

# 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 \$25 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. 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 \$25 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 a Davis-Bacon wage decision 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.

Davis Bacon wage rates are available on-line. Following are the instructions for an on-line search:

- 1) Go to [www.wdol.gov](http://www.wdol.gov),
- 2) Select "Selecting DBA WDs, under Davis-Bacon Act";
- 3) Select "Wisconsin" under "State";
- 4) Select the County in which the project is located;
- 5) Click on "Search" (will give all the wage decisions for that county); and
- 6) Select the decision(s) that is appropriate for the work being completed. Generally, each construction type must account for at least 20% of the project to assign more than one wage decision.

Print the wage decision(s) and include it with the bid documentations. Submit to DEHCR the *Record of Wage Decision Selection* (Attachment 7-D) with the wage information completed, along with the assigned wage rates.

**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 can be found 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 doesn't 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 awarding the contract(s).**

## 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. The documents listed below must be included in the bid document packet. Attachment 7-F: *Advertisement for Bids* is a tool to assist in the writing of an advertisement for bids.

Required for all bid packets (inclusion by reference only is **NOT** acceptable):

- Applicable Davis-Bacon/federal wage decision(s) (if DBRA rates apply to the project).
- Attachment 3-D: *Lobbying Certification*.
- Attachment 3-E: *Disclosure of Lobbying Activities* (must be submitted by the bidder only if the entity participated in lobbying activities).
- Attachment 6-B: *Section 3 Contract Language Requirements*.
- Attachment 7-B: *Davis-Bacon and Related Acts* (if DBRA requirements apply to the project).
- Attachment 7-G: *Federal Labor Standards Provisions* (HUD-4010).

Additional language required for all construction contracts exceeding \$10,000:

- Attachment 6-A: *Equal Opportunity Clause for UGLG Procurement Construction Contracts above \$10,000 (EO 11246)*.
- Attachment 6-C: *Affirmative Action Requirements (EO 11246)*.
- Attachment 6-D: *Federal Equal Employment Opportunity Clauses Construction Contract Specifications (EO 11246)*.



- Attachment 7-B: *Davis-Bacon and Related Acts* (if DBRA rates apply).
- Attachment 7-G: *Federal Labor Standards Provision (4010)* (if DBRA rates apply).
- Attachment 7-R: *MBE/WBE/DBE Web Resources*.

Additional language recommended to provide to contractors in the bid packet, contract or as supplemental material after the contract is executed:

- Attachment 3-B: *Disclosure of Potential Conflict of Interest* (this attachment or a similar form is recommended to ensure the disclosure of potential conflicts of interest during the contracting process).
- Attachment 7-I: *Pre-Construction Meeting Items to be Discussed*.
- Attachment 7-J: *Pre-Construction Checklist for Contractors*.

If the UGLG opens a bid and waits more than 90 days to award the construction contract, the UGLG must check the wage decision online to see if it has been modified or superseded. If it has, the UGLG must use the modified wage decision(s) in the construction project.

The UGLG **must** keep 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.

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 those 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, [sam.gov](http://sam.gov) (or search "system for award management").
2. On the SAM home page, click the "Search Records" tab and enter all or a portion of the search term (contractor's company name or owner's name; searching under both options is recommended) in the "Quick Search" box; then click the "Search" icon.
3. When the search results appear, go to the "Filter Results" section of the page, and under "By Record Status," add checks to the boxes for both "Active" and "Inactive" registrants. The search results will show all entities meeting the search term parameters entered that are currently

registered or were previously registered in the system, with a purple or green marker indicating the exclusion status of registered entities. Records with a purple “Exclusion” marker have had or currently have a debarment from federally funded activities and contracts. Select “View Details” to review the firm’s record to determine if the entity is currently excluded/debarred. Records with green “Entity” markers have not had and do not currently have an exclusion from federally funded activities and contracts.

4. If the contractor’s name does not appear in the search results, the entity has not been registered in the SAM.gov system at any time, which is an indicator that the entity should not be debarred (entities that have been debarred should be in the system). The UGLG must have the contractor confirm/certify that it is not debarred prior to contracting.

TIP: If the search results show “no records found,” try searching under other variations of the contractor’s name.

5. Save the search results as a PDF using the “Save PDF” option; print the search results; and keep copies in the Labor Standards file.

In checking the System for Award Management ([sam.gov](http://sam.gov)) 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 wage decision(s), related provisions, equal opportunity language, and contractor clearance language in all contracts.

Refer to Chapter 3: <i>Procurement &amp; Contracting</i> for a list of language requirements and attachments to include for all contracts.
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**PROCEDURE:** ALL SUB-CONTRACTS MUST BE IN WRITING and must contain all items listed above (many communities simply write the contractor’s name, bid price, and so forth into the blank spaces in a copy of the bid package). Inclusion of the wage decision and regulations by reference is **NOT** acceptable.

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

**Note:** If the UGLG fails to get a wage decision, 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 decision and regulations in the contract, it must get the correct wage decision(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 decision 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* 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);
- Advertisement for bids with publisher's affidavit (Note: Complete bid packet shall be maintained in the UGLG's project file. It is not submitted to DEHCR unless requested.);
- Bid tabulation summary; and
- *Notice of Contractor Award* (Attachment 7-H).

