Attachment 7-J: *Pre-construction Checklist for Contractors*. Recommendation: Have prime contractors and subcontractors complete and sign page 1 of the *Pre-construction Checklist for Contractors* (Attachment 7-J) and return it to the Labor Standards Officer, and then maintain it in the CDBG project file.

2. Prepare a record of the pre-construction meeting proceedings and place it in the CDBG project file and submit a copy to the DEHCR Project Representative. Attachment 7-K: *Pre-construction Report Format* is provided as a template that may be used (but is not required) in preparing the pre-construction meeting notes.

COMPLIANCE MONITORING

REQUIREMENT: The UGLG's Labor Standards Officer must monitor the performance of all contractors in complying with the wage rates and other requirements. DECHR, the UGLG, any agent working on behalf of the UGLG, and/or the Labor Standards Officer has the right to request any additional information from the contractors and sub-contractors working on a CDBG funded project to verify compliance with federal labor standards regulations. This information includes, but is not limited to job classification, payroll, benefits and deductions.

PROCEDURE:

1. Make sure that each contractor and sub-contractor submits, on a weekly basis, payroll records and statements of compliance as required by the law, and that these documents contain all the required information.

- A. The weekly payroll records are prepared on the recommended **Wisconsin Department of Transportation (WisDOT) Weekly Payroll Record form** (a Microsoft Excel document (WisDOT Form 1929) that may be modified/customized for the specific project and includes formulas for automatically calculating data and entering details of job classifications, apprenticeship status, and types of fringe benefits and deductions) and Compliance Statement form (WisDOT Form 1816); or comparable forms that allows for reporting the same details. Refer to the Attachment 7-L1: *WISDOT Payroll Record (Template)* (includes WisDOT Payroll Record (Form DT1929) and WisDOT Compliance Statement (Form 1816)) to view the sample Payroll Record form and Compliance Statement. □

The **U.S. Department of Labor Payroll Form WH-347** or an internal payroll system reporting form that allows for reporting the same information is acceptable. Note that when using Form WH-347, the details of the types of fringe benefits and deductions and value of each fringe benefit and deduction must be itemized for each employee on the Statement of Compliance page of Form WH-347 or attached to the payroll record. Refer to Attachment 7-L2: *USDOL Payroll Record (Template)* and Attachment 7-L3: *USDOL Payroll Record (Sample)* (includes Payroll Record form and Statement of Compliance signature page) to view the forms and a completed example.

Wisconsin Department of Transportation (WisDoT) Weekly Payroll Report form, Weekly Payroll Information Sheet (instructions) and Compliance Statement:

<https://wisconsindot.gov/pages/doing-bus/civil-rights/labornwage/payroll-submission-compliance.aspx>

Refer to the “Paper-based payrolls (emergency projects) section:

WisDoT's Labor Compliance & CRCS Training (Upcoming)

CRCS Updates

Employer submission of payrolls using WisDoT's Civil Rights Compliance System (CRCS) is a key element in complying with prevailing wage laws.

Payroll guidelines

- Contractor's User Manual, Payroll
- Certified payroll reports fact sheet (now includes the keys to weekly payroll report)
- Weekly payroll information sheet
- Weekly Payroll Information Sheet - For Projects let after 02/14/2017**
- Contractor's User Manual - Sublet and payments
- How to get subcontractors registered
- Frequently Asked Questions (FAQ)

Paper-based payrolls (emergency projects)

- Blank weekly payroll report**
- Blank Compliance Statement form (DT1816)

U.S. Department of Labor (USDOL) Certified Payroll Record Form & Instructions: Form WH347 and Instructions:

<http://www.dol.gov/whd/forms/wh347instr.htm>

(Direct link to Form WH347 also here:

<http://www.dol.gov/whd/forms/wh347.pdf>)

U.S. DEPARTMENT OF LABOR

Wage and Hour Division

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TOPICS | WORKER RIGHTS | FOR EMPLOYERS | RESOURCES | INTERPRETIVE GUIDANCE | STATE LAWS | NEWS RELEASES

WHD > Forms > Instructions For Completing Payroll Form, WH-347

Instructions For Completing Payroll Form, WH-347

- WH-347 (PDF)**

OMB Control No. 1235-0008, Expires 07/31/2024.

General: Form WH-347 has been made available for the convenience of contractors and subcontractors required by their Federal or

Also refer to the *Statement of Compliance (Template)* (Attachment 7-M), *Statement of Compliance (Sample)* (Attachment 7-M1), and *Statement of Compliance Instructions* (Attachment 7-M2) for an additional example.

Any alternate payroll form used should be cleared with the recipient's Labor Standards Officer (LSO) before the employer starts work on the project. A project printout from the employer's internal payroll software system, for example, is acceptable provided that all data shown and required on the WisDoT payroll record form and Compliance Statement form, or on the front and back of the USDOL payroll record Form WH-347, is on or included with the payroll submitted to employer.

Payrolls must be numbered sequentially from **first to final** and must be submitted to the Labor Standards Officer (LSO) of the CDBG project within 7 days after the end of the pay period. Identify the first and final payrolls by the words “First” and “Final.” All payrolls must be signed by a principal of the firm or by an authorized agent. No work payrolls should be submitted for weeks when no work occurs. If payrolls are numbered consecutively, “no work” payrolls are not required. However, it is recommended contractors and sub-contractors that will not be working on the project for a period of time, inform the Labor Standards Officer in writing of the break and provide an approximate date of return. The DEHCR Project Representative may ask for verification of a lapse in work.

Refer to the *Pre-Construction Checklist for Contractors (Attachment 7-J)* and the information that follows in this chapter for additional guidance on the content and data required on the certified weekly payroll records and accompanying signed statements of compliance.

2. Review the payrolls weekly to make sure that at least the minimum wages and fringe benefits as specified in the wage determination are paid to each employee and that any overtime worked is paid at the overtime rate. Fringe benefits include health insurance, retirement, life insurance, vacation, and some contributions to training funds. Fringe benefits **do not include** employer payments or contributions required by other federal, state, or local laws, such as the employer’s contribution to Social Security or some disability insurance payments.

Note: An employee who owns at least a bona fide 20% equity interest in the enterprise in which he or she is employed, regardless of the type of business organization (e.g., corporation, partnership, or other), and who is actively engaged in its management, is considered a bona fide exempt executive. The salary and salary basis requirements do not apply to the exemption of business owners under 29 CFR 541.101. An individual with a 20% or greater interest in a business who is required to work long hours, makes no management decisions, supervises no one and has no authority over personnel does not qualify for the executive exemption. To qualify for the exemption, a minority owner with at least a bona fide 20% interest in the business must be an employee of the business and actively engaged in management. See 29 CFR 541.101.

The UGLG does not need to review those project workers listed on the payroll who perform work which is descriptive of any of the following job titles which are exempt from labor requirements: project superintendent, project engineer, messenger, clerical workers, timekeepers, bookkeepers, payroll clerks, and Supervisory foreman (*less than 20% of time as a working foreman*).

Refer to *Davis Bacon and Related Acts (DBRA)* (Attachment 7-B) for additional guidance on requirements and exceptions based on owner and worker classifications and roles.

3. Review the payrolls weekly to make sure that no **deductions** are made from any employee’s pay other than those permitted by DOL Regulations [29 CFR 3]. These regulations prohibit the employer from requiring

employees to “kick-back” any of their earnings. Allowable deductions include employee obligations for income taxes, Social Security payments, insurance premiums, retirement, savings account, **and any other legally permissible deduction authorized by the employee in writing.**

Deductions may also be made for payments on judgments and other financial obligations legally imposed against the employee. The deductions listed under “Other” on the weekly payroll must be provided to the UGLG and/or the Labor Standards Officer upon request.

4. Review the payrolls weekly to make sure that employee classifications conform to the wage determination and rates. If no applicable classification is listed in the wage determination for an employee, refer to the instructions for Additional Classifications in this chapter.

Note: When the hourly fringe benefits rate for a job classification on the federal wage decision appears as a percentage rather than a dollar value, this indicates the minimum Davis-Bacon fringe rate would be the specified percentage multiplied by the Davis-Bacon hourly cash wage rate for that job classification, or multiplied by the worker's regular hourly cash rate on the CDBG project, whichever hourly cash rate is higher.

5. Apprentices and trainees may be paid less than the full journeyman rate only if they are registered in bona fide programs approved by and registered with the Employment and Training Administration of the USDOL. **Make sure all necessary apprenticeship indentured papers and training certifications have been filed** for employees on the job, and that the documents are valid. Make sure the ratio of apprentices to journeyman on the job site does not exceed the ratio specified in the program, and that the apprentice is receiving the pay specified for his/her level of progress as an apprentice (usually expressed as a percentage of the journeyman rate for the craft). Apprentices and trainees must receive the full level of fringe benefits unless the apprenticeship or training agreement specifies a lesser amount of benefits. Job Corps trainees are entitled to full wages for the work they perform. The USDOL does not recognize Job Corps as an in-depth training program.

A “**probationary apprentice**” can be paid as an apprentice if the Bureau of Apprenticeship and Training (BAT) or a BAT – recognized State Apprenticeship Agency (SAC) has certified that the person is eligible for probationary employment as an apprentice.

A “**pre-apprentice**,” that is, someone who is not registered in a program and who hasn’t been BAT-or SAC-certified for probationary apprenticeship, is **not** considered to be an “apprentice” and must be paid the full journeyman’s rate on the wage determination for the classification of work they perform. **Obtain a copy of the apprenticeship-indentured papers from the approved program for the grant files.**

The Davis-Bacon statutes specify that if a contractor violates **any** of the provisions, then the person considered to be an apprentice **must** receive the full amount of the applicable federal wage rate for the classification of work performed.

6. Interview workers on the job (Attachment 7-N: *Record of Employee Interview*) to determine if the wages paid and/or the classification reported by the contractor are correct and correspond to the payrolls submitted. Employees should be encouraged to produce pay stubs or pay envelopes that document the wages received. Do this in such a way as not to interfere with the conduct of the work and to provide reasonable privacy. **It is recommended to interview at least one of each classification of worker on the job for each contractor and sub-contractor.** More than one is desirable as assurance that the requirements continue to be met. For persons classified as apprentices or trainees, get a detailed statement of duties and tools used. Compare the interview data with the corresponding payrolls to identify any discrepancies.
7. Check the work site to make sure that the required wage rates and other required posters are posted in a clearly visible location. (See Attachment 7-S *Employee Rights Poster*). Document display of wage rates and other required posters by taking a photograph of display in location at the job site.
8. Keep the site investigation report, photographs, payroll sheets, certifications, and employee interviews in the labor standards file.

COMPLIANCE ENFORCEMENT

REQUIREMENT: UGLG's shall take the necessary steps to enforce the requirements when a contractor or sub-contractor has not paid the minimum Davis-Bacon and Related Acts wage and benefits or has violated other requirements.

PROCEDURE: Violations of labor standards requirements may be found as a result of worker complaints or through routine monitoring of payroll reports and employee interviews. When violations are found, the UGLG must follow the procedures set up by the USDOL, below:

1. Where the total underpayment is less than \$1,000 or and where there is no reason to believe that the violation is/was deliberate:
 - a. **Make sure that the unpaid wages are paid.** The UGLG must notify the prime contractor in writing of any underpayments that are found during payroll or other reviews. The notification should 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. 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, Payroll #1 through and including Payroll #6; or a beginning date and an ending date). The correction payroll will list:
 - Each employee to whom restitution is due and their work classification;
 - The total number of work hours involved (daily hours are usually not applicable for restitution);

- The adjustment wage rate (the difference between the required wage rate and wage rate paid);
- The gross amount of restitution due, deductions, and the net amount to be paid; and
- A signed *Statement of Compliance* (Attachment 7-M) must be attached to the correction Certified Payroll.

The UGLG should 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.

Sometimes, wage restitution cannot be paid to an affected employee because, for example, the employee has moved and cannot be located. In these cases, at the end of the project the prime contractor will be required to place in a deposit or escrow account an amount equal to the total amount of restitution that could not be paid because the employee(s) could not be located. The UGLG should continue to attempt to locate the unfound worker(s) for three years after the completion of the project. After three years, any amount remaining in the account for unfound worker(s) should be forwarded to HUD.

Additional information is available from HUD on disputes, withholding, deposits and escrow accounts, including information in the *Davis-Bacon Labor Standards: A Contractor's Guide to Prevailing Wage Requirements for Federally Assisted Construction Projects* (HUD Labor Relations Desk Guide LR01.DG): <https://www.hud.gov/sites/documents/4812-LRGUIDE.PDF>.

If the violation involved the overtime provisions of the Contract Work Hours and Safety Standards Act, notify DEHCR and the contractor of the estimated penalty that may be assessed (\$27 per employee per day that overtime is earned but not paid) [updated DOL 01/24/2019 <https://www.dol.gov/whd/govcontracts/cwhssa.htm>]. The UGLG is to submit the copies of payrolls with the violations and a summary of investigative activities to DEHCR. DEHCR may forward underpayment violations under review to HUD, if further investigation is deemed necessary, which may result in penalties being assessed and collected from the contractor. Payment should be withheld from the contractor for **the estimated penalty amount** until HUD has been paid, if a penalty is imposed, or the contractor has received an answer to any appeal, if applicable.

2. Where the underpayment is \$1,000 or more in total, or where there is reason to believe that the violations are deliberate, **investigate as thoroughly as possible, and file Section 5.7 Enforcement Report (Attachment 7-O) with the DEHCR Project Representative.** The report will be forwarded to HUD and the USDOL for the necessary follow-up action.

3. Documentation of such violations is extremely important. All enforcement actions shall be carried out in writing and have the following information in the file:
 - A description of the violation;
 - The sources of information about the violation. Complaints and other statements from employees should be in writing, and signed;
 - The computation of the back wages due each employee;
 - The computation of the liquidated damages, if any;
 - Actions taken by the contractor to correct the violation, if any; and
 - Copies of supplemental payrolls and/or canceled checks, if any.
4. Submit semi-annual Labor Standards data reporting (Attachment 9-C: *CDBG Project Data Report*).

The USDOL requires agencies administering programs subject to Davis-Bacon and Related Act and CWHSSA labor standards to furnish a semi-annual Labor Standards enforcement reporting form. The semi-annual Labor Standards data reporting (Attachment 9-C: *CDBG Project Data Report*) is **due to DEHCR as specified in the executed Grant Agreement**. It is very important that DEHCR receive these reports in a timely fashion so that DEHCR can forward the reports to the HUD in a timely manner each reporting period.

5. If applicable, submit a *Section 5.7 Enforcement Report* (Attachment 7-O).

HUD requires agencies to submit a *Section 5.7 Enforcement Report* on all enforcement actions where underpayments by a contractor or sub-contractor total \$1,000 or more, or where there is reason to believe that the violations are aggravated or willful. In cases where a *Section 5.7 Enforcement Report* (Attachment 7-O) is completed, it must be submitted to DEHCR no later than 30 days after the completion of the investigation. (Note that the \$1,000 threshold refers to the underpayments of a single employer to his/her *entire* workforce and not to individual employees.)
6. When a CDBG project is completed, submit *Final Labor Standards Compliance Report(s)* (Attachment 7-P) to DEHCR with the project completion documents. A report must be submitted for each prime contract awarded on the project. Each report **must** detail the information pertaining to the prime contractor and its sub-contractors.

Refer to Chapter 2: *Administration Requirements* and Chapter 3: *Procurement & Contracting* for a list of items to maintain in the Labor Standards file.