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

- 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 sam.gov (or search "system for award management") 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 all prime contractors and subcontractors); and
- 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 applicable.

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 *Federal Labor Standards Provisions (HUD-4010)* (Attachment 7-G) and *Davis-Bacon and Related Acts* (Attachment 7-B), coverage of these items may be abbreviated. Contractors are encouraged to use the tools listed in *MBE/WBE/DBE Web Resources* (Attachment 7-R) 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: *Pre-construction Meeting – Items to be discussed* (Attachment 7-I). Also provide contractors with a copy of: *Pre-construction Checklist for Contractors* (Attachment 7-J).
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. The *Pre-construction Report Format* (Attachment 7-K) is provided as a template that may be used 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.

## 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 (Attachments 7-L and 7-M). Payrolls must be numbered sequentially from **first to final** and must be submitted within several 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.
2. Review the payrolls weekly to make sure that at least the minimum wages and fringe benefits as specified in the wage decision 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.

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 documented in the Labor Standards file.
4. Review the payrolls weekly to make sure that employee classifications conform to the wage decision and rates. If no applicable classification is listed in the wage decision for an employee, refer to the instructions for Additional Classifications in this chapter.
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 decision 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 so as 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.
8. Keep the site investigation report, 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* (HUD Labor Relations Desk Guide LR01.DG): <http://portal.hud.gov/hudportal/documents/huddoc?id=4812-LRguide.pdf>.

- b. 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 (\$25 per employee per day that overtime is earned but not paid). 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 a *Semi-Annual Labor Standards Enforcement Report* (Attachment 9-C).

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 Report*. All *Semi-Annual Labor Standards Enforcement Reports* are **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**



## 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-L: PAYROLL FORMAT (TEMPLATE)
- ATTACHMENT 7-L1: PAYROLL FORMAT (SAMPLE)
- ATTACHMENT 7-L2: INSTRUCTIONS FOR COMPLETION OF PAYROLL
- 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 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:  
[http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/labor\\_standards\\_enforcement/olrform](http://portal.hud.gov/hudportal/HUD?src=/program_offices/labor_standards_enforcement/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 percent 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”)

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

## 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 versus 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 Decision. 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 back and forth on the site, then the truck driver is covered). Hauling materials to or from the site, if not performed on the site, it not covered time. HUD has advised that they currently believe unloaded are likewise not covered.

- 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 classification is question within the applicable wage decision are based on negotiated rates, the prevailing practice concerning work performed in those classifications is that 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 unfunded 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 decision, 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 travel, subsistence, or to industry promotion funds are not normally payments for fringe benefits under the Act.

# BCD CDBG Implementation Handbook

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No type of fringe benefits is eligible for consideration as a so-called 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 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 percent 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.

W. 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.

- X. 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.
- Y. 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.
- Z. 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**

(Type or print clearly)

NAME OF UGLG (i.e. CDBG GRANTEE):

DOA-DEHCR GRANT AGREEMENT #:

LABOR STANDARDS  
OFFICER:

STREET ADDRESS:

CITY:

STATE/ZIP CODE:

PHONE NUMBER:

FAX NUMBER:

E-MAIL ADDRESS:

*Retain the completed original document in the CDBG project file, and send a copy of this form to the assigned DEHCR Project Representative in the Division of Energy, Housing and Community Resources via email (preferred) or postage-paid mail.*

Mailing Address:

DEHCR Project Representative  
Wisconsin Department of Administration  
Division of Energy, Housing and Community Resources  
Bureau of Community Development, 6<sup>th</sup> Floor  
P.O. Box 7970  
Madison, WI 53707-7970

## ATTACHMENT 7-D: RECORD OF WAGE DECISION SELECTION (TEMPLATE)

### Division of Energy, Housing and Community Resources

#### Record of Wage Decision Selection

GRANTEE/UGLG NAME: \_\_\_\_\_  
DEHCR GRANT AGREEMENT #: \_\_\_\_\_

## RECORD OF WAGE DECISION SELECTION

Date of Submission to DEHCR: \_\_\_\_ / \_\_\_\_ / \_\_\_\_

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

<b>Construction Budget Summary for Wage Decision Selection/Determination</b>	
This Wage Decision selection is for: <input type="checkbox"/> The entire construction project	
<input type="checkbox"/> A single Phase (specifically, Phase # ____ of ____ total)	
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.	

Work Description (Name)	% of Total Construction Cost

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

Estimated Dollar Value of Contract Award:	Estimated Bid Advertising Date(s):	Estimated Bid Opening Date:
\$ _____	____ / ____ & ____ / ____	____ / ____

**REMINDER:** Immediately prior to the bid opening date, the UGLG/Grantee must check the Wage Determinations Online site ([www.wdol.gov](http://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.

<b>PREPARER INFORMATION</b>
Name of designated Labor Standards Officer: _____

**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-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

<b>Project Location</b>	
Street Address(es):	Hammond, Duren, Tavern and Orchard Streets
County(ies)*, State:	Wayne, MI
<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 type="checkbox"/> Building (Non-Residential) <input checked="" type="checkbox"/> Heavy (Water/Sewer) <input type="checkbox"/> Residential <input checked="" type="checkbox"/> Highway

<b>Construction Budget Summary for Wage Decision Selection/Determination</b>	
This Wage Decision selection is for: <input checked="" type="checkbox"/> The entire construction project	
<input type="checkbox"/> A single Phase (specifically, Phase # _____ of _____ 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>	
<b>Work Description (Name)</b>	<b>% of Total Construction Cost</b>
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

**REMINER:** Immediately prior to the bid opening date, the UGLG/Grantee must check the Wage Determinations Online site ([www.wdol.gov](http://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.