To document HUD compliance, the DEHCR Project Representative must receive all applicable labor standards reports before the final draw request will be processed.

PROJECT SIGN

A sign meeting the specifications outlined in Attachment 7-T *Project Sign* must be erected near the site of the project by the start of construction.

ATTACHMENTS

Attachments for this chapter can be found below.

ATTACHMENT 7-A:	DAVIS-BACON COVERAGE CHART CDBG FINANCED ACTIVITIES
ATTACHMENT 7-B:	DAVIS-BACON AND RELATED ACTS (DBRA)
ATTACHMENT 7-C:	LABOR STANDARDS OFFICER DESIGNEE (TEMPLATE)
ATTACHMENT 7-D:	RECORD OF WAGE DECISION SELECTION (TEMPLATE)
ATTACHMENT 7-D1:	RECORD OF WAGE DECISION SELECTION (SAMPLE)
ATTACHMENT 7-D2:	RECORD OF WAGE DECISION SELECTION (INSTRUCTIONS)
ATTACHMENT 7-E:	ADDITIONAL CLASSIFICATION REPORT (HUD FORM 4230A)
ATTACHMENT 7-E1:	INSTRUCTIONS FOR ADDITIONAL CLASSIFICATION
ATTACHMENT 7-F:	ADVERTISEMENT FOR BIDS (TEMPLATE)
ATTACHMENT 7-G:	FEDERAL LABOR STANDARDS PROVISIONS (4010)
ATTACHMENT 7-H:	NOTICE OF CONTRACTOR AWARD
ATTACHMENT 7-I:	PRE-CONSTRUCTION CONFERENCE ITEMS TO BE DISCUSSED
ATTACHMENT 7-J:	PRE-CONSTRUCTION CHECKLIST FOR CONTRACTORS
ATTACHMENT 7-K:	PRE-CONSTRUCTION REPORT FORMAT
ATTACHMENT 7-L1:	WISDOT PAYROLL RECORD (TEMPLATE)
ATTACHMENT 7-L2:	USDOL PAYROLL RECORD (TEMPLATE)
ATTACHMENT 7-L3:	USDOL PAYROLL RECORD (SAMPLE)
ATTACHMENT 7-M:	STATEMENT OF COMPLIANCE (TEMPLATE)
ATTACHMENT 7-M1:	STATEMENT OF COMPLIANCE (SAMPLE)
ATTACHMENT 7-M2:	STATEMENT OF COMPLIANCE (INSTRUCTIONS)
ATTACHMENT 7-N:	RECORD OF EMPLOYEE INTERVIEW (TEMPLATE)
ATTACHMENT 7-N1	RECORD OF EMPLOYEE INTERVIEW (SAMPLE)
ATTACHMENT 7-N1	RECORD OF EMPLOYEE INTERVIEW (INSTRUCTIONS)
ATTACHMENT 7-O:	SECTION 5.7 ENFORCEMENT REPORT (TEMPLATE)
ATTACHMENT 7-O1:	SECTION 5.7 ENFORCEMENT REPORT (SAMPLE)
ATTACHMENT 7-O2:	SECTION 5.7 ENFORCEMENT REPORT (INSTRUCTIONS)
ATTACHMENT 7-P:	FINAL LABOR STANDARDS COMPLIANCE REPORT (TEMPLATE)
ATTACHMENT 7-P1:	FINAL LABOR STANDARDS COMPLIANCE REPORT (SAMPLE)
ATTACHMENT 7-P2:	FINAL LABOR STANDARDS COMPLIANCE REPORT (INSTRUCTIONS)
ATTACHMENT 7-Q:	FORCE ACCOUNT AFFIDAVIT
ATTACHMENT 7-R:	MBE/WBE/DBE & SECTION 3 WEB ADDRESSES
ATTACHMENT 7-S:	EMPLOYEE RIGHTS POSTER (ENGLISH AND SPANISH)
ATTACHMENT 7-T:	PROJECT SIGN (TEMPLATE)
ATTACHMENT 7-T1:	PROJECT SIGN (SPECIFICATIONS)

HUD Labor Standards forms appearing in the Attachments may also be available on the HUD website at:
https://www.hud.gov/program_offices/davis_bacon_and_labor_standards/olrform.

ATTACHMENT 7-A: DAVIS-BACON COVERAGE CHART – CDBG FINANCED ACTIVITIES

<u>Financed Activity</u>	<u>Activity Covered?</u>	<u>Related Private Construction Covered?</u>
Land Acquisition	N/A	No
Demolition (no construction on-site contemplated)	No	N/A
Demolition (to be followed by on-site construction)	Yes	<u>No</u> , if the demolition was done under a separate contract by UGLG (state, county, city, etc.) or its contractor before transfer of the land to the developer. <u>Yes</u> , if the demolition contracted for by same entity (developer, contractor, etc.) is doing private construction and will be carried out while the contracting entity controls the site.
Off-site improvements (street work, storm sewers, utility construction, etc.)	Yes	<u>No</u> , if off-site improvements are separately owned and the off-site work and on-site construction is provided for in separate construction contracts.
On-site improvements (excavation/grading, storm drainage, utility or sewer work, paving/walks/stripping, site lighting, landscaping, etc.)	Yes	<u>No</u> , if on-site improvements are done under a separate contract by the UGLG (state, county, city, etc.), or its contractor before transfer of land to developer. <u>Yes</u> , if improvements are designed and intended to serve building on the site; will be contracted for by same entity having building constructed; and will be carried out while contracting entity controls the site.
Cleaning During Construction	Yes	<u>Yes</u>
Cleaning After Construction to Prepare for Occupancy	No	<u>No</u> , if performed under a separate contract.
Material Purchase (manufacturing)	N/A	<u>No</u> , no construction involved.
Material Purchase (building)	N/A	<u>Yes</u> , unless materials have an independent use.
Equipment, Machinery, and Fixtures Purchase (as opposed to installation)	N/A	<u>No</u> , if purchased under a separate contract
Equipment, Machinery, and Fixtures Installation (as opposed to, or in addition to, purchase)	<u>Yes</u> , if more than incidental amount of construction work involved.*	<u>Yes</u> , if more than an incidental amount of construction work involved in the installation. *
Legal/Accounting Fees	N/A	<u>No</u> , if obtained under a separate contract.
Architectural and Engineering Fees	N/A	<u>No</u> , if obtained under a separate contract.
Construction Management	N/A	<u>No</u> , if obtained under a separate contract.
Tenant Allowances for Non-construction Expenses (furniture, business licenses, etc.)	N/A	<u>No</u> , if obtained under a separate contract.
* Construction work involved in installation is incidental if the cost is 13% or less of the total cost of the CDBG-financed equipment; if it is more, a four-part test applies.		

SAMPLES OF PROJECTS AND CATEGORIES

(Excerpts from “Davis-Bacon Construction Wage Determinations Manual of Operations”)

BUILDING CONSTRUCTION	HEAVY
<ul style="list-style-type: none"> • Apartment buildings 5 stories and above • Nursing Homes • Arenas/Auditoriums/Civic Centers • Automobile parking garages • Hospitals • Industrial/Institutional buildings • Libraries/Schools • Mausoleum • Hotels/Motels • Museums • Office Buildings • Police Stations • Post Offices • City Hall/Courthouses • Detention Facilities • Dormitories • Fire Stations • Restaurants • Subway Stations • Shopping Centers • Theaters • Water and Sewage Treatment plant (building only) 	<ul style="list-style-type: none"> • Bridges • Canals • Demolitions (not incidental to construction) • Docks • Drainage or dredging projects • Electrification projects • Flood control • Land leveling/reclamation • Locks, waterways/unsheltered piers • Pipelines • Pumping stations • Railroad construction • Reservoirs/viaducts • Sewage, collection, and disposal lines • Water and sewage treatment plants • Shoreline maintenance • Swimming pools • Subways (not the buildings) • Tunnels • Water mains • Wells
RESIDENTIAL CONSTRUCTION	HIGHWAY/STREETS
<ul style="list-style-type: none"> • Apartment buildings 4 floors or less* • Single family homes • Town or row houses • Mobile home development • Multifamily houses 	<ul style="list-style-type: none"> • Alleys • Bituminous treatments • Concrete pavements • Curbs • Excavation and embankment • Fencing (highway) • Grade crossing elimination (over and under passes) • Parking lots • Resurfacing streets and highways/Paving • Roadways and shoulders • Guardrails • Highway signs • Highway bridges • Medians • Trails
<p>*for Davis Bacon purposes, the exterior height of residential buildings in terms of stories is a primary consideration. The following criteria will apply to determine height.</p> <ul style="list-style-type: none"> • Basement story - Stories below grade used for storage, parking, mechanical system/ equipment, etc., are considered basement stories and are not used in determining height. • First store - A lowermost story is considered a story if it contains the main entrance is used for apartment space in a way substantially similar to upper floors, contains a least 50% of living accommodations or related nonresidential uses. 	

ATTACHMENT 7-B: DAVIS-BACON AND RELATED ACTS (DBRA)

- A. Force Account - Under most Davis-Bacon statutes, only employees of contractors or sub-contractors are subject to Davis-Bacon wage requirements. In some instances, rather than contracting or sub-contracting out construction work, a grant recipient performs the construction in-house, with its own "force account" employees. Such force account work is not subject to Davis-Bacon wage requirements under statutes that cover only employees of contractors and sub-contractors. Furthermore, the USDOL does not consider a state or local government to be a contractor, even if it enters into a contract to perform construction work (see 29 CFR Section 5.2(h)). However, under the Housing and Community Development Act of 1974, a private firm that receives federal assistance funds indirectly from a recipient pursuant to a written procurement contract of sub-grant agreement that provides for the performance of construction work is considered a contractor or sub-contractor, and the force account exception **does not** apply to construction activity performed by employees of such a firm.

Laborers and mechanics employed by a local or state agency PHA (Public Housing Authority only), even though not employed by a contractor, are subject to Davis-Bacon when performing development work financed by the U.S. Housing Act of 1937, as amended. Davis-Bacon federal wage requirements are not applicable where such employees are used in work defined as major repairs (deferred maintenance) pursuant to 24 CFR 868.3 and 868.9(h), which constitute project operation rather than development.

- B. Compliance and Certification Parameters - HUD policy clearly affords federal wage protection for all laborers and mechanics, regardless of contractual relationship. There is no exception to this protection for self-employed laborers or mechanics, including owners of businesses, sole proprietors, partners, corporate officers, or others. Laborers and mechanics may not certify to the payment of their own federal wages except where the laborer or mechanic is the owner of a business working on the site of the work with his/her own crew.

Accordingly, HUD and program participants responsible for labor standards administration and enforcement **may not** accept certified payrolls reporting single or multiple owners (e.g., partners) are certifying that they have paid to themselves the prevailing wage for their craft. A sole proprietor may not submit a payroll reporting himself or herself as simply "Owner" signing the certification as to his/her own wage payment from "draws" or other payment methods. Nor may several mechanics submit a payroll reporting themselves as "partners" with one or more certifying as to the payment of their wages or salaries. Such mechanics must instead be carried on the certified payroll of the contractor or sub-contractor for whom they are working and with whom they have executed a "contract" for services.

In these cases, maintenance of an accurate accounting of weekly work hours including any overtime hours for such mechanics is essential. Whatever method of compensation computation is utilized (piecework, weekly contract draw performance), the amount of weekly compensation divided by the actual hours of work performed for that week must result in an "effective" hourly wage rate for that week that is not less than the prevailing hourly rate for the type of work involved. This computation must take into account overtime pay rates (i.e., one and one-half) for all hours worked in excess of 40 hours per week, pursuant to the CWHSSA, where applicable, and pursuant to the Fair Labor Standards Act where CWHSSA is not applicable.

The name, work classification, actual hours of work, effective hourly wage rate, and wage payment for each such mechanic and laborer must be reported and certified on the responsible employer's weekly payroll. Note that the effective hourly wage rate for such mechanics and laborers may fluctuate from week to week. However, the effective hourly wage rate may not be less than the minimum prevailing wage rate for the respective craft.

In any case, where the effective rate falls below the corresponding craft prevailing wage rate, the responsible employer must compensate the mechanic at no less than the prevailing wage rate on the wage determination for the craft.

- C. Business Owners Working with Their Crew - Owners of businesses working with their crew on the same HUD-assisted job site **may** certify to the payment of their own federal wages in conjunction with the prevailing wages paid to their employees. This exception to compliance standards **does not** suggest that such owners are not likewise entitled to prevailing wages for their labor. Rather, it accepts the wage payment certification on weekly payroll reports by the owner of his/her own wages as that certification **accompanies** the certification offered for payment of prevailing wages to his/her employees. On weekly payroll reports, include the owner's name, identifying him/her as "owner," and the daily and total hours worked on the covered project for the week. Omit the Rate of Pay and Amount Earned.
- D. Owner-operators of Power Equipment - Frequently, owner-operators of power equipment (e.g., backhoes, front-end loaders) will contract for services at a rate for both "man and machine." In these cases, the owner-operator includes liability, equipment maintenance, and salary in an hourly or contract rate for services. Because of the prevalence of such practice and the inherent difficulty in ascribing costs for liability and maintenance costs verses hourly labor salary, HUD and its program clients may accept a combined ("man and machine") hourly rate on the responsible contractor's certified payroll provided that such hourly rate may not be less than the rate on the wage determination for the respective power equipment operator. **Note:** Owner-operators of power equipment, like self-employed mechanics, **may not** submit their own payrolls certifying to the payment of their own wage **but** must be carried on the responsible contractor's certified payroll report. Include the name, work classification, and actual hours worked. Upon completion of the contract, verify the pay by taking the amount paid to the sub-contractor (documented with copies of all invoices identified for this job) and divide by the hours reported on the certified payrolls. Compare the actual hourly wage rate with the rate in the Wage Determination. If the actual hourly wage is less than the Davis-Bacon Wage Rate, collect and disburse the wage underpayments.
- E. "Owner Operator" Truck Drivers - A USDOL administration policy excludes bona fide owner-operators of trucks who are independent contractors from Davis-Bacon/CWHSSA provisions concerning their own hours of work and rate(s) of pay. These truck "owner-operators" can certify to their own weekly payrolls **but** the payrolls do not need to show the hours worked or rates allegedly paid - only the notation "Owner-operator." **Note** that any laborers or mechanics, including truck drivers, employed by the owner-operator/independent contractor are subject to Davis-Bacon/CWHSSA provisions in the usual manner.

This policy **does not** pertain to owner-operator of other equipment such as backhoes, bulldozers, cranes and scrapers (i.e., power equipment as noted in the paragraph titled "Owner-operators of Power Equipment," above).

"Contractor's" Truck Drivers Based on the decision made in the Midway Excavating trial, (Building and Construction Trades Department, AFL-CIO vs. USDOL Wage Appeals Board "Midway") truck drivers employed by contractors are only covered by federal wage requirements when they are performing labor on the site of the work. (e.g., if the UGLG is building a highway and the truck driver is loading, unloading, spreading, or driving material back and forth on the site, then the truck driver is covered). Conversely, hauling materials to/from the site, from/to an off-site location that is not exclusively established for the project is not DBA covered time. HUD has advised that they currently believe unloaded trucks are likewise not covered.

Contractors must report hours worked, and pay at least the DBA wage rate for any time the truck driver spends on the work site if the driver is making multiple trips throughout the day that cumulatively challenge a *de minimus* determination. *De minimus* may be interpreted as time spent on the job site that is not sufficient nor consequential enough to be tracked as an itemizable job function. However, if a series of *de minimus* qualifying site visits by truck drivers cumulatively exceed the 20% threshold for any given day, DBA applies to the on-site hours worked.

- F. Determining Proper Classification for Various Work - Questions as to the proper classification of a laborer or mechanic for various types of work are resolved by making an area-practice

determination. In determining the proper classification for work performed on a project, it is immaterial whether the contractor is union or nonunion.

On projects where the federal wage rate for the classifications in question within the applicable wage determination is based on negotiated rates, the prevailing practice concerning work performed in those classifications is to follow the practice observed on projects built by contractors who are a signatory to the collective bargaining agreements. Therefore, unless there is a jurisdictional dispute between the crafts, the duties ascribed to any job classification will be the same as those outlined in the appropriate collective bargaining agreements. If the collective bargaining agreements are silent on this issue, the local unions involved must be consulted. Conversely, in areas where open shop (non-union) rates are determined to prevail for the classifications in question, those prevailing job practices followed on projects by open shop contractors in the same area become area practice.

- G. Helpers - The **classification of Helper in any trade will be very difficult to have approved by the USDOL**. If the contractor wants to pursue a helper classification through the USDOL, they should contact the Labor Standards Specialist at DOA.
- H. Relatives - There are no exceptions made in the enforcement of Davis-Bacon on the basis of family relationship for relatives who are performing the work of laborers or mechanics. They **must be paid the federal wage rate for the classification of work performed and be included on the certified payrolls**.
- I. Volunteers - HUD allows for the waiver of Davis-Bacon wage rates for volunteers that are **not otherwise employed** at any time of the work for which the individual volunteers. Contact DOA's Labor Standards Specialist for more details if the community plans on using volunteers on the construction site.
- J. Job Corps Workers - USDOL staff in Washington, DC has informed HUD staff that Job Corps workers are not exempt from Davis-Bacon wage when they are working on a job subject to the Davis-Bacon Act.
- K. Employees of a Governmental Body - The USDOL has taken the position that the prevailing wage requirements does not apply to employees of a state or political subdivision of a state, but shall apply to employees of a private contractor who is sub-contractor of the state or political subdivision. This rule does not apply to the Public Housing Authority (PHA) employees under the U.S. Housing Act of 1937 (see paragraph A. in this section). **Employees of utilities are exempt providing they are only extending existing service to the property.**
- L. Employees Performing Work in More than One Classification - (Split Classification) if the UGLG/contractor has employees who perform work in more than one trade during a work week, it can pay the wage rates specified for each work classification in which work was performed **only** if maintaining accurate time records showing the amount of time spent in each classification. If the UGLG does not maintain accurate time records, it must pay these employees the highest wage rate of all the classifications of work performed. **Work, which is normally performed as part of the mechanic's craft, is not separable.**
- M. Laborers and Mechanics – Definition - The terms "laborers" and "mechanics" are construed to include at least those workers whose duties are manual or physical in nature as distinguished from mental or managerial. Since the classifications of laborers and mechanics to who specified wage rates are payable are identified in the Davis-Bacon wage rate, there is ordinarily no need to distinguish between laborers and mechanics. However, **mechanics are generally considered to include any worker who uses tools, or who is performing the work of a trade.**
- N. Precutting of Parts and Prefabrication of Assemblies - The precutting of parts and/or the prefabrication of assemblies are not covered unless conducted in connection with and at the site of the project, or in a temporary plant set up elsewhere solely to supply the needs of the project.

- O. Supply and Installation Contracts -The manufacturing or furnishing of materials, articles, supplies, or equipment is not subject to prevailing wages unless conducted in connection with and at the site of the project, or in a temporary plant set up elsewhere solely to meet the needs of the project.
- P. Start of Construction - “Start of Construction,” as that term is used in connection with labor standards and prevailing wage requirements, means the beginning of initial site clearance and preparation, provided those activities are pursued diligently and are followed without appreciable delay by other construction activity.
- Q. Site of Work - The “site of work” is limited to the physical place or places where the construction called for in the contract will remain when work on it has been completed and to other adjacent or nearby property used by the contractor in such construction which can reasonably be said to be included in the “site” because of proximity. **Operations of a commercial or material supplier established in the proximity of but not on the active site of work prior to the opening of bids are not covered by the Act even if dedicated exclusively to the federal project for a time.**
- R. Fringe Benefits – Funded Plans - A contractor may credit contributions for “bona fide” fringe benefits regardless of whether the USDOL has found the particular benefits to be prevailing in the area. Such fringe benefits must be “bona fide.” Ordinarily, bona fide benefits are those common to the construction industry and are paid directly to the employee in cash or into a fund, plan, or program on the employee’s behalf. Contractors may take credit for contributions made under such conventional plans without requesting approval of the USDOL.
- S. Fringe Benefits – Unfunded Plans - Where fringe benefit plans are not of the conventional type, it will be necessary for the USDOL to determine if the benefits are “bona fide.” **Contractors seeking approval of unfounded plans must obtain approval from the USDOL.** Contact DOA for more details.
- T. Fringe Benefits – General
1. Contributions to funded plans must be made at least quarterly.
 2. When the cash paid and the per-hour contribution for benefits do not equal the total rate set forth in the wage determination, the difference must be paid to the employee in cash.
 3. Fringe benefits must be paid for straight time and overtime; however, fringe benefits are not included when computing the overtime rate.
 4. Employees who are excluded from funded plans for whatever reason must be paid fringe benefits in cash.
 5. **Note:** Vacation and sick leave plans are generally unfunded, paid from the contractor’s own account, and require USDOL approval before a contractor takes credit toward meeting the fringe benefit obligation.
 6. In determining the cash equivalent credit for fringe benefits payments, the period of time to be used is the period covered by the contribution. For example, if an employer contributes to a plan on a weekly basis, the total hours worked each week (federal and nonfederal) by each employee should be divided into the contribution made by the employer.
 7. Acceptable fringe benefits include the following: medical or hospital care; pensions on retirement or death; compensation for injuries or illness resulting from occupational activity; or insurance to provide any of the foregoing, unemployment benefits, life insurance, disability and sickness insurance, accident insurance, vacation and holiday pay, defrayment of cost of apprenticeship or other similar programs, or other bona fide fringe benefits; but only where the contractor to sub-contractor is not required by other federal, state, or local law to provide any of such benefits. The Act excludes fringe benefits that a contractor or sub-contractor is obligated to provide under other federal, state, or local law. No credit may be taken for such benefits. For example, payment for workmen’s compensation insurance under either a compulsory or elective state statute is not considered payments for fringe benefits under the Act. Payments made for

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travel, subsistence, or to industry promotion funds are not normally payments for fringe benefits under the Act.

No type of fringe benefits is eligible for consideration as a so-call unfunded plan unless:

- a. It could be reasonably anticipated to provide benefits described in the act;
- b. It represents a commitment that can be legally enforced;
- c. It is carried out under a financially responsible plan or program; and
- d. The plan or program providing the benefits has been communicated in writing to the laborers and mechanics affected.

U. Summer Youth Employment - Youth who are bona fide students and part of a bona fide “youth opportunity program” may be employed on Davis-Bacon projects on a temporary basis during the summer months and paid below the predetermined Davis-Bacon rates. USDOL All Agency Memoranda #71 and #96 provide policy guidance in this area. HUD requires that the following stipulations be met before summer youth may be employed at less than Davis-Bacon rates:

1. Where collective bargaining agreements representing workers performing similar or related activities at the worksite to which youth are out stationed exists, the union or unions representing those workers must provide concurrence as to the design of the employment project and the use of the youth;
2. Such employment must be provided in accord with statutory safety and minimum wage requirements (both state and federal);
3. Competent supervision must be provided to all youth employment on the project worksites. Ratios of youth to such supervisors should be no greater than four-to-one.

In order to ensure that the administration of summer youth employment complies with USDOL policies and regulations, request for exceptions to the application of Davis-Bacon must be made to the HUD Field Office Labor Relations Staff who will advise the requesting contractor of its decision. The specific provisions of the agreement (between management and labor) or the plan of employment must be submitted to the Department of Labor, Wage and Hour and Public Contracts Division, for enforcement purposes. The HUD Field Office Labor Relations Staff will send such plans to the Headquarters Office of Labor Relations.

V. Non-Covered Job Classifications - Workers performing the normal duties of the following job classifications are not subject to Davis-Bacon federal wage requirements:

1. Project Superintendent.
2. Project Engineer.
3. Project Foreman, as distinguished from a working foreman (working foremen, who devote more than 20% of their time during the workweek to mechanic or laborer duties, are laborers and mechanics for the time spent and must be paid the applicable rate for the hours so worked).
4. Watchman.
5. Water Carrier.
6. Messenger, Clerical Workers.

Financing of Construction Work – CDBG - Laborers and mechanics employed by contractors and sub-contractors on construction work financed in whole or in part with Title I assistance are subject to Davis-Bacon wage rates under Section 110 of Title I. To the extent that Part 570 requires broader Davis-Bacon coverage, e.g., on construction work “assisted” under that Part, the regulations shall govern unless an individual waiver is requested and granted by the Assistant Secretary for Community Planning and Development. The use of Title I funds for any of the following items is an example of financing construction work, and Davis-Bacon wage rates shall

apply to all construction work performed on the building or property in question: construction loans or grants; payment for construction materials; payment of interest (or part of the interest) on a construction loan; payment of construction loan origination fees; provisions of a Title I funded permanent loan, mortgage or grant on a structure constructed with a private construction loan when the parties contemplate such ultimate Title I financing at the time of construction; Title I funded “collateral” or “default” accounts established with the lending bank which receive no interest or less than the interest payable on demand accounts. Questions as to whether a use of Title I funds constitutes financing of construction work shall be referred to HUD headquarters for determination.

- W. Technical/Maintenance Wage Rates – Public Housing - Section 12 of the U.S. Housing Act of 1937 requires that wages prevailing in the locality shall be paid to all architects, technical engineers, draftsmen, and technicians employed in the development, and all maintenance laborers and mechanics employed in the operation of the project. Such wages are determined or adopted by HUD.
- X. Payment of Low- and Moderate-Income (LMI) assessments - In some projects federal funds are used to pay special assessments of LMI households, where those assessments are for the purpose of paying for a public improvement. This use of federal funds invokes the Federal Labor Standards Provisions and makes the construction subject to Davis-Bacon wage rates.
- Y. Piecework - Roofers and dry-wall hangers are sometimes paid by piecework. Piecework is work paid for at a fixed rate (piece rate) per piece of work done.

**ATTACHMENT 7-C: LABOR STANDARDS OFFICER DESIGNEE
(TEMPLATE)**

Division of Energy, Housing and Community Resources

Labor Standards Officer Designee

LABOR STANDARDS OFFICER DESIGNEE

UNIT OF GENERAL LOCAL GOVERNMENT (UGLG)
(i.e. CDBG GRANTEE):

DOA-DEHCR GRANT AGREEMENT #:

LABOR STANDARDS
OFFICER (LSO)
FULL NAME:

LSO JOB/POSITION TITLE:

LSO COMPANY/
ORGANIZATION/ FIRM:

STREET ADDRESS:

CITY, STATE, ZIP:

PHONE NUMBER:

E-MAIL ADDRESS:

TEMPLATE

Email this form to the assigned DEHCR Project Representative or to DOACDBG@wisconsin.gov upon designating the LSO and prior to construction starting. If no LSO Designee form is received, the UGLG Grant Administrator is presumed to be the LSO for the project.

Retain the completed original document in the UGLG's CDBG project file.

Labor Standards Officer Designee

Form v.2021-09-01

ATTACHMENT 7-D1: RECORD OF WAGE DECISION SELECTION (SAMPLE)

Division of Energy, Housing and Community Resources

Record of Wage Decision Selection

GRANTEE/UGLG NAME: Village of Dearborn
DEHCR GRANT AGREEMENT #: 17-99

RECORD OF WAGE DECISION SELECTION

Date of Submission to DEHCR: 10 / 18 / 2018

Project Location		
Street Address(es): <u>Hammond, Duren, Tavern and Orchard Streets</u>		
County(ies)*, State: <u>Wayne, MI</u>		
<small>* If the municipality is located in multiple counties, please contact your assigned Project Representative immediately for additional guidance.</small>		
Type(s) of Construction Work that will be performed: (Select <u>ALL</u> that apply.)	<input type="checkbox"/> Heavy (General) <input checked="" type="checkbox"/> Heavy (Water/Sewer) <input checked="" type="checkbox"/> Highway	<input type="checkbox"/> Building (Non-Residential) <input type="checkbox"/> Residential

Construction Budget Summary for Wage Decision Selection/Determination	
This Wage Decision selection is for: <input checked="" type="checkbox"/> The entire construction project <input type="checkbox"/> A single Phase (specifically, Phase # <u> </u> of <u> </u> total)	
<small>If the UGLG/Grantee is bidding the project in multiple phases, then a Wage Decision Selection form must be submitted to the assigned DEHCR Project Representative for <u>each</u> separately bid phase of the project.</small>	
Work Description (Name)	% of Total Construction Cost
Sanitary Sewer	43
Water	40
Street Reconstruction	17

	First Wage Decision	Second Wage Decision (if applicable)	Third Wage Decision (if applicable)
Wage Decision #:	W1180008	W1180010	
Modification #:	12	11	
Date of Decision:	09/30/2018	09/02/2018	

Estimated Dollar Value of Contract Award:	Estimated Bid Advertising Date(s):	Estimated Bid Opening Date:
\$ 742,011	10 / 28 / 2018 & 11 / 05 / 2018	11 / 14 / 2018

REMINDER: Immediately prior to the bid opening date, the UGLG/Grantee must check the Wage Determinations Online site (www.wdol.gov) to make sure that the selected Wage Decision(s) is/are still in effect. The bid check and any subsequent Notice(s) of Contractor Award(s) must be submitted via email to the assigned DEHCR Project Representative.

PREPARER INFORMATION
Name of designated Labor Standards Officer: <u>Christopher Fisher</u>

REMINDER: If the UGLG/Grantee has not yet appointed a Labor Standards Officer, then the Labor Standards Officer Designee form must be completed and submitted to the assigned DEHCR Project Representative with this Wage Decision Selection form.

ATTACHMENT 7-D2: RECORD OF WAGE DECISION SELECTION (INSTRUCTIONS)

The *Record of Wage Decision Selection* must be submitted to DEHCR for review prior to construction or the date listed in the *Grant Agreement Timetable*.

1. In the upper right corner of the form enter the Grantee/UGLG name and the DEHCR grant agreement number.
2. Enter the date the *Record of Wage Decision Selection* form was submitted to DEHCR.
3. **Project Location:**
 - a. Enter the street address(es) of the project.
 - b. Enter the county name. If the UGLG is located in multiple counties, please contact the DEHCR Project Representative immediately for addition guidance.
 - c. Check all types of construction work that will be done as part of the project.
4. **Construction Budget Summary for Wage Decision Selection/Wage Determination:**
 - a. Check whether the Wage Decision (i.e., wage determination) selection is for the entire project or for a single phase of a multi-phase project. If the wage decision/wage determination selection is for one phase of a multi-phase project enter the phase number and the total number of phases.
 - b. Work Description (Name) – enter each type of work (sanitary sewer, streets/sidewalks, well) on a separate line.
 - c. Percentage of Total Construction Cost – enter the percentage of the total project represented by each type of work.
 - d. Enter the Wage Decision number, Modification number and Date of Decision for each wage decision. For example, if a project consists of sewer and water replacement and street reconstruction then the project has two wage decisions: WI60008 for sewer/water and WI60010 for street reconstruction.
 - e. Enter the estimated dollar value of the project.
 - f. Enter the estimated bid advertising date(s) and estimated bid opening date.
5. Enter the name of the designated Labor Standards Officer.