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

**REMINER:** 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/Determination:**
  - a. Check whether the Wage Decision selection is for the entire project or for a single phase of a multi-phase project. If the Wage Decision 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)

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT REPORT OF ADDITIONAL CLASSIFICATION AND RATE		HUD FORM 4230A <small>OMB Approval Number 2501-0011 (Exp. 01/31/2010)</small>				
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)	7. WAGE DECISION EFFECTIVE DATE					
<input type="checkbox"/> COPY ATTACHED						
8. WORK CLASSIFICATION(S)	<table style="width: 100%; border-collapse: collapse;"> <tr> <th style="text-align: left; border-bottom: 1px solid black;">HOURLY WAGE RATES</th> </tr> <tr> <td style="border-bottom: 1px solid black;"> <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 60%; border-bottom: 1px solid black;">BASIC WAGE</td> <td style="width: 40%; border-bottom: 1px solid black;">FRINGE BENEFIT(S) (if any)</td> </tr> </table> </td> </tr> </table>		HOURLY WAGE RATES	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 60%; border-bottom: 1px solid black;">BASIC WAGE</td> <td style="width: 40%; border-bottom: 1px solid black;">FRINGE BENEFIT(S) (if any)</td> </tr> </table>	BASIC WAGE	FRINGE BENEFIT(S) (if any)
HOURLY WAGE RATES						
<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 60%; border-bottom: 1px solid black;">BASIC WAGE</td> <td style="width: 40%; border-bottom: 1px solid black;">FRINGE BENEFIT(S) (if any)</td> </tr> </table>	BASIC WAGE	FRINGE BENEFIT(S) (if any)				
BASIC WAGE	FRINGE BENEFIT(S) (if any)					
9. PRIME CONTRACTOR (name, address)	10. SUB-CONTRACTOR/EMPLOYER, IF APPLICABLE (name, address)					
<div style="border: 1px solid black; padding: 5px; margin-bottom: 10px;"> <b>Check All That Apply:</b> </div> <div style="margin-bottom: 10px;"> <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.         </div> <div> <b>Check One:</b> </div> <div style="margin-top: 5px;"> <input type="checkbox"/> <b>Approved, meets all criteria. DOL confirmation requested.</b>  <input type="checkbox"/> <b>One or more classifications fail to meet all criteria as explained in agency referral. DOL decision requested.</b> </div>						
<div style="border: 1px solid black; height: 40px; margin-bottom: 5px;"></div> <b>Agency Representative</b> <i>(Typed name and signature)</i>	<div style="border: 1px solid black; height: 40px; margin-bottom: 5px;"></div> <i>Date</i>	<b>FOR HUD USE ONLY</b> <b>LR2000:</b>  <b>Log in:</b>  <b>Log out:</b>				
<div style="border: 1px solid black; height: 20px; margin-bottom: 5px;"></div> <i>Phone Number</i>						

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



## ATTACHMENT 7-E1: INSTRUCTIONS FOR ADDITIONAL CLASSIFICATION

<b>Report of Additional Classification and Wage Rate</b>	<b>U.S. Department of Housing and Urban Development Office of Labor Relations</b>	OMB Approval No. 2501-0011 (Exp. 01/31/2010)
----------------------------------------------------------	-----------------------------------------------------------------------------------	-------------------------------------------------

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

GRANTEE/UGLG NAME: \_\_\_\_\_  
DEHCR GRANT AGREEMENT #: \_\_\_\_\_

**ADVERTISEMENT FOR BIDS**

*This form is provided as a tool to assist in the creation of an advertisement for bids.*

CDBG Project Number: \_\_\_\_\_ Owner: \_\_\_\_\_  
Separate sealed bids for \_\_\_\_\_  
for \_\_\_\_\_  
will be received by \_\_\_\_\_  
at the office of \_\_\_\_\_  
until \_\_\_\_\_ o'clock (AM \_\_\_\_\_ PM \_\_\_\_\_; ST \_\_\_\_\_ DST \_\_\_\_\_) \_\_\_\_\_, 20\_\_\_\_  
and then at said office publicly opened and read aloud.

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:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Pregualification of Bidders will not be required.

Copies may be obtained at the office of \_\_\_\_\_  
located at \_\_\_\_\_ upon payment of  
\$ \_\_\_\_\_ 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 \$ \_\_\_\_\_.

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.

The Contract shall be subject to Section 66.0903 of the Wisconsin Statutes pertaining to municipal wage  
scales 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.

Date \_\_\_\_\_ Chief Elected Official Signature \_\_\_\_\_



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

(Download current provisions at: <https://www.hudexchange.info/resource/2490/hud-form-4010-federal-labor-standards-provisions/>)

### 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 reasonably 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-1321) 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.