ATTACHMENT 7-E: ADDITIONAL CLASSIFICATION REPORT (HUD FORM 4230A) (TEMPLATE)

Download current form at: https://www.hud.gov/program_offices/davis_bacon_and_labor_standards/olrform

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT REPORT OF ADDITIONAL CLASSIFICATION AND RATE		HUD FORM 4230A OMB Approval Number 2501-0011 (Exp. 01/31/2010)	
1. FROM (name and address of requesting agency)		2. PROJECT NAME AND NUMBER	
		3. LOCATION OF PROJECT (City, County and State)	
4. BRIEF DESCRIPTION OF PROJECT		5. CHARACTER OF CONSTRUCTION <input type="checkbox"/> Building <input type="checkbox"/> Residential <input type="checkbox"/> Heavy <input type="checkbox"/> Other (specify) <input type="checkbox"/> Highway	
6. WAGE DECISION NO. (include modification number, if any) <input type="checkbox"/> COPY ATTACHED		7. WAGE DECISION EFFECTIVE DATE	
8. WORK CLASSIFICATION(S)		HOURLY WAGE RATES	
		BASIC WAGE FRINGE BENEFIT(S) (if any)	
9. PRIME CONTRACTOR (name, address)		10. SUB-CONTRACTOR/EMPLOYER, IF APPLICABLE (name, address)	
Check All That Apply: <input type="checkbox"/> The work to be performed by the additional classification(s) is not performed by a classification in the applicable wage decision. <input type="checkbox"/> The proposed classification is utilized in the area by the construction industry. <input type="checkbox"/> The proposed wage rate(s), including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage decision. <input type="checkbox"/> The interested parties, including the employees or their authorized representatives, agree on the classification(s) and wage rate(s). <input type="checkbox"/> Supporting documentation attached, including applicable wage decision.			
Check One: <input type="checkbox"/> Approved, meets all criteria. DOL confirmation requested. <input type="checkbox"/> One or more classifications fail to meet all criteria as explained in agency referral. DOL decision requested.			
Agency Representative (Typed name and signature)		Date Phone Number	
		FOR HUD USE ONLY LR2000: Log in: Log out:	

HUD-4230A (8-03) PREVIOUS EDITION IS OBSOLETE

ATTACHMENT 7-E1: INSTRUCTIONS FOR ADDITIONAL CLASSIFICATION

Report of Additional Classification and Wage Rate	U.S. Department of Housing and Urban Development Office of Labor Relations	OMB Approval No. 2501-0011 (Exp. 01/31/2010)
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Public reporting burden for this collection of information is estimated to average one hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining data needed, and completing and reviewing the collection of information. The information is considered non-sensitive and does not require special protection. This information is required to obtain benefits. This agency may not collect this information and the UGLG is not required to complete this form unless it displays a currently valid OMB control number.

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

Instructions

General

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

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

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

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

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

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

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

Submission of Report

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

ATTACHMENT 7-F: ADVERTISEMENT FOR BIDS (TEMPLATE)

Division of Energy, Housing and Community Resources

Advertisement for Bids Template

*This template is provided as a tool to assist in the creation of an advertisement for bids.
It is not required and may be modified/customized by the UGLG for a specific project.
The advertisement for bids must be published as a class 2 notice.*

ADVERTISEMENT FOR BIDS

(UGLG NAME)

(CDBG Project #)

Separate sealed bids for the (Project Name) for (Brief Project Activities Descriptor) will be received by (Name of UGLG and Office/Department) at the office of (Name of Office/Department) on (Date) until (Time) & (AM or PM) and then at said office publicly opened and read aloud on/at this date and time.

The information for Bidders, Form of Bid, Form of Contract, Plans, Specifications, and Forms of Bid Bond, Performance and Payment Bond, and other contract documents may be examined at the following location(s): (Physical location address(es) and/or website(s) address(es)).

Prequalification of Bidders will not be required. (OR enter pre-qualification specifications.)

Copies may be obtained at the office of (Name of Office/Department) located at (Office Location Address) upon payment of (\$Amount) for each set. Any successful bidder, upon returning such set promptly and in good condition, will be refunded his/her payment, and any non-bidder upon so returning such set will be refunded (\$Amount) .

The owner reserves the right to waive any informalities or to reject any or all bids.

Each bidder must deposit with his/her bid, an amount to secure the bid and subject to the conditions provided in the Information for Bidders, in accordance with bidding requirements set forth in Wis. Stats. 62.15(3).

The Contract shall be subject to Wis. Stats. 66.0903 pertaining to prevailing wage rates and Federal Davis-Bacon wage rates.

Attention of bidders is particularly called to the requirements as to conditions of employment to be observed and minimum wage rates to be paid under contract, Section 3, Segregated Facility, Section 109 and E.O. 11246.

No bidder may withdraw his/her bid within 30 days after the actual day of the opening thereof.

Any contract or contracts awarded under this Advertisement for Bids may be funded in part by a grant from the Community Development Block Grant Program.

(Chief Elected Official Name and Title)
(UGLG Name)
(Date)

TEMPLATE

Advertisement for Bids Template

Template v.2021-09-01

ATTACHMENT 7-G: FEDERAL LABOR STANDARDS PROVISIONS (4010)

Federal Labor Standards Provisions

U.S. Department of Housing
and Urban Development

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 provision applicable to such federal assistance.

A. 1. (I) Minimum Wages. All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), 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 (19 CFR 3), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at the 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 cost reasonable anticipated for bona fide fringe benefits under Section 1(b)(2), of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers and 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 for 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-1 321) shall be posted at all times by the contractor and its sub-contractors 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 therefore only when the following criteria have been met:

- (1) The work to be performed by the classification requested is not 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 and 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 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 & Budget under OMB Control # 1215-0140.)

(d) The wage rate (including fringe benefits where appropriate) determined pursuant to subparagraphs (1)(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 cost 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 sub-contractor 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 (or under United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), 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 actions 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 an on account of the contractor or sub-contractor 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.

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3. 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 four (4) years thereafter for all laborers and mechanics working at the site of the work (or under the United State Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project). Such records shall contain the name and address, and social security number of each such worker, his or her correct classification, hourly rates of wage 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 contract 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). This information may be submitted in any form desired. Optional Form WH-347 is available for this purpose and may be purchased from the Superintendent of Document (Federal Stock Number 029-005-00014-1), U.S. Government Printing Office, Washington, DC. 20402. The prime contractor is responsible for the submission of copies of payrolls by all sub-contractors. (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 contractor or sub-contractor or his/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 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 wage 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 in 29 CFR 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 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 paragraph A. 3.(ii)(b) of this section.

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

(iii) The contractor or sub-contractor shall make the records required under paragraph A. 3.(I) of this section available for inspection, copying, or transcription by the 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 sub-contractor 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 (i) Apprentices and Trainees. 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, Bureau of Apprenticeship and Training, or with a State Apprenticeship Agency recognized by the bureau, 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 Bureau of Apprenticeship and Training or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ration of apprentices of journeymen on the job site in any craft classification shall not be greater than the ration 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. 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 journeymen's hourly rate) specified in the contractor's or sub-contractor'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 Bureau of Apprenticeship and Training, or a State Apprenticeship Agency recognized by the Bureau, 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 the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate that 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 ration permitted under the registered program shall be paid not less than they applicable wage rate on the wage determination for 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 this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR 30.

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

6. Sub-contracts. The contractor or sub-contractor will insert in any sub-contracts the clauses contained in 29 CFR 5.5 (a)(1) through (10) and such other clauses as HUD or its designee may be appropriate instructions require, and also a clause requiring the sub-contracts to include these clauses in any lower tier sub-contracts. The prime contractor shall be responsible for the compliance by any sub-contractor or lower tier sub-contractor with all the contract clauses in 29 CFR 5.12.

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 sub-contractor 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 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 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (of any of its sub-contractors) and HUS or its designee, between 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 24.

(ii) No part of this contract shall be sub-contracted 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 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 1010, 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 sub-contractor 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. As used in this paragraph, the terms "Laborers" and "Mechanics" include watchmen and guards.

(1) Overtime requirements. No contractor or sub-contractor 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 he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rates of pay for all hours worked in excess of forty hours in such work week.

(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 sub-contractor responsible therefore shall be liable for the unpaid wages. In addition, such contractor and sub-contractor 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 watchman and guards, employed in violation of the clause set forth in subparagraph (1) of this paragraph, in the sum of \$27 for each calendar day on which such individual was required or permitted to work in excess of the standard work week of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this paragraph (updated DOL 01/24/2019 <https://www.dol.gov/whd/govcontracts/cwhssa.htm>.)

(3) Withholding for unpaid wages and liquidated damages. HUD or its designee shall upon its own action or 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 sub-contractor 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 sub-contractor for unpaid wages and liquidated damages as provided in the clause set forth in subparagraph (2) of this paragraph.

(4) Sub-contracts. The contractor or sub-contractor shall insert in any sub-contracts the clauses set forth in subparagraph (1) through (4) of this paragraph and also a clause requiring the sub-contractors to include these clauses in any lower tier sub-contracts. The prime contractor shall be responsible for compliance by any sub-contractor or lower tier sub-contractor with the clauses set forth in subparagraphs (1) through (4) of this paragraph.

C. Health and Safety.

(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 1926 (formerly part 1518) 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).

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

ATTACHMENT 7-H: NOTICE OF CONTRACTOR AWARD (TEMPLATE)**Division of Energy, Housing and Community Resources**Notice of Contractor Award

GRANTEE/UGLG NAME: _____
 DEHCR GRANT AGREEMENT #: _____

NOTICE OF CONTRACTOR AWARD

DATE: _____

TO: DEHCR Project Representative _____
 (CDBG Project Representative)

FROM: _____
 (Community Labor Standards Officer) (Name of Community)

SUBJECT: Award of Contract

CDBG CONTRACT #: _____
 CONTRACT WORK DESCRIPTION(S): _____

TEMPLATE

This is to inform the UGLG's bids for the above project were advertised on _____
 (Date)
 and opened on _____ was
 (Date) (Name of Prime Contractor and FEIN)
 awarded the contract on _____. The Number, including the Modification
 (Date)
 Number, of the applicable Wage Decision(s) is/are:

	First Wage Decision	Second Wage Decision (if applicable)	Third Wage Decision (if applicable)
Wage Decision #:			
Modification #:			
Date of Decision:			

The amount of the awarded contract is _____. The estimated start date of construction is _____. Each Contractor and Sub-Contractor has been checked for debarment and has been determined to be eligible to work on this project.

Below is a list of tentative Sub-Contractors:

Sub-Contractor(s)	Federal Employer I.D. Number (FEIN)	DUNS Number
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Additional Sub-Contractors, along with additional notes and/or explanations, may be recorded on the next page.

Notice of Contractor Award

Revised: August 31, 2019

Division of Energy, Housing and Community Resources

Notice of Contractor Award

Sub-Contractor(s)

Federal Employer I.D. Number
(FEIN)

DUNS Number

Additional Notes:

TEMPLATE

ATTACHMENT 7-I: PRE-CONSTRUCTION MEETING ITEMS TO BE DISCUSSED

- A. Requirements and penalties of the Davis-Bacon Act.
- B. Requirements and penalties of the Contract Work Hours and Safety Standards Act.
- C. Requirements and penalties of the Copeland Anti-Kickback Act.
- D. Discussion of the Wage Decision.
 - 1. Trade classifications.
 - 2. Missing classifications.
 - 3. Missing classifications that can be confirmed.
 - 4. Employment of Apprentices.
 - a. Proper papers from state or U.S. Department of Labor (USDOL) required.
 - b. Allowable ration of Apprentices to Journeymen.
 - c. Apprentice supervision by Journeymen required at all times.
 - 5. Truck drivers, employed by the contractor, delivering materials, and spending more than a *de minimus* as described in the DBRA requirements, or more than 20% of their time on the job site in a given day), are covered.

Truck drivers employed by contractors are only covered by federal wage requirements when they are performing labor on the site of the work. Conversely, hauling materials to/from the site, from/to an off-site location that is not exclusively established for the project is not DBA covered time. HUD has advised that they currently believe unloaded trucks are likewise not covered. Contractors must report hours worked, and pay at least the DBA wage rate for any time the truck driver spends on the work site if the driver is making multiple trips throughout the day that cumulatively challenge a de minimus determination. De minimus may be interpreted as time spent on the job site that is not sufficient nor consequential enough to be tracked as an itemizable job function. However, if a series of de minimus qualifying site visits by truck drivers cumulatively exceed the 20% threshold for any given day, DBA applies to the on-site hours worked.
 - 6. Requesting additional classifications--procedures and information required.
- E. Proper Certification.
 - 1. Each sub-contractor is covered, regardless of the amount of the sub-contract.
 - 2. Each sub-contractor must have a written contract.
 - 3. Requirements governing owner-operators. Questionnaire required for subs without a Federal Employer Identification Number (FEIN).
 - 4. Prime Contractor is responsible for ensuring that sub-contractors are not debarred from working on federal projects.
- F. Collect FEIN for each contractor.
- G. Discuss the requirement to post the wage rate, additional classifications, and Davis-Bacon posters on the project site. They must be protected from the weather and visible to the public.
- H. Weekly Payroll Submission.
 - 1. Payrolls must be submitted weekly to the prime contractor, who must submit them to the UGLG's labor standards officer within seven (7) working days of the end of the payroll period.
 - 2. Statement of Compliance (WisDoT Compliance Statement (DT1816), or back of WH 347 **OR** WH 348, or Attachment 7-M: *Statement of Compliance*) must be completed and submitted with each payroll.

3. Payroll Completion.

- a. Recommend WisDoT Payroll Record (DT1929) or the USDOL Form WH-347. Alternate forms are allowed but must be cleared with the Labor Standards Officer. The form must contain the contractor's name.
- b. Each weekly payroll must be numbered in sequential order. No work payrolls or no work letters are recommended for weeks in which no work occurs.
- c. Project and location must be identified on the payroll.
- d. Each employee's individual identification number (i.e., the last four digits of the employee's Social Security number or other unique identification number assigned to the employee by the employer) must appear on the payroll for the first week that they work.
- e. Completion of the withholding exemptions column is not required.
- f. Work classification must conform to the trades listed on the wage rate or Additional Classification.
- g. Apprentice indenture papers should be attached to the first payroll that he/she appears.
- h. Employees working split classifications--hours and wages for each classification must be identified on the payroll. Average pay of the two classes is NOT acceptable.
- i. The work classification of "helper" is not accepted by the Department of Administration – Division of Energy, Housing and Community Resources (DEHCR) and/or the Department of Housing and Urban Development (HUD) unless it is listed on the original wage rate.
- j. Straight and overtime hours worked each day must be reported. Emphasize again the penalties for violation of CWHSS Act. Only overtime on the CDBG job needs to be reported.
- k. Rates of Pay.
 - 1) Not less than the minimum wage for each classification and must include base rate plus fringe benefits.
 - 2) Overtime rate is one and one-half times the **base rate actually paid** plus the straight time value of fringe benefits (if paid in cash) for all hours over 40 in a work week.
 - 3) Apprentice wage rate will be established by the step level of the apprentice based on the journeymen rate in the wage rate.
 - 4) Apprentices must receive the fringe benefits specified in their indenture. If the indenture does not specify, then they must receive the full value states in the wage rate.
 - 5) Piece work--must be stated as an hourly rate and a copy of the pay stub showing piece rate and number of units must be submitted.
- l. Gross amount earned--must be shown as CDBG Gross/Total earnings for the week.
- m. Deductions
 - 1) Must be recorded on the certified payroll.
 - 2) Must include an itemized list of deductions for each employee with the certified payroll (for the first payroll on which the employee appears; and any subsequent payrolls if the deduction type or amount changes for the employee). Deduction amounts must be listed on the certified payroll. If deductions are not itemized on the certified payroll, the itemization must be provided on a separate record signed by the authorized employer representative.

BCD CDBG Implementation Handbook

- 3) Written authorizations for all "other" deductions (i.e., deductions excluding those required by state and federal laws) must be maintained in the contractor's file. All documentation related to employee payroll deductions must be available and provided upon request to the Unit of General Local Government (UGLG) [the CDBG grantee], the Labor Standards Officer, DEHCR, HUD or USDOL.
- 4) Proper documentation of all deductions must be maintained in the labor standards compliance file (and provided upon request).
- n. Net wages--enter the amount of the employee's net check.
- o. Fringe Benefits.
 - 1) Indicate on statement of compliance if benefits are paid to approved funds and submits evidence of the value of the fringe benefits.
 - 2) Indicate on statement of compliance if fringe benefits are paid in cash.
 - 3) List any exceptions on #1 and #2 above on the statement of compliance.
 - 4) Must include with the certified payroll an itemized list of fringe benefits and the cash value of each benefit, as applied to calculate the hourly fringe benefits rate, for each employee. The itemized list of fringe benefits must be included on the certified payroll record or provided on a separate record signed by the authorized employer representative. All documentation related to fringe benefits paid to employees and payments made by the employer into qualifying fringe benefits plans must be available and provided upon request to the UGLG [the CDBG grantee], DEHCR, HUD or USDOL.
- p. Signature—payroll record statement of compliance must be manually signed by the employer or an official of the employer who is authorized to sign.
- I. Payroll records, and time cards signed by the employees, must be retained for the term specified for records retention in the *Grant Agreement* between DEHCR and the UGLG.
- J. Employer must inform each employee that they are subject to being interviewed on the job by the recipient, state, HUD, or the USDOL concerning wages, hours and duties.
- K. Review the process to be used to secure payments for work.
- L. Other CDBG Program Requirements (other contract language and specifications):
 - 1. Record of Debarment checks in SAM – prior to awarding contract.
 - 2. Potential Conflicts of Interest Clause (see required contract insertion language). Disclosure of conflicts of interest required.
 - 3. Lobbying Certification and Disclosure of Lobbying Activities (if any to disclose).
 - 4. Promoting contracting with Minority-owned Business Enterprise/Woman-owned Business Enterprise (MBE/WBE) and Section 3 Business firms in contracting/subcontracting – see required contract insertion language.
 - 5. Section 3 Contract Requirements (for a Grantee Awarded prior to 11/30/2020 OR Grantee Awarded on or after 11/30/2020) – See "Section 3 Requirements" contract insertion language. Current Employees, Contracting, Hiring, Tracking and Reporting. Section 3 Business Concerns, Section 3 Residents/Targeted Section 3 Residents, Section 3 Employee Income Certifications, Section 3 Reports.
 - 6. Equal Employment Opportunity.
- N. Failure to comply with aforementioned items may result in a delay in payment by the municipality or the contractor's ineligibility for payment.

ATTACHMENT 7-J: PRE-CONSTRUCTION CHECKLIST FOR CONTRACTORS

Division of Energy, Housing and Community Resources

Pre-Construction Checklist for Contractors

GRANTEE/UGLG NAME: _____
DEHCR GRANT AGREEMENT #: _____

PRE-CONSTRUCTION CHECKLIST FOR CONTRACTORS

MEETING LABOR STANDARDS CONTRACT REQUIREMENTS

INTRODUCTION:

The following checklist has been prepared to assist contractors and sub-contractors in meeting contractual labor standards responsibilities. All major administrative and procedural activities have been covered in the sequence they will occur as the construction project proceeds. Careful attention to and the use of this checklist should result in a minimum number of problems with respect to labor standards.

EXPLANATORY NOTES:

The word "recipient" as used below refers to the entity (e.g., the Unit of General Local Government [UGLG]) that was awarded the federal grant funds. The word "employer" as used below refers to the project contractor, each sub-contractor, or each lower-tier sub-contractor. Payrolls and other documentary evidence of compliance are required to be sent to the recipient for review (all to be submitted through the project contractor). The delivery procedure is as follows:

1. Each lower-tier sub-contractor, after careful review, submits the required documents to the respective sub-contractor.
2. Each sub-contractor, after checking their own and those of each lower-tier sub-contractor (if applicable), submits the required documents to the contractor.
3. The contractor, after reviewing all payrolls and other documentation, including their own, and correcting violations where necessary, submits payrolls to the recipient.

All employers should check each of the following statements as being true. If any statement is not true, the contractor or his representative should contact the recipient for special guidance.

EMPLOYER PRE-CONSTRUCTION CHECKLIST & ACKNOWLEDGEMENT

Complete the information below for numbers 1 through 6, sign this sheet, keep a copy for file records, and submit the original to the designated project supervisor. This should be done 21 days before the work begins.

BEFORE CONSTRUCTION BEGINS THE EMPLOYER HAS:

1. Not been debarred or otherwise made ineligible to participate in any federally-assisted project. ☐
2. Received appropriate contract provisions covering labor standards requirements. ☐
3. Reviewed and understands all labor standards contract provisions. ☐
4. Received the applicable Wage Decision(s) as part of the contract. ☐
5. Requested from the recipient through the Additional Classification request process and received the minimum required wage rate (hourly wage plus fringe benefits value) for any classification to be worked that is not included on the applicable Wage Decision(s) for the project. ☐
6. Requested and received certification from the state Bureau of Apprenticeship and Training (recognized by USBAT) for any apprentice and/or trainee program in which the employer participates, and submitted a copy thereof to the recipient prior to the apprentice(s)/trainee(s) working on the project. ☐

(Contractor Signature)

(Title)

(Date)

(Location of Project: City, County, State)

(Contract Number)

Division of Energy, Housing and Community Resources

Pre-Construction Checklist for Contractors

TEMPLATE

COMPLIANCE AT CONSTRUCTION START - CONFIRM THE CONTRACTOR HAS:

1. Notified sub-contract award recipient of construction start date in writing. ☐
2. Placed each of the following on a bulletin board prominently located on the project site which can be seen easily by the workers (and replaced if lost or unreadable any time during construction): ☐
 - Applicable Wage Decision(s) ☐
 - Notice to Employees (WH 1321) ☐
 - English: <https://www.dol.gov/whd/regs/compliance/posters/fedprojc.pdf>
 - Spanish: <https://www.dol.gov/whd/regs/compliance/posters/davispan.pdf>
3. Before assigning each project worker to work, obtained worker's full name and has assigned each employee an individual identification (i.d.) number (for payroll purposes). ☐
4. Obtained a copy of each apprentice's certificate with the apprentice's registration number and number of years of apprenticeship from the state Bureau of Apprenticeship and Training (BAT). ☐
5. Informed each worker of: ☐
 - Their work classification (journeymen or job title) as it will appear on the certified payroll record, and as determined from the applicable Wage Decision or through the Additional Classification process. ☐
 - Their duties of work. ☐
 - The U.S. Department of Labor's (USDOL's) requirement on this project that the employee is designated as being a journeyman, an apprentice, or a laborer. ☐
 - If journeymen, is to be paid the journeyman's minimum required wage rate (as specified on the applicable Wage Decision) or more; ☐
 - If apprentice, is to be paid not less than the apprentice's rate for the trade based on their year of apprenticeship; or ☐
 - If laborer, is to do laborer's work only--not use any tool or tools of the trade--and not perform any part of a journeyman's work--and is to be paid the laborer's minimum required wage rate (as specified on the applicable Wage Decision) or more. ☐
6. Understands the requirements each laborer or mechanic who performs work on the project in more than one classification within the same work week shall be classified and paid at the highest wage rate applicable to any of the work which the employee performs unless the following requirements are met: ☐
 - Accurate daily time records shall be maintained. These records must show the time worked in each classification and the rate of pay for each classification. ☐
 - The payroll shall show the hours worked in each classification and the wage rate paid for each classification. ☐
 - **Section 3 Compliance Note:** The reporting of employees' and contractors' Section 3 status when reporting employee work on the HUD funded/CDBG project is required to meet the Section 3 requirements for HUD projects. Refer to the "Section 3 Contract Requirements" language in the employer's contract for the project for guidance in determining employees' and employers' Section 3 status. The criteria and nature of reporting differs depending on whether the recipient was awarded the HUD funds prior to 11/30/2020, or on or after 11/30/2020. ☐
7. Has informed each worker of their hourly wage rate and the minimum required wage rate (as specified on the applicable Wage Decision) for their work, including: ☐
 - Time and one-half for all work over 40 hours in any work week (see Contract Work Hours and Safety Standards Act (CWHSSA)). ☐
 - Fringe benefits, if any (see applicable Wage Decision). ☐
 - Deductions from their pay. ☐

Division of Energy, Housing and Community Resources

Pre-Construction Checklist for Contractors

8. Has informed each worker that they will be subject to being interviewed on the job by the recipient or a HUD, USDOL, or other U.S. government inspector, to confirm that their employer is complying with all labor requirements. ☐
9. Has informed each journeyman and each apprentice that a journeyman must be on the job at all times when an apprentice is working and verifying the ratio of journeyman to apprentice through the indenture papers. ☐

COMPLIANCE DURING CONSTRUCTION – CONFIRM THE CONTRACTOR HAS:

1. Not selected, assigned, paid different pay rates to, transferred, upgraded, demoted, laid off, or dismissed any project worker because of race, color, religion, sex, or national origin. ☐
2. Employed all registered apprentices referred to the employer through normal channels up to the applicable ratio of apprentices to journeymen in each trade used by the employer. ☐
3. Maintained basic employment records accessible to inspection by the recipient or U.S. government representatives. ☐
4. Complied with all health and safety standards. ☐
5. Paid all workers weekly. ☐
6. Submitted weekly certified payroll records that include the required information and documentation. ☐
- A. The weekly payroll records are prepared on the recommended Wisconsin Department of Transportation (WisDOT) Weekly Payroll Report form (WisDOT Form 1926) (a Microsoft Excel document that may be modified/customized for the specific project and includes formulas for automatically calculating data and entering details of job classifications, apprenticeship status, and types of fringe benefits and deductions) and Compliance Statement form (WisDOT Form 1816); or comparable forms that allows for reporting the same details. ☐

The U.S. Department of Labor Weekly Payroll Record Form WH-347 or an internal payroll system reporting form that allows for reporting the same information is acceptable. Note that when using Form WH-347, the details of the types of fringe benefits and deductions and value of each fringe benefit and deduction must be itemized for each employee on the Statement of Compliance page of Form WH-347 or attached to the payroll record.

Wisconsin Department of Transportation (WisDOT) Weekly Payroll Report form (WisDOT Form 1926), Information Sheet (instructions) & Compliance Statement (WisDOT Form 1816):

<https://wisconsindot.gov/pages/doing-bus/civil-rights/labormwage/payroll-submission-compliance.aspx>
Refer to the "Paper-based payrolls (emergency projects) section:

WisDOT's Labor Compliance & CRCS Training (Upcoming)

CRCS Updates

Employer submission of payrolls using WisDOT's Civil Rights Compliance System (CRCS) is a key element in complying with prevailing wage laws.

Payroll guidelines

- Contractor's User Manual, Payroll
- Certified payroll reports fact sheet (now includes the keys to weekly payroll report)
- Weekly payroll information sheet
- Weekly Payroll Information Sheet - For Projects let after 02/14/2017**
- Contractor's User Manual - Sublet and payments
- How to get subcontractors registered
- Frequently Asked Questions (FAQ)

Paper-based payrolls (emergency projects)

- Blank weekly payroll report**
- Blank Compliance Statement form (DT1816)**

Division of Energy, Housing and Community Resources

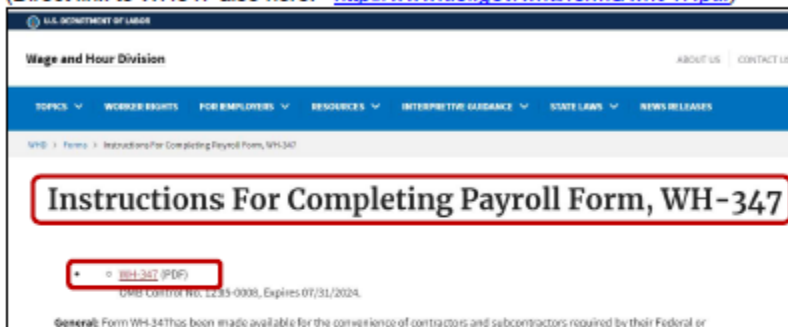
Pre-Construction Checklist for Contractors

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U.S. Department of Labor (USDOL) Payroll Record Form (includes a Statement of Compliance page) & Instructions:

WH347 Form & Instructions: <http://www.dol.gov/whd/forms/wh347instr.htm>

(Direct link to WH347 also here: <http://www.dol.gov/whd/forms/wh347.pdf>)



The recipient does not need to review those project workers listed on the payroll who perform work which is descriptive of any of the following job titles which are exempt from labor requirements: project superintendent, project engineer, messenger, clerical workers, timekeepers, bookkeepers, payroll clerks, and Supervisory foreman (less than 20% of time as a working foreman).

Any alternate payroll form used should be cleared with the recipient's Labor Standards Officer (LSO) before the employer starts work on the project. A project printout from the employer's internal payroll software system, for example, is acceptable provided that all data shown and required on the WisDoT payroll form and Compliance Statement form, or on the front and back of the USDOL payroll record Form WH-347, is on or included with the payroll submitted to employer.

B. The weekly payroll records include the required information and comply with the following:

- 1) Name of Contractor or Subcontractor. Includes name of employer, showing whether contractor or sub-contractor. ☐
- 2) Address. Includes address of employer. ☐
- 3) Payroll Number. Each weekly payroll is numbered in sequential order (starting with Payroll No. "1" for the employer's first work week on the project). ☐
 - a. If employer's workers perform no physical work on the project during work week, the employee has submitted a "no work" certified payroll record, letter or email for that work week. ☐
 - b. Payroll of employer's final work week on the project (completion of his work) is marked "Final." ☐
- 4) For Week Ending. Is dated with last date of the work week specified. ☐
- 5) Project and Location. Includes name of project and city in which the project is located. ☐
- 6) Project or Contract Number. Includes the contract number provided by the recipient. ☐
- 7) Name and Individual Identifying Number of Worker. Includes the names and identification numbers of employees, as they appear on the employee's paycheck (e.g., the last four digits of the Social Security number or other unique i.d. number). ☐
- 8) Number of Withholding Exemptions. May be included for employer's convenience - it is not required by HUD to be completed. ☐
- 9) Work Classification (job title). Must be listed for the worker as included in the Wage Decision and denotes the work that worker actually performed. If the job title corresponds to a job ☐

Division of Energy, Housing and Community Resources

Pre-Construction Checklist for Contractors

classification with multiple group numbers in the Wage Decision, then provide a detailed job title and group number (e.g., Backhoe Operator +/- 130,000 lbs [Group #3]) versus only listing "Operator."