# BCD CDBG Implementation Handbook

**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 \$25 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.

**(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): \_\_\_\_\_

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 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)

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

**Division of Energy, Housing and Community Resources**

Notice of Contractor Award

Sub-Contractor(s)

Federal Employer I.D. Number (FEIN)


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 an incidental amount (more than 20 percent) of their time on the job site, are covered.
  - 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 working days of the end of the payroll period.
  - 2. Statement of Compliance (back of WH 347 **OR** WH 348) must be completed and submitted with each payroll.
  - 3. Payroll Completion.
    - a. Recommend 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 works 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.
  - 3) Written authorizations for all "other" deductions (i.e., deductions excluding those required by state and federal laws) must be obtained and maintained in the labor standards compliance file. A copy of the court order must be maintained in the labor standards compliance file for any deductions authorized through court order. 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], 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) Check box 4(a) if benefits are paid to approved funds and submits evidence of the value of the fringe benefits.
  - 2) Check box 4(b) if fringe benefits are paid in cash.
  - 3) List any exceptions to whichever box is checked.
  - 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--payrolls must be manually signed by the employer or an official of the employer who is authorized to sign.
- I. Time cards, signed by the employees, must be retained for the term specified in the *Grant Agreement* between DEHCR and the UGLG.
- J. Payrolls records must be retained for the term specified in the *Grant Agreement* between DEHCR and the UGLG.
- K. 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.
- L. Review the process to be used to secure payments for work.
- M. Other CDBG Program Requirements (Contract language and Specifications):
  - 1. Record of Debarment.
  - 2. Disclosure of Potential Conflicts of Interest in Contracting.
  - 3. Lobbying Certification and Disclosure of Lobbying Activities
  - 4. Minority Business
  - 5. Section 3 Contracting, Hiring, Tracking and Reporting. Section 3 Firms, Section 3 New Full-Time Hires, 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 "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 his/her own and those of each lower-tier sub-contractor he/she may, submit the required documents to the contractor.
3. The contractor, after reviewing all payrolls and other documentation, including his/her 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.

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 EACH EMPLOYER HAS:

1. Not been debarred or otherwise made ineligible to participate in any federal or 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 as part of the contract. ☐
5. Requested through the recipient and received the minimum wage for each classification to be worked, which was not included on the wage rate by the additional classification process and before allowing any such trade(s) to work on the project. ☐
6. Requested and received certification of its apprentice program from the State's Bureau of Apprenticeship and Training (recognized by USBAT) and submitted copy thereof to the recipient prior to employment on the project. Likewise, "trainee" program certification from USBAT, if applicable, must be submitted. ☐

\_\_\_\_\_  
(Contractor Signature) (Title)

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Location of Project: City, County, State)

\_\_\_\_\_  
(Contract Number)

## Division of Energy, Housing and Community Resources

### Pre-Construction Checklist for Contractors

#### AT CONSTRUCTION START, 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/fedproic.pdf> (see end of checklist)
    - Spanish: <https://www.dol.gov/whd/regs/compliance/posters/davispan.pdf> (see end of checklist)
3. Before assigning each project worker to work, obtained worker's full name and has assigned each employee an individual identification number (for payroll purposes). ☐
4. Obtained a copy of each apprentice's certificate with the apprentice's registration number and his/her years of apprenticeship from the state BAT. ☐
5. Informed each worker of: ☐
  - His/her work classification (journeymen or job title) as it will appear on the payroll in the wage decision or through the additional classification process. ☐
  - His/her duties of work. ☐
  - The USDOL's requirement on this project that he/she is designated as being a journeyman, an apprentice, or a laborer. ☐
    - If journeyman, he/she is to be paid journeyman's minimum wage rate or more; ☐
    - If apprentice, he/she is to be paid not less than the apprentice's rate for the trade based on his/her year of apprenticeship, or ☐
    - If laborer, he/she 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 wage rate or more. ☐
6. Understands the requirements each laborer or mechanic who performs work on the project in more than one classification within the same workweek shall be classified and paid at the highest wage rate applicable to any of the work which he/she 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. ☐
7. Has informed each worker of his/her hourly wages (not less than the minimum wage rate for his/her work which is stated in the wage rate), including: ☐
  - Time and one-half for all work over 40 hours in any workweek (see Contract Work Hours and Safety Standards Act). ☐
  - Fringe benefits, if any (see wage decision for any required). ☐
  - Deductions from his/her pay. ☐
8. Has informed each worker that he/she is subject to being interviewed on the job by the recipient or a HUD, USDOL, or other U.S. government inspector, to confirm that his/her 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. ☐



## Division of Energy, Housing and Community Resources

### Pre-Construction Checklist for Contractors

#### DURING CONSTRUCTION - EACH EMPLOYER:

1. Has 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. Has employed all registered apprentices referred to him/her through normal channels up to the applicable ratio of apprentices to journeymen in each trade used by the employer. ☐
3. Will maintain basic employment records accessible to inspection by the recipient or U.S. government representatives. ☐
4. Is complying with all health and safety standards. ☐
5. Has paid all workers weekly. ☐
6. Has submitted weekly payrolls. ☐
- A. Prepared on recommended Payroll Form WH-347 (or comparable form with same information). ☐

Available from:

Superintendent of Documents <http://www.dol.gov/whd/forms/wh347instr.htm> -- Instructions  
 Government Printing Office <http://www.dol.gov/whd/forms/wh347.pdf> -- Form  
 Washington, D.C. 20402

Note: Contractors who wish to purchase the forms are urged to submit their orders promptly because the Superintendent of Documents takes six weeks to fill orders. It is permissible for contractors to reproduce the forms if they wish.