Note: If the applicable classification is not included in the Wage Decision, the contractor should contact the recipient immediately, and request the classification through the Additional Classification request process.

- a. **Apprentice.** If worker is an apprentice, their state BAT registration number and year of apprenticeship is included in on payroll record, the first time the apprentice's name appears on the payroll. ☐
- b. **Split Classification.** If worker has performed work in more than one classification of work during the work week, such as carpenter and laborer, the division of work will be shown on separate lines of the payroll. ☐
 - Accurate daily time records show the exact hours of work performed daily in each class of work. ☐
 - Each class of work the employee performed is listed. ☐
 - The employee's name is repeated when listing additional classifications worked. ☐
 - The breakdown of hours worked daily under each work classification is stated. ☐
 - The applicable wage rate (which must be the minimum required wage rate, as specified on the applicable Wage Decision, or more) for each classification of work is stated. ☐
 - If the above is not done, the worker is paid at least the highest minimum required wage rate (as specified on the applicable Wage Decision) of all classes of work performed for all hours worked. ☐

Average Pay of Two Classes of Work Not Accepted. The employer shall not pay a "semi-journeyman" or semi-skilled laborer the average of journeyman's and laborer's rates. The actual hours each worker uses tools of trade (journeyman) and each hour the employee does not use tools of the trade (laborer) must be recorded separately on the payroll.

Helper. The work classification of "helper" is not accepted by the Department of Housing and Urban Development (HUD) unless included in the applicable Wage Decision issued by the Secretary of Labor/USDOL for the project. Any employee listed as "helper" in absence of such classification in the Wage Decision must be paid the journeyman's wage rate for hours the employee uses tools of the trade.

- 10) **Rate of Pay.** Cannot be less than the minimum required wage rate for the work classification (as specified in the applicable Wage Decision). ☐

The Overtime Rate of Pay is not less than one and one-half times the worker's basic (straight) hourly rate of pay (Contract Work Hours Safety Standards Act). Overtime rate is not paid on fringes. ☐
- 11) **Apprentices.** Apprentice status verified. If a copy of the apprentice's registration certificate from the State BAT has not been submitted to recipient by employer (through contractor), the apprentice must be paid journeyman's rate. ☐
- 12) **Piece Worker.** Wage must be stated in at an hourly rate, the gross pay for the work week (work on the project) divided by the total number of hours worked on the project during the work week. ☐
- 13) **Gross Amount Earned.** Must equal straight hours shown multiplied by straight rate of pay shown, plus overtime hours (if any) shown multiplied by overtime rate of pay shown. ☐
- 14) **Deductions.** Each deduction must be shown on the payroll record. Allowable deductions are only those made that are required by law or voluntarily authorized by the worker in writing before the work week began, or through provision in a bargaining agreement to be deducted from the respective worker's pay. ☐

Division of Energy, Housing and Community ResourcesPre-Construction Checklist for Contractors

15) Net Wages stated are (gross wages minus deductions) are shown. ☐

16) Section 3 Status: See "Section 3 Compliance Note" (item #6 on page 3 of this document).

C. Statement of Compliance. Each employer has:

1) Completed and signed a statement of compliance, using the copy of the WisDoT Compliance Statement form or the Statement of Compliance page within USDOL Form WH347, or similar form; and understands the penalties for falsification. ☐

2) Indicated on the statement of compliance if fringe benefits are included in the Wage Decision for any of the workers. ☐

2(a). if fringe benefits are paid to approved fund(s), or ☐

2(b). if paid directly to each affected worker--included in paycheck for the work week -- the employee's paycheck representing at least the minimum required rate of hourly wage plus fringe benefits amount (as specified in the applicable Wage Decision). ☐

3) Signed the statement of compliance and entered the name and title of the signatory entered. ☐

4) Has the person who signs the payroll be the employer or an official of the employer who is legally authorized to act for the employer. ☐

D. Weekly Payroll Review. Each employer has promptly:

1) Reviewed the weekly payroll for compliance with all labor requirements (using this check list) and made necessary corrections. ☐

2) Each Lower-Tier Sub-contractor has submitted their weekly payroll or "no work" certified payroll record, letter or email to the respective sub-contractor, which shall be received within three (3) calendar days from the last date of the work week. ☐

3) Each sub-contractor has received a payroll or "no work" certified payroll record, letter or email from each of their lower-tier sub-contractors, reviewed each and their own payroll, made necessary corrections, and submitted all such payrolls to the contractor, which shall be received within five (5) calendar days from the last date of the work week. ☐

4) Contractor has received a payroll or "no work" certified payroll record, letter or email from each sub-contractor and each lower-tier sub-contractor monitored each including their own payroll, made necessary corrections, and collectively submitted them to the recipient within seven (7) working days of the last date of the respective work week. ☐

Payrolls and other documentary evidence of compliance are required to be sent to the UGLG's Labor Standards Officer (LSO) for review (all to be submitted through the project contractor).

TEMPLATE

ATTACHMENT 7-K: PRE-CONSTRUCTION REPORT FORMAT (TEMPLATE)

Division of Energy, Housing and Community Resources

Pre-Construction Report Format

GRANTEE/UGLG NAME: _____
DEHCR GRANT AGREEMENT #: _____

PRE-CONSTRUCTION REPORT FORMAT

(Write N/A if a Pre-construction Meeting was not held)

CDBG Project Name: _____ CDBG Project No.: _____

Location: _____

Project Description: _____

Prime Contractor(s): _____

Contract Amount: \$ _____

Date of Meeting: _____

Place of Meeting: _____

Attendees (Company/Firm Name, Company/Firm Representative's Name, and Title):

Summary of items covered: (Should include: Labor Standards, Davis-Bacon and Related Acts, Debarment, Disclosure of Potential Conflicts of Interest, Lobbying, Equal Opportunity, Minority-Owned Business Enterprises (MBEs), and Women-Owned Enterprises (WBEs), Section 3, the contractor's role and responsibilities, the UGLG's role and responsibilities, and reporting requirements and sanctions).

TEMPLATE

**COMPLIANCE STATEMENT TO ACCOMPANY
CONTRACTOR'S WEEKLY PAYROLL**
DT 1816 9/2008 (Replaces EC673)

Wisconsin Department of Transportation

The willful falsification of any of the statements on this form may subject the contractor or subcontractor to civil or criminal prosecution. See Section 1001 of Title 18 and Section 231 of Title 31 of the United States Code.

Adapted from U.S. Department of Labor Form WH-348(1)(68).

Submit one copy to Regional Office

No.	State Project ID	Federal Project ID	County	Payroll Period
Contractor or Subcontractor				
Authorized Agent Name		Authorized Agent Title		Authorized Agent Phone Number

I, the undersigned, do state that:

- I pay, or supervise the payment of the persons employed by the above contractor or subcontractor on the above project. During the payroll period designated above all persons employed on said project have been paid the full weekly wages earned, except as noted in Section 1(a) below. No rebates have been or will be made either directly to or indirectly on behalf of said contractor or subcontractor from the full weekly wages earned by any person. No deductions have been made directly or indirectly from the full wages earned by any person, other than permissible deductions as defined in Regulations, Part 3 (29 CFR Subtitle A), issued by the Secretary of Labor under the Copeland Act, as amended (48 Stat. 948; 63 Stat. 108; 72 Stat. 967; 76 Stat. 357; 40 U.S.C. 275c), and described below in Section 1(b).

(a) Exceptions	Name	Craft	Explanation	When will this person be paid?

(b) Description of Deductions
- Any payrolls otherwise under this contract required to be submitted for the above period are correct and complete. The wage rates for laborers or mechanics contained are not less than the applicable wage rates contained in any wage determination incorporated into the contract. The classifications set forth for each laborer or mechanic conform with the work performed.
- Any apprentices employed in the above period are duly registered in a bona fide apprenticeship program registered with a State apprenticeship agency recognized by the Bureau of Apprenticeship and Training, United States Department of Labor, or if no such recognized agency exists in a State, are registered with the Bureau of Apprenticeship and Training, United States Department of Labor.
- (a) Where fringe benefits are paid to approved plans, fund, or programs.

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

(b) Where fringe benefits are paid in cash.

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

(c) Exceptions	Craft	Explanation

Remarks

TEMPLATE

X

(Authorized Agent Signature)

COMPLIANCE STATEMENT PREPARATION INSTRUCTIONS

This statement of compliance meets needs resulting from the amendment of the Davis-Bacon Act to include fringe benefits provisions. Under this amended law, the contractor is required to pay fringe benefits as predetermined by the Department of Labor, in addition to payment of the minimum rates. The contractor's obligation to pay fringe benefits may be met by payment of the fringes to the various plans, funds, or programs or by making these payments to the employees as cash in lieu of fringes. This statement of compliance is also a requirement under Wisconsin Supplemental Required Contract Provisions.

The contractor should show on the face of his/her payroll all moneys paid to the employees whether as basic rates or as cash in lieu of fringes. The contractor shall represent in the statement of compliance that he/she is paying to others fringes required by the contract and not paid as cash in lieu of fringes.

Detailed instructions follow:

Contractors who pay all required fringe benefits:

A contractor who pays fringe benefits to approved plans, funds, or programs in amounts not less than were determined in the applicable wage decision of the Secretary of Labor shall continue to show on the face of his/her payroll the basic cash hourly rate and overtime rate paid to employees, just as has always been done. Such a contractor shall check paragraph 4(a) of the statement to indicate he/she is also paying to approved plans, funds, or programs not less than the amount predetermined as fringe benefits for each craft. Any exception shall be noted in Section 4(c).

Contractors who pay no fringe benefits:

A contractor who pays no fringe benefits shall pay to the employee and insert in the straight time hourly rate column of his/her payroll an amount not less than the predetermined rate for each classification plus the amount of fringe benefits determined for each classification in the applicable wage decision. Since it is not necessary to pay time and a half on cash paid in lieu of fringes, the overtime rate shall be not less than the sum of the basic predetermined rate, plus the half time premium on the basic or regular rate, plus the required cash in lieu of fringes at the straight time rate. To simplify computation of overtime, it is suggested that the straight time basic rate and cash in lieu of fringes be separately stated in the hourly rate column, thus \$9.73/\$2.15. In addition, the contractor shall check paragraph 4(b) of the statement to indicate that he/she is paying fringe benefits in cash directly to the employees. Any exceptions shall be noted in Section 4(c).

Use of Section 4(c), Exceptions

Any contractor who is making payment to approved plans, funds, or programs in amounts less than the wage determination requires, is obliged to pay the deficiency directly to the employees as cash in lieu of fringes. Any exceptions to Section 4(a) or 4(b), whichever the contractor may check, shall be entered in Section 4(c). Enter in the Exception column the craft, and enter in the Explanation column the hourly amount paid the employees as cash in lieu of fringes, and the hourly amount paid to plans, funds, or programs as fringes.

Date

I, (Name of Signatory Party) (Title)

do hereby state:

(1) That I pay or supervise the payment of the persons employed by (Contractor or Subcontractor) on the (Building or Work); that during the payroll period commencing on the day of , and ending the day of , all persons employed on said project have been paid the full weekly wages earned, that no rebates have been or will be made either directly or indirectly to or on behalf of said from the full (Contractor or Subcontractor)

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

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

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

(4) That:

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

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

(b) WHERE FRINGE BENEFITS ARE PAID IN CASH

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

(c) EXCEPTIONS

EXCEPTION (CRAFT)	EXPLANATION
<div style="border: 1px solid black; width: 100%; height: 100%; display: flex; align-items: center; justify-content: center;"> <div style="writing-mode: vertical-rl; transform: rotate(180deg); font-size: 48px; font-weight: bold; opacity: 0.5;"> PAYROLL </div> </div>	

REMARKS:

NAME AND TITLE	SIGNATURE

THE WILLFUL FALSIFICATION OF ANY OF THE ABOVE STATEMENTS MAY SUBJECT THE CONTRACTOR OR SUBCONTRACTOR TO CIVIL OR CRIMINAL PROSECUTION. SEE SECTION 1007 OF TITLE 18 AND SECTION 2311 OF TITLE 31 OF THE UNITED STATES CODE.

ATTACHMENT 7-L3: USDOL PAYROLL RECORD (SAMPLE)

U.S. Department of Labor Wage and Hour Division		PAYROLL (For Contractor's Optional Use; See Instructions at www.dol.gov/whd/forms/wh347instr.htm) Persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.		ADDRESS 812 Bunker Lane Lebanon, WI 54987		PROJECT OR CONTRACT NO. CDBG-PF 17-99													
NAME OF CONTRACTOR <input type="checkbox"/> OR SUBCONTRACTOR <input checked="" type="checkbox"/>		PROJECT AND LOCATION Bodega Bay Water & Wellhouse Project Old CTH A at Jefferson Avenue		PROJECT OR CONTRACT NO. CDBG-PF 17-99		OMB No.: 1235-0008 Expires: 02/28/2018													
NAME OF CONTRACTOR <input type="checkbox"/> OR SUBCONTRACTOR <input checked="" type="checkbox"/>		PROJECT AND LOCATION Bodega Bay Water & Wellhouse Project Old CTH A at Jefferson Avenue		PROJECT OR CONTRACT NO. CDBG-PF 17-99		OMB No.: 1235-0008 Expires: 02/28/2018													
NAME OF CONTRACTOR <input type="checkbox"/> OR SUBCONTRACTOR <input checked="" type="checkbox"/>		PROJECT AND LOCATION Bodega Bay Water & Wellhouse Project Old CTH A at Jefferson Avenue		PROJECT OR CONTRACT NO. CDBG-PF 17-99		OMB No.: 1235-0008 Expires: 02/28/2018													
(1) NAME AND INDIVIDUAL IDENTIFYING NUMBER (e.g., LAST FOUR DIGITS OF SOCIAL SECURITY NUMBER OF WORKER)	(2) EXEMPTIONS DO NOT CHECK	(3) WORK CLASSIFICATION	(4) DAY AND DATE							(5) TOTAL HOURS	(6) RATE OF PAY	(7) GROSS AMOUNT EARNED	(8) DEDUCTIONS				(9) NET WAGES PAID FOR WEEK		
			Su	Mo	Tu	We	Th	Fr	Sa				With- holding Tax	Other	Total Deductions				
Name: Whitman Van Ness SocSec# / Employee ID: XXX-XX-8761 Apprentice: NO		General Laborer (Group 2)																	
Name: Dexter O'Connell* SocSec# / Employee ID: XXX-XX-2345 Apprentice: NO		Well Driller																	
Name: Dexter O'Connell* SocSec# / Employee ID: XXX-XX-2345 Apprentice: NO		Cement Mason (Area 5)																	
Name: Annie Hawkins SocSec# / Employee ID: XXX-XX-5678 Apprentice: NO		Truck Driver (2 Axes)																	
Name: Victoria Dodd SocSec# / Employee ID: XXX-XX-1234 Apprentice: NO		Owner / Foreman																	

While completion of Form WH-347 is optional, it is mandatory for covered contractors and subcontractors performing work on Federally financed or assisted construction contracts to respond to the information collection contained in 29 C.F.R. §§ 3.3, 5.5(a), The Copeland Act (40 U.S.C. § 3145) contractors and subcontractors performing work on Federally financed or assisted construction contracts to "submit weekly a statement with respect to the wages paid each employee during the preceding week." U.S. Department of Labor (DOL) regulations at 29 C.F.R. § 5.5(a)(2)(iii) require contractors to submit weekly a copy of all payrolls to the Federal agency contracting for or financing the construction project, accompanied by a signed "Statement of Compliance" indicating that the payrolls are correct and complete and that each laborer or mechanic has been paid not less than the proper Davis-Bacon prevailing wage rate for the work performed. DOL and federal contracting agencies review this information to determine that employees have received legally required wages and fringe benefits.