Some employers place all project workers on Payroll Form WH-347. 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 percent of time as a working foreman).

Any alternate payroll form used should be cleared with the Labor Standards Officer before the employer starts work on the project. A project printout by computer, for example, is acceptable provided that all data shown and required on the front and back of Payroll Form WH-347 is on, or included with, payroll submitted to recipient.

B. Front Page of Payroll (Form WH-347) <http://www.dol.gov/whd/forms/wh347.pdf>

1. Name of Contractor or Subcontractor. Name of employer, showing whether contractor or sub-contractor. ☐
2. Address. Street address or P.O. Box, City, State, and Zip Code of Employer. ☐
3. Payroll Number. Each weekly payroll is numbered in sequential order (starting with Payroll No. "1" for the employer's first workweek on the project). ☐  
 If employer's workers perform no physical work on the project during workweek, he/she has submitted a "no work" letter for that workweek. ☐  
 Payroll of employer's final workweek on the project (completion of his work) is marked "Final." ☐
4. For Week Ending. The last date of the workweek is stated in this "column." ☐
5. Project and Location. Name of project and city in which the project is located. ☐
6. Project or Contract Number. Include the contract number provided by the recipient. ☐
7. Column 1 - Name and Individual Identifying Number of Worker, as it appears on his/her pay check e.g. the last four digits of the Social Security number or other unique identification number. ☐
8. Column 2 - Number of Withholding Exemptions is for employer's convenience, it is not required by HUD to be completed. ☐

## Division of Energy, Housing and Community Resources

### Pre-Construction Checklist for Contractors

9. Column 3 - The Work Classification (job title) for the worker as included in the Wage Rate and denotes the work that worker actually performed. If the job title corresponds to a job 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 rate, the contractor should call the recipient immediately, and request classification by Additional Classification process.

- a. Apprentice. If worker is an apprentice, his/her State BAT registration number and year of apprenticeship is included in this column, the first time the apprentice's name appears on the payroll. ☐

- b. Split Classification. If worker has performed work in more than one class of work during the workweek, 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 he/she performed is stated in Column 3 in separate "columns." ☐
- His/her name is repeated in corresponding "area" in Column 1. ☐
- The breakdown of hours worked daily under each work classification is stated in Column 4, and total for week in Column 5. ☐
- The applicable wage rate for each classification of work is stated in Column 6. ☐
- The payroll is signed by the employer or legally authorized official of the employer. ☐
- If the above is not done, the worker is paid at least the highest minimum wage rate of all of the 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 he/she does not use tools of the trade (laborer) must be recorded in separate "blocks" in Column 3 of the payroll.

Helper. The work classification of "helper" is not accepted by the Department of Housing and Urban Development unless included in the wage rate issued by the Secretary of labor for the project. Any employee listed as "helper" in absence of such classification in wage rate **must be paid** the journeyman's rate for hours he/she uses tools of the trade.

10. Column 4 - Hours Worked, Each Day and Date, for workweek is stated. ☐

Overtime Hours ("O"), if any, are stated separately from straight hours ("S")—over 40 hours in any workweek. ☐

11. Column 5 - Total Hours worked during the workweek are stated (the sum of sub columns in Column 4)—straight and overtime hours recorded separately. ☐

12. Column 6 - Rate of Pay, not less than the minimum wage for the work classification (see Wage rate). ☐

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. ☐

Apprentices. 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. ☐

Piece Worker. Piece work must be stated in Column 6 at an hourly rate, the gross pay for the workweek (work on the project) divided by the total number of hours worked on the project during the workweek. ☐



## Division of Energy, Housing and Community Resources

### Pre-Construction Checklist for Contractors

13. Column 7 - Gross Amount Earned equals straight hours shown in Column 5 times straight rate of pay shown in Column 6, plus overtime hours (if any) shown in Column 5 times overtime rate of pay shown in Column 6. ☐
14. Column 8 - Deductions. Each deduction made is required by law, or voluntarily authorized by the worker in writing before the workweek began, or provided in a bargaining agreement to be deducted from the respective worker's pay. ☐
15. Column 9 - Net Wages stated are Column 7 minus total deductions shown in Column 8. ☐

C. Back of Payroll (Payroll Form WH-347). Each employer has:

1. Completed all blank spaces and understands the penalties for falsification. ☐
2. Checked Item 4 if fringe benefits are included in the wage rate for any of his/her 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 workweek-his/her paycheck representing at least the pay of the applicable minimum wage rate plus the amount of required fringe benefits. ☐
3. Manually signs the payroll in the "area" marked signature, and state his/her title. ☐
4. The person who signs the payroll is 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 his/her weekly payroll or "no work" letter to the respective sub-contractor, which must be received within three calendar days from the last date of the workweek. ☐
3. Each sub-contractor has received a payroll or "no work" letter from each of his/her lower-tier sub-contractors, reviewed each and his/her own payroll, made necessary corrections, and submitted all of such payrolls to the contractor, which must be received within five calendar days from the last date of the workweek. ☐
4. Contractor has received a payroll or "no work" letter from each sub-contractor and each lower-tier sub-contractor monitored each including his/her own payroll, made necessary corrections, and collectively submitted them to the recipient within seven working days of the last date of the respective workweek. ☐

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

**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).

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## ATTACHMENT 7-L: PAYROLL (TEMPLATE)

A fill-able PDF form is available online: <https://www.dol.gov/whd/forms/wh347.pdf>

**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](http://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.*

NAME OF CONTRACTOR ☐ OR SUBCONTRACTOR ☐

ADDRESS

PROJECT OR CONTRACT NO.