We estimate that it will take an average of 55 minutes to complete this collection, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. If you have any comments regarding these estimates or any other aspect of this collection, including suggestions for reducing this burden, send them to the Administrator, Wage and Hour Division, U.S. Department of Labor, Room 3302, 200 Constitution Avenue, N.W., Washington, D.C. 20210

Public Burden Statement

(over)

ATTACHMENT 7-M: STATEMENT OF COMPLIANCE (TEMPLATE)**Division of Energy, Housing and Community Resources**Statement of Compliance

GRANTEE/UGLG NAME: _____
 DEHCR GRANT AGREEMENT #: _____

STATEMENT OF COMPLIANCE

Date: _____

I, _____, do hereby state:
 (Name) (Title)

- (1) That I pay or supervise the payment of the persons employed by _____ on
 the _____; that during the payroll period commencing on the _____ day of _____,
 (Contractor or Sub-Contractor)
 (Building or Work)
 20____ and ending the _____ day of _____, 20____, all persons employed on said project have been paid in full weekly
 wages earned that no rebates have been or will be made either directly or indirectly to or on behalf of said
 _____ from the full wages earned by any person and that no deductions have
 (Contractor or sub-contractor)
 been made either directly or indirectly from the full wages earned by person, other than permissible deductions as defined in Regulations, Part 3
 (29 CFR Subtitle A), issued by the Secretary of Labor under the Copeland Act, as Amended (48 Stat. 948, 63 Stat. 108, 72 Stat. 967; 76 Stat. 357;
 40 U.S.C. 276c), and described below:

TEMPLATE

- (2) That any payrolls otherwise under this contract required to be submitted for the above period are correct and complete, that the wage rates for laborers and mechanics contained therein are not less than the applicable wage rates contained in any wage determination incorporated into the contract; that the classifications set forth therein for each laborer or mechanic conform with the work he/she performed.
- (3) That any apprentices employed in the above period are duly registered in a bona fide apprenticeship program registered with a State apprenticeship agency recognized by the Bureau of Apprenticeship and Training, United States Department of Labor, or if no such recognized agency exists in the State, then the apprentice must be registered with the Bureau of Apprenticeship and Training, United States Department of Labor.
- (4) That:
- (a) WHERE FRINGE BENEFITS ARE PAID TO APPROVED PLANS, FUNDS, OR PROGRAMS
 - ☐ In addition to the basic hourly wage rates paid to each laborer or mechanic listed in the above referenced payroll, payments of fringe benefits as listed in the contract have been or will be made to appropriate programs for the benefit of such employees, except as noted in Section 4(c) below.
 - (b) WHERE FRINGE BENEFITS ARE PAID IN CASH
 - ☐ Each laborer or mechanic listed in the above-referenced payroll has been paid as indicated on the payroll, an amount not less than the sum of the applicable basic hourly rate plus the amount of the required fringe benefits as listed in the contract, except as noted in Section 4(c) below
 - (c) EXCEPTIONS

EXCEPTION (CRAFT)	EXPLANATION
REMARKS	
NAME AND TITLE	SIGNATURE
THE WILLFUL FALSIFICATION OF ANY OF THE ABOVE STATEMENTS MAY SUBJECT THE CONTRACTOR OR SUB-CONTRACTOR TO CIVIL OR CRIMINAL PROSECUTION, SEE SECTION 1001 OF TITLE 18 AND SECTION 231 OF TITLE 31 OF THE UNITED STATES CODE	

Statement of Compliance

Revised: August 31, 2017

ATTACHMENT 7-M1: STATEMENT OF COMPLIANCE (SAMPLE)**Division of Energy, Housing and Community Resources**Statement of Compliance

GRANTEE/UGLG NAME: City of Prosperity
 DEHCR GRANT AGREEMENT #: 17-99

STATEMENT OF COMPLIANCE

Date: 10/21/2018

I, Dewey Stevens Owner, do hereby state:
 (Name) (Title)

- (1) That I pay or supervise the payment of the persons employed by Dewey Stevens Construction on the Klein Avenue Street Reconstruction Project; that during the payroll period commencing on the 15th day of October, 2018, and ending the 21st day of October, 2018, all persons employed on said project have been paid in full weekly wages earned that no rebates have been or will be made either directly or indirectly to or on behalf of said Dewey Stevens Construction from the full wages earned by any person and that no deductions have been made either directly or indirectly from the full wages earned by person, other than permissible deductions as defined in Regulations, Part 3 (29 CFR Subtitle A), issued by the Secretary of Labor under the Copeland Act, as Amended (48 Stat. 948, 63 Stat. 108, 72 Stat. 967; 76 Stat. 357; 40 U.S.C. 276c), and described below:
Maggie Stark Court Ordered Child Support \$100

SAMPLE

- (2) That any payrolls otherwise under this contract required to be submitted for the above period are correct and complete, that the wage rates for laborers and mechanics contained therein are not less than the applicable wage rates contained in any wage determination incorporated into the contract; that the classifications set forth therein for each laborer or mechanic conform with the work he/she performed.
- (3) That any apprentices employed in the above period are duly registered in a bona fide apprenticeship program registered with a State apprenticeship agency recognized by the Bureau of Apprenticeship and Training, United States Department of Labor, or if no such recognized agency exists in the State, then the apprentice must be registered with the Bureau of Apprenticeship and Training, United States Department of Labor.
- (4) That:
- (a) WHERE FRINGE BENEFITS ARE PAID TO APPROVED PLANS, FUNDS, OR PROGRAMS
 - ☒ In addition to the basic hourly wage rates paid to each laborer or mechanic listed in the above referenced payroll, payments of fringe benefits as listed in the contract have been or will be made to appropriate programs for the benefit of such employees, except as noted in Section 4(c) below.
 - (b) WHERE FRINGE BENEFITS ARE PAID IN CASH
 - ☐ Each laborer or mechanic listed in the above-referenced payroll has been paid as indicated on the payroll, an amount not less than the sum of the applicable basic hourly rate plus the amount of the required fringe benefits as listed in the contract, except as noted in Section 4(c) below
 - (c) EXCEPTIONS

EXCEPTION (CRAFT)	EXPLANATION
REMARKS	
NAME AND TITLE Dewey Steven, Owner	SIGNATURE <u>Dewey Stevens</u>
THE WILLFUL FALSIFICATION OF ANY OF THE ABOVE STATEMENTS MAY SUBJECT THE CONTRACTOR OR SUB-CONTRACTOR TO CIVIL OR CRIMINAL PROSECUTION, SEE SECTION 1001 OF TITLE 18 AND SECTION 231 OF TITLE 31 OF THE UNITED STATES CODE	

ATTACHMENT 7-M2: STATEMENT OF COMPLIANCE (INSTRUCTIONS)

Under the Davis-Bacon law, the contractor is required to pay fringe benefits as predetermined by the USDOL, in addition to payment of the minimum rates. The contractor's obligation to pay fringe benefits may be met by payment of the various plans, funds, or programs or by making these payments to the employees as cash in lieu of fringes. Each contractor should complete a Statement of Compliance with the fringe benefits provisions.

The contractor should show on the face of his/her payroll all monies paid to the employees whether as basic rates or as cash in lieu of fringes. The contractor shall represent in the statement of compliance that he/she is paying fringe benefits required by the contract and is not paying as cash in lieu of fringes. Detailed instructions follow:

Contractors who pay all required fringe benefits:

A contractor who pays fringe benefits to approved plans, funds, or programs in amounts not less than were determined in the applicable wage rate of the Secretary of Labor shall continue to show on the face of the payroll the basic cash hourly rate and overtime rate paid to his/her employees, just as he/she has always done. Such a contractor shall check paragraph 4(a) of the statement to indicate payment to approved plans, funds, or programs not less than the amount predetermined as fringe benefits for each craft. Any exception shall be noted in Section 4(c).

Contractors that do not pay fringe benefits:

A contractor that does not pay fringe benefits shall pay to the employee and insert in the straight time hourly rate column of the payroll, an amount not less than the predetermined rate for each classification plus the amount of fringe benefits determined for each classification in the applicable wage rate. Inasmuch as it is not necessary to pay time and one-half on cash paid in lieu of fringes, the overtime rate shall be not less than the sum of the basic predetermined rate, plus the half-time premium on the basic or regular rate, plus the required cash in lieu of fringes at the straight time rate. To simplify computation of overtime, it is suggested that the straight time basic rate and cash in lieu of fringes be separately stated in the hourly rate column, thus \$3.25/40hrs. In addition, the contractor shall check paragraph 4(b) of the statement to indicate that he/she is paying fringe benefits in cash directly to his/her employees. Any exceptions shall be noted in Section 4(c).

Use of Section 4(c), Exceptions

Any contractor who is making payment to approved plans, funds, or programs in amounts less than the wage rate required is obligated to pay the deficiency directly to the employees as cash in lieu of fringes. Any exceptions to Section 4(a) or 4(b), whichever the contractor may check, shall be entered in Section 4(c). Enter in the Exception column the craft, and enter in the Explanation column the hourly amount paid the employee as cash in lieu of fringes and the hourly amount paid to plans, funds or programs as fringes. The contractor shall pay and shall show the payment to each such employee for all hours (unless otherwise provided by applicable wage rate) worked on federal or federally assisted project an amount not less than the predetermined rate plus cash in lieu of fringes as shown in Section 4(c). The rate paid and amount of cash paid in lieu of fringe benefits per hour should be entered in column 6 on the payroll (See paragraph on "Contractors who pay no fringe benefits" for computation of overtime rate).

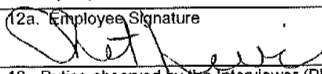
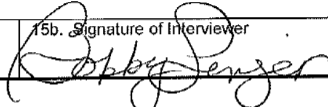
ATTACHMENT 7-N: RECORD OF EMPLOYEE INTERVIEW (TEMPLATE)A fill-able PDF form is available online: https://www.hud.gov/program_offices/davis_bacon_and_labor_standards/olrform

Record of Employee Interview			U.S. Department of Housing and Urban Development Office of Labor Relations		OMB Approval No. 2501-0009 (exp.09/30/2017)
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? <div style="border: 1px solid black; height: 20px; width: 100%;"></div>	3b. Last date on this job before today? <div style="border: 1px solid black; height: 20px; width: 100%;"></div>	3c. No. of hours last day on this job? <div style="border: 1px solid black; height: 20px; width: 100%;"></div>	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					
CONFIDENTIAL					
8. Are you an apprentice or trainee? Y <input type="checkbox"/> N <input type="checkbox"/>					
9. Are you paid for all hours worked? 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"/>					
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.)					
TEMPLATE					
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)					

ATTACHMENT 7-N1: RECORD OF EMPLOYEE INTERVIEW (SAMPLE)

Record of
Employee InterviewU.S. Department of Housing
and Urban Development
Office of Labor RelationsOMB Approval No. 2501-0009
(exp.09/30/2017)

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 Manitoc Street Reconstruction			2a. Employee Name Chet Levi		
1b. Project Number			2b. Employee Phone Number (including area code) (538) 426-4267		
1c. Contractor or Subcontractor (Employer) D. Roman Enterprises			2c. Employee Home Address & Zip Code 78387 Whitefish Drive Jericho, WI 55005		
			2d. Verification of identification? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>		
3a. How long on this job? 3 days	3b. Last date on this job before today? 10/21/2018	3c. No. of hours last day on this job? 8	4a. Hourly rate of pay? \$25.44	4b. Fringe Benefits? Vacation Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Medical Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Pension Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	4c. Pay stub? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
5. Your job classification(s) (list all) --- continue on a separate sheet if necessary Laborer					
6. Your duties Moving tools/material; digging trenches					
7. Tools or equipment used Shovel; wheelbarrow					
8. Are you an apprentice or trainee? <input type="checkbox"/> Y <input checked="" type="checkbox"/> N		10. Are you paid at least time and 1/2 for all hours worked in excess of 40 in a week? <input checked="" type="checkbox"/> Y <input type="checkbox"/> N		9. Are you paid for all hours worked? <input checked="" type="checkbox"/> Y <input type="checkbox"/> N	
12a. Employee Signature 		12b. Date 10/28/2018			
13. Duties observed by the interviewer (Please be specific.) Employee loaded tools into truck					
14. Remarks					
15a. Interviewer name (please print) R. Singer		15b. Signature of interviewer 		15c. Date of interview 10/28/2018	
Payroll Examination					
16. Remarks					
17a. Signature of Payroll Examiner Jodie Mills			17b. Date 10/30/2018		

Previous editions are obsolete

Form HUD-11 (08/2004)

ATTACHMENT 7-N2: RECORD OF EMPLOYEE INTERVIEW (INSTRUCTIONS)

Record of Interview HUD -11 Instructions

General:

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

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

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

Completing the form HUD-11

Items 1a - 1c: Self-explanatory

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

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

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

Items 8 – 12b: Self-explanatory

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

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

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

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

ATTACHMENT 7-O: SECTION 5.7 ENFORCEMENT REPORT (TEMPLATE)**Division of Energy, Housing and Community Resources**Section 5.7 Enforcement Report

GRANTEE/UGLG NAME: _____
 DEHCR GRANT AGREEMENT #: _____

SECTION 5.7 ENFORCEMENT REPORTTo be sent to DEHCR

MEMORANDUM FOR: HUD Labor Standards Field Officer in Chicago

SUBJECT: Section 5.7 Enforcement Report

1) Coverage

Project Name: _____

Project No.: _____

Location: _____

(City)

(County)

(State)

Wage Decision: _____

Program Area/Statute: _____

Prime Contractor: _____

(City)

(County)

(State)

Subcontractor: _____

(City)

(County)

(State)

2) Violations

Wage restitution in the total amount of \$_____ has been paid to _____ employees by contractor(s) named above. (See attached Schedule(s) of Wages Found Due.)

Were any of the violations willful? ☐ YES ☐ NO (double-click to select one)

Were CWHSSA liquidated damages computed? ☐ YES ☐ NO (double-click to select one)
 (if yes, see attached detailed report)

Are administrative sanctions recommended? ☐ YES ☐ NO (double-click to select one)
 (if yes, see attached detailed report)

The wage underpayments were discovered through: _____

The types of violations were: _____

3) Disposition

Narrative (use additional pages if necessary) _____

ATTACHMENT 7-02: SECTION 5.7 ENFORCEMENT REPORT (INSTRUCTIONS)

Note: The Section 5.7 Report is only due when underpayments amount to \$1,000.00 or more. A separate form must be filled out for each contractor in violation.

1. Enter the UGLG Name and the DEHCR Grant Agreement number in the space provided the upper righthand corner.
2. **Coverage**
 - a. Enter the project name.
 - b. Enter the project number (if applicable).
 - c. Enter the location (city, county and state) of the project.
 - d. Enter the Wage Decision that was in use when the underpayment occurred,
 - e. Enter CDBG for the Program area/Statute.
 - f. Enter the name and address (city, county and state) of the prime contractor affected by the underpayment through its own actions or through the actions of its sub-contractor.
 - g. Enter the name and address (city, county and state) of the sub-contractor affected by the underpayment through its own actions.
3. **Violations**
 - a. Enter the total amount of the underpayment and the number of employees affected. Attach the required supporting documentations such as the Schedule(s) of Wages Found Due.
 - b. To determine if a violation is considered willful, consider the following: was the underpayment deliberate; how quickly was the issue resolved; and does the contractor have a history of wage violations. Check either YES or NO.
 - c. Based on the answer to “b” above, determine if liquidated damages were computed. Check YES or NO.
 - d. Based on the answer to “b” and “c” above, determine if administrative sanctions were recommended? Check YES or NO.
 - e. Briefly describe how the wage underpayments were discovered.
 - f. Briefly describe the types of violations.
4. **Disposition**
 - a. Describe how the found wage underpayments were resolved.

ATTACHMENT 7-P: FINAL LABOR STANDARDS COMPLIANCE REPORT (TEMPLATE)

Division of Energy, Housing and Community Resources

Final Labor Standards Compliance Report

GRANTEE/UGLG NAME: _____
DEHCR GRANT AGREEMENT #: _____

FINAL LABOR STANDARDS COMPLIANCE REPORT

(Must be submitted prior to or with the Final Draw Request)

Project Name: _____

Project Location: _____

Prime Contractor: _____

Sub-Contractor(s): _____

Bid Opening Date: _____ Contract Award Date: _____ Construction Start Date: _____

Pre-Construction Meeting Date and Location: _____

Was the HUD 4010 (Labor Standards Provisions) Included in the Specifications? ☐ Yes ☐ No

Was the Wage Decision(s) Included in Specifications? ☐ Yes ☐ No

Wage Decisions Number(s): _____

Number of Employee Interviews Completed: _____ Number of Trades Interviewed: _____

Briefly describe any Labor Standards complaints and resolutions:

TEMPLATE

Construction Completion Date: _____ Amount of Funds Retained: \$ _____

CONTRACTOR(S) WITH UNDERPAYMENTS ON THIS CONTRACT

Company Name	Amount of Wage Underpayments	Number of Employees	Amount of overtime Underpayments	Number of Employees	Liquidated Damages
	\$		\$		\$
	\$		\$		\$
	\$		\$		\$

What comments or recommendations do you have regarding these violations?

I CERTIFY THAT TO THE BEST OF MY KNOWLEDGE ALL LABORERS AND MECHANICS EMPLOYED ON THIS CONSTRUCTION CONTRACT WERE PAID IN ACCORDANCE WITH THE LABOR PROVISIONS, EXCEPT AS NOTED. THERE ARE NO OUTSTANDING OR UNRESOLVED LABOR STANDARDS PAYMENTS, COMPLAINTS OR DISPUTES.

Signature: _____
(Designated Labor Standards Officer)

Job Title of Designated Labor Standards Officer

Date Signed

ATTACHMENT 7-P1: FINAL LABOR STANDARDS COMPLIANCE REPORT (SAMPLE)

Division of Energy, Housing and Community Resources

Final Labor Standards Compliance Report

GRANTEE/UGLG NAME: Pike Creek, Village of
DEHCR GRANT AGREEMENT #: 17-99

FINAL LABOR STANDARDS COMPLIANCE REPORT

(Must be submitted prior to or with the Final Draw Request)

Project Name: Chapel Road Street Reconstruction
Project Location: Village of Pike Creek
Prime Contractor: B. Rosen, LLC
Sub-Contractor(s): Daemon Excavating/Loon Lake Concrete

Bid Opening Date: 4/2/2018 Contract Award Date: 4/23/2018 Construction Start Date: 5/7/2018

Pre-Construction Conference Date and Location: 4/30/2018

Was the HUD 4010 (Labor Standards Provisions) Included in the Specifications? ☒ Yes ☐ No

Was the Wage Decision(s) Included in Specifications? ☒ Yes ☐ No

Wage Decisions Number(s): WI80008 Mod 4 WI80010 Mod 6

Number of Employee Interviews Completed: 10 Number of Trades Interviewed: 4

Briefly describe any Labor Standards complaints and resolutions:

Failure to pay appropriate federal rate. Employee compensated underpayment.

Construction Completion Date: 9/10/2019 Amount of Funds Retained: \$ 0

CONTRACTOR(S) WITH UNDERPAYMENTS ON THIS CONTRACT

Company Name	Amount of Wage Underpayments	Number of Employees	Amount of overtime Underpayments	Number of Employees	Liquidated Damages
Daemon Excavating	\$ 52.60	1	\$ 0	0	\$ 0
	\$		\$		\$
	\$		\$		\$

What comments or recommendations do you have regarding these violations?

No action needed.

I CERTIFY THAT TO THE BEST OF MY KNOWLEDGE ALL LABORERS AND MECHANICS EMPLOYED ON THIS CONSTRUCTION CONTRACT WERE PAID IN ACCORDANCE WITH THE LABOR PROVISIONS, EXCEPT AS NOTED. THERE ARE NO OUTSTANDING OR UNRESOLVED LABOR STANDARDS PAYMENTS, COMPLAINTS OR DISPUTES.

Signature: Jocelyn Caruso
(Designated Labor Standards Officer)

Jocelyn Caruso
Job Title of Designated Labor Standards Officer
Date Signed 09/26/2019

Attachment 7-P: Final Labor Standards Compliance Report

Revised: August 31, 2017

**ATTACHMENT 7-P2: FINAL LABOR STANDARDS COMPLIANCE
REPORT (INSTRUCTIONS)**

1. Enter the UGLG Name and the DEHCR *Grant Agreement* number in the space provided in the upper righthand corner.
2. Enter the project location including street(s) and community.
3. Enter the name of the prime contractor for the project. Complete a *Final Labor Standards Compliance Report* for each prime contractor.
4. Enter the name of all sub-contractors.
5. Enter the date of the Bid Opening, Contract Award and Construction Start Date.
6. Enter the date and location of the Pre-Construction Meeting.
7. Determine if the Labor Standards Provisions and the *Record of Wage Decision Selection* were included in the specifications. Check YES or NO.
8. Enter the *Record of Wage Decision Selection* Number(s) submitted to DEHCR at the start of construction.
9. Enter the number of employees interviewed and the trades interviewed.
10. Briefly describe any Labor Standards complaints gathered during the employee interviews and explain how the complaints received were resolved.
11. Enter the construction completion date and the amount of funds (if any) retained.
12. If any underpayments occurred during the project performance period, then for each contractor and sub-contractor associated with the underpayment provide the following:
 - a. the name of the contractor or sub-contractor associated with the underpayment;
 - b. the total amount of straight time underpayments and number of employees affected by the underpayment;
 - c. the total amount of overtime underpayments and number of employees affected by the underpayment; and
 - d. the amount of liquidated damages.
13. Briefly describe any comments or recommendations regarding the underpayments.
14. The Designated Labor Standards Office must sign the *Final Labor Standards Compliance Report*.
15. Attach any required supporting documentation.

ATTACHMENT 7-Q: FORCE ACCOUNT AFFIDAVIT (TEMPLATE)**Division of Energy, Housing and Community Resources**Force Account Affidavit

GRANTEE/UGLG NAME: _____
 DEHCR GRANT AGREEMENT #: _____

FORCE ACCOUNT AFFIDAVIT

If Force Account labor (i.e., construction related work by municipal employees) will be performed for the CDBG project, an authorized designated Unit of General Local Government (UGLG) representative (UGLG employee or official) must complete this Affidavit and email it to the assigned DEHCR Project Representative, with the email submission serving as the 'electronic' signature. Retain this document in the UGLG's CDBG project files. Email the completed Affidavit to DEHCR prior to the Force Account work beginning on the CDBG project. Failure to submit this form prior to proceeding with work or requesting CDBG funds as reimbursement (if seeking reimbursement for costs) may trigger the regular Davis-Bacon Wage Rates applying to the labor on the CDBG project.

I hereby certify that the [Enter UGLG Name] is using Force Account labor for [Enter Description of Type(s) of Construction-Related Work that will be Completed by Municipal Employees] on the [Enter Project Name/Title] Project, CDBG Grant Agreement # [Enter CDBG Grant Agreement #].

No overtime will be paid from CDBG funds unless the employee works in excess of their normal full-time work week, as stated in any existing labor contract or employment agreement, on the CDBG project.

Work hours and payroll records will be maintained for all employees that perform Force Account work on the CDBG project, with records for employees' hours worked on the CDBG project separated from employees' other regular (non-CDBG project) municipality work.

All Force Account associated payroll records (including a list of employees, job/position titles, dates of work on the CDBG project, type(s) of work performed, number of hours worked each date on the CDBG project, and payroll payment records) will be maintained in the CDBG project file.

 (UGLG Official or Designated Approver)* (Title) (Date Certified)

 (Phone Number) (Email Address)

**By entering the UGLG Official or Designated Approver name and information above, the UGLG Approver certifies the information provided is true and correct to the best of their knowledge; commits the UGLG to complying with the Force Account requirements and regulations, and certifies the Approver is authorized to submit this form on the UGLG's behalf by the Chief Elected Official (CEO) or UGLG governing body, as designated on the CDBG project Signature Certification Form (submitted with the UGLG's pre-agreement documents after Award), or through designation of regular or special duties approved by the governing body.*

TEMPLATE

Division of Energy, Housing and Community Resources

Force Account Affidavit

REQUIRED DOCUMENTATION FOR FORCE ACCOUNT WORK

1. The UGLG must keep separate payroll records for hours worked on the CDBG project versus the hours worked on regular duties for the UGLG.

Force Account Worker Payroll Records must include the following for each Force Account employee:

- Employee full name;
- Employee hourly pay rate (wage + fringe benefits rate);
- Employee job/position title;
- Date(s) employee worked on the CDBG project;
- Nature of work completed (e.g., "street reconstruction" or "sidewalk construction" or "site clearance", etc.);
- Number of hours worked exclusively on the CDBG project for each date (Note: A separate record for hours worked exclusively on the CDBG project vs. other non-CDBG work/duties must be maintained.); and
- Record(s) of date(s) and amounts of payment(s) for hours worked on the CDBG project, with payroll period records of payment (Note: A General Ledger record or similar official record with the details of work hours tracking and payroll payment records to employees is acceptable).

2. No overtime may be paid from CDBG funds unless the employee works in excess of their normal full-time work week, as stated in any existing labor contract or employment agreement, on the CDBG project.
3. The UGLG must submit payroll records as listed above for each employee working on the CDBG project for which the UGLG is requesting reimbursement with CDBG funds or is claiming as Matching funds costs, with each CDBG payment request for which the CDBG or Match costs are being requested/claimed. Refer to Chapter 8: Financial Management in the CDBG Implementation Handbook for additional guidance on requesting CDBG funds.

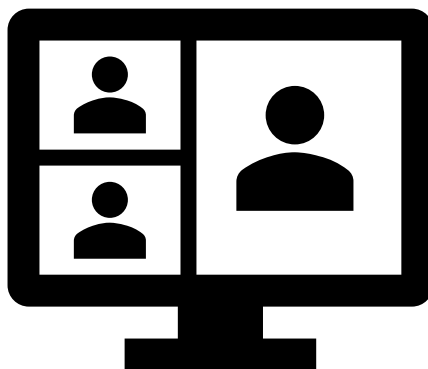
Important Note: To be in compliance with Labor Standards requirements, the UGLG must maintain the Force Account Affidavit and labor records in the CDBG project file, even if the UGLG is not seeking reimbursement from CDBG funds or claiming the costs as Match for the CDBG project.

4. When requesting reimbursement from DEHCR for Force Account work costs, the UGLG must detail costs incurred. The UGLG may submit the payroll payment details from a General Ledger or other official summary record, showing the list of employees, jobs/positions, dates and hours worked, hourly wage + fringe rates, payment amounts and payment dates; or must record each employee payroll payment as separate payments with separate check/electronic funds transfer (ETF) transaction numbers on the CDBG Disbursements Journal (if CDBG funded) and Matching Funds Journal (if Match funded). Clearly indicate Force Account line items, (e.g. make notation of "Force Account" in the entry).

Any materials purchased or other costs incurred by the UGLG associated with the Force Account work for the project, for which the UGLG is requesting reimbursement with CDBG funds or claiming as Match costs, must be recorded separately on the CDBG financial journals and records of dates and costs incurred and details of calculations for costs must be provided with the CDBG payment request.

No CDBG funds will be released for Force Account work costs without accurate accounting of Force Account labor and expenses.

ATTACHMENT 7-R: MBE/WBE/DBE & SECTION 3 WEB RESOURCES



Resources for outreach to, contracting with, and certified registration for **Minority-owned Business Enterprise (MBE), Woman-owned Business Enterprise (WBE) and Disadvantaged Business Enterprise (DBE) firms** and **Section 3 Business concerns**:

Department of Administration Certified Minority-Owned Business Enterprise (MBE) and Woman-Owned Business Enterprise (WBE) Directory:
<https://wisdp.wi.gov/search.aspx>

Department of Administration Certified Minority-Owned Business Enterprise (MBE) and Woman-Owned Business Enterprise Registration:
<https://doa.wi.gov/Pages/StateEmployees/HowtoApply.aspx>

Department of Transportation
Disadvantaged Business Enterprise (DBE) Program
<https://wisconsindot.gov/Pages/doing-bus/civil-rights/dbe/default.aspx>

U.S. Department of Housing and Urban Development (HUD) Section 3 Resources Website for Grantees and Contractors
<https://www.hud.gov/section3>

City of Madison Targeted Business Enterprise Program Directories:
<http://www.cityofmadison.com/dcr/aaTBDir.cfm>

ATTACHMENT 7-S: EMPLOYEE RIGHTS POSTER (ENGLISH AND SPANISH)

Printable versions of these posters are at:
<https://www.dol.gov/whd/programs/dbra/wh1321.htm>

EMPLOYEE RIGHTS

UNDER THE DAVIS-BACON ACT

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

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

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

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

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

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

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



WAGE AND HOUR DIVISION
UNITED STATES DEPARTMENT OF LABOR

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



WH1321 REV 10/17

DERECHOS DEL EMPLEADO

BAJO LA LEY DAVIS-BACON

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

SALARIOS PREVALECIENTES

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

SOBRETIEMPO

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

CUMPLIMIENTO

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

APRENDICES

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

PAGO APROPIADO

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

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



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

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



WH1321 SPA REV 10/17

ATTACHMENT 7-T: PROJECT SIGN (TEMPLATE)

Community Name:

Project Type: (e.g., Water Tower, Library, Community Center)

A COMMUNITY FACILITIES PARTNERSHIP
FINANCED IN PART BY COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS
**FROM THE WISCONSIN DEPARTMENT OF ADMINISTRATION AND THE
U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

Tony Evers, Governor

Joel Brennan, Secretary

Community Official's Name and Title *(i.e., Mayor, Village President, Chair)*

State and Federal Equal Opportunity laws apply in the construction and use of this project

ATTACHMENT 7-T1: PROJECT SIGN (SPECIFICATIONS)

The following sign (*pictured as a template on the previous page*) is to be erected near the site of construction, containing the information (below) according to the following format.

SPECIFICATIONS:

- Sign dimensions: 4 feet by 8 feet
- Plywood panel APA Rated A-B Grade-Exterior
- White background
- Following text in **RED**:

A COMMUNITY FACILITIES PARTNERSHIP
FINANCED IN PART BY COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS
FROM THE WISCONSIN DEPARTMENT OF ADMINISTRATION
AND THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

- All other text in **black**. Sign must include the name of the current governor and the current secretary of the Department of Administration.

PLEASE NOTE: The smallest print must be readable from 50 feet away.

ADDITIONAL NOTES: (optional)