OMB No.: 1235-0008  
Expires: 02/28/2018

FOR WEEK ENDING

PROJECT LOCATION

PAIDROLL NO.

NAME AND INDIVIDUAL IDENTIFYING NUMBER  
(e.g., LAST FOUR DIGITS OF SOCIAL SECURITY  
NUMBER) OF WORKER

(1)

(2) NO. OF WITHDRAWALS

(3) WORK CLASSIFICATION

(4) DAY AND DATE

HOURS WORKED EACH DAY

(5) TOTAL HOURS

(6) RATE OF PAY

(7) GROSS AMOUNT EARNED

(8) DEDUCTIONS

(9) NET WAGES PAID FOR WEEK

TOTAL DEDUCTIONS OTHER

Public Burden Statement

We estimate that it will take an average of 55 minutes to complete this collection, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. If you have any comments regarding these estimates or any other aspect of this collection, including suggestions for reducing this burden, send them to the Administrator, Wage and Hour Division, U.S. Department of Labor, Room 9302, 200 Constitution Avenue, N.W., Washington, D.C. 20210

(over)



## ATTACHMENT 7-L1: PAYROLL (SAMPLE)

[illegible]



Date August 29, 2017

Robert Singer Human Resources Manager  
(Name of Signatory Party) (Title)

do hereby state:

(1) That I pay or supervise the payment of the persons employed by Foxhole Roofing, Paving, & Plumbing (Sub-Contr. of Winchester Constr. Co.) on the 20th day of August, 2017, and ending the 26th day of August, 2017, that during the payroll period commencing on the 20th day of August, 2017, and ending the 26th day of August, 2017, 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 Foxhole Roofing, Paving, & Plumbing (Sub-Contr. of Winchester Constr. Co.) 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. 103, 72 Stat. 967, 76 Stat. 357; 40 U.S.C. § 3145), and described below:

Whitman Van Ness: \$50 Health Savings Acct (auto-deposit), \$250 Wage Garnish, & Child Support

Dexter O'Connell: \$50 Health Savings Acct (auto-deposit), \$50 Court-Order Child Support

Annie Hawkins: \$5 Health Savings Acct (auto-deposit)

(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 contracted 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 is performing.

(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
Whitman Van Ness General Laborer (Group 2)	\$8.79 / Hr. Fringe Fund Payment \$8.00 / Hr. Fringe Cash Payment
Dexter O'Connell Well Driller	\$3.00 / Hr. Fringe Fund Payment \$0.70 / Hr. Fringe Cash Payment
Dexter O'Connell Cement Mason (Area 5)	\$3.00 / Hr. Fringe Fund Payment \$15.73 / Hr. Fringe Cash Payment
Annie Hawkins Truck Driver (2 Axes)	\$10.48 / Hr. Fringe Fund Payment \$10.00 / Hr. Fringe Cash Payment

THE WAGE RATE FOR THE ABOVE PERIOD IS \$15.00 PER HOUR.

NAME AND TITLE: Robert Singer, Human Resources Manager SIGNATURE: Robert Singer

THE WAGE RATE FOR THE ABOVE PERIOD IS \$15.00 PER HOUR. SUBCONTRACTOR TO CIVIL OR CRIMINAL PROSECUTION. SEE SECTION 1001 OF TITLE 18 AND SECTION 231 OF TITLE 31 OF THE UNITED STATES CODE.

### ATTACHMENT 7-L2: INSTRUCTIONS FOR COMPLETION OF PAYROLL (FORM WH-347)

#### U.S. DEPARTMENT OF LABOR WAGE AND HOUR DECISION

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

While completion of Form WH-347 is optional, it is mandatory for covered contractors and sub-contractors performing work on federally-financed or assisted construction contracts to respond to the information collection contained in 29 C.F.R. 3.3,5.5(a). The Copeland Act (40 U.S.C. 3145) requires contractors and sub-contractors performing work on federally-financed or assisted construction contracts to “furnish weekly a statement with respect to the wages paid each employee during the preceding week.” U.S. Department of Labor (DOL) Regulations at 29 C.F.R. 55(a)(3)(ii) require contractors to submit weekly a copy of all payrolls to the federal agency contracting for or financing the construction project, accompanied by a signed “Statement of Compliance” indicating that the payrolls are correct and complete and that each laborer or mechanic has been paid not less than the proper Davis-Bacon federal wage rate for the work performed. DOL and federal contracting agencies receiving this information review the information to determine that employees have received legally required wages and fringe benefits.

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

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

**Contractor or Sub-contractor:** Fill in the firm's name and check appropriate box.

**Address:** Fill in the firm's address.

**Payroll No.:** Beginning with the number “1,” list the payroll number for the submission.

**For Week Ending:** List the workweek ending date.

**Project and Location:** Self-explanatory.

**Project or Contract No.:** Self-explanatory.

**Column 1 - Name and Individual Identifying Number of Worker:** Each worker’s full name and individual identifying number (e.g., last four digits of worker’s social security number) must be shown on each weekly payroll submitted.

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

**Column 3 - Work Classifications:** List classification descriptive of work actually performed by each laborer or mechanic. Consult classification and minimum wage schedule set forth in contract specifications. If additional classifications are deemed necessary, see Contracting Officer or Agency representative.

## BCD CDBG Implementation Handbook

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An individual may be shown as having worked in more than one classification provided an accurate breakdown of hours worked in each classification is maintained and shown on the submitted payroll by use of separate entries.

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

**Column 5 Total:** Self-explanatory.

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

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

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

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

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

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

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

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



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

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

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

**Note:** In order to view, fill out, and print PDF forms, Adobe Acrobat Reader version 5 or later is needed, which may be downloaded for free at [www.adobe.com/products/acrobat/readstep2.html](http://www.adobe.com/products/acrobat/readstep2.html). To save the completed forms on a workstation, use the “Save As” method to save the file.

For example, move the mouse cursor over the PDF link and click on the “RIGHT” mouse button. This will cause a menu to be displayed, select the proper save option – depending upon which browser are used:

- For Microsoft IE users, select “Save Target As”
- For Netscape Navigator users, select “Save Link As”

Once the proper save option for the browser is selected, and file saved to a location specified, go to the program menu and start the Adobe Acrobat Reader. Once open, locate the PDF file saved and open it directly in Acrobat.

**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  
 (Contractor or Sub-Contractor)  
 the \_\_\_\_\_; that during the payroll period commencing on the \_\_\_\_\_ day of \_\_\_\_\_,  
 (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:

- (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 15<sup>th</sup> day of October, 2018, and ending the 21<sup>st</sup> 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

(Contractor or Sub-Contractor)  
 (Building or Work)  
 (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. 848, 63 Stat. 108, 72 Stat. 867; 76 Stat. 357-40 U.S.C. 276c), and described below:

Maggie Stark Court Ordered Child Support \$100

- (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 doesn't 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)**

The fillable version of this form is available online: <https://portal.hud.gov/hudportal/documents/huddoc?id=11.pdf>

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

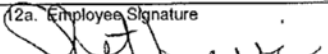
6. Your duties

Moving tools/material; digging trenches

7. Tools or equipment used

Shovel; wheelbarrow

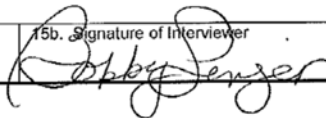
8. Are you an apprentice or trainee?	Y <input type="checkbox"/> N <input checked="" type="checkbox"/>	10. Are you paid at least time and 1/2 for all hours worked in excess of 40 in a week?	Y <input checked="" type="checkbox"/> N <input type="checkbox"/>
9. Are you paid for all hours worked?	Y <input checked="" 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 checked="" type="checkbox"/>

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 REPORT**To 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 (circle one)

Were CWHSSA liquidated damages computed? YES NO (circle one)  
 (if yes, see attached detailed report)

Are administrative sanctions recommended? YES NO (circle 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 7-01: SECTION 5.7 ENFORCEMENT REPORT (SAMPLE)****Division of Energy, Housing and Community Resources**Section 5.7 Enforcement Report

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

**SECTION 5.7 ENFORCEMENT REPORT**To be sent to DEHCR

MEMORANDUM FOR: HUD Labor Standards Field Officer in Chicago

SUBJECT: Section 5.7 Enforcement Report

1) Coverage

Project Name: Lily Dale Sewer/Water System Replacement

Project No.: 7.06

Location: Village of Raleigh Wake WI  
 (City) (County) (State)

Wage Decision: WI60010 Mod 11

Program Area/Statute: \_\_\_\_\_

Prime Contractor: Emporium Construction  
Campbell Wake WI  
 (City) (County) (State)

Subcontractor: Fox Sisters Concrete  
Raleigh Wake  
 (City) (County) (State)

2) Violations

Wage restitution in the total amount of \$ 2011.77 has been paid to 2 employees by contractor(s) named above. (See attached Schedule(s) of Wages Found Due.)

Were any of the violations willful? YES ☒ NO (circle one)

Were CWHSSA liquidated damages computed? YES ☒ NO (circle one)  
 (if yes, see attached detailed report)

Are administrative sanctions recommended? YES ☒ NO (circle one)  
 (if yes, see attached detailed report)

The wage underpayments were discovered through:  
Review of payroll by Labor Standards Officer

The types of violations were:  
Failure to meet minimum federal wage rate in accordance with the Davis-Bacon Act.

3) Disposition

Narrative (use additional pages if necessary) Employees were paid money owed and payroll system updated to include correct pay rates.

**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.

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. Circle either yes or no.
  - c. Based on the answer to “b” above determine if liquidated damages were computed. Circle yes or no.
  - d. Based on the answer to “b” and “c” above determine if administrative sanctions were recommended? Circle 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:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

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 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. Circle YES or NO.
8. Enter the *Record of Wage Decision Selection* Number(s) submitted to DECHR 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 using a Force Account for the project, the payroll clerk or Davis-Bacon contact must complete and sign the following affidavit. Keep one copy for the files and mail the original to the assigned DEHCR Project Representative.

I hereby certify that the \_\_\_\_\_ is using Force Account labor for  
(City/Village/Town/County)

\_\_\_\_\_  
(Description of Work)

on the \_\_\_\_\_, \_\_\_\_\_  
(Project Name) (Contract Number)

No overtime payments will be made to Force Accounts out of CDBG funds.

Separate work hours must be kept and logged when working on CDBG work and non-regular municipality work.

All payrolls and records of payments must be kept in the Labor Standards Files under General Labor Standards.

Failure to submit this form prior to a draw request will force the regular Davis-Bacon Wage Rate that applies to the contract.

\_\_\_\_\_  
(Signature of Payroll Clerk or Davis Bacon Contact)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Phone Number)

\_\_\_\_\_  
(Date)

## Division of Energy, Housing and Community Resources

### Force Account Affidavit

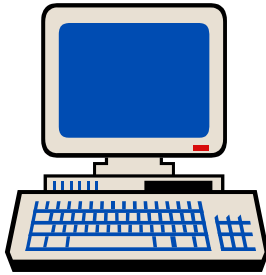
#### REQUIRED DOCUMENTATION FOR FORCE ACCOUNT WORK

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.

Payroll Records must indicate the following:

- Each employee's name;
  - Each employee's hourly rate;
  - Number of hours worked (separate CDBG vs. other duties); and
  - Pay period.
2. 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 labor contract, on the CDBG project.
  3. The UGLG must submit all payrolls for each employee working on the CDBG project with *each Request for Payment of Federal CDBG Funds* form (found in Chapter 8: *Financial Management*). No CDBG funds will be released without the required payrolls.
  4. Upon requesting reimbursement from DEHCR, the UGLG **must** detail costs incurred for labor. The UGLG must record payments as **separate** checks and clearly indicate force account line items, (e.g. "Force Account"). Any materials purchased for the project **must** be shown separately. This information is required on the CDBG Disbursement Journal, Matching Funds Journal (if applicable) and the Cash Control Register. No CDBG funds will be released without accurate accounting of 'Force Account' labor.

**ATTACHMENT 7-R: MBE/WBE/DBE WEB RESOURCES**



**Resources for outreach to, contracting with, and certified registration for Minority-Owned Business Enterprise (MBE), Women-Owned Business Enterprise (WBE) and Disadvantaged Business Enterprise (DBE) firms:**

Department of Administration Certified Minority-Owned Business Enterprise (MBE) and Women-Owned Business Enterprise (WBE) Directory:

<http://wisdp.wi.gov/search.aspx>

City of Madison Targeted Business Enterprise Program Directories:

<http://www.cityofmadison.com/dcr/aaTBDir.cfm>

Department of Transportation

Disadvantaged Business Enterprise (DBE) Program

<http://wisconsindot.gov/Pages/doing-bus/civil-rights/dbe/default.aspx>

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

# **EMPLOYEE RIGHTS UNDER THE DAVIS-BACON ACT**

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

THE UNITED STATES DEPARTMENT OF LABOR WAGE AND HOUR DIVISION

**PREVAILING  
WAGES**

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

**OVERTIME**

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

**ENFORCEMENT**

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

**APPRENTICES**

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

**PROPER PAY**

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

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



For additional information:

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



**WWW.WAGEHOUR.DOL.GOV**



# **DERECHOS DEL EMPLEADO**

## **BAJO LA LEY DAVIS-BACON**

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

LA SECCIÓN DE HORAS Y SUELDOS DEL DEPARTAMENTO DE TRABAJO DE EEUU

**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**

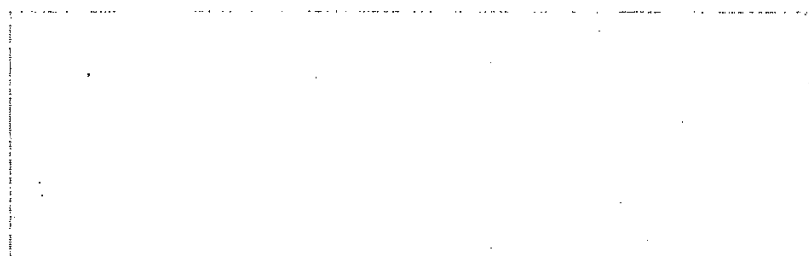
Se pueden retener pagos por contratos para asegurarse que los obreros reciban los salarios y el pago de sobretiempo debidos, y se podría aplicar daños y perjuicios si no se cumple con las exigencias del pago de sobretiempo. Las cláusulas contractuales de Davis-Bacon permiten la terminación y exclusión 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 Sección de Horas y Sueldos del Departamento de Trabajo de EEUU.



Para obtener información adicional:

**1-866-4-USWAGE**

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



**WWW.WAGEHOUR.DOL.GOV**

ATTACHMENT 7-T: PROJECT SIGN (TEMPLATE)

Community Name:

Project Type: (i.e. 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  
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

**Scott Walker, Governor**

*Scott Neitzel, 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 an 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)

ADDITIONAL NOTES: (optional)